

**Members Present:**

Peter Klose (Chairman)  
Ted Sestak  
Daniel Jean-Gilles  
Peter Voletsky  
Glenn E. Keene - alternate member  
Allan Englander – alternate member

**Also Present:**

Don Yacopino, Chief Building Inspector  
Walter Sevastian, Village Attorney

**Absent:** None

Called the meeting to order at approximately 7:30 p.m.

- 1. 160 North Midland Ave. Dennis Lynch for Nyack Hospital. Application for a text amendment to the Zoning Code-referred to P.B. by the Village Board- to reinstate Hospital zoning district eliminated by enactment of revised Zoning Code, January 1, 2010, placing hospital in TFR zone.***

Background - Building Inspector-- Proposal has been forwarded to Village Engineer, Rockland County Department of Planning and NYSDOT for comment. Various memos and letters enclosed for your review, including prior Hospital zoning information and September 10, 2008 RC Dept. of Planning comments. Applicant has escrowed for the Village Planner Robert Geneslaw to comment on the application and such comments dated May 1, 2011 (Interim Report), where circulated prior to the Meeting. [Which is incorporated by reference herein].

Dennis Lynch representing Nyack Hospital

Referenced Mr Geneslaw's interim report. His petition is to restore Hospital Zone as written in the Old Code. Neil Wilson – Hospital planner present (did not speak). John Wontau – Nyack Hospital Executive described a potential expansion project for the hospital which will involve transferring beds from psychiatric center to Hospital, as part of a HEAL grant.

Robert Geneslaw – If there are issues we see with old code then make mention of those to VB (parking for example), who is charged with adopting the language from the Code, updating the law and incorporating any changes. Problem is once you put back old zone, it references things like parking, lighting, signage, landscaping that were not addressed in the new code but would have provided the Hospital with an understanding of the guidelines. Hospital is now pre-existing nonconforming use, then question is whether old or new lighting, parking, and landscaping requirements prevail. Village Board must take careful note of all sections to be plugged into the new code to be sure that all items might be addressed

## **Geneslaw Interim Report**

Identifies several problems with present code:

The present code provides no guidance for the owner of any non-conforming use or building who wishes to modify or increase the bulk of a building or to the extent of areas needed for parking, landscaping, and possibly for storm-water management.

Recommends:

The recommended approach would be to change the hospital property from a nonconforming use in the TFR District to a permitted use requiring a special permit for an expansion or change in the TFR District.

Separate use specific standards could be established for hospitals that are specifically related to the characteristics of Nyack Hospital and the residential community in which it is located.

The Interim Report is designed to raise issues for the Village Board to consider in revamping the Code to reinstate the prior code language as requested by the Applicant/Petitioner. Given the speed with which this application was considered and the need for the Village Board to consider and determine whether to reinstate the old code vis-à-vis the new code, Planner recommends considering some additional neighborhood concerns, as follows:

### **Parking**

Revise parking requirements so that there is a closer relationship to the various demands – categories could include office visits, same day patients, inpatients, medical staff, other staff, vendors and suppliers, emergency room visits, and other categories. In order to have a reasonably enforceable requirement, the categories can be summed to a requirement based on a ratio of inpatient beds/outpatient visits to parking needs.

Establish a maximum proportion of site area that may be used for parking, aisles, and driveways. This, in conjunction with limiting building coverage, would result in a total development coverage, which is useful in establishing the impervious surface area for which stormwater management measures would be necessary, and would provide space for landscaping.

Require a proportion of the parking to be underground or in above ground structures with the latter designed and located to minimize visual impact on the surrounding residential area. The code already has similar standards for structure parking downtown.

Require that as part of any approval, before construction activities on the site begin, in excess of a specific threshold, that alternate off-site preferably offstreet,

parking be provided to replace any parking areas that are to be disturbed as part of the construction process.

Establish limitation on duration of parking on neighboring residential streets designed in a manner to discourage long term employee parking

Establish permit parking for residents on nearby residential streets, including provisions for guest parking.

### **Visual and Sound Impact**

Require significantly more screening, possibly with a combination of landscaping and constructed elements, along all sides of the Hospital properties facing a street to a height that will obscure vehicle headlights and vehicle roofs. The code now requires screening to a height of between 4 – 6 ½ feet.

Provide treatment on Hospital windows facing residential areas that reduce lighting levels facing residential area.

[Geneslaw Interim Report pages 8-9].

Walter - Application is to restore a Zone that was eliminated. Under Village of Nyack Zoning Code § 360-5.6, which permits amendments to the Code, the Codes provides, as follows:

A. Purpose and applicability. The Board of Trustees may from time to time on its own motion, or on petition, or on recommendation of the Planning Board or the Zoning Board of Appeals or Architectural Review Board amend, supplement or repeal the regulations and provisions of this chapter after public notice and hearing, as provided in §§ 7-706 and 7-708 of the Village Law of the State of New York.

B. Procedure.

(3) Step three: Application referral, review and staff report. Applicable, with the following referral requirements:

(a) Planning Board. Every such proposed amendment shall be referred by the Board of Trustees to the Planning Board for a report before the public hearing. The Board of Trustees shall not take action on any such amendment without a recommendation from the Planning Board unless the Planning Board fails to render such report within 60 days after the next regularly scheduled meeting of such Board following the time of such referral.

