

Nyack Planning Board—July 2, 2012

Members Present:

Peter Klose (Chairman)
Daniel Jean-Gilles
Glen E. Keene,
Peter Voletsky
Alan Englander Alternate

Also Present:

Walter Sevastian, Village Attorney
Don Yacopino, Building Inspector

Absent: Don Hammond

Chairman Klose recused himself from the consideration and discussion of the Application for the River Rowing Association.

1. 1 Spear Street River Rowing Association. Site plan application for the construction of Boat Shelter in the TFR Zoning District.

Building Inspector-- Unless this is to be considered a Governmental Use building owned or operated by the Village of Nyack it is not a permitted use in this district. As a Governmental Use it would not be subject to the Village of Nyack Zoning Code requirements, by definition, and would be considered a permitted use. Correspondence from the Village Attorney to the applicant indicates this will be a River Rowing Association pavilion with a lease agreement to operate on Village property. As such the proposal requires a Use Variance. The Village Board has referred the application to the Land Use Boards.

Ivan Rudolph Shabinsky presenting for RRA. Set forth the substance of the plan. Win Perry stated the needs for the building-- open shed structure. Enclosed by chain link fence. Functionally necessary for the storage of the oars. Pre-fabricated and movable. Serve the needs. Voletsky is looking for the site Plan. Level access at the front to Go with grade. Overhang in the front sheltered work area in front overhead. Protection from morning sun.

Losing about 18 parking spaces- losing spots-- trading office space. Lower Lot is not presently striped for the full parking. Building safety-- fully enclosed by chain link fence-- Lighting -- within the structure. Indicated on the next sheet with four little sheets. Entered photographs into.

Three houses in the back partially obstructed. Englander-- asking where to re-locate. There is a large sewage line running out the parking lot.

Public wishes to be heard. Height at center is necessary because of the oars-- asked about a flat roof. Lighted at night open to suggestions. Balance light pollution vs. safety.

Don Yacopino was of the impression that a Use variance required. Sevastian-- Village has asked to own the building at the end of the Licensed period. In Nyack-- all applications must go through the Land Use Boards. This plan has gone out -- Long Form EAF can be done to state what the potential impacts might be and whether mitigation is necessary.

Nyack Planning Board—July 2, 2012

Publish its intent to be Lead Agency-- Site Plan Review application --lighting, circulation, site lines.

The Board requested a more detailed site plan from the RRA (height of the structure and any view obstructions created by it).

Village wants it looked at to decide whether a Use Variance might be necessary. If one is, the Zoning Board must look at the “use variance” Right to use the Village Property-- not the normal building situation. Don is requiring a use variance, but the Village Attorney and the Village board might adopt a resolution to the contrary.

Public

Calvin Parker—argues that during last improvement the Village snuck a big tree – that blocks the view at 39 Piermont-- bring property down if no view. Concerned about “giving away land.”

Ira Speigal-- 16 Depew-- many years as Planning Board member-- #7 in a shell in college, but thinks this is too big “audacious”. Commands the entire space between church and the property line. East West visual corridor eliminated at 17 feet. All along the property line. All of the neighbors signed a letter mentions the psychological effect of being “boxed in.” Concerned that it is not sensitive to the surrounding neighbors. Feels that it has taken them by “surprise.” Letter to board-- personal reaction.

Paul Curley-- audacity of the process-- short any adverse effects-- community -- partial answer. Neighborhood--looking to benefit the village -- met with Peter Klose to air concerns-- first step—wants to lessen the scope of the plan.

Anton and Tracie -41 Piermont Avenue -- concerns are enunciated in the letter
Sense of the simple photograph-- spectacular view-Scene-- beautiful view will be impacted by the building.

Jean Gardiner-- former chairman of the parking authority. “horrified” lived here 60 years. Wants to see a little scale. Other comment.

