

**Village of Upper Nyack
Planning Board Meeting
Wednesday, July 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 **7:35pm** 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; Roy Wanamaker, Village; and Jillana Sinnott, Secretary.

Others in attendance: Caroline and Michael Scimone, Alan Englander, Priscilla Fishler, Betty Perry, Florence Katzenstein, Bernie Richey, Kara Sheridan, Bruce Gunther, Richard Kleeman, Maureen fletcher, Art Gunther, Elyce Bristol, Robert Gross, Laurie Dodge, Mark Hussey, Evelyn Leong, Bob Carr, Dean Dykeman, Cody VanCampen, Anthony Bello, Carol Goodstein, Stephen Fenichell, Liz Egloff, Glenn Meyerson, Ray Meyerson, Zara and Steve Crowley, Molly Findlay, Sandra Page-Cook, Steve Crowley and Clyde Lederman.

7:35pm The Chairman opened the meeting and read the Notice of Public Hearing, which was published in The Journal News on July 11, 2018.

The Applicant **Lewis Maresca, 505 Spook Hollow Road, County Map No. 60.09-02-25** will not be heard tonight as the neighbor notification was not completed.

7:36pm: Approval of Minutes: Member Bruce Biavati moved to approve the minutes from May 16, 2018 as amended; SECOND: Danielle Watson; unanimously APPROVED.

7:37pm: Caroline and Michael Scimone, 305 Fairview Avenue, County Map No. 60.17-01-46.

Said property is located in Residential Zoning District R-4.

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

The APPLICANT was represented by Louise Male, Architect; Caroline and Michael Scimone, Homeowners.

The APPLICANT discussed the plans for an existing non-conforming deck. In order to close the escrow they must rebuild the deck. They will be taking down two sides and enlarging the deck with the possibility of a lower deck with spiral stairs to come down from upper deck. No trees will be removed.

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 617.5(c) (10), the project is a Type 2 action. No further review under SEQR is required.

Site Plan

1. Zoning

- a. *The Village has no code provision for lot width or total side yard; these should be removed from the bulk table.*
 - b. *Minimum Floor Area should be added to the bulk table.*
 - c. *Street Frontage required is 90.0 feet not 35.0 ft.*
 - d. *The rear yard setback should be measured to the deck.*
 - e. *The %'age figures should be shown for existing and proposed coverages.*
2. *The date of the reference survey should be shown on the plan.*
 3. *Indicate if the deck is spaced decking or solid.*
 4. *Indicate the surface at ground level, grass, patio, etc.*
 5. *It appears the proposed deck renovation will not alter stormwater runoff.*
 6. *A note should be added to the plan that excavated material for new column footing shall be removed.*

The BOARD discussed the submitted plans and report.

The BOARD reviewed the GML responses received. The Village of Nyack and the Rockland County Planning Board deemed the application for local determination. There was no response from the NY State of Transportation.

There were no comments from the public.

MOTION: Member Karen Olson moved to close the public hearing. **SECOND:** Bruce Biavati: Unanimously APPROVED

The Board moved to approve the Scimone site plan dated May 24, 2018 by Merola Studio Architecture subject to the Village Engineer's notes specifically #1, #2, #3, #4 and #6.

MOTION BY: Ellen Simpson

SECOND: Karen Olson

VOTE: Unanimously APPROVED

7:46pm The Village Engineer Roy Wanamaker joined the meeting.

7:46pm: Summit School, 339 North Broadway, County Map No. 60.18-01-01.

Said property is located in Residential Zoning District R-2.

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

The APPLICANT was represented by Dean Dykeman, Certified Arborist and Bob Carr, Summit School Representative.

The APPLICANT discussed the 22 trees that the Summit wishes to take down. Dean was asked to inspect the trees and performed a 360 degree visual observation as requested. This was a Level 1 risk assessment. 10 of the 22 trees were deemed high risk with obvious defects. The Summit School received a permit for the 10 high risk trees by the Building Department. They would like to remove all the trees and plant flowering trees that will grow and not be dangerous. It would look odd to only take some of the trees down and not all of them.

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 617.5(c) (6), the project is a Type 2 action. No further review under SEQR is required.

Site Plan

1. Zoning

- a. *Tree sizes should be indicated to determine if any are significant trees as defined in the Zoning Code.*

2. *The plan shows 23 trees along the school frontage, was the northernmost tree also checked by the arborist?*

3. *The Village Arborist should verify the findings of Wickes for the record and compliance with the Code.*

4. *Replacement trees should be provided as determined by the applicant and the Board and shown on a plan.*

5. *Replacement trees should be native species and suitable for location near the sidewalk and overhead utility lines, ref. Section 14.10 of the general ordinances.*

6. *For any trees to be removed, the stumps should be ground below grade or removed, and the area restored with topsoil and seed.*

7. *Any damage to the existing sidewalks shall be repaired by the applicant or his tree removal contractor.*

The Chairman would like the Applicant to mark on his site plans the trees that are coming down. The Applicant explained that there was one tree that came down in the March storm so the total to be removed is 22 not 23 as shown on the site plan.

