

Members Present:

Peter Klose (Chairman)
Daniel Jean-Gilles
Glen E. Keene
Peter Voletsky

Also Present:

Don Yacopino, Building Inspector
Bob Galvin—Village Planner (present)

Absent: Alan Englander,

Other Business: A motion was made by Chairman Klose, seconded by Member Voletsky, to accept the October 4, 2013 Minutes. Passed 4-0. This meeting was delayed a week due to the loss of power at Village Hall last week.

1. ***5 First Avenue. Walter Harrington. Site plan application the increase in size of front porch from 4ft x 5ft to 7ft x 8ft and recommendation to Zoning Board of Appeals. Property is in TFR Zoning District.***

Building Inspector-- The following existing dimensional and developmental standards are nonconforming: lot area of 3,780sqft where 5,000sq ft is required; lot width of 42ft where 50ft is required; minimum side yard of 4ft where 5ft is required; rear yard of 19ft where 27ft is required.

Per Article I VON § 360-1.9E Nonconforming buildings. The alteration, enlargement or horizontal extension of a building that is nonconforming with respect to dimensional and development standards, as specified in Article IV of this chapter, shall require a variance from the Zoning Board of Appeals. The increase in the height of a wall or roof that is nonconforming is prohibited.

An area variance is required from Article I VON§360-1.9E for front porch alteration on a building which is nonconforming to above referenced dimensional standards.

Porch renovation approved by ARB along with positive recommendation to ZBA for required variance on October 16, 2013.

Applicant-- Explained that all of the adjoining homes have similar front steps and porches and that the character of the neighborhood would not be impacted by this slight improvement - despite the fact that it was a pre-existing non-conforming use. Planning Board members did not find any significant impacts on the character of the neighborhood, the sight lines of neighbors and it appeared to constitute a only a slight variance of the existing condition. The ARB-- had no issues. Adjoining homes are all non-conforming as they are all too close to the side yards. Front yards and porches all seem to line up. The intent of the building is a single family dwelling. It appears that there are no sight lines impacted by the proposal. All of the additions and porches in the rear line up and this modification will not effect sight lines. The porches on nearby houses across the street are of similar size. All lighting to be downward facing and no spillover onto neighboring properties.

PUBLIC -- NONE

Board Proposed action is duly noted Type II Action under SEQRA, therefore it is not subject to SEQRA review and analysis.

Mr. Klose moves to Close Public Hearing (Second by Mr. Voletsky) Vote 4-0.

Resolutions-- The Planning Board makes a positive recommendation to the ZBA to grant an *area variance from Article I VON§360-1.9E for alterations to a building that is nonconforming to above referenced dimensional standards on the condition that house remain a Single Family Residence as that term is defined by the Zoning Code.*

The Planning Board makes a positive recommendation to the *nonconforming: lot area of 3,780sqft where 5,000sq ft is required; lot width of 42ft where 50ft is required; minimum side yard of 4ft where 5ft is required; rear yard of 19ft where 27ft is required. Second Jean-Gilles -- Positive Recommendation to the ZBA- 4-0.*

With respect to Site Plan approval, the application is granted, for an increase of the porch size, conditioned upon applicant's compliance with any reasonable conditions of the ZBA and ARB and that all lighting is downward facing. Second Voletsky-- Vote- 4-0

- 2. 132 A Main Street. Robert Silarski for Bourbon Street Restaurant. Property is in DMU zoning district. Site plan application to convert two second floor apartments to Event Space Use. Recommendation to ZBA required for parking variance of 7 parking spaces.**

Building Inspector-- Comments from Orangetown Police Department included in prior application.

