

**Members Present:**

Peter Klose (Chairman)  
Daniel Jean-Gilles  
Peter Voletsky  
Glenn E. Keene - alternate member  
Alan Englander – acting member  
Absent: Ted Sestak  
Don Hammond

**Also Present:**

Don Yacopino, Building Inspector  
Walter Sevastian, Village Attorney

Called the meeting to order at approximately 7:35 p.m.

**1. 90 Sixth Avenue. Kier Levesque for Greg Miller. Site plan application to construct a single family dwelling.**

Building Inspector--Mr. Miller is the contract purchaser. Continuation of site plan application for construction of new single family dwelling in TFR District on previously (1988) subdivided lot, and recommendation to ZBA for the following three variances.

- A- By current Dimensional Standards the property is substandard with respect to existing Lot Area of 4000 sq.ft. where 5000 sq.ft. is required.
- B- Existing Lot Width of 40 ft. where 50 ft. is required.
- C- Variance West front yard of 3 ft. where 20 ft. is required.

Revised drawings have been submitted, based on results of June 7, 2011 ARB workshop. A 312 sq.ft. portion of floor below grade not considered a cellar should be included in FAR calculations, resulting in FAR of 0.426, which must be accurately noted on Bulk Requirements Table. Revised FAR had been previously noted on Table but was erroneously omitted when building design changed.

Members considered the three variances proposed by the Applicant. ARB persuaded the Applicant to lower and move the proposed dwelling to the left as facing Sixth Avenue to accommodate parking on the side yard, rather than the front yard. Given the Slope of the site and the fact that there was prior sub-division approval for the now sub-standard lot, the PB was inclined to accept the proposed variances, subject to the approval and reasonable conditions of the ZBA.

Since this is a single family residence, it appears that its a Type II unlisted action, requiring no SEQRA review.

Kier Levesque-- history ARB has heard the this before-- three variances are required, but they have worked to reduce the size and massing of the house. Argues that there will be no change in the character of the neighborhood that the variances in this location; argues that the ARB wanted

the parking out of the front yard-- Driveway goes all the way back to the back of the house; is this the minimum variance-- required – driveway cannot be moved any further east Whole house designed to be story and half. Variances were created by law-- it was not self-created-- lot became non-conforming it was an established building lot-- non- conforming. Proposed house is 28 feet from sixth while parking is out of the front yard-- beyond the front yard lot line-- wanted it to fit into the neighborhood-- substandard lot in width-- variances.

Member Jean-Gilles is inclined to look favorable toward the issuance of the variances.

Alternate Englander-- is also so inclined.

Hearing no public comment. Motion to close public hearing by Klose Second by Englander, vote, 4-0 with Peter Voletsky abstaining.

#### Site Plan Approval.

There is an extensive list of requirements proposed in response to drainage calculations submitted to the Village Engineer. Comments dated September 9, 2011-- proposals-- The surveyor and planner Jay Greenwell is here to explain the site plan-- variance on grand avenue-- there is a great amount of green space between the pavement to the. Applicant agrees to all of the conditions and will address all of the comments by Village Engineer for incorporation into the site plan.

Member Englander was interested to see the recommendations for green infrastructure to address the Storm Water plans have been amended to comply with the recommendations of the Village Engineer-- Plans will be incorporated into the final plan-- Applicant has sketched out the proposed changes-- eleven comments about site drainage are agreed by the applicant and will be addressed in subsequent plans for final building permit.

Alan Englander-- asked about whether any permeable pavement and or rain gardens for the storm water - Response-- lot is so small – no area to put any other permeable paving. May not be good idea for permeable water to bleed to the underlying retaining wall along the property line. Board appeared to agree with that statement.

Member Voletsky-- thinks that the size of the lot does not warrant a small house-- worried about the storm water catch basins. Worried about wet basements for all concerned.