Response by the RRA-- fully recognize-- that the structure would take up parking, but the issues were addressed, tried to leave no walls so no warehouse. Try to make it open so that could see through it. Needs to have three bays-- one of the needs was to access largest possible audiences was to add additional program-- two 40 foot outrigger canoes-- rowing- - paddling-- local residents want to store-- personal kayaks and canoes -- ability to provide additional space to the community.

David Ash-- member of the church-- looking at the diagram-- no building blocking the window. Parking is an issue.

Mr. Wax-- accuses RRA of not discussing the plan. Submitted a letter.

Nyack Planning Board—July 2, 2012

Paul -- go back and script it again. No communication -- concerned about the height.

Peter Voletsky wants PB to declare itself as lead agency wants long form EAF, however, it is a VB.

Peter Voletsky wants to keep the application open for further review, and the RRA agreed to do so.

Second by Keene- [Vote- 4- 0], keep open, declare itself lead agency. Klose recused.

2. 1 Front Street. Robert Silarski for Mary Ann Armano.

Building Inspector --Site plan application for the construction of a rear yard deck, and removal of significant tree. Proposed deck complies with zoning requirements. Arborist's description of tree status enclosed.

Resolution to grant site plan approval for drawings shown as Plans A-101-a through the A-101-b-- as chosen by applicant-- any lighting will be down facing--and subject to reasonable conditions imposed by the ARB. Planning board recommended and resolved to permit the Proposed a replacement deck-- in bad repair-- wants to make it larger-- no closer to lot edges than already is. Existing non-conformities not going to be made worse. Second -- Keene. Vote 5-0.

Tree will be removed-- maple tree --three trunks none letter -- Applicant replace lot specific discretionary flowers and other landscaping. Keene --second. Vote 5-0. Site Plan approved subject to foregoing.

3. 166 Cedar Hill Avenue. Paul Rozsypal.

Site plan application for a proposed subdivision. Proposal is to subdivide existing lot into two building lots in TFR Zoning District. Per Article IV VON§360-4.3 Dimensional Standards Table 4-1 area variances are required for: two lots of 4881.5 sq. ft. where 5000 sq. ft. is required; east front yard on Lot #2 of 5.6 ft. where 19.52 ft. is required; and a rear yard on Lot #1 of 26 ft. where 29.2 ft. is required if deck is to be added as proposed. Existing underground sewer, gas, water lines and valves should be indicated on final plat.

Existing house to be restored backed to original historic character-- there is a sister house that they want to return it back -- remove the addition. Original house is straight and solid. Stained glass. Sub-division application-- Drainage calculation-- proposed both lots to comply with the-- Existing utilities.

Proposed building on the other lot must be fleshed out by site plan application-- this is not a site plan application.

Planning board to declare its intent to be lead agency-- need short form EAF-- for purposes of SEQRA review -- short form --circulate for Gen. Municipal law to get comments.

Nyack Planning Board—July 2, 2012

ZBA must then consider the proposed variances.

No trees to be removed.

Public Comment-- Richard Cahill- concerned about what a non-conforming lot-- building envelop--

Applicant is willing to limit the proposed new house to a particular size--

Looking to sub-divide-- Board would like to see a better vicinity map--

The Public wants the Planning Board to consider the differences and similarities of the various surrounding homes, they argue that this is not similar to the neighborhood and that should not sub-divide this particular lot—Point to 180 Cedar Hill vs. 166 Cedar Hill -- Huge sized --

Application remains open for the Applicant to provide better Vicinity maps and explanation of the houses along the street within 250 to 500 feet.

4. 55 Route 59. Howard Geneslaw of Gibbons P.C. for McDonald's Real Estate Company.

Property is in CC Zoning District. Continuation of site plan application to demolish and rebuild existing McDonald's restaurant. Responses received from NYS Department of Transportation, County of Rockland Department of Planning, Village Engineer, New York State Thruway Authority. Awaiting comments from Town of Clarkstown and New York, New Jersey Trail Conference. Applicant appeared before Architectural Review Board at a workshop meeting of 2/29/2012 and 3/21/2012. Application has been approved by the ARB and granted a positive recommendation to ZBA on June 20, 2012. There are a number of signs which require variances. ZBA required further information before deciding on variances.

