

**Village of Upper Nyack
Planning Board Meeting
Wednesday, May 18, 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 7:32 pm by the Chairman, William Pfaff.

Other Board members present: Karen Olson, Cynthia Turner, and Joseph Heider (via zoom).

Also present: Dennis Letson, Village Engineer; Noelle Wolfson, Esq., Consulting Attorney; 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 May 11, 2022.

7:34 pm. Motion for approval of minutes from the March 23, 2022 meeting.

First: Karen Olson

Second: Cynthia Turner

Vote: 4-0, APPROVED.

7:35 pm. Lewis Maresca, 505 Spook Hollow Road, County Map No. 60.09-02-25.

Continuation from March 23, 2022. Application for site plan approval for a semi-inground pool on property improved with an existing single-family residence located in the Residence R-10 District.

Represented by Lawrence Garvey, Esq.

Mr. Garvey stated that the ZBA granted the variances subject to modifications at the May 3rd meeting. The comments of the Village Engineer were reviewed and discussed.

State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617.5(c)(12), the project is a Type 2 action. No further review under SEQR is required.

Zoning

1. The bulk table has been revised to reflect the 2022 Zoning Code requirements.
 - a. The column labeled "Min floor Area Ratio" should be labeled "**Max** floor Area Ratio".
 - b. Maximum Bldg Height is permitted 28 ft Principal Structure/15 ft Accessory Structure. Existing and proposed lines should show 25.41 ft principal structure/XX ft shed.
 - c. The date the new variances were granted (shown with **) should be added to the note.
 - d. There is a note to the bulk table indicating "**** variance received on 9/15/20", but there are no entries marked for this. Show these variances if they are still current or delete the note.
 - e. The new code requires a 5 ft setback for parking and driveways. If the driveway widening under permit #1731 has not been installed, it should maintain a 5 ft setback from the lot line.

Site Plan

1. There is a 60.1' dimension which does not seem to align with any feature. Please verify and correct as needed. If this is the setback to the pool, coordinate with the 60.0 dimension shown in the bulk table.
2. It appears the leader line for the "Proposed Perimeter Drain" at the pool was not extended to the drain when the drain was relocated, please correct.
3. Label the junction catch basin at the east property line.
4. The stabilized construction entrance indicates the length to be "As shown" but it is not shown on the plan. Provide a dimension on the plan or the detail.
5. Infiltration test will be required to verify the assumed design infiltration rate.
6. Stormwater maintenance agreement will be required for the site.

A question was raised about the status of the driveway. Mr. Maresca advised that no further work is needed on the driveway.

Noelle Wolfson, Esq., Consulting Village Attorney, explained the variances that were granted by the ZBA.

Comments from Public:

Stephen Looser, 507 Spook Hollow Road, spoke in favor of the application.

Sean Bateman, 502 Spook Hollow Road, spoke in favor of the application. Noted that privacy trees were added to mitigate impacts.

Motion to close the public hearing.

First: Karen Olson

Second: Cynthia Turner

Vote: 4-0, APPROVED.

Motion to approve the site plan titled *Pool Plan for Maresca*, prepared by Paul Gdanski, PE, PLLC, dated 11/29/11, last revised 5/6/22, subject to the following conditions:

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 of the Village Engineer the comments raised in his report dated 5/17/22 and which are specifically set forth herein as conditions of approval. #1a, b, c, d, #2, #3, #4, #5, #6.
3. A Stormwater Maintenance Agreement in the form acceptable to the Village Engineer and the Board's counsel shall be recorded in the office of the Rockland County Clerk and a copy of such agreement as recorded shall be filed with the Board. The applicant shall pay all applicable recording fees.
4. Prior to the issuance of a Certificate of Occupancy the Applicant shall provide 2 copies of an as-built survey 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. Except as otherwise provided in Village of Upper Nyack Zoning Law Section 10.4.1, this approval shall expire if it is not signed by the Planning Board Chairman within 90 days of the date hereof, if a building permit for the work proposed herein is not issued within 3 years of the date hereof, or if a Certificate of Occupancy or Certificate of Compliance has not been issued within 2 years of the date that the building permit is issued.

