

**Village of Upper Nyack  
Planning Board Meeting  
Wednesday, April 18, 2018, 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 **7:30pm** by the Chairman, William Pfaff.

**Other Board members present:** Ellen Simpson, Bruce Biavati, Karen Olson and Danielle Watson.

**Also present:** Dennis Letson, Village Engineer; Robert P. Lewis, Village Attorney; and Jillana Sinnott, Secretary.

**Others in attendance:** Stuart Strow, Robert Knoebel, Dmitry Dudnik, Lynne DaSilva, Jillian Hilowitz, Jan Doornbosch, Kathy and Chet Mayer.

**7:30pm** The Chairman opened the meeting and read the Notice of Public Hearing, which was published in The Journal News on April 11, 2018.

**7:37pm: Approval of Minutes:** Member Karen Olson moved to approve the minutes from February 21, 2018 as submitted; SECOND: Michele McCarthy by email dated March 15, 2018; unanimously APPROVED.

**7:45pm: 649 North Broadway, LLC, 649 North Broadway, County Map No. 60.06-01-05-01.**

Said property is located in Residential Zoning District R-1.

The APPLICANT submitted to the clerk the Certificate of Mailing receipts of neighbor notification.

The APPLICANT was represented by Robert Knoebel, Attorney; Dmitry Dudnik, Design Architect; and Stuart Strow, Engineer.

The APPLICANT is here to review the plans for landscaping and hardscaping installation for formal gardens. They came informally to the Planning Board on January 17, 2018 and have reduced the scope of the variances since that meeting. They have moved the south property line back to 23.2' from 0'. The driveway has been removed on the north side. The height of the walls was a concern so terracing and steps have been added.

The Design Architect reviewed the larger updates that have been made to the plan since the informal visit to the Planning Board. There was an Engineer report generated for the March Planning Board meeting that was cancelled because of the weather. They have made some changes to the plan per the Engineer's comments. The size of the terrace was reduced.

Driveway has been eliminated. They have tiered the bottom wall and the upper wall is now 6' 11'. Details have been added to the lounge, stairs, fence, gate and pergola.

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 617.5c9, the project is a Type ?? action. No further review under SEQR is required.

## Site Plan

### 1. Zoning

- a. Variances are required for the proposed garden area.
  - b. .Maximum lot coverage 20% permitted, 33% proposed, 65% variance. Drawing note indicates hardscape areas to be pervious pavers, the Village code does not differentiate between pervious and impervious, verify that all hard surfaces are included in the coverage calculation.
  - c. Sideyard setback 30 ft required, 23.2 ft proposed, 23% variance.
  - d. Disturbance of slope over 40%. The extent of disturbance should be shown as a percentage of the total slope over 40%.
  - e. Wall height over 6 foot in a required yard, 16 foot maximum proposed, 167% variance.
2. No narrative was provided. The EAF indicates gardens with related structures within the gardens area and the driveway extension but does not describe the entry or wall along North Broadway nor the lounge area shown on the drawings. The application should be revised to indicate all proposed new construction.
  3. Revised drainage report should be provided for the additional construction areas.
  4. The drainage design for the garden area and the use of pervious pavers should be provided with details to show ultimate drainage patterns and how a “bathtub” condition will be prevented.
  5. Retaining wall details should be added to the plan set.
  6. Details for the entry and walls at N Broadway should be added to the Brooker drawing, they are currently shown only on the second SK-2 by Dudnik Design.
  7. Show sideyard setback and details for the lounge area.
  8. Provide stormwater management for the reconfigured driveway.
  9. Provide details for the proposed stairs to grade areas.
  10. The plan arrows at the west stairs show appear to show down in the opposite direction than is shown on the Dudnik drawing elevations, please coordinate.
  11. The section callouts do not match with the section marks on the various SK sheets by Dudnik, please correct and coordinate.
  12. The trellis structures should be detailed and shown on the drawings, the note is not adequate.
  13. The Dudnik drawings appear to show proposed contours in the area shown on the Brooker drawings as “wooded area to remain”, please coordinate.
  14. The Dudnik set appears to not be complete, the sheet numbers have a gap, SK-2 is used twice. Please provide complete drawing sets and coordinate sheet numbers.
  15. The landscape plan does not contain a planting schedule. One should be included to show quantities, sizes etc. of all plant materials.
  16. The pergola structures appear to be different heights in the sections on SK-4, please coordinate.

17. Additional comments may be provided on additional submittal materials

The BOARD discussed the submitted plans and report. The hardscape areas are included in the lot coverage calculations. These numbers will change because the proposed driveway extension is being eliminated. The sizes of the walls were discussed. A narrative should be submitted to include all items that are being proposed. If new surfaces are created using pervious materials it will change the drainage but not the coverage. The discharge of the water in the garden area was discussed.

