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Land Surveying and Land Planning

VILLAGE OF UPPER NYACK -- AMENDED CHAITIN SITE PLAN

June 8, 2022

The subject property has been the subject of numerous Planning Board and ZBA meetings, and this current application seeks to formalize several existing conditions.

1. There is an existing steep and unstable slope condition at the westerly side of the property which has impacted the adjoining uphill owners and needs to be remedied. This was caused by the original construction of the house and the construction activity that extended beyond the original proposed limit of disturbance. It is proposed to construct a retaining wall and add fill to the westerly slope area to reduce the potential for continued erosion.

This action will require a variance for disturbance to slopes in excess of 40%.

2. During the course of construction and over the years of living in this location, the owner / applicant has installed various walks, walls, patio areas, etc. that accrue towards development coverage beyond that permitted by the code. Originally, this lot was subject to the R-2 code, which allowed a maximum of 25%. A prior variance permitted 27.4%. The coverage variance is now exacerbated by the new maximum permitted R-30 coverage limit of 20%, as well as the new slope area deductions.

This will require a variance for maximum development coverage of 39.4%. It should be noted as a consideration that the coverage would be 23.3% based on the gross lot area of 44,694 sf.

3. Subsequent to the construction of the house, the owner / applicant installed stone pillars with an entrance gate and lights on top of the pillars. The height of the pillars was approved by the ZBA on 12/17/13 to be 8' high vs. the permitted maximum of 6'. However, the west pillar is 7.8 feet high and the east pillar is 8.7 feet high, due to the pitch of the road. The height of the pillars has been determined by the Village to include the lighting on top, making the total assembly 11.75 feet high. The gate is 9.25' high.

This will require a variance from the maximum height allowed of 6 feet for walls and fences, in the context of the 8' variance previously issued.

As to variance #1 above for the disturbance to slopes, the resulting grades will benefit the uphill owners by mitigating the existing sharp drop-off at the rock cliff at the westerly property line. The construction of a retaining wall and additional fill will raise the grade, making the slope at the boundary line less steep, as demonstrated by the cross sections prepared by Sound Engineering Associates, LLC and submitted herewith on sheet 5. There will be no negative impacts on the neighborhood by the granting of this variance.

As to variance #2 above for the coverage, all of the improvements shown on the property are currently existing, and will not cause any additional site disturbance. The property has significant area deductions due to the area under the 100 year floodplain, and due to the slope area reductions in accordance with the new zoning code. As noted above, the visual appearance of the site does not appear as one "jammed full" of impervious areas, due to the fact that the gross area of the property is over an acre (44,694 sf). The coverage of the property based on the gross lot area would be in compliance with the original zoning for the lot as 23.3% (vs. the 25% allowed in prior R-2 zoning).

Additionally, much of the coverage is due to landscaping features such as linear retaining walls, walkways, stone steps, gravel areas, concrete pads for air conditioners and generator, and patio areas. These elements do not have the same effect on the visual character of the site as structures such as houses and sheds, or larger impervious areas like tennis courts.

The granting of this variance will have no negative impact on the surrounding properties.

As to variance #3 above for the height of the pillars, lighting, and fence gate at the site entry, the ZBA previously permitted 8' high pillars. During installation, making the entry pillars level and permitting the installation of a gate, the pillar on the east was higher than 8' and the pillar on the west was lower than 8'. The applicant added lighting at the top of the pillar without knowing that the lighting would be construed as a part of the pillar, worsening the apparent height. Additionally, the center of the ornamental gate (which is not opaque) extends to a height of 9.25', while the sides are at the height of the top of the pillars.



The granting of this variance will have no negative impact on the surrounding properties.

Jay A. Cunniff