

Members Present:

Peter Klose (Chairman)
Daniel Jean-Gilles
Alan Englander
Seth Kestenbaum
Peter Voletsky
Donald Wilen-Alternate
Elijah Reichlin-Melnick-Alternate

Also Present:

Walter Sevastian
Don Yacopino, Building Inspector
Bob Galvin—Village Planner

Absent:

Other Business: Motion to approve the December 7, 2015 Minutes-- second by Jean Gilles--
Approved by a Vote of 5-0.

1. 176 North Franklin Street. Rocco Perini. Application for removal of twelve trees. Arborist's letter included. Property

Applicant-- -- NO APPEARANCE, EXCEPT BY MARCI DENKER LATER IN MEETING--
APPLICATION IS APPARENTLY ON HOLD WHILE THE TREE COMMITTEE GETS ORGANIZED
Public Comment - NONE Board-- APPLICATION IS OPEN

2. 68 Sickles Avenue, Andrew Stewart and Rachel Grob. Site Plan application to convert accessory structure to a dwelling unit and request for recommendation to Zoning Board of Appeals. Property is in TFR Zoning District. Proposal does not comply with zoning requirements. Two family use is permitted in TFR Zoning District but must comply with the following Dimensional Standards, Definitions and Code Sections.

Building Inspector--The following area variances will be required from:

- 1- Article III VON§360-3.2 E (1) (g) for an accessory structure greater than 12 feet high and more than one story in height.
- 2- Article III VON§360-3.2 E (1) (c) [1] for an accessory structure less than 3 feet from the property line.
- 3- Article I VON§ 360-1.9 E for alterations to the accessory structure that is non-conforming to dimensional and developmental standards.
- 4- Article IV VON §360-4.3, Dimensional Standards Table 4-1 for:
 - a- Minimum lot area of 6,788 sq. ft where 10,000sq.ft. is required for two family residence.
 - b- Minimum Dwelling Unit size of 480 sq. ft. where 900 sq. ft..is required.

Two Family use is permitted in TFR zoning district but by definition of Two Family Dwelling must consist of "A building containing two individual dwelling units located on a single lot. The units must be located side-by-side with a common wall or one above the other with a common floor/ceiling," . An area variance will be required from Article VI VON§360-6.1, Definition of Two Family Dwelling for dwelling units not located in the same building.

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A Use Variance will be required from requirements found in Article VI VON § 360-6.1, Definitions of Accessory Building or Accessory Structure and Private Garage. The existing accessory structure appears to be a two car garage. By definition of Accessory Building," No residential building or dwelling shall be considered or allowed as accessory to any other residential building or dwelling."

ARB-- *Declined to offer recommendation for required variances. They did, however, offer design change suggestions at their 12/16/2015 meeting if variances were obtained The board reviewed the drawings and has concerns regarding 1. The scale of the proposed structure, 2. The height and bulk of the structure, 3. The proximity to the neighboring property, 4. The dissimilarity to any other accessory structure in the area, 5. The appropriateness of design- the upper story over-hang on all sides creates an atypical, oddly shaped structure.*

SEQRA – *the area variances are a Type II action under SEQRA NYS DEC 617.5 (c) (13) "construction or expansion of a single-family, a two-family or a three-family residence on an approved lot. And 617.5 (c) (9) "construction or expansion of a single-family, a two-family or a three-family residence on an approved lot" LWRP - As a Type II action, the Village Code considers this to be consistent with the policies of the Village's LWRP. This only applies to the area variances and not the identified use variance for the two family residence replacing the accessory garage. This would be an unlisted action with the ZBA as lead agency. Long experience with SEQRA and EIS indicates that there would not be additional information developed for the decision-making board with any information that it doesn't already have. Local land use planning, zoning and subdivision regulations can and do provide sufficient protection from the impacts of inappropriate development.*

Applicant-- Explained that he wants the Board to focus on the area variances necessary for this project, however, *Chairman Klose -- Expressed concerned about the number of variances requested-- and noted that the Board has repeatedly denied applications of this nature, and went on to explain the process extensively to the applicant. Member Voletsky expressed significant concern about an application that proposed to convert a garage on the fringe of the property with already no set back, into a living facility with the attendant use consideration and possible additional impacts on the adjoining lands.*

Public Comment - NONE

Board-- *Concerned by the planning aspect of this change of use and overly intensive use of the property, the size of the variances, explained that the use, though conceivably permitted under some circumstances would potentially cost the Village much more in terms of zoning concessions. After discussions, the Applicant elected to adjourn the public meeting in order to contemplate how this requested change of use might be altered.*

Motion by Klose -- NOTHING FOR THE ZBA-- Variances--applicant can re-visit the project-- and will consider other uses or ways to examine the project so no change in use. the Planning Board will re-consider all of the other area variances if a new or revised plan is submitted. THE APPLICATION REMAINS OPEN FOR ALL PURPOSES.

