

**Village of Upper Nyack  
Planning Board Meeting  
Wednesday, November 16, 2022 7:30pm**

MINUTES

A meeting of the Planning Board of the Village of Upper Nyack was held on the above date and called to order at 7:33 pm by the Chairman, William Pfaff.

**Other Board members present:** Karen Olson, Cynthia Turner, Joseph Heider and Zara Crowley.

**Also present:** Noelle Wolfson, Esq., Consulting Village Attorney, Dennis Letson, Village Engineer and Janet Guerra, Board Secretary.

**7:32 pm.** The Chairman opened the meeting and read the Notice of Public Hearing, which was published in The Journal News on November 9, 2022.

**7:34 pm. Vallex Herard, 514 N. Broadway, County Map No. 60.13-03-14**

Continuation from October 19, 2022. Application for site plan approval for interior and exterior renovations including kitchen, primary bedroom and bathroom renovations; new stairs, windows, dormer and siding; new deck, fencing and pergola on property improved with an existing single-family residence located in the Residence R-20 District.

By email dated November 11, 2022, the applicant requested an adjournment of this application to the December meeting.

**Motion to adjourn the public hearing on this application to the December 21, 2022 Meeting.**

**Motion: Cynthia Turner**

**Second: Joseph Heider**

**Vote: 5-0**

**7:34 pm.** Motion for approval of minutes, as amended, from the October 19, 2022 meeting.

Board members discussed the modifications proposed by Joseph Heider, Karen Olson and Noelle Wolfson. The motion on the 11 Tompkins Court site plan approval extension was added.

**Motion to approve the minutes as revised.**

**Motion: Joseph Heider**

**Second: Karen Olson**

**Vote: 4-1, 1 abstain (Cynthia Turner- absent at October 19, 2022 meeting)**

**7:38pm. 536 N. Highland LLC, 536 N. Highland Avenue, County Map No. 59.12-02-01.**

Continuation from October 19, 2022. Application for site plan approval to allow a new restaurant and overnight accessory parking of commercial vehicles on property in the Office Business (OB) District.

**Application Procedural History:** The public hearing on this application was opened at the Planning Board's October 19, 2022 meeting. At the October 19<sup>th</sup> session of the public hearing the applicant withdrew the application for a special use permit for the parking of non-accessory commercial vehicles (Zoning Law Section 6.1.7.3.2) and the Planning Board adjourned the hearing to allow the applicant to submit additional information.

The Board discussed the description of the application and agreed that it should be revised to eliminate the reference to the restaurant as a nonconforming use and can eliminate the reference to the special use permit because that portion of the application has been withdrawn

**Present Representing the Applicant:** Keir B. Levesque, Architect

**Summary of Applicant Presentation:**

Mr. Levesque reviewed the plan changes from the last meeting. He explained that per the Board's direction he removed construction information, indicated the location of the front building setback, added landscaping, added a snow storage area, numbered the parking spaces, and labeled the last space compact car.

Because the applicant withdrew the special permit application, no additional information was submitted in support of that application.

The plan was prepared to address all comments from the prior meeting.

**Review of Village Engineer Comments.**

**State Environmental Quality Review (SEQR)**

Under the provisions of 6NYCRR Part 617.5c18, "reuse of a residential or commercial structure, ..." the project is a Type 2 action. No further review under SEQR is required.

**Site Plan**

**1. Zoning**

- a. The Zoning Inspector has reviewed the proposed restaurant/catering use and determined it is an allowable use by right in this district; no use variance is required.
- b. There may be a conflict between sections 6.1.3.7.1 and 6.1.3.7.2, as evidenced by the County comment 4 regarding the location of the parking. The County comment regarding non-accessory parking is now moot as that portion of the application has been withdrawn. The accessory parking complies with section 6.1.3.7.1.
- c. The parking referred to in County Planning comment 6 are accessory to the permitted commercial office use and do not require a special permit under section 6.1.3.7.1.

- d. Section 9.5 indicates the standards applicable to review of this application.
- 2. Snow storage areas are now designated on the plan.
- 3. Additional planting has been added in the strip along Route 9W.

The word “moor” in comment 1b should be “moot”

Withdraw comment 1d because it relates to the special use permit application which has been withdrawn.

The Village Engineer said that there is an errant 57-foot dimension on the Plan. Mr. Levesque said he cannot change that because it is a part of the underlying survey.

The Village Engineer asked the applicant to correct the typographical error “Rown of Clarkstown” to “Town of Clarkstown”

#### **Continuation of Applicant’s Presentation:**

Mr. Levesque described the proposed landscaping. He said that the applicant is proposing to add 7 3- gallon (about 18-inch planted height) Juniper shrubs and 6 3- gallon (about 18 inches planted height) Inkberry shrubs. He advised that when fully grown the shrubs will be approximately 3 feet in height. These plants were selected because they are salt resistant and will not block the view of the sightlines for vehicles accessing 9W.

