

**Members Present:**

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

**Also Present:**

Don Yacopino, Chief Building Inspector  
Walter Sevastian, Village Attorney

**Absent:** Don Hammond

Called the meeting to order at approximately 7:30 p.m. Mr. Englander, alternate Planning Board member, was asked to sit in Mr. Hammond's absence, and alternate Keene was present

***1. 294 Main Street. Ira Krell for David's Money Centers. Application to install ATM machine on building exterior and request for recommendation to ZBA.***

*Building Inspector* --Exterior ATM machine is not listed as a permitted accessory use in DMU district and will require a use variance. Per VON§59-3.1C Table 3.1 “, any uses not specifically permitted shall be deemed to be prohibited.”

Bart Rodi – representing applicant. In this zone they are allowed to do banking, but it doesn't say an ATM is allowed. It is a use variance (DY). Another applicant wanted an ATM on Main Street, and Don decided it required a use variance. It is an accessory use that is not permitted in the Zone.

Applicant and Board significantly concerned about the Safety of the Site for an ATM--Lighting – Parking lot lit from utility pole. Late night use – safety concerns – village does not permit signs stating “premises under video surveillance”.

If the Board were to consider a “use variance” then the Applicant would have a very high standard to meet to consider the Economic use/benefit – applicant says this is necessary for check cashing business. His other stores have ATMs

Applicant and Board agreed that the interior ATM is modestly safer, but a limited access time period would be even better. Present location is only open for ATM transactions if the Check Cashing Place is open. Inside/Outside location – current location has inside ATM, but applicant wants outdoor ATM at this location.

Info to be considered if the applicant comes back to the Planning Board – Lighting, parking lot striping, financials.—Board is significantly concerned about the safety of entering and exiting the location.

Chairman Klose recommended that the Applicant “appeal” the Building Inspector's view of the Application and takes the appeal to the ZBA because a Use Variance would be impossible to meet.

To the extent that there is further Site Plan approval needed, applicant will return after appealing the Building Inspector's opinion that a Use Variance is required.

2. ***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.***

*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.

### **PRIOR CODE**

At the time Nyack Hospital last undertook any construction activities the prior Nyack Zoning Code ("Prior Code") clearly identified Nyack Hospital as being within the "Hospital Zone."

Prior Code at Section 59-16 the Hospital District expressly allowed "uses permitted by right" to include the "hospitals, clinics and related healthcare facilities." Those "as-of-right" uses also included medical education facilities, professional offices related to medical use and "residential treatment facilities meeting the requirements of the relevant State and County authorities." The Current Zone purportedly eliminates all the foregoing "uses permitted by right." (See Prior Code at § 59-16(B)(1)).

The Code was amended through a painstaking process undertaken by a select hard working group of Code Revision committee members. The issue for this matter is whether the Planning Board should recommend that the Prior Code OR SOME FACSIMILE of the prior code be reinserted into the present Code—*NB*: All aspects of the Code should be reinserted and/or amended-- Parking, Bulk FAR all aspects of the Code should be reviewed and reinstated.

### **CURRENT CODE PROVISIONS**

Under the Current Zoning, Nyack Hospital was changed from the "H" for hospital to "TFR" ("Two Family Residential Zone"). The current zoning's Permitted Use Table shows that in the TFR Zone "Office-Medical" and "hospital, clinic or related health facility" are now prohibited uses.

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.

To facilitate and supplement the review and recommendation of any Zone Change, the applicant and the Nyack Planning Board have agreed to seek the opinion of a professional land use planner concerning the amendment and report to the Village Board as to whether to recommend a Zone Change.

Applicant represented by Dennis Lynch—who set forth the problem as stated above.

Dec 2009 new Zoning Code accepted Applicant asking for previous zoning. Currently zoning is for TFR (two family residential). To Mr. Lynch's understanding, there is nothing from the planners that said the Hospital zone should be removed. Arguably the hospital is a non-conforming use currently. NO changes are being asked from the applicant to change anything from the previous hospital zone. Hospital would like the Zone to reinstate the old code provisions change the text of the zoning code from TFR to H (Hospital).

Planning Board must recommend to the Village Board--

Applicant says this will cause financial issues for the Hospital Vote at board will be to set a public hearing. Hearing some time in May.

Proposal is to hire a planner (Geneslaw) to review findings. Peter Klose has drafted wording of scope for planner. Motion to hire a planner and accept the Scope of the Work Dan Jean-Gilles--5-0.

**Other Business:**

A motion was made by Chairman Klose, seconded by Member Voletsky, to accept the minutes of the March 2011 Planning Board meeting. The motion passed by a vote of 5-0. no vote by Member Hammond (not present).

The meeting adjourned at 8:20PM.