- 3. **2-6 North Midland Avenue. Barry Terach for Joseph Lagana. Site Plan application to demolish existing structure and construction of a three story multi family apartment building. Property is in DMU zoning district. Architectural Review Board offered a positive recommendation for demolition at 12/17/2014 meeting.**

Member Englander recuses himself from this application.

Building Inspector-- Mike Galante, the Village’s Traffic consultant from FP Clark, has submitted his traffic review of the applicant’s Traffic Study conducted by Harry Baker & Associates. Mr. Galante will be presenting his traffic review at the Planning Board meeting. The board went through all of its concerns with the applicant.

Tax maps and prior Site plan drawings indicate this to be a two parcel property. A subdivision and special permit will be required to merge properties. Applicant has submitted information indicating properties have previously been merged. I am not sure that it is accurate. a Site plan of existing conditions should be provided.

Density calculations indicate 41 dwelling units are permitted @ 50 units per acre. With a 10% increase in density for Affordable Housing (+4), a 10% increase for Brownfield Cleanup (=4) and a 10% increase for exceeding NYS Energy Code requirements (+4), 53 Dwelling units would be permitted. Applicant must provide details outlining how requirements will be met for the requested additional dwelling units. Proposal is for 48 DU’s.

PARKING

The following Parking requirements have been calculated for 48 Dwelling Units:

26 1 bedroom units @ 1.25 spaces per DU= 36.25 spaces required.

19 2 bedroom units @ 1.70 spaces per DU= 32.3 spaces required.

68.55=69 spaces required.

67 off street parking spaces are being provided. Per Article IV VON§360-4.5B (3), the previous use of an 8,000 sf retail space would have required 20 parking spaces (8,000/400 =20). With a change of use the zoning code requires off street parking to be met by calculating the difference of parking requirements between previous and new use. In this case, proposed use requires 69 spaces, previous retail use required 20 spaces.69-20=49 required spaces with 67 provided. **Parking requirements are deemed to be met.**

The applicant is attempting to redesign the structure to comply with the Zoning Code but intends to appear to discuss traffic, drainage and any other outstanding issues.

Proposed action is more than 500 ft. from State Road Rte. 9W. The action does not

meet any other GML threshold and therefore it does not need to be referred to Rockland County Planning under GML.

SEQRA - This is an unlisted action. The Planning Board is now Lead Agency for the SEQRA review of this action. **LWRP** - The Planning Board is responsible for the determination of consistency with the LWRP policies for this application. Such determination would be made after the Planning Board makes a SEQRA determination.

Escrow – Applicant has been requested to open an escrow account in the amount of \$9,500 for review of the application. This will include engineering and traffic review.

ARB granted approval, with conditions, of this design at its March 18, 2015 meeting.

Traffic analysis and site plan submitted. Workshop was held on September 11, 2015 with owner and his representatives and the Village Planner, Mike Galante, the Village traffic consultant from FP Clark and myself to discuss traffic study and site plan issues.

Village Traffic Consultant- December 1, 2015 Letter--latest Traffic Impact Study prepared by the Applicant's Traffic Consultant, Harry Baker and Associates, dated October 5, 2015 and the Engineering Plans, which are dated November 13, 2015 and prepared by Pietrzak and Pfan.

