

Members Present:

Peter Klose (Chairman)
 Daniel Jean-Gilles
 Seth Kestenbaum
 Peter Voletsky
 Don Wilen – Alternate

Also Present:

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

Absent: Elijah Reichlin-Melnick - Alternate Alan Englander

Other Business: Motion to approve the April 11, 2016 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 is in TFR zoning district. Application has been referred to Nyack tree commission.

Applicant -- NO APPEARANCE, -- APPLICATION IS APPARENTLY ON HOLD WHILE THE TREE COMMITTEE GETS ORGANIZED

Public Comment - NONE

Board APPLICATION IS OPEN

- 2. 251 N. Midland Avenue. Nyack Community Ambulance Corp. Continuation of application for Site Plan approval and Special Use Permit.** Property is in TFR Zoning District. Apartment accessory to not-for-profit ambulance facilities is a permitted use listed in **Table 3-1, Permitted Uses** which requires a special use permit pursuant to **Article V, VON§ 360-5.9A**, subject to the following requirements found in **Article III VON§360-3.2E(9)(a)**:

Building Inspector--360-3.2E (9) (a): Multifamily apartment accessory to not-for-profit ambulance facilities subject to occupancy restrictions. [Added 10-11-2012 by L.L. No. 11-2012; amended 7-16-2015 by L.L. No. 3-2015] (a) All multifamily apartments shall meet the requirements for residential dwelling units contained in the New York State Fire and Building Code. At least one onsite parking space shall be required for each dwelling unit. The Planning Board shall require such reasonable covenants and restrictions to ensure that occupancy of apartments accessory to not-for-profit ambulance facilities shall be limited to emergency service providers actively associated with the ambulance facility and their spouses and children. These accessory apartments shall be located on the same lot as the ambulance service facility or an adjacent lot to the facility.

Received comments from Rockland County Department of Planning, Village of Upper Nyack and Town of Clarkstown – no substantive comments made.

Village Planner has prepared a Draft Neg. Dec. for this application. The Board can review and issue the Neg. Dec. indicating that there are no significant adverse impacts anticipated. Moreover, the proposed action is now zoning compliant.

LWRP – a review of the Village’s LWRP policies indicates that the proposed action is fully consistent with these policies. The Board can make a determination of consistency for this action.

Applicant - Under section 360-3.2E(9) apartment accessory to Not-for-Profit ambulance facilities subject to occupancy restrictions by the planning board. The site plan shows the parking that is available on site and on the adjacent NCAC site for this apartment use.

Public Comment - one question from the public concerning the parking of the ambulance outside, applicant stated that it would not be outside.

BOARD - Klose moves to close public hearing Second -- Whilen-- Vote 5-0. Closed

Board -- the adopts the NEGATIVE DECLARATION as discussed in the notes and minutes of last meeting finding that based upon a careful review of the standards and factual evidence there appears to be no significant environmental impact which has not already been mitigated and no adverse environmental impact that would rise to the level of impact requiring any finding or further study-- Jean Gilles Second -- Vote -5-0 to issue a Negative Declaration as to the SEQRA. -- Vote 5-0.

Board --Klose proposes that based upon the foregoing analysis and review of the LWRP the application is consistent with the LWRP as found in the EAF and prior minutes. Voletsky second -- Vote 5-0. Passed

BOARD--Chairman Klose proposes that the Planning Board grant the special permit with the condition that the approval of the Special Permit shall be limited to the use of the property as an emergency first responder residence and that any further change of use or change of ownership shall void the Special Permit and on the Condition that the residents of the home are actually emergency first responders serving as volunteers at the applicant’s location, as follows:

VILLAGE OF NYACK PLANNING BOARD
Adopted May 2, 2016

RE: Nyack Community Ambulance Corp. – 152-154 Sixth Avenue
Resolution of Site Plan and Special Permit Approval

After due discussion and deliberation, on motion by Mr. Klose, seconded by Mr. Jean Gillis and carried, the following resolution was adopted:

WHEREAS, on February 29, 2016, a site plan and special permit application was submitted to the Planning Board of the Village of Nyack ("Planning Board") by Nyack Community Ambulance Corp. (NCAC) ("the "Applicant"), (all references to which shall include and be binding upon the Applicant's successors and/or assigns), to expand an existing two family residence into a four family residence in the TFR District for Ambulance Community Corp volunteers and their spouses and children. The proposed residences are located on a 0.143 acre property in the TFR District located at the intersection of Sixth Avenue and West End Avenue. The property is adjacent to the NCAC ambulance facility at 251 North Midland Avenue. The application seeks a site plan as well as a special permit from the Planning Board under amended legislation that was approved in 2015. The proposed four family residence will be constructed within the existing building. Neither the footprint nor the appearance of the structure will be altered. The dwelling unit sizes are 950 square feet in each of the four units. The apartment sizes are above the minimum size of 750 square feet in the TFR district. The minimum lot size, minimum lot depth and front, side and rear setbacks are all non-conforming, pre-existing conditions and as such are not required to go to the ZBA for a variance (see Section 360-l.9(C)(2)). The Code requires that for these accessory apartments at least one parking space be provided for each unit. The applicant is providing 2 spaces for each units or a total of 8 parking spaces. Five spaces are provided on site with the additional three required spaces provided on the adjacent NCAC ambulance facility property. There are a total of 16 parking spaces provided on the adjacent ambulance facility site. The amended legislation also made the following changes:

- 1) elimination of the restrictions on children in these units; and
- 2) accessory apartments can either be located on the same lot as the ambulance facility or on an adjacent lot (which is the case in the current application). The Project consists of 6,250 square feet (0.143 acres) and identified on the tax maps of the Town of Clarkstown as Section 60.77, Block 2, Lot 8; and

WHEREAS, the Applicant is located at 152-154 Sixth Avenue ("Property"), within the TFR – Two Family Residential Zoning District; and

WHEREAS, after due notice to all involved and interested agencies, the Planning Board declared its intent to be Lead Agency for this unlisted action under SEQRA on March 7, 2016, and accepted a Short Form Environmental Assessment Form (EAF) prepared by the Applicant with a view towards identifying the relevant potential environmental impacts that could result from the approval and development of the project, and assumed Lead Agency on April 11, 2016 to consider the proposed action's environmental impacts; and

WHEREAS, a duly advertised public hearing was opened on the Site Plan Application by the Planning Board on March 7, 2016 and continued on April 11, 2016 and May 2, 2016 and on the Special Permit Application on May 2, 2016 and closed both public hearings on May 2, 2016, at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the Planning Board has carefully considered all public comment, and reviewed, inter alia, the following documentation submitted by the Applicant, interested and involved agencies, and comments from the Village Planner and Building Inspector:

Drawings

The following drawings were prepared by Kier B. Levesque R.A. Architect unless otherwise noted and comprise the approved plans entitled:

- A-1 – *Existing Plans “NCAC Residence”* dated March 11, 2004.
- *“Site Plan/Lot Line Disclaimer Plan for Nyack Community Ambulance”* prepared by Sparaco & Youngblood, PLLC, Civil Engineering, Land Surveying & Site Planning dated November 8, 2013 and last revised January 18, 2016.

Environmental Forms

- *Coastal Assessment Form (“CAF”)* dated 3/7/16.
- *Short-Form Environmental Assessment Form (“EAF”)* dated 3/7/16.

Correspondence/Memorandums

- Douglas J. Schuetz, Acting Commissioner of Planning, Rockland County Department of Planning Department, *GML Review: Nyack Community Ambulance Corp (N-32B)*, dated March 15, 2016.
- Jiliana Sinnott, Planning Board Secretary, Village of Upper Nyack, *GML Review: Nyack Community Ambulance Corp. 60.77-2-7.1, 7.2 and 8*, dated March 16, 2016.
- Shirley Thormann, Chairwoman, Town of Clarkstown Planning Board, *Village of Nyack Referral: Nyack Community Ambulance Corp.*, dated March 10, 2016.
- Robert Galvin, AICP, Nyack Village Planner, *Nyack Community Ambulance Corp (NCAC)*, April 29, 2016.

WHEREAS, on or about May 2, 2016, having found that it was in possession of all documentation reasonably necessary to determine the environmental impact of the project, and having reviewed Parts I, II, III of the EAF, the Planning Board adopted a Negative Declaration under SEQRA, determining that there were no adverse environmental impacts associated with the development proposal that could not be mitigated; and

WHEREAS, the Planning Board after having reviewed the Coastal Assessment Form determined on May 2, 2016 that the Project is fully consistent with the policies of the Village’s Local Waterfront Revitalization Program (“LWRP”) pursuant to Chapter 342 of the Village Code; and

WHEREAS, the Planning Board is familiar with the Property and all aspects of the proposed action and has been satisfied that the proposed site plan will conform to the requirements of the Village Code:

NOW, THEREFORE, BE IT RESOLVED that the Site Plan and Special Permit application submitted by Nyack Community Ambulance Corp (NCAC) to expand an existing two family residence into a four family residence in the TFR District for Ambulance Community Corp volunteers, their spouses and children at the premises known as 152-154 Sixth Avenue, Nyack, NY as reflected on the set of approved plans listed above including the Site Plan dated November 8, 2013 and last revised January 18, 2016 is hereby granted, subject to the following conditions:

1. The Applicant shall submit reasonable covenants and restrictions in a form satisfactory to the Village Attorney to ensure that occupancy of the proposed apartments accessory to the Not-for-Profit ambulance facilities shall be limited to emergency service providers actively associated with the Nyack Community Ambulance Corp (NCAC) and their spouses and children.
2. Given the small difference between the County of Rockland Planning comments Douglas J. Schuetz, Acting Commissioner of Planning, Rockland County Department of Planning Department, *GML Review: Nyack Community Ambulance Corp (N-32B)*, dated March 15, 2016 is hereby overruled by a super majority of the board on the grounds that the parking on the right of way is de-minimus and serves a public benefit.

VOTE: Ayes: 5
 Nays: 0

3. 2-6 N. Midland Avenue. Barry Terach for Joe Lagana. Montclare apartments. Continuation of Site Plan application for the construction of a three story multifamily apartment building. Property is in DMU Zoning District. Revised drawings submitted.

WITHDRAWN FOR TONIGHT – Continued

4. 245 North Midland Avenue. Kier Levesque for Paul Tong. Site Plan application for the conversion from one nonconforming use to another nonconforming use. Property is in TFR zoning district.

Application is to abandon ground floor offices and workshop and replace with 3 ground floor apartments, creating a 5 family multifamily building. Parking requirements are demonstrated to be met. Applicant has appeared before the ARB and has ongoing exterior finish material issues. Application has been sent out for review under GML requirements. Comments are not expected to be received until ZBA hearing on May 19, 2016.

Rockland County Planning has provided a letter indicating that the zoning ordinance requires two parking spaces per unit and that with the 5 units, a total of ten spaces are required. There are only 7 spaces provided on-site.

Applicant should include a parking table on their plans showing the parking requirement and if a variance is necessary.

The Building Inspector indicates that the parking requirements have been met and the ZBA will consider the use variance for this project. Any Board approval will require an override of the Rockland County modification.

5. 36 Summit Street. Richard Picininni. Site Plan Application for renovations to existing house and a two story rear addition. Property is in TFR zoning district. Building Inspector -- *The establishment of habitable attic space creates a third story which will require an area variance from Article IV, VoN 360-4.3, Dimensional Standards Table 4- 1 for 3 stories in the TFR zoning district where 2 are permitted. Applicant received conditional approval from ARB at the April 20, 2016 meeting. It is not clear at this time that the applicant can comply with all the Fire and Life Safety requirements found in Section J 604.3 of the Residential Code of New York State, listed on Page A-2, which would permit occupancy of the third floor. Specifically, the landing for the required emergency escape opening is 18 feet 6 inches above grade, 4 feet higher than the permitted 14 feet.*

SEQRA - This would be a Type II action under **NYS DEC 617.5 (c) (9)** "*construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections*"

LWRP - **As a Type II action, the Village Code considers these actions to be fully consistent with the Village's LWRP policies.**

Applicant - *Carl Ackerman-- looking to remove four trees and replacing with three trees and landscaping with three and half inch caliper trees and permit attic space with sprinklers and subject to the NYS Building Code-*

Public Comment—none

BOARD-- Motion by Klose to close the public hearing with respect to the recommendation on the variance and to issue conditional site plan approval provided that the ZBA grants the area variance.- Second by Voletsky -- Vote 5-0 to close. Closed.

Motion by Klose to make a positive recommendation to the ZBA to permit the area variance for the establishment of habitable attic space creates a third story from Article IV, VoN 360-4.3, Dimensional Standards Table 4-1 for 3 stories in the TFR zoning district where 2 are permitted, provided however, that the recommendation come with specific reasonable conditions to prevent the establishment of illegal two family living, and that the third floor be permitted solely for use by the one family residence, and subject to reasonable conditions imposed by the ZBA or ARB. - Second by Kestenbaum-- Vote 5-0. Passed.

Motion to close with respect to the site plan dated 3/14/16 with pages A-0-A10 and A4A in the Set-- Kestenbaum second, and a Vote of 5-0 to close.

Klose moves to accept conditional site plan approval of the application dated 3/14/16 with pages A-0-A10 and A4A in the Set- subject to the replacement of Three (3) 3.5 caliper trees, reasonable conditions by ZBA and ARB and all exterior lighting down facing. Second by Don Wilen and vote -- 5-0 to approve conditional site plan approval provided that the ZBA issues the area variance.

OTHER BUSINESS-- Motion to adjourn by Chairman Klose, seconded by member Jean-Gilles- passed by a vote of 5-0. Meeting adjourned at 7:45 pm.