First: Karen Olson

Second: Cynthia Turner

Vote: 4-0, APPROVED.

7:54 pm. 536 Highland LLC, 536 N. Highland Avenue, County Map No. 59.12-02-01.

Continuation from February 23, 2022. Application for site plan approval to convert second floor banquet room to offices on a non-conforming restaurant in the Office (OB) District.

Represented by Kier Levesque, R.A.

Mr. Levesque said that the ZBA granted the parking variance at the May 3rd meeting and it was added to the plan. He also said that he changed the north entry to protect the first parking space. The comments of the Village Engineer were reviewed and discussed.

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

7. Zoning

- a. The 2022 zoning contains the height requirement of 35 ft Principal Building/15 ft Accessory Building. The accessory building height should be shown in the table.
- b. Distance between buildings should also be shown in the bulk table.
- c. Add a note at the parking calculation to reflect the code driveway and parking setbacks.
- d. Net lot area should be calculated and the FAR and Coverage values based on the net lot area.
- e. Any non-conformities which may be discovered as a result of a to d should be labeled as existing non-conforming, there is nothing proposed which require any additional variances.

8. If any additional signage is proposed for the office use, details should be shown.

9. Signage should be reviewed under the provisions of Sections 6.2.6 and 6.2.9.

10. Landscaping along Route 9W should be provided as called for in Section 5.3.3.2.

11. My Feb. 22 comment regarding the Village boundary was in error, as the zoning map did not reflect that the parcel to the north of this was also a part of the Village annexation. The “Town of Clarkstown” notation along the north lot line should be removed.

Dennis Letson, Village Engineer, withdrew comments #1a, b and e.

Mr. Levesque asked if comment #1d and #4 could be waived and the Board agreed. Mr. Levesque stated that #2 and #3 would require a separate application. #1c, if non-conforming, should be listed as such. Noelle Wolfson, Esq., Consulting Village Attorney, re-read the comments from Rockland County Planning from February 17, 2022, originally read at the February 23, 2022 Planning Board meeting.

Motion to override comments #3 and #4 from the Rockland County Planning memo of February 17, 2022 as they are incorrect in light of the Village’s annexation of property from the Town of Clarkstown in 2021.

First: Karen Olson

Second: Cynthia Turner

Vote: 4-0, APPROVED.

There were no comments from the public.

Motion to close the public hearing.

First: Karen Olson

Second: Cynthia Turner

Vote: 4-0, APPROVED.

Motion to approve the site plan titled *Site Plan, Precision Mechanical Corp. #202161*, prepared by Kier Levesque, R.A., dated 11/17/21 revised 5/3/22, subject to the following conditions:

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 of the Village Engineer the comments raised in his report dated 5/17/22 and which are specifically set forth herein as conditions of approval. #1c; and should #1c disclose a non-conformity, it should be labeled as “existing non-conformity”. If #2 and #3 ever become applicable, it will require a separate application to this Board. #5 Remove “Town of Clarkstown” notation along the lot line.
3. Comments from other Agencies commenting on this plan are herein incorporated as conditions of approval. Rockland County Planning letter dated 2/17/22. #7 and #9 incorporated. #3 and #4 were overridden by the Board because they were incorrect based on the Village’s annexation of land from the Town of Clarkstown in 2021.
4. 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.”
5. 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.
6. Except as otherwise provided in Village of Upper Nyack Zoning Law Section 10.4.1, this approval shall expire if it is not signed by the Planning Board Chairman within 90 days of the date hereof, if a building permit for the work proposed herein is not issued within 3 years of the date hereof, or if a Certificate of Occupancy or Certificate of Compliance has not been issued within 2 years of the date that the building permit is issued.
7. This site plan approval shall expire if the use permitted hereunder substantially ceases for a period of 12 consecutive months.

First: Karen Olson

Second: Cynthia Turner

Vote: 4-0, APPROVED.

8:13 pm. Adam Winkel, 641 North Broadway, County Map No. 60.06-01-07.