5. Commenting and Discussing each of the Criteria to be considered in making any Zone Change under VON Zoning Code, 360-5.6(C)(Criteria). In considering a proposed amendment, the Planning Board and Board of Trustees shall consider the following items:

(1) Text amendments.

- (a) Whether such change is consistent with the aims and principles embodied in this chapter as to the particular districts concerned.
- (b) Which areas and establishments in the Village will be directly affected by such change and in what way they will be affected.
- (c) The indirect implications of such change in its effect on other regulations.
- (d) Whether such proposed amendment is consistent with the aims of the Comprehensive Plan of the Village.

Discussion from various PB members.

Ted Sestak – “No one has explained to me why the hospital zone was dropped from the new code. And it sounds like we will never know. So with that in mind I suggest we classify the hospital under the old code, taking into account any suggestions from Mr. Geneslaw’s Interim Report”

Daniel Jean-Gilles - Agreed that the code needs to include the Hospital Zone

Don Hammond - Believed that the Planning Board should report to the Village Board that the Hospital Zone is an important aspect of the Code as recommended by the Planner and that we should advise the VB to implement a new code for the Hospital.

Peter Voletsky - Expressed his concern that the Code adequately address the legal status of the Hospital and reinstate some lot and bulk requirements into the code.

Allen Englander - Agreed with the need to incorporate additional language into the Hospital Zone to address neighborhood concerns as related by the Geneslaw Report.

Alternate Glenn Keene - "I agree with (Don?) who questioned why the removal of the Hospital zone occurred. Without knowing the why for this action we have no context within which to determine if it was rational or correct. That being so we should reinstate the zone language as it was before the removal from the code."

Peter Klose—Had wanted to propose actual language and amendments to the Zone, but would rely on the good sense of the Village Board and Village Attorney to adopt and adapt the Code to adequately address the concerns of the Planner.

**Public comment – None.**

**Motion to Close public hearing by Planning Board by Daniel Jean-Gilles, second by Don Hammond. Passes 5-0.**

Village Attorney Walter Savestian states the PB should consider 4 items when recommending Text Amendments called out in 59-5.6 C1.

- a) Aims and Principles - Neighborhood impact – Page 6 of GIR(Geneslaw Interim Report). It's more of a clarification of how a hospital can proceed. Applicant needs to consider how an application will impact this.
- b) Which areas will be affected? - The Hospital, neighboring streets
- c) Indirect implications – lot bulk, parking, signage, lighting, landscaping are currently not in place for the hospital.
- d) Aims of Comprehensive Master Plan – Language of CMP implies that the Hospital should stay.

MAY 26 is Village Board Mtg. – Planning Board had the obligation to report on its findings and is willing to utilize the Geneslaw report as a first step to identifying the issues relative to any insertion of new code.

Village Board should also consider the need to amend the TFR zone to specify only the Hospital and make the map comply.

Motion by Peter Voletsky –

A positive recommendation to Village Trustees to grant the Petition of the Applicant (received March 24, 2011) to reinstate the text of the Hospital Zone (Hospital H) from the Old Code with bulk and lot tables and ancillary provisions that may affect other sections of the new Code, with a further recommendation that the Village Board make such adjustment and clarifications of language and intent as suggested by Mr. Geneslaw in his report (dated May 2, 2011—and attached hereto) that reinstated text language be consistent with and reference appropriate provisions in the current code and address the concerns referenced in the Interim Report of Mr. Geneslaw. Second by Don Hammond. Passes 5-0

**2. 43 North Broadway. Laura Weintraub. Application to convert Office Space to Residential Space—Seeking a ZBA Use Variance.**

Laura Weintraub – the applicant purchased the red brick building recently and has applied for a use variance to convert from commercial office/retail use to two floors of residential. She has reviewed the four (4) way test of a Use Variance, and reported her findings. The applicant has essentially researched the history and found that this physical structure was a residential structure for years, is historic, and seems to fit the profile of the neighborhood as a residential structure with two apartments (First Floor and Second Floor). There is no need to consider any parking requirements because the house has and is required to have as many as are grandfathered. Intent is for two residential apartments first and second floor 2 apartments(1<sup>st</sup> and 2<sup>nd</sup> Floor), no plans to rent the basement.

**Public comment – None.**

**Motion to close public hearing by Ted Sestak, second by Don Hammond. Passes 5-0**

Motion by Chairman Klose -

In light of the obvious physical layout of this particular building, the recommendation to the ZBA to actively consider and permit the full residential use of this property in the form of two apartments on the basis that the building is uniquely situated near other residences, would require too much alteration from its present charm and character to alter the historically residential building to commercial or retail space, because generally residences are encouraged in the Village, because the step up from street level is not a viable economic change, and any such change would make the feel farm more commercial, while restoring it to a residential use would be beneficial to the community by restoring the intended look as a residential building. Second by Member Voletsky. Passes 5-0.

**Other Business:**

A motion was made by Chairman Klose, seconded by Member Voletsky, to accept the minutes of the April 2011 Planning Board meeting. The motion passed by a vote of 5-0.

The meeting adjourned at 8:55 PM.