Applicant states that all exterior lighting shall be down facing and non-intrusive recessed lighting on outside. Applicant's responsibility is to maintain the catch basins, and they have been designed to do it that way. Applicant will add a note to the Final Site Plan-- applicant to maintain all drainage and catch basins to maintain zero net runoff.

Motion to close public hearing was made after no public comment by Klose, second by Keen, Passed 5-0.

Motion by Klose to grant Site Plan approval for the plans dated 8/12/11 with A2- to A5 and A6 subject to the following conditions: revised plans to show down facing lights, add a note to the

final site plan that the Owner shall maintain the on site drainage, and that the applicant accept reasonable conditions of the ZBA and ARB; and upon the condition that the Site plan address all of the comments of the Village Engineer dated September 8, 2011, Second by Member Jean-Gilles; and Vote to accept 5-0.

2. **7 Orchard Street. Catherine Miklitsch . Application to remove two (2) trees. Per VON§360-4.4(2)(b)[2] Planning Board approval is required. One tree did not survive Irene and was blown over.**

Cathy would like to remove two trees, but in the time before the hearing, one (the Hemlock fell)- so that has been removed-- only one tree to maintain the stairs and the walkway- Member Jean Gilles visited the site and agrees with the applicant that it would be safer for the applicant to remove the tree that is causing damage to the steps and walkway.

Klose makes motion to close public hearing, Second by Englander, vote 5-0 to accept.

Member Keene resolves that the application to remove one tree and identified with a red ribbon be removed by the applicant. Second by Jean-Gilles and Vote to accept 5-0.

3. **300 Front Street. Francis Foley for Foley, LLC. Application for amended site plan approval. Site plan previously approved for utilities underground. Orange and Rockland is telling applicant they can't supply power in the configuration required by Planning Board.**

Owner is selling one of the building lots to brother, who intends to build a new house on the south lot closest to Kydon-- Problem however exists because the sub-division requires the Applicant to put all wires below ground. Orange and Rockland (utility) suggests in a letter that such is impossible, and applicant requests modification of the prior sub-division approval to permit overhead lines to exist at least until the five lot sub-division in the rear is sold or the buildings are demolished.

Village Attorney does not believe that other parties should be required to pay for upgrades caused by going underground across the lot, requiring complete overhaul of electrical systems in the property not owned or controlled by Applicant.

Member of the Public strenuously agrees that the applicant should be allowed to string overhead wires (Brian McNulty).

Letter from September 8, 2011 – from O&R stating that they cannot, from an engineering perspective, go from overhead to underground .

Issue: with the overhead vs. the underground – issue is that it is very expensive to underground and then to upgrade the adjoining homeowner-- code says must go underground-- issue is whether the prior the approval should be modified to permit the wires to go overground –

Minutes of Nyack Planning Board September 12, 2011

Member Voletsky – does not specifically believe that O&R is being reasonable and that they should be approached by the village with a request to accommodate or explain in detail why they can't

The Building Inspector confirms that the Engineering specs would not ??? O&R – engineering not going to approve the and that he was at a meeting which suggested that.

Motion to close public hearing by Klose, second by Englander, vote of 5-0.

Motion by Klose to approve the amended site plan to permit overhead wires as subject to the following conditions: Lot 3 shall be served by underground utilities as required by original subdivision and the new owner of the underground utilities as originally planned will be the owner, however, the Applicant shall be permitted the temporary right to re-run overhead wires from the pole on Front Street to the rear of Lot 3 to maintain power to the existing buildings abutting the property to the Rear (now or formerly Szerzlip); and upon the rear lot being completed the owner of Lot 3 shall remove the overhead wires and “dead head” the overhead power. When the existing buildings in the rear are removed and power is built underground to the new structures, the overhead wires will be removed, second by Jean-Gilles and approved by vote of-- 4-1 with Voletsky objecting.

**Other Business:**

Motion to accept both the June 2011 Meeting and the July 2011 Minutes of the Planning Board meeting, passed.

The meeting adjourned at 9:30 PM.