The Applicant explained the differences of the assessment level given to trees according to the Matrix. There are different qualifications for each assessment level. Level 1 assessment is a 360 walk around. Level II a probe and digging around the roots etc., Level III would use tomography sound waves. The commonalities of the trees deemed high risk were decay in the trunks and also the proximity of the wires.

Mr. Carr met with Ben Jansen at Jansen Nursery in Florida, NY to get suggestions of trees that could be planted to replace the removed trees. He suggested three different varieties of Maple trees. Mr. Dykeman stated that Maple trees are native to the area but you don't want to plant trees that will grow into the wires. Mr. Dykeman also suggested maybe placing mulch instead of grass around the trees.

The Village Engineer stated that mulch is a potential fire hazard.

The Chairman reviewed the GML reports received from The Town of Clarkstown and the Village of Nyack which deemed the Application for local determination. The GML from the Rockland County

Planning Board has not yet been received as the 30 days waiting period has not been completed as of tonight's meeting.

Board Member Olson noted that these are substantial trees. She inquired whether the replacement would be one for one. What would be the growth of the trees?

The Applicant reviewed the growth of various trees suggested.

Board Member Watson inquired what the life expectancy of the current trees are.

The Applicant said it depends on where the tree is and the exposure to the elements of the tree.

Board Member Simpson asked about using evergreen trees, as fruit bearing trees are three season trees and would be bare in the winter.

The Applicant thought that would not be suitable for this area as they would need to trim them.

Board Member Olson stated that maybe they could mix different type of trees.

The Applicant noted that there is limited root area as there is only 10' between the sidewalk and the wall. There is not enough room on the inside of the wall because of the parking lot.

The BOARD listened to comments from the public.

The Board Chairman read and submitted a letter received from **Susan and Rick Stockton, 334 North Broadway** as she was not able to attend the meeting. The Stockton's feel that the Village is acting hastily and would like a more thorough exam be done. They hope if the trees are truly diseased and must be removed that sizeable trees of similar quality be planted to replace them.

Robert Gross, 7 Perry Lane, read a letter that he has submitted to the Board. Mr. Gross submitted a letter and Curriculum Vitae from Wayne Cahilly who is the chief arborist at the New York Botanical Garden. Mr. Cahilly stated that a Level I, Visual is completely inadequate to make a critical determination of whether to remove any of these trees. When the trees are pruned correctly it will help the tree to grow. Both Mr. Cahilly and Mr. Gross would like to see a Level II assessment, this cannot be a visual assessment. You won't know the correct choice to remove or help the tree without the Level II assessment.

Janet Wortendyke, 611 North Midland Avenue inquired what the cost of taking the trees down would be and would it be more cost effective to move the wires to the other side of the street or bury them underground.

The Village Engineer stated that it would cost over two million dollars for Orange and Rockland to move the wires.

Bernie Ritchie, 117 Lexow Avenue if the Village wants to turn the sheep farm into an arboretum then why would we cut these trees down?

The Chairman responded that the removal of the trees is a Health, Safety and Welfare issue and the trees are across from a school.

Elyce Bristol, 7 Perry Lane, stated that everyone loves the trees but we do need to put safety first. Just don't make a harsh decision. Why did the neighbors not notified about the permit to cut down the trees?

Molly Findlay, 111 Lexow Avenue, wants to know if Mr. Dykeman is taking down the trees. A google search would show you that these trees live for a 1000 years. Don't be cavalier. Two million dollars could not replace these trees.

Florence Katzenstein, 507 North Broadway, loves the river view, Hook Mountain and the trees. The value of a mature tree is over \$5000. Told the school that the limb was dangerous and was ignored, it came down and killed a man. Mrs. Katzenstein was a tree commissioner in the Village of Upper Nyack previously. If we had judicious pruning it would help the trees. Years ago a women tripped on the sidewalk and the five beautiful trees were taken down. The Village could have lifted the sidewalk and shaved the roots. Gingko trees were planted to replace them but it will take thirty years for them to be beautiful. Engines are left running and trees suck up fumes.

Cara Sheridan, 122 Castle Heights Avenue, feels this is a landscaping decision and find it offensive to cut down all the trees so they all look the same. Don't cut the trees down to make it look nice. She also asked repeatedly if Mr. Dykeman had the contract to remove these trees.

Zara Crowley, 18 Castle Heights Avenue, does not think that the trees have been maintained. The trees in England are taken care of. We need collective conversation about trees, not just one person. The trees deserve respect.

Alan Englander, 214 Main Street, Nyack walks along Broadway a lot. Safety should be first but he would like to see second assessment. Selective pruning or maintenance should be done.

Liz Egloff, 304 Ellen Street, the week before the tree fell in front of the school she came to the Village hall and got no reaction. She would like to see a Level II inspection.

Crystal Fisher, 317 North Broadway, would like to know who gave the permit.

Michael Sperling, 317 North Broadway, wants to know if the Village has an arborist. Could the Village ask an arborist if we don't have one? These ten trees are historic and it would have been prudent for the Village to hire an arborist before the permit was given.