- 1- It is our recommendation that the Applicant, as part of the development of the subject property, provides all new sidewalks along the site's frontage on Main Street and North Midland Avenue. These sidewalks should be a minimum of five feet in width and provide the appropriate handicap accessible ramps at the intersection of Main Street and North Midland Avenue and at each of the site's proposed access drives. The Site Plan indicates that this will be provided.
- 2- The findings of this analysis indicate that the additional 23 and 28 vehicle trip ends during a typical weekday morning and weekday afternoon peak hour, respectively, will not have significant impact on overall traffic operations within the Study Area. *However, we do recommend that to minimize potential impacts along the site frontage along North Midland Avenue all on-street parking be eliminated on the west side of North Midland Avenue from the signalized intersection of Main Street to Catherine Street. The appropriate NO STANDING ANYTIME signs should be installed along the site's frontage to prohibit motorists from parking and waiting in the vehicle and have a negative impact on traffic flow along this section of North Midland Avenue. All signs should follow the criteria set forth in the Manual of Uniform Traffic Control Devices (MUTCD), published in 2009.*
- 3- Signage on ingress and Egress to be provided
- 4- *Site Access Considerations* -- Assuming on-street parking is removed from the site frontage on North Midland Avenue, appropriate intersection sight distance (ISD) will

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be provided for exiting the subject property from the proposed egress drive. This plan should clearly denote where entrances to the building will be provided, that appropriate sidewalks are provided for residents and guests. The overall plan should include appropriate lighting for nighttime activities.

- 5- *Pedestrian Circulation and Access Considerations* – As previously noted the existing traffic signal located at the intersection of Main Street and North/South Midland Avenue does not provide any pedestrian signals. The Village should consider providing these pedestrian signals as an upgrade to the existing traffic signal operation in the future. With the increase in pedestrian activity at this intersection due to the development, pedestrian signals and appropriate crosswalks, as well as the sidewalks, as noted above, are important to the overall safety of pedestrians and residents in the area. The location of the existing traffic signal pole at the northwest corner (site corner) will block pedestrian movements and; therefore, should be considered in the final design of the building to maintain a five-foot wide sidewalk.

Village Planner-- Memorandum dated December 7, 2015-

Project Background *The Applicant is Montclare Apts LLC., which has submitted an application dated January 16, 2015 for the construction of a three story, multi-family apartment building. The Project known as The Montclare is located at 2 -6 North Midland Avenue, located at the intersection of Main Street and North Midland Avenue. The subject property is 35, 723 square feet (0.8 acres) and is located in the DMU District. The covered Nyack Brook runs west to east through the middle of the property. The subject property is bordered on the north by Catherine Commons, a 7 unit condominium, along Catherine Street in the TFR District.*

The application included the demolition of an existing structure on the property as well as the site plan for the construction of the apartment building. The Planning Board provided an approval to demolish the existing structure early on in the application process. The applicant has demolished the structure and cleared the property, surrounding it with a chain link fence. The Project in the latest drawings dated November 18, 2015 shows 47 units (28 1-bedroom units and 19 2-bedroom units). The Project's parking requirements have been met based on the Building Inspector's review. The proposed use requires 67 parking spaces with 20 spaces grandfathered and 47 being physically provided on-site. The Applicant has added a door on Main Street at the southwest corner of the building based on comments by the Planning Board and Building Inspector.

The Application process has been lengthy with the Applicant appearing before the Planning Board at public hearings on January 5, 2015, February 17, 2015, April 13, 2015, September 14, 2015, November 2, 2015 and is scheduled to appear on December 7, 2015. The Applicant was also referred to the ARB and appeared at the Board's January 21, 2015 and March 18, 2015 meetings. The ARB approved the application on March 18, 2015 after the applicant made

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certain revisions including lowering the building. A workshop was also held with the Applicant and his representatives, the Village Planner, Building Inspector and the Village Traffic Consultant on September 11, 2015 to discuss the traffic study and site plan issues before the Planning Board.

Review *The Building Inspector has reviewed the application several times during the application process. His review indicates that the applicant has submitted information that the property's two parcels had previously been merged, if this is accurate then the application would not require a subdivision. His review highlights that the Code has a conflict between the definition of "Story" and "Basement" for height measurement. The definition for "Basement" is more restrictive and the building as designed based on this more restrictive definition cannot meet the maximum of three stories permitted in the DMU. This essentially is the result of conflicting definitions in the Code but per Code the building must comply with the more restrictive definition. This has been brought to the attention of the architect who is attempting to redesign the structure to comply with the Code. If the architect is unsuccessful in his efforts, the applicant would need an area variance from the ZBA. The Applicant's latest drawings (November 18, 2015) prepared by their new engineering firm, Pietrzak & Pfau, show the building height to be 36.83 feet where 40 is the maximum allowed. The Building Inspector has also requested that the architect provide FAR calculations for each floor in order to verify the 1.99 FAR reported for the overall Project (2.0 is the maximum FAR allowed in the DMU).*

