

**Village of Upper Nyack
Planning Board Meeting
Wednesday, September 26, 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 **7:33pm** by the Chairman, William Pfaff.

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

Also present: Dennis Letson, Village Engineer; Robert P. Lewis, Village Attorney; Daniel Sherman, Arborist Consultant for the Village and Jillana Sinnott, Secretary.

Others in attendance: Brian Powers, Nick Barile, Jock deCamp, Daniel Laub, Bob Carr, Dean Dykeman, Ali Layne, Laurie Dodge, Shirley Lasker Fox, Stephen Fox, Steve Lash, Paul Cavalluzzi, Joe Holland, Jonathan Hodosh, and Alan Englander.

7:34pm The Chairman opened the meeting and read the Notice of Public Hearing, which was published in The Journal News on September 19, 2018.

7:36pm: Approval of Minutes: Member Karen Olson moved to approve the minutes from July 18, 2018 as amended; SECOND: Ellen Simpson; unanimously APPROVED.

7:39pm: Summit School, 339 North Broadway, County Map No. 60.18-01-01. Continuation from July 18, 2018.

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

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

The Chairman read the following memo to the public.

Date: September 26, 2018

From: **William Pfaff, Chairman**
Village of Upper Nyack Planning Board

Memo To: File

Subject: **Application for Removal of 22 Trees Along North Broadway**
Summit School 339 North
Broadway
Upper Nyack, NY 10960

Memo: The sequence of events that led to the removal of Summit School's 22 Linden Trees along North Broadway is as follows:

1. At the July 18, 2018 Meeting of the Village of Upper Nyack Planning Board, the Planning Board reviewed the Summit Schools' Application to Remove 22 Trees Along North Broadway. At the conclusion of the meeting the Planning Board directed the Applicant to provide a Level Two Assessment Report of the trees in question. It was intended that the Applicant would be back before this Board, at this September Meeting, for review of the Report and a determination regarding their application to remove the trees.

2. *On Monday, August 20, 2018, the Village of Upper Nyack received from the Applicant the results of this request: A Level Two Assessment Report entitled “**Tree Risk Assessment – Completed August 2018**” prepared by Angelo Schembari III, ISA Certified Arborist NY 5461A.*
3. *Utilizing assessment standards from the International Society of Arboriculture, the Report provided detailed assessments of each individual tree. In its summary the Report Identified twelve (12) trees as ‘High Risk’, ten (10) trees as ‘Moderate Risk’ and noted that the only remediation option to lower the risk the trees presented was removal of the trees.*
4. *On Tuesday, August 21, 2018, Deputy Mayor Michael Esmay contacted me to discuss the findings of the report. After forwarding me a copy, we agreed to meet later that day, along with Building Inspector Roy Wanamaker, and Village Attorney Robert Lewis, to further review the Report’s analysis and conclusions.*
5. *We discussed many options: waiting until this September Meeting to determine how to proceed, holding a special joint Board of Trustees / Village Board Meeting sometime in the coming weeks, etc.*
6. *Throughout this discussion we were all alarmed by the significant risk the trees posed. The Report made clear that the trees presented a clear endangerment to public safety due to their condition and location.*
7. *Because of the imminent peril and endangerment to public safety the trees presented, the Building Inspector, per **Section 6:5.C.3.c** of the **Village of Upper Nyack Zoning Code**, decided to issue a permit to Summit School for the removal of the 22 trees. We concurred with this action.*

At the September 2018 Planning Board Meeting, the Board will continue review of this Application to determine the Applicant’s plan for new replacement trees at this location.

The APPLICANT was represented by Dean Dykeman, Certified Arborist who is also the Village Arborist but is not representing the Village on this Application.

The APPLICANT would like to have a plan for heritage trees for the future. Mr. Dykeman reviewed his narrative. Trees will be planted between the wall and sidewalk. The Applicant has submitted some choices which the Board reviewed. A flowering tree would bloom for one to two weeks. A stately tree will make a statement in 20 to 30 years. The Applicant suggests a columnar tree which would be approximately 20’ wide and 50’ tall. There are always positives and negatives to any tree such as acorns, spiked balls and color.

The proposal is to plant the new trees center to center between the old stumps offset of the wires. The Applicant reviewed photos of the suggested trees. The Fastigate Hornbeam grows to approximately 25’-30’ high. It has an erect formal appearance and stays narrow. There is no fall color. The Armstrong Gold Maple grows faster than the Regal Prince Oak. The Regal Prince Oak is a slow grower at about one foot per year. The Hornbeam is a moderate grower and is a smaller tree at about thirty to thirty five feet high. The Slender Silhouette Sweet Gum is a slow grower.

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. The tree permit issued by the Building Inspector and work to date are in conformance with the Village Code.*
- 2. Recommend a Landscape Architect be retained by the Board to review the proposed plantings and provide comment on suitability for the location.*
- 3. Input should also be solicited from the utility companies regarding replacement trees.*
- 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 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 inquired what is available. The Applicant stated that Autumn Gold, Regal Prince and Slender Silhouette are available now.