Clyde Lederman, 110 Castle Heights Avenue, wants to know if any consideration of different pruning has been taken. This was handled unprofessionally. It is our responsibility to keep the trees to help with the pollution.

Compton Maddux, 97 First Avenue, Nyack is upset that his neighbor cut down a 100 year old spruce tree because of fear. The number of people struck by fallen trees is less than the number of people struck by lightning.

Carol Goodstein, 120 Castle Heights Avenue stated that the water teams down to the river and the trees stabilize the soil.

Sue Smith, 311 North Broadway submitted a letter read by Mr. Gross asking for a Level II assessment on the trees.

Winston Perry, 319 North Broadway read his submitted letter. The trees were planted almost 100 years ago by a distinguished citizen of the Village. They are a significant character-defining landmark of the Village and priceless treasure. He urges that the trees should be given the opportunity to survive as long as they naturally will and work on them be limited to therapeutic measures.

Florence Katzenstein, 507 North Broadway noted that two years ago she complained about a dead tree on Old Mountain Road and it took two years for it to be removed.

Molly Findlay, 111 Lexow Avenue reviewed with the Board the book the Lorax. Due process has not been applied. This is an execution. This will be on the Board.

Board Member Watson knows she has friends and neighbors in the audience and they will probably not like to hear what she has to say. She questioned how many have people in Upper Nyack Elementary School. One person indicated that she had a child in the Upper Nyack Elementary School. Mrs. Watson is offended that the public thinks that the Board would take down trees cavalierly.

The public interrupted and as a result Member Watson was not able to finish her statement.

The Chairman asked the Village Attorney what could be done with the trees that already received a permit to be removed.

The Village Attorney stated that the Board could ask for a Level II assessment on the issued permit.

Board Member Biavati has a problem with the evaluation. All ten trees have the same problem. He would like to have a Level II evaluation on each tree individually.

Board Member Simpson questioned Mr. Dykeman why the tree fell down at the elementary school that killed the man.

Mr. Dykeman responded that because of legal issues he is not allowed to discuss it.

The Chairman would like to stop the permit and ask them to do a Level II assessment on all the trees.

The Applicant stated that they would get someone else to do the assessment.

The Board would like to hire someone to review the submitted documents of the additional assessments. The Applicant should start with a Level II assessment and if the tree is questionable they should go to a Level III assessment.

MOTION: Member Karen Olson moved to continue the public hearing to the September 26, 2018 meeting. **SECOND:** Danielle Watson
Unanimously APPROVED

The Board would like the Applicant to do a Level II assessment on all 22 trees. If the tree is questionable, a Level III should be done. The report should be submitted no later than August 17, 2018 to the Board. The Board requested that the permit be stopped until further review.

9:30pm The Village Engineer, Roy Wanamaker left the meeting.

Other Business:

9:31pm

FIN, LLC, Contract Purchaser of Institute of Christian Doctrine, 4 Badi Drive, County Map No. 60.05-02-56.

The Applicant was represented by Ray and Glenn Meyerson the contract purchasers. They are in contract to buy the road from Mr. Badi and the side of the street owned by the Institute of Christian Doctrine. The Applicant submitted the list of questions below.

Assuming we buy badi Drive, want to know if we are responsible for the drainage issues which may or may not have been completed as specified on former badi subdivision approval requirements, details of which have been emailed to you.

Assuming we buy Badi Drive, what requirements are needed to dedicate the drive to the town of Upper Nyack? The top coat is the only remaining part of the road construction that we believe is left to complete in order to do the dedication.

The Badi subdivision easements and notes stated that the purchasers of badi subdivision Lots own half of their side of Badi Drive. Since all buildable Lots except for 11 Badi Drive have not been developed and two lots are in foreclosure as we understand, we feel it might be impossible to get agreements from all the lot owners to dedicate the road to the Village of Upper Nyack.

Would the Village consider the right of eminent domain so the drive could be completed and dedicated to the Village within the road specifications as outlined by the town?

Would the Palmer Drive connection to Badi Drive be required if we could provide an acceptable emergency vehicle entrance and exit.

Respectfully submitted,

Ray L Meyerson

The Village Engineer stated that the ownership of the road does not exist. In reviewing the title search submitted by the Applicant it seems that the drainage requirements have not been done. There were stop work orders and the easement was abandoned by the Village. The road would need to be re-inspected and repairs to sanitary sewers would need to be done. The Applicant would get a punch list. Drainage is irrelevant to purchasing of the roadway.

The Chairman stated that the drainage on the Badi lots are self-contained. Badi Drive would have to be brought up to standards. The connection to Palmer Drive would be needed for emergency access.

The Village Engineer stated that the owners do not own half of the road. They don't need agreements from the neighbors. There is no right of eminent domain of Badi Drive for the dedication.

Winston Perry a representative from the NY/NJ Trail Conference discussed the footpath by Palmer Drive to the Longpath. The Trial Conference would like to discuss with the Applicant about either buying a lot or getting an easement through the lot.

The Applicant is open to discuss the Longpath with Mr. Perry.

The meeting was adjourned at 9:55pm.

Respectfully submitted,
Jillana Sinnott, Secretary