Application for site plan approval to construct a fixed timber pier from the existing seawall, install a gangway and floating dock on property improved with an existing single-family residence located in the Residence R-40 District, Hudson Riverfront Overlay.

Represented by Dena Prastos from TMS Waterfront.

Ms. Prastos asked what the Hudson River Overlay District is. William Pfaff, Chairman, showed the new zoning map and explained the Hudson River Overlay District.

State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617.5c2, the project is a Type 2 action. NYSDEC has also determined this to be a Type 2 action. No further review under SEQR is required.

Site Plan

1. Zoning
 - a. The bulk table on sheet SP-100 must be updated to reflect the 2022 zoning, R-40, Hudson River Overlay.
 - b. However, the proposed construction will not raise any zoning issues.
2. The pier and dock plan differ pictorially between sheets SP-100 and C-100, please coordinate.
3. Information differs between sheets C-100 and C-306, please coordinate.
4. There are several differences between the narrative and the plans regarding construction dimensions, pile sizes etc., please coordinate and clarify.
5. To comply with RC Planning comments, add notes to site plan to clarify what work was previously permitted, similarly to how the pool is shown to be under separate application.
6. Compliance with NYSDEC permit should be a condition of any approval.
7. Compliance with Army Corps of Engineers permit should be a condition of any approval.

The comments of the Village Engineer were reviewed and discussed.

Ms. Prastos agreed to revise the plans based on the Village Engineer's comments.

Review of Rockland County Planning letter dated April 13, 2022.

Motion to open the public hearing.

First: Karen Olson

Second: Cynthia Turner

Vote: 4-0, APPROVED.

No comments from the public.

Motion to close the public hearing.

First: Cynthia Turner

Second: Karen Olson

Vote: 4-0, APPROVED.

Motion to approve the site plan set titled *641 North Broadway Waterfront Access*, which is comprised of the following sheets, prepared by Indigo River Architecture and Engineering D.P.C and dated March 14, 2022 (except as otherwise noted): Cover Sheet (T-001), General Notes (G-001), Site Plan (SP-100), Topographic Survey, prepared by Control Point Associates, dated 11/5/2020, last revised 11/13/2020, Demolition Plan (DM-100), Dock Plan (C-100), Facility Perimeter Plan (C-101), Gangway and Dock Sections (C-300), Pier and Seawall Sections (C-302), Pier Details (C-303), Pier Details II (C-304), Gangway Details (C-305), Floating Dock Details (C-306), Erosion Control Details (C-500) and Turbidity Control Details (C-501), subject to the following conditions:

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 of the Village Engineer the comments raised in his report dated 5/18/22 and which are specifically set forth herein as conditions of approval. (#1a, #2, #3, #4, #5, #6, #7.)
3. Comments from other Agencies commenting on this plan are herein incorporated as conditions of approval. Rockland County Planning, 4/13/22 and Town of Clarkstown, 4/28/22.
4. Prior to the issuance of a Certificate of Occupancy the Applicant shall provide 2 copies of 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. Except as otherwise provided in Village of Upper Nyack Zoning Law Section 10.4.1, this approval shall expire if it is not signed by the Planning Board Chairman within 90 days of the date hereof, if a building permit for the work proposed herein is not issued within 3 years of the date hereof, or if a Certificate of Occupancy or Certificate of Compliance has not been issued within 2 years of the date that the building permit is issued.

First: Karen Olson

Second: Cynthia Turner

Vote: 4-0, APPROVED.

8:28pm. Emilio and Kate Collins, 501 North Broadway, County Map No. 60.14.01-07.

Application for site plan approval to construct an inground pool on a property improved with an existing single-family residence located in the Residence R-30 District.

Represented by Jay Greenwell, PLS, LLC.

Mr. Greenwell represented the application and explained this is an application for an inground pool.

The comments of the Village Engineer were reviewed and discussed.

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. Please add "Hudson River Overlay" to the zoning district designation in the bulk table.

b. Application complies with zoning.