Comment I. *Per Article V VON§ 360-5.7B(2) this permit requires Site Plan Approval.*

Comment II. *PARKING: Per Article IV VON§360-4.5B(3) (3) Change of use. When the use of a lot or building changes, additional off-street parking facilities must be provided when the number of parking or loading spaces required for the new use exceeds the number of spaces required for the use that most recently occupied the building, based on the minimum parking standards of this Zoning Chapter. In other words, the owner must provide (or receive a variance for) parking equal to the difference between the parking requirement for the existing use and the parking requirement for the new use, not the difference between the actual existing parking and the parking requirement for the new use, an area variance for 9 parking spaces will be required with the change of use from residential to restaurant. Parking Requirements: 2 Existing Bedrooms @ 1.5 spaces per bedroom = 3 spaces. 1090 sf of public assembly space plus 425 sf of rooftop dining =1515 sf @ 150 sf p r parking space = 10 required parking spaces. 12 required spaces for new use – 3 required spaces for existing use = Seven (7) required parking spaces to either be provided, a variance granted for or a fee-in-lieu of parking assessed. Per Article IV VON§360-4.5L(1)(a)(b)(c)&(2), the Planning Board is authorized to assess a fee-in-lieu of parking for a Site Plan application in the DMU zoning district.*

Parking Requirements: 2 Existing Bedrooms @ 1.25 spaces per bedroom = 2 spaces. 1090 sf of public assembly space @ 150 sf per parking space = 7 required parking spaces. 7 required spaces for new use – 2 required spaces for existing use = 5 required parking spaces to either be provided, a variance granted for or a fee-in-lieu of parking assessed. FIGURES REVISED 10/31/2013

Comment III. THE OUTDOOR DINING REQUEST HAS BEEN DISCONTINUED BY THE APPLICANT.

Comment IV. Per Article IV VON§360-4.5L(1)(a)(b)(c)&(2), the Planning Board is authorized to assess a fee-in-lieu of parking for a Site Plan application in the DMU zoning district:

- L. Payment in lieu of parking. A payment-in-lieu of parking for development located within the DMU, RMU, OMU or CC zoning districts may be authorized by the Planning Board as a condition of approval for a site development review application to satisfy the off-street parking requirement, or a portion thereof, according to the following standards:
 - (1) Payment. Payment of the fee per space for the number of spaces determined by the Planning Board:
 - (a) The Village Board of Trustees shall set the fee per space by resolution and may change the fee whenever it deems appropriate to do so. The fee schedule shall be made available at the Building Inspector's office.
 - (b) The fee payable by an applicant shall be set and paid prior to the issuance of the certificate of occupancy. The fee must be paid in a lump sum or at the discretion of the Building Inspector in installments, and shall not be prorated or refundable should the applicant vacate the premises.
 - (c) Prior to issuance of the certificate of occupancy, the applicant must deliver to the Building Inspector's office a certified check, payable to the Village of Nyack Parking Authority, in the amount set by the Board of Trustees and determined by the Building Inspector.
 - (2) Certificate of occupancy. The certificate of occupancy issued to the applicant must record the number of off-street parking spaces being satisfied by means of payment in lieu of providing actual spaces and the fee due to the Parking Authority. A certificate of occupancy will not issue, however, unless the applicant has fully satisfied the parking requirements by providing actual spaces and by making payments in lieu of parking. A variance shall be required if the applicant fails to provide all the spaces required under this § 360-4.5.

Applicant

Applicant is looking to have event space-- removing the two residences and change to their bar operation with an entertainment area. - Chairman Klose and Members Voletsky and Keene questioned the change of use vis-a-vis the CMP requirements that encourage downtown residential. Applicant's plans are not well-developed, the event space and operation of the space is not well defined. Planning Board members universally wanted better description and detail as to what particular operations would be used for. The Board expressed real concern about the space being simply a spill-over place for additional drinking and assembly. Rooftop deck option/request has been withdrawn by the Applicant.

The removal of the residential apartments is against the goals of the CMP which encourages the development of residential units downtown. The police department is extremely concerned about adding to the already rowdy nightlife and late night drinking establishments.

