

NYACK PLANNING BOARD--June 6, 2016

Members Present:

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

Also Present:

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

Absent: Member Englander recused himself from 2-6 Midland application.

Other Business: Motion to approve the May 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. **87 Jefferson Street. Mark Kalish for Susan Damato. Application to remove cedar tree from NE corner of house.**

SEQRA – this is a Type II action under SEQRA NYS DEC 617.5 (c) (10) "*construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density;*"

LWRP – As a Type II action, the Village Code considers this to be consistent with the policies of the Village's LWRP.

WITHDRAWN OR DID NOT APPEAR

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.

The Draft Resolution has been prepared for the Board's review and action.

SEQRA – The Village Planner has developed and recommended a Neg. Dec for this proposed action which has been submitted to the Board for their review. The Board can make a determination that the Applicant has addressed and mitigated the issues raised by the Board and their Traffic and Engineering consultants and that the revised plans will have no significant environmental impacts resulting in a Positive Declaration, requiring the preparation of a EIS.

Planner - LWRP - I have reviewed the Coastal Assessment Form and the Village's LWRP policies and I have reviewed applicable policies and provided commentary below for the Board's review. Since this is an upland site, very few of the policies apply. Policy # 13 (Stormwater) has been addressed in the commentary below. Based on this review, I believe that the Board can make a finding that the Application is consistent, to the maximum extent practicable, with the policies of the LWRP and that the Application will not substantially hinder the achievement of any of the policies set forth in the LWRP.

LWRP Policies Many of the LWRP policies do not apply to this property since it is an upland site. The following reviews the categories in Part III of the Coastal Assessment Form (CAF) which were all marked no impact.

A. Will the proposed action be located in, or contiguous to, or to have a significant effect upon any of the resource areas identified in the Local Waterfront Revitalization Program?

- 1. *Significant fish/ wildlife habitats*** The proposed action is upland from the Hudson River. There are no significant fish or wildlife habitats on the site. This policy is not applicable.
- 2. *Flood Hazard Areas*** The proposed action is not located in the 100 year and 500 year floodplain. This policy is not applicable.
- 3. *Tidal or Freshwater Wetland*** The site is not adjacent or near to any tidal or freshwater wetlands. The Project is the redevelopment of an existing impervious property. This policy is not applicable.
- 4. *Scenic Resource*** The proposed action is a redevelopment project located in the DMU/TFR Districts. The property is not adjacent to the Hudson River or any other area of scenic significance. This policy is not applicable.

5. Critical Environmental Areas - Not applicable.

6. Structures, sites or sites districts of historic, Archeological or cultural significance - Not applicable.

B. Will the proposed action have a significant effect on any of the following?

1. Commercial or recreational use of the fish and wildlife resource No construction or development activity is proposed within the Hudson River. - This policy is not applicable.

2. Development of the future or existing water-dependent uses - Not applicable.

3. Land and water uses The Nyack Brook runs through the property. The Village's consulting engineer has reviewed the project's SWPPP, drainage and erosion and control. Catch basins will be installed to prevent trash from entering Nyack Brook. A Stormwater Management, Maintenance and Inspection Agreement has been developed that will commit the property owner to required inspections and maintenance of the stormwater system. Under the Agreement, the property owner is responsible for maintaining that portion of the culvert conveying the waters of the Nyack Creek as it traverses their property.

4. Existing or potential public recreation opportunities - Not applicable.

5. Large physical change to a site within the coastal area which will require the preparation of an environmental impact statement - Not applicable.

6. Physical alteration of one or more areas of land along the shoreline, land underwater or coastal waters The proposed action is a redevelopment of a site not located adjacent to the Hudson River. - This policy is not applicable.

7. Physical alteration of three or more acres of land located elsewhere in the coastal area The proposed action will affect 35,273 sf property and is - not applicable.

8. Sale or change in use of state-owned lands, located under water - This policy is not applicable.

9. Revitalization/redevelopment of deteriorated or underutilized waterfront site The proposed action is not adjacent to the waterfront but will redevelop a Main Street property upland from the River.