No "have payment ready" sign-- ARB-- approved.

Public Hearing at ZBA-- 2.5 hours-- resolved most issues-- additional information to be submitted.

Engineers—presented and explained that the Parking Lot islands—have been added to give a better feel for the entrance and the parking areas.

Applicant has worked hard to make the new entrance Right in and Right out only-- driveway was angled-- signage no left turns. 30 and 45 foot radius -- can still get in and out -- trees to remain. Board spent considerable time discussing the site lines as one comes over the hill on Route 59.

County of Rockland letter dated today-- #2, 4, 7, overridden-- #8 they are collecting and planting—overridden by this Planning Board.

Nyack Planning Board—July 2, 2012

NYS DOT report-- June 22, 2012-- at handicapped ramp-- applicant wants to put ENTRANCE -- sign on the Waldron Ave Entrance- 2 feet by 5 foot sign will now say Entrance only-- NO ARROW—Applicant agrees to try to attract the throughway traffic straight on through to Waldron ~~terrace~~ Ave entrance.

Brooker letter June 29, 2012--signs are already done, delivery explained. erosion control measures-- reduced impervious coverage increased green space-- planted islands-- more landscaping-- new building -- more efficient building-- reduced rate and volume of the coverage—

Board Consideration

Resolution to close the public hearing by Klose, Voletsky second vote 5-0 to close.

The Planning Board considered the following documents and reports (where an individual or agency issued more than one report, the latest issue date indicated):

From the applicant:

- Application for Building/Demolition Permit, executed February 14, 2012;
- Disclosure Pursuant to General Municipal Law Section 809, executed February 15, 2012;
- Photographs of the area surrounding the site (consisting of two sheets with four photographs per sheet);
- Table of Variances, dated June 7, 2012;
- Stormwater Pollution Prevention Plan (SWPPP) prepared by Bohler Engineering dated June 2012;

Preliminary & Final Site Plans prepared by Bohler Engineering, consisting of the following fourteen (14) sheets:

- o Cover Sheet (Sheet 1 of 14) dated February 15, 2012, revised June 7, 2012;
- o Overall Site Plan (Sheet 2 of 14) dated February 15, 2012, revised June 7, 2012;
- o Demolition Plan (Sheet 3 of 14) dated February 15, 2012, revised June 7, 2012;
- o Site Plan (Sheet 4 of 14) dated February 15, 2012, revised June 7, 2012;
- o Grading & Drainage Plan (Sheet 5 of 14) dated February 15, 2012, revised June 7, 2012;
- o Utilities Plan (Sheet 6 of 14) dated February 15, 2012, revised June 7, 2012;
- o Lighting Plan (Sheet 7 of 14) dated February 15, 2012, revised June 7, 2012;
- o Landscape Plan (Sheet 8 of 14) dated February 15, 2012, revised June 7, 2012;
- o Soil Erosion and Sediment Control Plan (Sheet 9 of 14) dated February 15, 2012, revised June 7, 2012;
- o Drive-Thru & ADA Plan (Sheet 10 of 14) dated February 15, 2012, revised June 7, 2012;
- o Detail Sheet (Sheet 11 of 14) dated January 4, 2012;

Nyack Planning Board—July 2, 2012

- o Detail Sheet (Sheet 12 of 14) dated January 4, 2012;
- o Detail Sheet (Sheet 13 of 14) dated January 4, 2012;
- o Detail Sheet (Sheet 14 of 14) dated January 4, 2012;
- Boundary & Topographic Survey prepared by Control Point Associates, Inc., dated April 19, 2011, revised September 12, 2011.
- Letter from Bohler Engineering, P.C., dated June 8, 2012, summarizing revisions to the engineering plans since the previous submission;
- Long Form EAF prepared by Bohler Engineering, dated April 16, 2012;
- Traffic Impact Statement prepared by Atlantic Traffic & Design Engineers, Inc., dated April 16, 2012;
- Letter Supplement from Atlantic Traffic & Design Engineers, June 14, 2012;
- Stormwater Management Summary prepared by Bohler Engineering, dated April 2012;
- Architectural Plans prepared by Core States Architecture and Engineering, P.C., consisting of the following three (3) sheets:
 - o Seating Plan (Sheet R1.3), dated March 8, 2012;
 - o Elevations (Sheet A2.0), dated March 8, 2012;
 - o Elevations (Sheet A2.1), dated March 8, 2012;