There was a discussion about the pavement markings. Mr. Levesque said that the entire parking area is going to be restriped and the one-way markings indicated on the plan and as previously indicated on the property will be included in the restriping.

Discussion of compact car space and the best method to reconfigure the parking area for that space. There was also a discussion of the comment by Rockland County Planning suggesting that this space be removed. There was a discussion about whether this comment should be the subject of an override because of a preference to keep the additional space on the site since the property is already benefitted by a parking variance. The applicant was asked to sign the last space as a “Compact Car” in 6-inch-high pavement letters so that it was clear that the parking in this space is limited to compact cars to reduce the potential for conflict at this location.

Discussion about Rockland County Health Department and violations related to the water quality at the property. The Chairman read a summary of the letter from the Rockland County Department of Health, dated November 3, 2022 into the record and there was a discussion about the letter. The Board recognized Rockland County Department of Health’s jurisdiction over water quality, but indicated that a condition of any approval would be to mark the location of the well on the site plan and to comply with the Rockland County Sanitary Code and receive all signoff as indicated in the County Health Department’s letter.

Mr. Levesque said that the applicant has arranged for two companies to give him quotes for the needed repairs and advised that water has been trucked to the site since the violation was received.

The Chairman asked the applicant to add a reference in the note near the 6 accessory commercial parking spaces approved as a part of the May 2022 site plan to Upper Nyack Zoning Law Section 6.1.3.7.1 to make the accessory commercial parking notes on the Site Plan consistent.

There was a discussion about Rockland County Department of Planning letter (dated October 17, 2022), comment 7, which recommends that the applicant submit a landscaping plan that includes all of the elements of landscaping required by Village Zoning Law 5.3.3.2 to shield the view of the proposed vehicle storage from Route 9W. There was also a discussion of the portion of Section 5.3.3.2 of the Village Zoning Law that allows the Planning Board to grant a waiver from its requirements. The Planning Board members discussed the proposed landscaping plan and requested that a waiver pursuant to Section 5.3.3.2 and an override of Rockland County Planning comment 7 be included as a part of any resolution. Although the landscaping does not comply with the strict requirements of Section 5.3.3.2, such compliance does not seem feasible in this location and the applicant has made a significant effort to proposed to plant several evergreen shrubs that will be resistant to the salt treatment in the winter on 9W. Although the proposed shrubs are not tall enough to obscure the view of the parked vehicles, there is a concern that plantings that are too tall in this location could block sight lines on 9W. The proposed landscaping will soften the view of the parking area from 9W and will improve the appearance of the site.

There were no comments from members of the public on this application.

There was a discussion about whether the Board should move to a decision or direct counsel to draft of resolution for consideration at the December meeting. It was counsel's recommendation to have a formal resolution of approval drafted for consideration so that, among other things, the responses to the Rockland County Planning comments could be fully addressed.

The Village Engineer concurred and advised that the resolution should address Rockland County Planning's comments so that it does not create an impediment to obtaining county permits.

There was a discussion about how some of the Board's uniform conditions should be incorporated into the resolution. The Planning Board members directed counsel to include as conditions of approval an as-built survey with no topography, certification from a landscape architect that the landscaping was properly installed and an ongoing condition that the applicant maintain the landscape screening for the duration of the use.

**Motion to close public hearing.**

**Motion: Karen Olson**

**Second: Cynthia Turner**

**Vote: 5-0**

**Motion to direct the Board's counsel to draft a resolution taking into account comments by members of the Board, the Village Engineer, the Rockland County Department of Health and the Rockland County Department of Planning so that it may be read and voted on at the December 21, 2022 Meeting.**

**Motion: Karen Olson**

**Second: Joseph Heider**  
**Vote: 5-0**

## **OTHER BUSINESS**

### **8: 11 pm Discussion of gift of property from the Institute of Christian Doctrine to the Friends of Rockland Lake and Hook Mountain**

Chairman Pfaff indicated that Marydell gifted 8 acres of land to Friends of Rockland Lake. Discussion of whether the Village should consider re-zoning that 8 acres to R-160. Dennis Letson said that he needed more information; but there was no need to re-route the water on the property. There was a discussion about the condition of the stream on the property. It was generally the consensus of the Board that no additional action is needed at this time.

**8:18pm** Discussion of 2023 Calendar

**8:23 pm** Discussion of December 21<sup>st</sup> meeting agenda.

**Motion to adjourn the meeting.**

**Motion: Karen Olson**  
**Second: Joseph Heider**  
**Vote: 5-0**

8:24pm

Respectfully submitted,  
Janet Guerra  
Board Secretary