The Applicant provided a Traffic Study prepared for the Project by Harry Baker & Associates. This was submitted for review together with the latest site plan to Michael Galante of FP Clark, the Village's traffic consultant. Mr. Galante has completed his review and submitted it to the Planning Board and Applicant's traffic engineer. Mr. Galante will present his findings and recommendations at the Planning Board's December 7th meeting. It appears that many of the initial concerns which were raised at the workshop meeting with the Applicant regarding the parking lot design, on-site vehicular circulation, aisle widths, parking space dimensions, driveway locations and width have been addressed. The Village's Traffic Consultant will present other comments and recommendations to the Planning Board at their December meeting.

The Village Engineer has presented preliminary comments earlier in the process, primarily directed at stormwater management and the treatment of the Nyack Brook. She is now reviewing the civil drawings (November 18, 2015) prepared by a new engineering firm, Pietrzak & Pfau, and will attend the Board meeting on December 7, 2015 to discuss drainage and stormwater issues.

A problem which has plagued the review of the Project is the width of the sidewalks adjacent to the proposed building primarily along Main Street. The existing sidewalk is quite narrow especially along Main Street which has a bus stop in proximity to the building. The Board requested as part of the Traffic Study that pedestrian counts be conducted in this area. The pedestrian counts were conducted from 7 am to 9 am and 4

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pm to 6 pm @ 15 minute intervals at the Main Street/North Midland Avenue and other nearby intersections. The pedestrian counts are presented in the Applicant's Traffic Study (Appendix C). Based on these counts, the highest pedestrian counts were at the Main Street/North Midland Avenue intersection. The west crosswalk had a pedestrian count in the morning peak of 18 at the west crosswalk and 20 in the evening peak at the north crosswalk. These are considered to represent a moderate level of pedestrian traffic. This may be attributable in part to the location of the adjacent bus stop on Main Street. The Applicant has responded to the Planning Board's concerns by submitting the latest civil drawings showing new 5 foot concrete sidewalks along both Main Street and North Midland Avenue with ADA curb at the intersection. There is an existing Village signal pole close to the corner of the intersection. Based on field measurements, it appears that the signal pole is approximately 7.5 feet from the pole to the property's perimeter fencing. **I would recommend that no less than a 5 foot sidewalk and preferably closer to the existing 7 – 7.5 foot distance be maintained around the pole to provide unencumbered access for pedestrians at the intersection.**

Since relocation of the signal pole was mentioned during the November Planning Board meeting, I explored this with the Village Administrator and the Village Traffic Consultant. Any future option would consist of developing a single arm pole to be located on the southeast corner. This would include pedestrian signalization similar to downtown. The cost to implement this development would be from \$100,000 to \$200,000 and the Village does not have sufficient funding resources and would need grants targeted to this type of street improvement.

I would also recommend a detailed **landscaping plan noting specific plant types, species, quantity, size, spacing and location.** The landscape plan should include appropriate sized trees along North Midland Avenue. Although smaller street trees could be placed along the North Midland curb, these should probably be situated closer to the façade in the landscaping bed, thereby, avoiding the overhead wires. The Village can provide to the Applicant's architect a listing of recommended street trees appropriate to this location. This addition will assist in visually softening the North Midland Avenue façade of the building.

Recommendations In summary, I have listed several specific recommendations based on the review of the latest site plan drawings and the Village Traffic Consultant's Traffic Review:

- Consider the recommendations contained in the FP Clark Traffic Review.
- Provide no less than a 5 foot sidewalk and preferably closer to the approximately 7- 7.5 foot distance from the Village signal pole to the property's perimeter fencing be maintained around the pole to provide unencumbered access for pedestrians at the intersection.
- Provide a detailed landscaping plan including appropriate sized trees along North Midland Avenue which will assist in visually softening the North Midland Avenue façade of the building.

- *Work with Village Engineer to finalize drainage, stormwater management and treatment of Nyack Brook. Include a Construction, Inspection and Maintenance Agreement for on-site stormwater improvements acceptable to the Village Engineer and Village Attorney as a condition of any final site plan approval.*

Amended site plan and traffic studies have been submitted.

Revised building plans have been submitted, eliminating dwelling units in basement. Nyack Brook has been re-routed so that it is not below building structure. SWPPP has been submitted. Village Engineer's concerns have been addressed by way of a written response.