10. Reduction of existing or potential public access to or along coastal waters - Not applicable.

11. Excavation or dredging activities or the placement of fill materials in coastal waters of Nyack

The proposed action does not include such activities.

12. Discharge of toxic, hazardous substances, or other pollutants into coastal waters of Nyack The proposed action does not include such activities.

13. Draining of stormwater runoff either directly into coastal waters of Nyack or into any river or tributary which empties into them See Response under Policy #3. All stormwater will be treated for water quality and flow rates will conform to DEC and local requirements. The Village Engineer will approve the final SWPPP as a condition of site plan. All significant stormwater and drainage issues have been addressed.

14. Transport, storage, treatment or disposal of solid waste or hazardous materials - Not applicable.

15. Development affecting a natural feature which provides protection against flooding or erosion - Not applicable.

C. Will the proposed activity require any of the following:

1. Waterfront site The proposed action is not adjacent to the waterfront and does not apply.

2. Construction or reconstruction of a flood or erosion control structure The proposed action does not include such activities and is not applicable.

Prior to taking a vote on the resolution and at the specific request of applicant's counsel certain elements of the resolution were reviewed and discussed for accuracy and completeness.

Resolution—adopted by full memorandum on file with the Building Department

VILLAGE OF NYACK PLANNING BOARD

Adopted June 6, 2016

**RE: The Montclare - 6 North Midland Avenue
Resolution of Site Plan Approval**

After recusal by Englander and then due discussion and deliberation, on motion by Mr. Klose, seconded by Mr. Jean-Gilles, the resolution was discussed and adopted

NOW, THEREFORE, BE IT RESOLVED that the Site Plan application submitted by Montclare Apartments LLC to construct a 3-story, multi-family apartment building consisting of 48 units with parking below ground at the premises known as 6 North Midland Avenue, Nyack, NY as reflected on the set of approved plans listed above including the site plan

dated November 18, 2015 and last revised March 17, 2016 is hereby granted, subject to the Conditions specified in a separate document on file with the Building Department.

NOW, THEREFORE, BE IT RESOLVED that the Site Plan application submitted by Montclare Apartments LLC to construct a 3-story, multi-family apartment building consisting of 48 units with parking at ground level underneath the building at the premises known as 6 North Midland Avenue, Nyack, NY as reflected on the set of approved plans listed above including the site plan dated November 18, 2015 and last revised March 17, 2016 is hereby granted, subject to document on file with the Building Department

VOTE: Ayes: Klose, Voletsky, Jean-Gilles, Wilken, and Kestenbaum

Nays: None

Englander RECUSED.

- 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 April 19, 2016. The Village Planner has prepared a Draft Negative Declaration for the Board's consideration to close out SEQRA.**

SEQRA – this is an Unlisted action under SEQRA. The Planning Board can indicate that it will be the lead agency and wait for comments from Rockland County Planning. It can provide positive recommendation to the ZBA. After and depending upon ZBA decision, it can then undertake a SEQRA review and act on the application.

Special Permit for changing from one nonconforming use to another nonconforming use granted by ZBA on May 23, 2016. Applicant returns to Planning Board for SEQRA determination

LWRP – PB determination would occur after SEQRA is closed out.

Village Planning Memorandum 245 North Midland

The subject property consists of 6,595 square feet in the TRF zone. It is a corner lot at the intersection of Sixth Avenue and North Midland Avenue. The 2-story building has been used as an office and workshop on the first floor with two apartments upstairs. The proposal is to renovate the first floor by adding three new apartments and maintain the second floor with its two apartments. The site has 7 parking spaces which will be maintained and complies with the more restrictive RMU parking requirements. The property is adjacent to the 3-story Rose Gardens along

Francis Avenue. It is across Sixth Avenue from the Nyack Ambulance Corps, and the residential building to the south.

The request is for a change of one non-conforming use to a less intensive other non-conforming use. The building on the property needs to be upgraded and made visually appealing. The present property is not aesthetically pleasing and represents a blighting influence on properties along North Midland Avenue. The architect is planning to change the exterior of the building and add new trim and roofing as well as new windows. All exterior stone work will be repointed and cleaned up. The proposal is an opportunity to upgrade the property and provide a more updated, visually aesthetic building.