Chairman Klose is very concerned about the change of character of the building and the seemingly open ended nature of this application. The Chairman, joined by other members, has requested more definition of access, use, operation of the “event space” with building and fire code analysis.

Various Planning Board members expressed their concern about the nature of this new event space given other establishments known as Harbor Hill (Vertigo), MOJO, Hudson House, and other second story drinking establishments.

The Applicant has made an ‘economic’ argument as part of his application and the Planning Board would like an economic study of other event spaces, and comparison of this particular space with the other two or more story bar scenes and a recommendation as to how this particular plan fits into the CMP.

The Planning Board would like the Village Planner to incorporate Building and Fire opinions in his review and would also like to solicit additional Police Department comments, including reasonable suggestions about design, operation and use of the space as a two story bar, compared to a separate “event” space, and whether amplified music or other such events should be permitted in this location.

In addition, the Planning Board wishes the Village Planner to opine as to any revised application, whether the elimination of two apartments furthers the objectives of the Village’s Comprehensive Master Plan which encourages the development of affordable residential units downtown. Based on these issues, it would appear that the current application proposes a problematic use in the DMU area, and raises issues as, under the circumstances whether the parking variances are appropriate. Again, the application before the Planning Board does not have sufficient operation details for the Chairman to send this application to the ZBA. Applicant will return with additional information.

The application is too fluid, undefined and without scope. Given the very real concerns and impact of changing the use from Residential as suggested and recommended by the CMP, and the very real problems the village is experiencing with late night drinking and partying, the Board would like additional information, including police reports, liquor authority complaints, commentary from the Village Planner, the local Police, local citizens, soundproofing engineers, together with a clear statement of purpose, limitations on hours, operation of any facility and any change in the character of the neighborhood.

Public Comment-- NONE

Board Duly Noted Type II Action for SEQRA, so exempt from SEQRA review and analysis.

The application remains OPEN.

3. **46 Third Avenue. Jill McCabe. Site Plan application to install rear yard pool and extend existing deck and a recommendation to Zoning Board of Appeals. Building is in TFR Zoning District. Applicant is to return to ARB in November with proposed revisions to deck.**

Building Inspector-- ARB offered positive recommendation to ZBA for pool location. An area variance was issued for an above ground pool in the same location on August 29, 1988 but pool has since been demolished. Area variances are required from VON§360-3.2E(8) for a north rear yard of 12 ft. where 20 ft. is required and a west side yard of 13 ft. where 20 ft. is required.

This is similar to the prior application where variances are required because of pre-existing non-conforming uses. The property is nonconforming for narrow side yards and lot size, but previous use included a pool at the same location.

Public Comment-- NONE

Board --Duly noted Type II Action for SEQRA, therefore, action is exempt from SEQRA review and analysis.

Klose moves to Close Public Hearing (Second by Keene-) Vote 4-0.

Resolution-- The Planning Board makes a positive recommendation to the ZBA to grant an *area variance from Article I VON§360-1.9E for alterations to a building that is nonconforming to above referenced dimensional standards on the grounds that with the provision that the house remain a Single Family Residence as that term is defined by the Zoning Code.*

The Planning Board makes a positive recommendation to the ZBA to grant an *area variance from VON§360-3.2E(8) for a north rear yard of 12 ft. where 20 ft. is required and a west side yard of 13 ft. where 20 ft. is required, on the ground that the neighborhood is not significantly going to be impacted, as long as the house remains a Single Family Residence as that term is defined by the Zoning Code; and as long as the Applicant complies with any reasonable conditions proposed by the ZBA or the ARB.* Second by Jean Gilles-- Vote 4-0.

Special Note-- the Applicant is considering reducing the application to reduce the size of the proposed pool to the size of a hot tub. The positive recommendation would extend to the grant of the application for a hot tub because it would have an even smaller impact upon the neighborhood.