The Applicant stated that the Regal Prince Oak tree which is his favorite does not require a lot of trimming for a while. The negative is that Oak tree roots have to be monitored because of the sidewalk and it has acorns. They are resistant to powder mildew.

Board Member Simpson inquired whether the Summit School will maintain the trees. The Applicant stated that going forward they will have a maintenance plan for the trees.

The Applicant discussed using mulch between the trees instead of grass. They are open to the best recommendation the Village has.

Dan Sherman, the Village Arborist Consultant likes the Regal Prince also. If the tree is planted deep enough the roots will grow down. The leaves stay on most of the winter and the acorns are very small. They are able to endure sun and wind. This type of tree will look formal.

The Chairman would like extra effort to grow the roots down with a big deep hole.

The Applicant said that a 2 ½ caliper tree is available at about 12' – 14' tall possibly available from a nursery in Albany or Ohio currently.

Member Simpson inquired of the color of the bark. The Applicant stated it would be grey to dark.

Member Olson inquired if the branches near the bottom would be cut. The Applicant said you could cut them if you have to but it is a narrow tree.

The Applicant noted that 22 trees would be planted. The trees growth rate is by the third year one foot per year. The trees would be hand-picked by the Applicant. The trees will be looked at on a regular basis.

The Village Engineer said sod would not be good without irrigation. Topsoil and seed would be better.

The BOARD listened to comments from the public.

Laurie Dodge, 349 North Broadway inquired why there is a rush to plant the trees. Why do we have to replicate what was there. She likes the look of the open space without the trees at this time.

Jock deCamp, 349 North Broadway noted that the Linden trees were planted 100 years ago when it was a grassy mansion. It is now a parking lot. New trees would require the Summit School to maintain the sidewalks and the trees which would be a lot of work for them. Maybe putting a curb so people wouldn't park on the sidewalk and cleaning up the street would be better.

Alan Englander, 214 Main Street, Nyack wants to know why we are sticking with columnar trees. The Oak is a good choice by Mr. Dykeman but maybe we should consider other shrubs.

The Chairman noted that after the trees were cut down it was much lighter and would like to see a series of trees to replace them.

Member Olson wondered if the school had thought of not replacing all 22 trees. The Applicant stated that they are trying to create little impact and are open to whatever the Board suggests.

Member Simpson would like to know if we have to plant in the fall or can the trees be planted in the spring? The Applicant responded that he won't know until you get to the nursery to see what is available. Shrubs would require more maintenance than trees.

Member Simpson discussed that we are not being pushed into making a decision so should the Board wait and have the Summit School come up with a possible alternative plan?

The Village Engineer suggested maybe a more decorative entrance by the driveway instead.

Member Olson suggested the possibility of fewer but larger trees.

MOTION: Member Karen Olson moved to continue the public hearing to the October 17, 2018 meeting. **SECOND:** Bruce Biavati

Unanimously APPROVED

The Board would like the Applicant to submit a landscape architect rendering of the different layouts suggested.

8:32pm: Kemp Realty Inc., 520 North Highland Avenue, County Map No. 59.12-02-03.

Said property is located in Laboratory Office Zoning District LO.

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

The APPLICANT was represented by Daniel Laub, Attorney for Cingular Wireless/AT&T. The APPLICANT discussed the plans submitted. AT&T is not currently on the tower. Currently Verizon and T-Mobile are on the tower. They are proposing a 10' extension, 8'x8' walk in cabinet, generator pad and extending the fence. After 911 the Federal Government started to develop a service called "First Net" to help emergency services with their radio communications which AT&T is developing.

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, the project is an Unlisted action. A short EAF should be provided, the Board will have to make a determination of significance.

Site Plan

1. Zoning

a. *The ZBA has previously acted on this site.*

b. *The proposed installation is in compliance with zoning approvals.*

2. *Given the increase in monopole height, a structural report and certification should be provided.*

3. *A RF report and certification should be provided to demonstrate that the facility in full operation with all carriers will operate at RF levels below Federal standards.*

4. *The monopole extension color should match the existing; note 23 on sheet C-2 should be revised to indicate painting of extension after galvanizing.*

5. *The proposed panel antenna are shown (sheet C-5) to be grey, these should also be brown if possible.*

The BOARD discussed the plans and reports.

The Chairman discussed that the Zoning Board of Appeals had previously decided the tower is not a structure. The Planning Board had previously allowed the tower to be 20' High. There should be a continuation of the landscaping and the dead plants should be replaced.

Member Simpson would like the Applicant be sure to have the paint match the current color. Otherwise it would be like an old tie with a new suit.

The Chairman read the GML reports received. The Rockland County Planning Board stated that there was no variance required. Clarkstown Planning Board deemed it for local determination. The Village Engineer stated that the DOT will probably not comment as it is not a traffic generator. The Applicant stated that one time a month they check the site and they monitor it 24/7.

The Chairman stated that an EAF would need to be prepared.