SEQRA

This is an unlisted action under SEQRA. The Planning Board can indicate that it will be the lead agency and wait for comments from Rockland County Planning which will be provided before forthcoming. It can provide recommendations to the ZBA and then once ZBA has acted, it can undertake an uncoordinated review under SEQRA, close out SEQRA and act on the application.

***Recommendation* The Planning Board should make a positive recommendation to the ZBA for the proposed action which would result in upgrading the property and building and provide a more aesthetic appearance to this very visible corner on N. Midland and Sixth Avenues. It would result in a less intensive use and would provide the necessary parking on-site. It would also remove a potential blighting influence on properties along N. Midland. GRANTED.**

Applicant-- Applicant-- looking for SEQRA determination

Public Comment-- none

BOARD-- Motion by Klose to close the public hearing and adopt the Negative Declaration for 245 North Midland Avenue after review of the EAF and with the recommendation of the Village Planner - seconded by Voletsky -- 5-0

Negative Declaration (Part 3 of EAF signed by Chairman Klose) - finding of no significant adverse environmental impacts The proposed action is an application for the renovation of an existing mixed use building currently housing a workshop, offices and 2 second floor apartments. The applicant is planning to renovate the first floor by adding 3 new apartments and removing the office and workshop uses. The second floor entry near the parking area will be relocated to meet a code requirement and the existing entry off of North Midland Avenue to the second floor apartment will remain. The proposed action is located at the intersection of Sixth Avenue and North Midland Avenue. It is located

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on a 6,595 square feet corner property in the TRF zone. The 2-story building has been used as an office and workshop on the first floor with two apartments upstairs. The proposal is to renovate the first floor by adding three new apartments and maintain the second floor with its two apartments. The site has 7 parking spaces which will be maintained and complies with the more restrictive RMU parking requirements. The property is adjacent to the 3-story Rose Gardens along Francis Avenue. It is across Sixth Avenue from the Nyack Ambulance Corps. and the residential building to the south.

The request is for a change of one nonconforming use to a less intensive nonconforming use. The building on the property needs to be upgraded and made visually appealing. The present property is not aesthetically pleasing and represents a blighting influence on properties along North Midland Avenue. The applicant is planning to change the exterior of the building and add new trim and roofing as well as new windows. All exterior stone work will be repointed and cleaned up. The proposal is an opportunity to upgrade the property and provide a more updated, visually aesthetic building. It will result in upgrading the property and building and provide a more aesthetic appearance to this very visible corner. It would result in a less intensive use and would provide the necessary parking on-site. It would also remove a potential blighting influence on properties along North Midland Avenue.

Based on the Board's review of Pt. 2 of the EAF, letter from Rockland County Planning, memo from the Village Planner and other information provided to the Board at their public hearing, the proposed action is not expected to result in any significant adverse environmental impacts that would rise to the level of significance required for a Positive Declaration.

Motion by Klose to approve the Site plan revised 5-31-16 Second by Voletsky vote by a vote of 5-0- passed.

5. 12 South Franklin Street. El Tequila. Application for referral to Zoning Board of Appeals for a variance with regards to the requirement for 6 off street parking spaces required by the subject proposed bar/tavern. Property is in DMU zoning district. Last known use of this space was as part of the retail space on Franklin Street prior to the establishment of current building layout.

Pursuant to Article IV, VoN 360-4.5B(3), with a change of use, "the owner must provide (or receive a variance for) parking equal to the difference between the parking requirement for the existing use and the parking requirement for the new use...".

PARKING ANALYSIS: Parking required for proposed bar use - 1307 sq.ft. @ 1 space per 150 sq.ft.=9 spaces. Parking required for retail space- 1307 sq.ft. @ 1 space per 400 sq.ft. =3 space Required off street spaces = 6.

SEQRA – this is the responsibility of the ZBA. The application would be a Type II action under NYS DEC 617.5 (c) (7). *"construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls..."*

Applicant was returned to Planning Board by ZBA for proposed changes in operation from 10PM on which the PB granted positive recommendation to ZBA for a later time.