From the Planning Board's consultants and advisors:

- Building Inspector, May 7, 2012;
- Adler Consulting, May 30, 2012;
- Brooker Engineering, PLLC, June 29, 2012;

From interested and involved agencies:

- New York State Thruway Authority, March 26, 2012;
- New York State Department of Transportation, June 22, 2012;
- Rockland County Planning Department, July 2, 2012.

The Planning Board makes the following findings of fact:

1. The subject property is designated as Section 65.35, Block 1, Lot 1, is commonly known as 55 NYS Route 59, and consists of 3.155 acres, with frontage on both Route 59 and Waldron Avenue. It is located in the Corridor Commercial (CC) zoning district, in which fast-food restaurants and drive-thru facilities are permitted by special permit.

2. The subject property has been improved with a McDonald's restaurant consisting of ±3,540 s.f. since the early 1970s, and a drive-thru facility was added subsequently.

3. The applicant has a program of rehabilitating and rebuilding its older restaurants, and as part of that process, seeks to demolish the existing restaurant and to construct a new restaurant with drive-thru facility consisting of ±3,911 s.f., on the same portion of the subject property. The proposed new restaurant will remain within the developed portion of the subject property, which comprises less than half its total area.

Nyack Planning Board—July 2, 2012

4. As a result of changes in the Village's zoning regulations over time, the existing restaurant has certain nonconformities with existing requirements, nonconformities which either will be continued without change, improved, or for which the applicant has requested variances.

5. The Planning Board held public hearings on March 5, 2012, June 4, 2012 and July 2, 2012, with proper notice having been posted and published in accordance with the Village zoning regulations.

6. The Planning Board declared itself as Lead Agency under the State Environmental Quality Review Act (SEQRA), and issued a Negative Declaration on June 4, 2012.

7. The Village of Nyack Architectural Review Board approved the project (building, identification signage and traffic control signage) on June 20, 2012, with the exception of the "Have Payment Ready" sign which the applicant has agreed to delete.

8. The project will replace the existing, aging building with a modern, attractive building, and will improve traffic flow and circulation. In particular:

a. The applicant has agreed to eliminate left turn ingress and egress to and from Route 59, thereby providing for safer traffic flow than currently exists. The Planning Board notes that there have been a relatively high number of accidents at the intersection of Route 59, Mountainview Avenue, Waldron Avenue, and the New York State Thruway ramp from Exit 11. Access to/from Route 59 will be right in/right out only, and driveways will be angled and signed to reinforce this restriction.

b. New identification signage will assist motorists in locating the site, and in particular, the word "entrance" on the Waldron Avenue identification sign will guide motorists exiting the New York State Thruway at Exit 11 across Route 59 and into the subject property from Waldron Avenue.

c. The configuration of the site circulation provides a recirculation lane in front of the building so that customers entering from Waldron Avenue can circulate around the building in order to access the drive-thru queue, thereby eliminating the need for U-turns and other unauthorized movements on site which currently occur.

d. Stacking space for the drive-thru was considered and found to be sufficient to avoid traffic backups onto Route 59, particularly due to the proposed side-by-side ordering system which increases efficiency. The Planning Board retained its own traffic expert to review the applicant's traffic impact study and advise the Planning Board concerning circulation and drive-thru queuing.

e. The radius of the entrance driveway from Route 59 was increased, thereby allowing for safer entry into the Subject Property.

