

**Village of Upper Nyack
Planning Board Meeting
Wednesday, October 27, 2021, 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 **7:37pm** by the Chairman, William Pfaff.

Other Board members present: Joseph Heider and Pat Esgate. **Also present:** Dennis Letson, Village Engineer; Noelle C. Wolfson, Esq., Village Consulting Attorney; Janet Guerra, Board Secretary.

7:38pm: The Chairman opened the meeting and read the Notice of Public Hearing, which was published in The Journal News on October 20, 2021.

7:39pm: Chairman William Pfaff welcomed the new Planning Board Member, Pat Esgate.

7:40 pm: Approval of Minutes: Consulting Village Attorney, Noelle Wolfson, Esq. recommended that the Board wait until the next meeting for a quorum of members who attended the September 22nd meeting to approve the minutes.

7:42 pm: Thomas Place, 323 Front Street, County Map No. 60.17-01.06.

Continued from July 7, 2021. Application for site plan approval for swim spa pool and deck.

Said property is located in the Residence R-4 District.

The APPLICANT was represented by Kier Levesque, R.A.; and Thomas Place, the Homeowner.

Kier Levesque explained that when the Applicant was before the Zoning Board of Appeals, it required the side yard to be measured to the corner of the second level deck rather than to the lower level of the deck, making the side yard setback 16.1 feet. The variance permitting the 16.1-foot side yard setback was granted by the Zoning Board of Appeals. It was also noted that the fence that was enclosing the swim spa, which is required by the State as a barrier, connected to the existing deck and the deck did not have a four-foot-high railing on it, which is required. The fencing was moved a little further to the southeast and it was connected to the house so that it meets the applicable requirements. Those revisions are shown on the revised site plan. He continued that the Applicant is not required to go to the Architectural Review Board; so this application is before the Planning Board for final disposition.

The BOARD read and reviewed the report from Dennis Letson, Village Engineer, whose comments were entered into the record as follows:

State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617.5c12, the project is a Type 2 action. No further review under SEQR is required.

Site Plan

1. Zoning

- a. Variance has been granted by the ZBA, and is noted in the bulk table.
2. The balance of my previous comments has been addressed, no new comments on this application.

Chairman William Pfaff reviewed the comments from Rockland County Planning GML Review (Section 239 L and M) dated June 4, 2021. Dennis Letson and Noelle Wolfson agreed that comments 3 and 4 were satisfied.

Member Joseph Heider inquired if a stormwater agreement was necessary for this application.

Dennis Letson confirmed that one was not required.

Chairman William Pfaff asked for public comments. Since there were none, he asked for a motion to close the public hearing.

MOTION BY: Joseph Heider

SECOND: Pat Esgate

ROLL CALL VOTE:

Chairman William Pfaff: Aye

Member Joseph Heider: Aye

Member Pat Esgate: Aye

2 absent

APPROVED

MOTION: The Board moved to approve this Site Plan (Place Deck and Spa, prepared by Kier Levesque, R.A., dated May 5, 2021 and last revised September 22, 2021.)

1. Under the provisions of SEQR this is a Type II action requiring no further review.
2. The applicant shall address to the reasonable satisfaction comments of the Village Engineer in his report dated 10/27/21 and which are specifically set forth herein as conditions of approval. Additional comment: Site plan to be revised to reflect that the construction entrance notation should read "Construction Entrance, Install 2" stone for 30' at end by driveway."
3. Comments from other Agencies commenting on this plan are herein incorporated as conditions of approval. Rockland County Planning; 6/4/21. Items number 1 & 2 will be incorporated as conditions of approval.
4. Prior to the issuance of a Certificate of Occupancy the Applicant shall provide an as-built survey including topographical information signed and sealed by a licensed professional.
5. The Site Plan shall be revised to include an entry in the revision note section to indicate the date that the plan is submitted for Planning Board signature. The description for the revision date note shall read "For PB Signature."

6. This final site plan approval authorizes the applicant to undertake only the activities specifically set forth herein, in accordance with this resolution of approval and as delineated on the final site plan endorsed by the Planning Board Chairman. Any changes or modifications to such plan require amended site plan approval from the Planning Board.
7. This approval shall be void and of no effect if a building permit for the work proposed herein is not issued within 3 years of the date of this resolution.

MOTION BY: Joseph Heider

SECOND: Pat Esgate

ROLL CALL VOTE:

Chairman William Pfaff: Aye

Member Joseph Heider: Aye

Member Pat Esgate: Aye

2 absent

APPROVED

7:59 pm: Steven and Lisa Schmittgall, 10 Riverton Drive, County Map No. 60.13-02-81.15.

Application for site plan approval for an after the fact patio, pavilion and retaining walls.

Said property is located in the Office Business District.

This APPLICANT submitted to the clerk the Certificate of Mail receipts of neighbor notification.

The APPLICANT was represented by Steve Botto, Contractor; Lisa Schmittgall, the Homeowner and Ryan Nasher, P.E. (8:08pm).

Chairman William Pfaff stated that this Applicant was before the Board of Trustees for relief from the temporary moratorium on land use applications and was granted a variance. The Chairman asked for an overview and scope of work of the project.