The BOARD reviewed the GML responses received. The recommendations from the Rockland County Department of Planning were discussed. The Town of Clarkstown Department of Planning sent a correction to a previously received letter deeming it for local determination changed to suggest that the Upper Nyack Planning Board review the impact of the retaining walls and the massive structure from adjacent properties.

The CHAIRMAN read a letter to the Board received from the south side neighbor at 647 North Broadway, Jan & Annelien Doornbosch. They have concerns about the variance setback on the south side, percentage of “built-up or developed” area, height of wall on the south side, concern that trees or shrubs planted should be at enough distance from the property line as not to encroach after maturity in the future. There was a discussion regarding what Mr. Doornbosch says is an inaccurate survey map. The Applicant says there is a survey mapping issue between subject property and Mr. Doornbosch, of possible conflicting deeds in the County Clerk office. It was determined that this conflict was at the shore line and did not have bearing on the proposed application. The Applicant will plant off the property line to comply with Mr. Doornbosch’s request.

There was a discussion of the glass railing. The bump out needs to be shown where pool area, upper deck and lower deck elevations are.

The proposed materials of the terraced areas were discussed. The areas will be stone, permeable concrete, flower beds, with fruit trees at the bottom to make it look more natural. The Lounge area will have a sitting area, fireplace, kitchenette and bathroom.

The Village Engineer stated that the Applicant will need an additional variance for the fence since it is shown on the plans to be over 6’.

The Chairman inquired why with such a large property does the Applicant need to encroach on the 30’ setback by requesting a variance.

The Applicant responded that it is to accommodate the design, the walls are a function of the terrain.

The Village Engineer suggested that without the north and south cantilevers the design could be brought in 7’ on either side to align with the building not the cantilevered deck. This would make it easier at the Zoning Board, as one less variance would be needed.

BOARD Member Watson would like the Applicant to keep the 30’ setback.

The Board listened to comments from the public.

**Chester and Kathy Mayer, 657 North Broadway** want to be good neighbors but the variances requested are getting out of hand. Their property is very exposed when on the deck. This property does not look like a single family house and seems more like a hotel. There is going to be noise and lights. The Applicant has a TV outside and watches it at night. The peace of the Village will be at risk. What is the lounge at the river going to be used for? The cypress will be eaten if no fencing is used. What are the rights of the community?

The Chairman directed the Applicant to show the adjacent houses on the plan and the distance from the edges of the wall to the neighbor's houses.

The Applicant said that the house is mostly for their large family. There will not be parties every weekend, it will remain a single family residence.

Member Simpson would like to see a lighting plan.

**John Doornbosch, 647 North Broadway** doesn't feel there should be a need to ask for variance for setbacks. The cypress trees and shrubs will have them looking at a wall of trees. The trees will grow over the property line.

The Applicant discussed the landscaping with the Board and the adjacent property owners. The Chairman would like to see less formality at the north and south edges of the property lines. The formality should be kept to the gardens. At the next Planning Board meeting the Applicant should submit a landscape architectural plan.

Vice Chairman Simpson understands that the formal garden is like an outdoor room but she would like to see the landscape softened at the north and south edges of the property.

The Applicant's Attorney would like the neighbors to talk to Dmitry to discuss options. The Board prompted the idea of the Applicant and neighbors meeting to discuss their concerns.

The Chairman discussed the procedural issues with of the application. The Applicant would like to return to the next Planning Board meeting of May 16, 2018.

**MOTION:** The Board moved *to continue the public hearing to May 16, 2018*. The Board requested that the Applicant submit a lighting and landscape plan and that the items on the Engineer's report should be addressed.

**MOTION BY:** Ellen Simpson

**SECOND:** Karen Olson

**VOTE:** unanimously APPROVED

**The BOARD took a 5 minute recess.**

**9:35pm: Approval of Minutes:** The *Minutes* from *January 17, 2018* were not approved as the Members wanted to further review them.

**Other Business:**

**9:35pm Comito Homes, LLC, 409 North Highland Avenue and 411 North Highland Avenue County Map NO. 60.13-01-58 and 60.13-01-59.**

The Chairman read aloud the Special Permit to allow the use of the Comito-Elm Street Subdivision in the OB Zoning District to be subject to the R-5 regulations. The date of the document should be changed to reflect today's date and there should be a comma added in note 5.

The Board moved to approve the Special Permit for Comito Homes, LLC, County Map No. 60.13-01-58 and 60.13-01-59 to be subject to the regulations of the R-5 zone as amended.

**MOTION BY:** Ellen Simpson

**SECOND:** Karen Olson

**VOTE:** unanimously APPROVED

**9:45pm: Ramah Day Camp Residence Hall, County Map No. 59-16-01-02.** The Board reviewed the submitted GML from the Rockland County Department of Planning for the modification of the special permit use condition previously granted. The Applicant would like to remove the restriction of the operations from April to November to be permitted to use it year round. The Board deemed it for local determination.

The meeting was adjourned at 9:50pm.

Respectfully submitted,  
Jillana Sinnott, Secretary