2. It appears the stone wall is being used as part of the pool enclosure, if so, indicate the height of the wall.

3. Verify that the post and rail fence will be high enough to comply as an enclosure fence, add detail.

4. Pool and equipment details to be provided with building permit application.

5. On sheet 2, the notation "See Sht. 2" is not needed.

6. And additional limit of disturbance area should be shown on the south side of the lot as shown on sheet 1.

Discussion about GML reviews. Town of Clarkstown letter dated April 27, 2022 deemed the application a matter for local determination. Rockland County Planning letter dated May 13, 2022 recommendations discussed. Village Engineer Dennis Letson recommended that #6 be overridden by the Board because this is a Type 2 Action under SEQRA and therefore no environmental assessment form is required.

Motion to open the public hearing.

First: Karen Olson

Second: Cynthia Turner

Vote: 4-0, APPROVED.

No comments from the public.

Motion to close the public hearing.

First: Cynthia Turner
Second: Karen Olson
Vote: 4-0, APPROVED.

Motion to Approve the site plan titled: *Plot Plan for Proposed Pool- Collins*, prepared by Jay Greenwell, PLS, LLC, dated 1/21/22 last revised 5/11/22 subject to the following conditions:

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 of the Village Engineer the comments raised in his report dated May 17, 2022 and which are specifically set forth herein as conditions of approval. #1a, #2, #3, #4, #5 and #6.
3. Comments from other Agencies commenting on this plan are herein incorporated as conditions of approval. Rockland County Planning, dated May 13, 2022. The Board overrides comment #6 because this is a Type 2 Action under SEQRA and therefore no environmental assessment form is required.
4. Prior to the issuance of a Certificate of Occupancy the Applicant shall provide 2 copies of 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. Except as otherwise provided in Village of Upper Nyack Zoning Law Section 10.4.1, this approval shall expire if it is not signed by the Planning Board Chairman within 90 days of the date hereof, if a building permit for the work proposed herein is not issued within 3 years of the date hereof, or if a Certificate of Occupancy or Certificate of Compliance has not been issued within 2 years of the date that the building permit is issued.

First: Karen Olson
Second: Joseph Heider
Vote: 4-0, APPROVED.

8:46 pm. Lisa Larsen-Kelley and Thomas Kelley, 508 North Midland Avenue, County Map No. 60.09-02-58.

Application for site plan approval for a one-story addition to include expansion of an existing bedroom and new bathroom on a property improved with an existing single-family residence located in the Residence R-20 District.

Represented by Kier Levesque, R.A.

Mr. Levesque explained that this is an application for a 2nd floor addition. The Applicant would like to move on to the Architectural Review Board.

The comments of the Village Engineer were reviewed and discussed.

State Environmental Quality Review (SEQR)

Under the provisions of 6NYCRR Part 617.5c11, the project is a Type 2 action. No further review under SEQR is required.

Site Plan

1. Zoning

- a. This parcel is split by the zoning boundary, the easterly portion is in the R-20 district and the westerly portion is in the R-10 district.
- b. The district boundary should be added to the vicinity map and the site plan.
- c. Mr. Levesque has correctly applied the more restrictive zoning requirements (R-20) to the parcel.
- d. Add a line to the bulk table for parking/driveway setback. This may be existing non-conforming.
- e. The proposed work is compliant with the 2022 zoning.

2. The new impervious area is shown as 4 sf in two locations and 3 sf in a third, please coordinate and correct.

Discussion about Roseland being "Road"; not "Avenue".

Motion to open the public hearing.

First: Karen Olson

Second: Cynthia Turner

Vote: 4-0, APPROVED.

No comments from the public.

Motion to continue the public hearing and refer the application to the ARB.

First: Cynthia Turner

Second: Karen Olson

Vote: 4-0, APPROVED.

Other business:

Adjourn Stuart Chaitin, 517 N. Broadway, application to the July meeting.

Motion to adjourn the meeting.

First: Cynthia Turner

Second: Karen Olson

Vote: 4-0, APPROVED.

The meeting was adjourned at 8:55 pm.