Nyack Planning Board—July 2, 2012

f. The access aisle and driveway to Waldron Avenue will be reduced in width, thereby complying with the zoning regulations and eliminating an existing nonconformity. This allows the parking to be moved inward from the property line in order to increase green space.

g. Parking islands will be added to the rear parking lot, thereby complying with the zoning regulations and eliminating an existing nonconformity as well as increasing green space.

h. Trees which must be removed in order to facilitate effective drainage will be replaced in a nearby location on the subject property.

i. Impervious coverage will be decreased, and a mechanical treatment unit will be installed for stormwater treatment.

j. The proposed building, by virtue of being newer and having modern kitchen equipment, heating and cooling systems, will be substantially more efficient than the building it replaces.

9. The project will be a benefit to the community because it represents a substantial investment in a site with aging improvements, traffic safety and circulation will be improved, and a more attractive building will be constructed.

NOW, THEREFORE, BE IT RESOLVED THAT THE VILLAGE OF NYACK PLANNING BOARD HEREBY

1. Grants site plan approval to the site plan prepared by Bohler Engineering, P.C., dated February 15, 2012, last revised June 7, 2012, as presented by the applicant;

2. Approves the issuance of a demolition permit;

3. Approves the issuance of a tree removal permit, to allow the removal of trees as noted on the site plan;

4. Overrides the following recommendations of the Rockland County Planning Department dated July 2, 2012, for the reasons set forth below:

a. Recommendation #2 - Consideration of alternate site layouts. The Planning Board initially had concerns about the site layout as well, but after listening to the testimony presented by the applicant and the Board's traffic consultant, and in consideration of the unique aspects of the site having access to two streets although not on a corner, together with the topographic challenges (extensive rock) that necessitate remaining within the existing developed area, and the public's familiarity with the counterclockwise circulation pattern that characterizes fast-food restaurants with drive-thru facilities, the Planning Board concluded that the site layout proposed by the applicant was appropriate and would function safely.

Nyack Planning Board—July 2, 2012

b. Recommendation #4 - Review by New York-New Jersey Trail Conference. The New York-New Jersey Trail Conference was provided with an opportunity to participate in the SEQRA process, and was provided full sets of plans on at least two occasions, as well as notice of the Planning Board's public hearings on this matter, but did not submit comments or concerns.

c. Recommendation #7 - Fields of illumination shall not extend beyond the property line onto the state road. In order to provide adequate lighting levels at the driveways, it is necessary for site illumination to extend over the property line and into the NYSDOT Route 59 right-of-way. Notably, (i) this illumination is less than 2 fc, and thereby complies with the Village's zoning regulations, and (ii) the NYSDOT did not express any concern with respect to the light levels proposed by the applicant. Given the need for lighting at an adequate level to maintain an acceptable level of safety, and the NYSDOT's lack of objection, the Planning Board determined that the light levels proposed by the applicant were appropriate.

d. Recommendation #8 - Landscaping in area where trees are to be removed. The four (4) trees which the applicant proposes to remove will be replaced at a nearby location on-site. The applicant indicated that the reason landscaping could not be provided in the area of removal is because stone is required to assist water in reaching a trench drain and thereby keep it out of the parking lot. Since the applicant is replacing the trees to be removed, and is increasing the overall landscaping on the site and decreasing the amount of impervious coverage, the Planning Board deemed the lack of landscaping in the area in question to be acceptable.

5. This approval is conditioned on the grant by the Village of Nyack Zoning Board of Appeals of special permits for a fast-food restaurant and a drive-thru, and variances as specified on the applicant's Table of Variances dated June 7, 2012, or as may otherwise be required.

6. Site plan approval is granted subject to the reasonable conditions to be imposed by the ZBA and ARB. Second-- Voletsky and vote 5-0.

Other Business:

A motion was made by Chairman Klose, seconded by Member Voletsky, to accept the June 4, 2012 Minutes. Passed 5-0.

The meeting was adjourned at 10:00 PM.