Complete landscaping and lighting plans have not yet been submitted. Applicant should provide detailed explanation of which density bonus schemes are to be implemented.

Applicant-- The Board and the Applicant went back and forth with the newly revised plans. The Traffic consultants will review these plans. Members of the Planning Board remain very concerned about the corner of Midland and Main. Present building is planned to be very close to the edge of the sidewalk.

Public Comment - MARK PATTERSON-- concern - accident -- raised issues, and traffic accident information was provided to him The Board heard testimony about the night time parking and the pedestrian access. Any future recommendations should address pedestrian crossing, lights, striping for parking, etc.

Parking in the neighborhood to be addressed by the Village Board-- alternate side of the street review of the plan.

BOARD-- await final lighting, landscaping, village engineer, traffic consultant, and other comments about parking, storm water, site lines, etc. Still concerned by the corner.

Village Planner to begin with Neg Dec and resolutions relative to the approval of the plans so that we can move this application along.

4. **WY Management. Application for subdivision to merge recently acquired property, amended site plan approval and recommendation to Zoning Board of Appeals for area variances required for additional building height. Property is in M zoning district.**

Building Inspector--*This is an application for an amended Site Plan approval and recommendation to Zoning Board of Appeals for an additional **height variance** for rooftop structures greater in height permitted by a previously issued variance and for changes to the appearance of the building without ARB or Planning Board approval.*

The M (Manufacturing) zoning district permits a building height of two (2) stories and 35 feet.

*On May 20, 2015 WY Management received an **area variance** for height of the building for*

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*both stories and feet from a grade plane as detailed on approved Site Plan drawing, page CIOO dated 1/2/2013, last revised 4/19/2013, in compliance with the following definitions of **Height** and **Grade Plane** outlining how building height is calculated, which established the allowable height to be 4 stories at 51.7 feet:*

GRADE PLANE *A reference plane representing the average of pre-construction ground level adjoining. The building at all exterior walls. When the finished ground level slopes away from the exterior walls, this reference plane shall be established by the lowest point within the area between the building and the lot line or, when the lot line is more than six feet from the building, between the building and a point six feet from the building,*

HEIGHT *The vertical distance measured. In the case of flat roofs, from the grade plane to the highest point of the roof beams adjacent to the wall closest to the street, and, in the case of pitched roofs, from the grade plane to the average height of the gable. Where no roof beams exist there are structures wholly or partly above the roof, the height shall be measured from the grade plane to the highest point of the building~*

Excluded from building height calculations are rooftop bulkheads, elevator penthouses, mechanical equipment comprising not more than 10% of horizontal area of roof and parapet walls four (4) feet or less in height from roof.

SEQRA *The proposed action, namely the amended subdivision and site plan, are unlisted actions.. The Planning Board is the lead agency and made the initial SEQRA determination for the application which was a Neg. Dec. I have requested a Project Narrative and the submission of a short form EAF for the proposed action. I have not yet received this. Rockland County Planning has also requested additional information in the form of a project narrative. I would be prepared to complete the EAF and recommend a Neg Dec for the proposed action as soon as the Board receives the requested EAF and Project Narrative. **LWRP** Similarly the Planning Board is responsible for the determination of consistency with the LWRP policies for this amended application. A positive consistency determination can be made since the amended application does not negatively impact any LWRP policies formerly considered under the initial application. Such determination should be made after a formal SEQRA determination by the Planning Board.*

Since that time, an elevator shaft with mechanical room and mechanical equipment above as well as an additional structure attached to the elevator shaft, housing two bathrooms (most recent revision shows bathrooms removed, however necessary plumbing remains), elevator lobbies and a bar/storage area along with an eight feet high parapet wall to the north have been constructed in excess of the height permitted by the variance, without approval from this or other land use boards.

*The additional structure rises 20 feet above permitted roof elevation with mechanical equipment above. Per **Section 1509.2 of the Building Code of NYS**, penthouses or bulkheads used for other than shelter of shaft openings or mechanical equipment are considered to be an additional story," which shall not extend more than 18 feet above the roof'. In the event*

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*that local land use board approvals are granted for these additional structures. The additional story, the 8 feet high parapet wall and mechanical equipment on top of elevator shaft will require area variances for height per the Village of Nyack Zoning Code. **Since the Building Inspector does not have the authority to approve or issue a building permit for structures that do not comply with the Building Code of New York State a variance must be obtained from the New York State Department of State for the additional height, if the applicant chooses not to lower the roof.***

In 2015, WY Management purchased and demolished (with approval) the house at 297 High Avenue. A concrete retaining wall was subsequently constructed without PB and ARB approval, in violation of a Stop Work Order issued by the Building Department, for the purpose of creating additional parking spaces required due to the elimination of approved spaces to have been supplied by a multilevel ground floor parking design. Additionally an exterior swimming pool and hot tub have been installed without a permit or land use board approval in violation of a Stop Work Order issued by the Building Department.