With respect to Site Plan approval, the plan and application as drawn are approved in that they are an improvement to the existing conditions, the ARB has approved the proposed changes, and provided that the applicant comply with reasonable conditions of the ZBA

and all lighting is downward facing is approved-- Site Plan approval for drawings specified. Second Voletsky-- Vote- 4-0. In the event that the applicant switches to a covered porch (greenhouse) and hot tub, the Planning Board also grants provisional site plan approval subject to approval by the ARB and building department. Vote 4-0.

4. 71 South Broadway Kier Levesque for Riverside Builders.

Building Inspector-- Site Plan application for demolition of two rear yard structures, rooftop deck, rear window wells, exit deck and stairwells.. Building is in DMU Zoning District. Project approval and positive recommendation to Planning Board for demolition granted by ARB 10/16/2013. This is application for an increase in the allowable density of the particular lot.

Applicant

Applicant submitted proof that the building had been used for residential purpose and multi family housing all the way back to 1965. Will supply the evidence to the ZBA.

With respect to the requested increase in density, the Planning Board finds that the proposed use of five (5) separate floors [four residential and one retail] is in keeping with the character and nature of the neighborhood, that the proposed plans will enhance the street, the life in the Village and encourages the type of use and density requested. Given that the demolition of the two small structures will add green space and that the Village is contemplating an increase of density in the DMU, that the proposed units are all compliant with existing size recommendations, the Planning Board is encouraged that this work will be conducted in the Village.

Site Plan Elements -- the applicant will add to the site plan a lighting plan, will enclose the rear yard with a fence with a locking gate, will screen all refuse containers and will generally comply with all building department requirements about the safety of the roof top deck.

Board-- Duly noted Type II Action for SEQRA, therefore, it is not subject to SEQRA review and analysis. Klose moves to close Public Hearing (Second by Voletsky) Vote 4-0. Klose makes a positive recommendation to the ZBA to grant the requested variance to increase the permitted residential density for this particular building as this was the originally . The variance from the law is small given the amount of space available, and the proposed plan to have one apartment per floor.

With respect to Site Plan approval, the plans will be supplemented by the Architect with the items referenced to the satisfaction of the Building Department and the Applicant as drawn in drawings Sheets to be dated as long as they comply with reasonable conditions of the ZBA and ARB and all lighting is downward facing is approved-- Site Plan approval for drawings specified. Second Voletsky-- Vote- 4-0.

With respect to the demolition permit. All are in favor of removing the rear structures to permit the increase in green space, back yard are and reducing the impermeable space. Vote 4-0.

5. 97 Sixth Avenue. Michael Meth. Site Plan application to widen driveway and curb cut and reconstruct retaining walls. Building is in SFR-1 Zoning District.

Building Inspector Proposed parking in driveway is not indicated but the width of the driveway will accommodate two parked cars. Per VON§360-4.5E(2) no parking is permitted within a required front yard except as provided in the following code section§360-4,5D:D. Areas computed as parking spaces. (1) Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street or a driveway. However, a driveway within a required front yard for a one-family or two-family dwelling may count as one parking space. An area variance will be required to park more than one car in this front yard driveway.

Applicant-- This is only a site plan application to make safe the owners existing driveway and retaining walls. Owner explained the difficulties of the driveway caused by the huge trees causing the retaining walls to collapse and wants to be able to have a wider driveway. Plans to only park one car in the driveway. Zoning Variance is not requested, but it would be required to permit two cars in the driveway.

Board Duly noted Type II Action for SEQRA, therefore, it is exempt from SEQRA review and analysis.

Klose moves to Close Public Hearing (Second by Englander) Vote 4-0.

Resolution by Klose to approve the Site Plan drawings dated with the caveat that the Applicant comply with reasonable restrictions imposed by the ARB and the Building Department, subject to the obligation of the applicant to return, if two cars are going to be parked in the driveway. Second by Peter Voletsky Vote 4-0.

OTHER BUSINESS

Motion to adjourn by Member Klose, seconded by member Voletsky. Vote 4-0. Meeting adjourned at 9:30 pm.