The Village Engineer stated that the reports are important, the drawing will be reviewed later.

The BOARD listened to comments from the public.

Jock decamp, 349 North Broadway, stated that as an AT&T subscriber it is about time.

The Board had no further questions.

MOTION: Member Karen Olson moved to continue the public hearing to the October 17, 2018 meeting. **SECOND:** Ellen Simpson

Unanimously APPROVED

9:06pm: Louie, Elvira & Aasin Ahmetaj, 606 Palmer Drive, County Map No. 60.05-02-34.

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 Paul Cavalluzzi, Prestige Pools and Louis Ahmetaj, Homeowner.

The APPLICANT discussed the plans submitted. The Applicant would be installing a pool in the backyard. There is an existing patio.

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 south side yard setback should be added to the bulk table.

B. The proposed project is compliant with zoning.

2. There appears to be 2 piers located at the spa area of the pool, these should be identified on the plan.

3. The alteration of the existing wall at the location of the proposed waterfall should be indicated on the plan and details of proposed wall construction added.

4. Existing topography should be labeled on the plan and lines made darker; it is very difficult to read.

5. A note should be added that infiltration rates will be verified, in accordance with the test procedure of the NYSSMDM, at the time of construction to verify the assumed rate used in the design, and the design modified as required by the test result.

6. The volume of the proposed drywell should be taken to the invert elevation of the overflow pipe.

The BOARD discussed the plans and reports.

The Chairman read the GML reports that were received. Rockland County Sewer stated the Applicant

is outside of the district. Rockland County Planning requests that review must be completed by the Rockland County Department of Health for the County Mosquito Code, all other recommendations have been addressed. Clarkstown deemed the application for local determination.

The Chairman read a letter from **Diana and James Calhoun, 604 Palmer Drive**. They give a positive approval to the Applicant. There had been a pool there previously without incident.

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 Ahmetaj site plan dated October 14, 2017 by Paul Gdanski, PE, PLLC subject to the Village Engineer's notes specifically #1a, #2, #3, #4, #5, #6, add detail to modification of wall and be in Compliance of the Mosquito Code.

MOTION BY: Karen Olson

SECOND: Ellen Simpson

VOTE: Unanimously APPROVED

9:20pm: Shira and Chad Rubin, 13 maple Avenue, County Map No. 60.13-02-04.

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 Jonathan Hodosh, Architect.

The APPLICANT discussed the submitted plans. This is a small house with 2 bedrooms. They would like to move the master bedroom upstairs and add a deck to be able to park the car underneath it.

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

Site Plan

1. Zoning

- c. Side yards should be indicated as "14.5/44.5" in the bulk table.*
- d. The bulk table line entry for "Total Side Yard" can be removed.*
- e. The proposed project is compliant with zoning.*

2. The Board should determine if submittal requirements (utility locations, topo, tree locations, etc.) can be waived based on the scope of proposed work.

3. A vicinity map should be included on the site plan sheet.

4. The aerial photography appear to show additional features (front walk, patio?) that do not show on the plan.

5. Given the scope of proposed work with no site alteration, we have no additional comment.

The BOARD had a discussion of the paper street and the gravel driveway. The Village Attorney stated that years ago the Village abandoned the paper street and some of the owners paid costs to add it to their property. Comment #2 was discussed regarding waiving the submittal requirements of items on the site plan. The Board decided that it was not necessary to add the additional items.

The Applicant noted that the building height of 28.6 will be changing to 29.2 because of trusses being added.

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 Rubin site plan with the last revised date of August 21, 2018 by George Hodosh Associates – Architects, P.C. subject to the Village Engineer's notes specifically #1a, #1b, #3, #4 and to revise the building height on the bulk table. Subject to Architectural Review Board approval.

MOTION BY: Karen Olson

SECOND: Bruce Biavati

VOTE: Unanimously **APPROVED**

Other Business:

9:35pm: Joe Holland/Majestic Lawncare & Landscaping as Contract Purchaser of Parisi Holding Co. LLC, 517 North Highland Avenue, County map No. 60.09-02-01.

Joe Holland reviewed the submitted plan and photos. He has been interested for a long time in the property. He would like to know what the possibilities are of the property. He would like to add a metal garage to the existing lot and house. A fence would be added 20' off the property line if allowed. A second driveway would be added. Plantings would be added to have a soft appearance. A salt shed would be added and trucks will be parked in the back.

There was a discussion of the Long Path that possibly goes through the property.

Member Simpson inquired how high is the fence. The fence will be approximately 8' tall and concealed from the neighbors.

The Village Engineer explained that this Application would either have to go to the Zoning Board of Appeals for a use variance or wait for the Comprehensive Plan to be completed to see if the Zoning is changed.

The setbacks and uses in the LO, Laboratory Office District were discussed. The residential buffers required for a commercial property were discussed.

Mr. Holland thanked the Board for their input on this property but at this time it does not seem like what he wants to do is feasible.

The meeting was adjourned at 9:55pm.

Respectfully submitted,
Jillana Sinnott, Secretary