These rooftop structures appear to have been constructed in anticipation of a Village ordinance permitting rooftop dining, not now in existence.

Assuming the local review boards are willing to approve the building modifications, at issue is whether Land Use Board approval can be granted for a structure that requires a variance from DOS and whether approval should be granted to access a space available to guests and the general public via the elevator to the roof which has no permitted use. The elevator itself requires a variance from the DOS because the car size is too small to accommodate the required ambulance stretcher per Section 3002.4 of the Building Code of New York State

Included in the packet are photos, copies of previously approved site plan and elevation drawings along with current amended drawings

ARB-- Applicant has previously met with ARB on 11/18/2015. Height of rooftop structure and rear parapet wall, location and screening generator and additional parking areas were discussed. ARB requested several design modifications as well as the removal of proposed upper level parking spaces north of the retaining wall at High Avenue and Cemetery Lane in order to provide a green buffer between parking area and residences to the north. During its December meeting it declined comment on required variances. Building design changes, as shown on revised plans, were requested at their 12/16/2015 meeting: east and west parapet wing wall height to be lowered; screening materials chosen; black banding requested at rear elevation, parking removed from NE corner at property as a result of PB, ARB and Village Engineer's comments. However, made the following findings

1. The board reviewed the revised application for the following items: I. Retaining Wall on the east side of the building; II. Generator Enclosure; III. Glass Structure and Screening above the upper story on the south elevation that screens the elevator mechanical room and bulk head; IV. Parapet Wall on the north elevation at the roof level. The board discussed concerns on all items regarding scale, bulk, and appropriateness of design. The board and applicant after discussion, agree to the following regarding items I.- IV reviewed:

I. Retaining Wall: The retaining wall is approved as proposed with the following conditions- 1. The north side of the wall will be black surfaced to match the third story finish on the building. The north side of the

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wall will omit the parking and will be screened with green plantings to create a green view for neighboring town houses. The black finished concrete will act as a backdrop to the green plantings. The black surfacing will terminate at the inside joint of the north east corner of the wall. The remaining exposed surface that travels north south and continues to the west towards the ramp will be clad in brick panels to match the building brick surface. Exposed thicknesses of the wall in all areas will be clad in the brick so as not to appear as a veneer. The wall will be capped with material matching limestone style caps found elsewhere on the building.

- II. *Generator enclosure: The enclosure on the south and east elevations of the generator will be architectural powder coated horizontally louvered metal screening per the submitted spec sheet. The board recommends the same material on all sides, but if cost prohibitive, will accept fencing on the north and west elevations since they are not visible from the entry drive. The screening will be 14 feet in height. Any exposed mufflers on the generator will be painted black. Applicant will submit an actual sample for board review prior to installation. The enclosure around the dumpsters will remain as fencing as previously approved but will be reduced in height to 8 feet.*

- III. *Glass Structure and Screening above upper story on the south elevation: The drawings were revised to incorporate board recommendation to incorporate additional curved steel elements to screen the bulkhead. The board feels the present proposal successfully accomplishes this. The scale of the mechanical room and bulkhead are reduced by the additional curved wall structure added above the upper story. The applicant notes the steel members will be the same size, finish and radius as the existing steel on the front south elevation. The screening around the mechanical room will be the same horizontally louvered metal screening proposed for the generator surround. It will be 7 feet in height.*

- IV. *Parapet Wall on the north elevation roof level: The board expressed concern regarding the north elevation details. The north elevation deviates from approved drawings: the upper story is brick, not black concrete as found on the three other elevations; the parapet wall spans beyond the center section of the building and is significantly taller than approved. The board recommends the following to remedy the issues of scale, bulk and appropriateness of design:*
 - 1. *The black band that runs between floors on the east and west sections of the north elevation will continue through the center section. The black band will be painted on the surface to mimic the black concrete banding.*