The Applicant, Lisa Schmittgall explained that this project was the creation of a two-level retaining wall. One level with grass and the second level with a patio with a canopy with permeable pavers and stairs that connect the levels and some landscaping.

Steve Botto, the Contractor, explained that this began with a 2017 project to add permeable pavers under the deck to give the Homeowners an area to walk out into their backyard without splashing dirt everywhere.

In 2019, the project continued with a two-leveled backyard. One area was an all grass lawn area for volleyball with a staircase leading to a pavilion or roofed pergola. He explained that he sent Ryan Nasher, P.E. some pictures of the construction process showing the footings (6 footings 12 inches wide and 3 feet deep). He further explained that the electrical tied into the pavilion for a light and tv. He added that permeable pavers were used under the pavilion. Additionally, there is a retaining wall of less than 4 feet in height; a sprinkler system and some plantings.

The BOARD read and reviewed the report from Dennis Letson, Village Engineer, whose comments were entered into the record as follows:

State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617.5c12, the project is a Type 2 action. No further review under SEQR is required.

The application is for after the fact legalization of existing construction.

Site Plan

3. Zoning

- a. Side and rear setbacks to the proposed pavilion to be shown.
- b. Based on the setbacks shown to the dwelling, it appears the pavilion will require a side yard setback variance.
- c. The Board should take no action on this application until the need for a variance is determined.

4. The note "Existing Development Coverage (40%) 5,408 SF" should be corrected.

5. The construction is indicated as a canopy on the site plan and a pavilion in the Botto narrative. The nature of the structure must be clarified between the application materials.

6. The Board should consider having the applicant provide elevations of the proposed structure for the record.

7. It appears that the patio under the deck required the wall at the west side to return to the dwelling, if so, show that wall.

8. Provide drainage analysis to show that increased run-off was or will be mitigated. If permeable pavers were used, provide evidence that the appropriate open stone base to provide storage capacity was installed.

9. Provide details of the paver system.

10. A stormwater maintenance agreement should be executed for the site.

Ryan Nasher, P.E., apologized for being late to the meeting as he had another matter in Pomona. He explained the dimension from the side property line is 12 feet. (3b from Engineer's report).

Ryan Nasher stated that he will do a site inspection regarding the pavers and add detail to the site plan. (8 from Engineer's report). Dennis Letson asked for photos for the record and Mr. Nasher agreed to provide.

Chairman William Pfaff asked a question about the southwest corner of the site being in a conservation easement. He explained that on the site plan he doesn't see any encroachment; but on the landscaping plan one area appears to cross over into the easement.

Steve Botto stated that the easement is not disrupted.

Chairman William Pfaff asked for the site plan to be updated so it doesn't show any disruption to the conservation easement. He asked Dennis Letson if there was anything else and he confirmed there was not.

Chairman William Pfaff reviewed the GML reviews from September 9, 2021 and the October 20, 2021.

Noelle Wolfson, Village Consulting Attorney, explained that there were two because one was to the Planning Board and one was to the Zoning Board of Appeals.

Rockland County Planning recommended to the Planning Board that there shall be no net increase in the peak rate of discharge from the site at all design points. RCP recommended a side yard variance to permit the application to the Zoning Board of Appeals

Chairman William Pfaff asked if there were any comments from the Board.

Member Joseph Heider asked why there were coming to the Planning Board now and why is this application after the fact.

The Applicant, Lisa Schmittgall, explained that it was a miscommunication and wanted to leave it there; but explained they did get a permit for a basement and bathroom so it's not as if they avoid the permitting process.

The Board moved to open the public hearing.

MOTION BY: Joseph Heider

SECOND: Pat Esgate

ROLL CALL VOTE:

Chairman William Pfaff: Aye

Member Joseph Heider: Aye

Member Pat Esgate: Aye

2 absent

APPROVED

No public comments.

The Board moved to refer the application to the Zoning Board of Appeals December 21, 2021 meeting.

MOTION BY: Joseph Heider

SECOND: Pat Esgate

ROLL CALL VOTE:

Chairman William Pfaff: Aye

Member Joseph Heider: Aye

Member Pat Esgate: Aye

2 absent

APPROVED

The Board moved to continue the public hearing to the January 19, 2022 meeting.

MOTION BY: Joseph Heider

SECOND: Pat Esgate

ROLL CALL VOTE:

Chairman William Pfaff: Aye

Member Joseph Heider: Aye

Member Pat Esgate: Aye

2 absent

APPROVED

Chairman William Pfaff inquired whether this would have to go to the Architectural Review Board. Village Consulting Attorney, Noelle Wolfson, Esq. confirmed that ARB review is not required since the application does not propose the addition of or modification to any building on the property.

Other Business:

None.

8:30pm: The Board moved to adjourn the meeting.

MOTION BY: Joseph Heider

SECOND: Pat Esgate

ROLL CALL VOTE:

Chairman William Pfaff: Aye

Member Joseph Heider: Aye

Member Pat Esgate: Aye

2 absent

APPROVED

The meeting was adjourned at 8:30 pm.

Respectfully submitted,

Janet Guerra, Secretary