 - 2. *The parapet east and west wings that extend beyond the center section of the north elevation will be reduced in height to 42 inches. Both end section thicknesses of the parapet will be clad in brick so as not to appear as brick veneer. The parapet will be capped with a metal flashing cap that matches the cap installed on the west parapet.*

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2. *The drawings will be revised and submitted for review by two members of the ARB.*

OF PRIMARY CONCERN IS THE AERIAL LADDER ACCESS ROAD ON THE NORTH SIDE OF BUILDING WHICH WAS ORIGINALLY APPROVED, AS REQUIRED BY THE BUILDING CODE OF NYS, AS 26 FEET WIDE, COMMENCING BETWEEN 15' TO 30' FROM THE BUILDING, AND AS INDICATED AS 26 FEET ON REVISED SITE PLAN. FIELD MEASUREMENTS OF ACTUAL WIDTH OF RECENTLY PAVED ROAD INDICATE THE ROAD HAS BEEN REDUCED TO 21 FEET WIDE. ADDITIONALLY, THE ROAD WIDTH AT THE WEST END OF THE BUILDING IS 24 FEET WIDE BUT COMMENCES 42 FEET FROM BUILDING, MAKING IT UNLIKELY THAT AN AERIAL LADDER COULD SAFELY BE ERECTED AT THAT POINT, IN VIOLATION OF SECTION 105.3 OF THE FIRE CODE OF NYS. The Aerial Fire Apparatus Access Road as it appears on the approved Site Plan meets the Fire Code requirements. The proposed and actual access road does not. Unchanged, this would require a variance from NYS Department of State.

The County of Rockland Department of Planning requested, in its 11/23/2015 review of proposed subdivision, further information from the applicant along with recently revised site plan documents. Updated site plans have recently been sent, but not in time to review for this meeting. The Village Planner requested a narrative clarifying the proposed subdivision and site plan documents for the purpose of closing out SEQRA on 12/21/2015. Applicant has not submitted requested documents. Additionally, the building department has not yet received requested title abstract and municipal violations report indicating the properties are free from violations.

There is an unidentified sloped roof structure in addition to the 71' high requested elevated radius roof, which is not considered an exception to height limitations of this code, on the east and south elevations on page A-200, amended 12/2/2015 per ARB comments, that does not appear on previously revised elevation page A-200 of 10/23/2015, submitted at previous Planning Board meeting.

An Area Variance is required from Article IV VON§360-4.3, Dimensional standards Table 4-1 for a building height of 71 feet, where 35 feet is permitted and for which a height variance of 51.7 feet was previously approved.

The radius rooftop structure is to serve as a cosmetic feature designed to soften the effect of the vertical appearance of the elevator shafts. There is no proposed occupancy use at this time.

The HVAC units on top of the elevator shaft, which top out at 82 feet above the Grade Plane are permitted to be on the roof of the building and not be considered in the height calculation of the structure. An Area Variance will be required from Article IV VON§ 360-4,2C(1)&(2)(b) for HVAC equipment located on elevator shaft rooftop and not be considered to increase the height of the building.

Amended Site Plan – *there are a number of issues that need to be determined before the Board can complete its site plan review. The Board can coordinate its SEQRA review for the unlisted action with the ZBA and if required, NYS DOS indicating that the Planning Board will maintain its function as lead agency. Once the Board receives communications back from the respective agencies, they can proceed to make a final determination on the amended site plan and close out SEQRA.*

Village Engineer-- Report dated 12-2-15 Eve Mancuso has performed a review of the materials re-submitted for the above captioned project consisting of the following documents:

- *“Engineering Plans entitled “Nyack NYLO Hotel”, prepared by McLaren Engineering Group, dated 6/25/2013, sheets C-100, C-101, C-201, C-301, C - 302, C-401, C-501, C-502, C503, C-504, C-505, C-506 last revised 8/14/2015.*
- *Stormwater Pollution Prevention Plan, Supplement 1, prepared by McLaren Engineering Group, dated August 15, 2015.*

The Amended Site is being submitted to address the additional parcels that have been acquired and the resulting plan modifications.

We offer the following comments for your consideration:

1. *A revised Subdivision Plat should be submitted reflecting the new lot configuration including the state parcels that were added and the residential parcel, 65.28-1-3, that was added.*
2. *In addition to the new parcels that will be merged to the original parcel, there are a number of plan revisions indicated such as change in width of aisles, change in width of sidewalk, relocation of retaining walls, elimination of parking stalls along the north side and south side of the building. The applicant shall specifically outline all of the plan revisions that are currently being presented in this Amended Site Plan.*
3. *Compliant ADA ramps shall be constructed on both the east and west sides of High Avenue.*
4. *A dropped curb and concrete apron is required to provide access to the Pump Station.*
5. *The plan is now proposing 180 parking stalls whereas 182 were previously provided.*
6. *We have reviewed the stormwater management report submitted and find it acceptable. The peak rate of discharge from the 2, 10, 25 and 100 year storm events have been slightly reduced. Stormwater quantity and quality has been addressed by means of an additional detention system as well as an additional Contech CDS unit.*
7. *The current proposal indicates a connection to the existing drainage system on High Avenue. The condition and structural integrity of the existing CMP shall be evaluated. The CMP may require replacement along the High Street frontage prior to the Village permitting a connection to the pipe.*
8. *The full SWPPP should be updated as well as the Stormwater Maintenance Agreement to reflect the additional land area and corresponding additional stormwater infrastructure that will require long term maintenance by the property owner. A copy of an executed Maintenance Agreement shall be provided.*
9. *The proposed development of the newly acquired parcel includes proposed parking, retaining wall, trash dumpsters and a bike rack. Landscaping or buffering is lacking. The aesthetics of this proposal immediately along the ROW of Cemetery Lane and High Avenue should be discussed. Colored renderings have not been provided.*
10. *The proposed retaining wall appears to encroach upon the ROW of High Avenue and adversely impact the sidewalk width. This should be clarified.*
11. *The parcel has been fully developed with parking immediately adjacent to the property lines. The northern row of proposed parking relies upon the ROW of Cemetery Lane for access and egress. The vehicles parked within those spots will*

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have to back out onto Cemetery Lane as opposed to an internal aisle as is the usual and customary design of parking areas. This layout introduces potential conflicts with vehicles traveling east on Cemetery Lane.

12. *We recommend the PB consider resurfacing all of Cemetery Lane as a condition of approval due to the increased use of this road.*
13. *The proposed parking adjacent to High Avenue appears to encroach onto the sidewalk. Vehicles backing out of the stall have potential conflict with pedestrians.*
14. *Concrete sidewalk, concrete apron, curbs and dropped curbs should extend across the full length of the property frontage on High Avenue.*
15. *A revised Lighting and Landscaping Plan has not been submitted. A revised plan shall be developed to reflect the new layout of the amended site plan.*
16. *Signed, sealed structural calculations and plans prepared by a professional engineer shall be submitted to the building department for all retaining walls in excess of four feet in height. Certification from the professional engineer who inspected construction of the same confirming the retaining walls were constructed in accordance with the design will be required to be submitted to the building department.*

Applicant-- Will revise the plans, comply with the Engineer's comments and will supply additional documentation for consideration by the Board

Public Comment - NONE

Board-- Notes the Building Department comments and concerns that the plans be moving toward final,

For purposes of ZBA, it appeared to most of the Board that the height variance should be considered favorably by the ZBA Member Englander asked if it would be possible to re-locate the mechanical equipment from the top of the elevator shaft / upper roof area to lower roof areas. Applicant replied that it was not possible.

*Chairman Klose resolves that the Planning Board issue a positive recommendation that the ZBA issue a conditioned area variance to permit unidentified sloped roof structure in addition to the 71' high and grant an **Area Variance** from **Article IV VON§360-4.3, Dimensional standards Table 4-1** for a building height of 71 feet, where 35 feet is permitted and for which a height variance of 51.7 feet was previously approved by the ZBA subject to such conditions as the ZBA deems appropriate and conditioned on the ARB approving the radius rooftop structures and cosmetic features of such design plan, and the elevator shall not open on the Roof without electronic lockout mechanisms, that the exterior area be contained with safety and other construction related finish so as to prohibit people from walking on the roof of the building, and prohibiting any use of the roof structures without NYS Building Code variances, and further meetings with the Planning Board should the right to use the rooftop ever be adopted by Village Code. Second by Kestenbaum, Vote- passed by a vote of 5-0.*

OTHER BUSINESS-- Motion to adjourn by Chairman Klose, seconded by member Voletsky - passed by a vote of 5-0. Meeting adjourned at 9:55 pm.