Village Planner - Memo - El Tequila - 12 S. Franklin Avenue. The subject property is the ground floor of a 2-story building located at the corner of S. Franklin and Burd Streets. The space and the entrance are located on Burd Street. The proposed bar/restaurant/billiard room is around the corner from Hello Delly and is across Burd Street from the Wells Fargo parking lot. The proposed space is adjacent to a warehouse on Burd Street that houses party rentals. There are three apartments located on the second floor above the proposed bar/restaurant/billiard room. The work being done will consist of interior renovations. There is no kitchen space being included. There is a food prep station. The Applicant indicated to the Building Department that all food such as sandwiches will be brought in from outside. There is no outside space.

The space has been vacant for over 14 years. The storefront is 1,307 square feet. The bar area is 310 square feet with a restaurant/billiard room of 836 square feet with the remainder being restrooms and utility closet. Last known use of this space was as part of the retail space on Franklin Street prior to the establishment of current building layout. The review of the plans show ten tables with room for 40 customers. We did not see a billiard table on the plans although the applicant calls out "billiard room" on his chart. This should be clarified with the applicant at the meeting.

SEQRA This is the responsibility of the ZBA. The application would be a Type II action under NYSDEC 617.5 (c) (7) *"construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than*

4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities."

Recommendation The request to the ZBA is for a parking variance. Don Yacopino, the Building Inspector, has calculated that the applicant would need 6 spaces per code. On one hand, the space has been vacant for over 14 years. *It would be nice to get it filled after such a long vacancy.* The space was last known as being used as part of the retail space on Franklin. The proposal is in a small space (1,307 square feet) that will be used as a bar with 8 seats and a restaurant with ten tables. There are also three apartments upstairs. The entrance to the bar/restaurant and the three apartments (with separate entrances) is from Burd Street. It would be helpful to know the business hours of the bar/restaurant/billiard room. The operation of the billiard area and its area size should be clarified. The architect should also be required to provide sound attenuation in the ceilings and there should be a restriction on loud amplified music.

Applicant-- Applicant-- ZBA refused to consider the variance for the parking-- prior recommendation was conditioned on hours of operation of 10PM, now does not want the restriction-- soundproofing throughout and wants no problems-- wants to close at 2 AM--or 3AM. To be competitive and support the business-- needs to close later than 11 PM-- Microwave and proper sinks-- back for recommendation-- no live entertainment and no pool table-- wants to meet the board

Member Kestenbaum-- The board made recommendations-- based upon the ten PM closing time, and that was significant.

Chairman Klose -under the circumstances and having already made a determination is not inclined to make a further recommendation-- Board discussed it and was concerned that the parking variance issue is not determinative of whether additional bar space was appropriate.

Planning Board makes no recommendation relative to the ZBA request for Variance.

Public Comment-- none

BOARD-- Motion by Klose to close the Public hearing with respect to the recommendation to the ZBA-- second by Jean Gilles-- Vote 5-0. The Board makes NO Recommendation as to the parking Variance under the revised request.

6. 273 Main Street. Gateway Lofts. Site Plan application to construct a four story multi-

family dwelling, subdivision for the merger of two lots and request for recommendation to the Zoning Board of Appeals. Property is in the DMU zoning district. An area variance will be required for a height variance from Article IV VON§360-4.3, Dimensional Standards Table 4-1 for a four story building where three stories are permitted.

The ZBA can hear this application for an area variance but will either need to wait for SEQRA to be closed by the Planning Board before they can make any determination or the ZBA can undertake their own uncoordinated review of the application for a variance.

The Board should have the applicant complete the Traffic Study and have it reviewed before the Board completes its SEQRA review.

Application was returned to PB by ZBA for SEQRA determination and completion of subdivision approval.

Applicant-- Applicant-- wants to establish the escrow \$11K -- seems reasonable so they will establish. Scope of Work -- by planner and applicant Planning Board concerned **Sight lines** addressed Surface striping Cycling and pedestrian channels and safety Comment on the traffic report Wants to hear from the DOT-- regional planning- Is there anything to do about the hump and signage relative to 9W Intersection of depew-and 9W Should the planning board override the recommendation The nearest interchange with the New York State Thruway is approximately 350 feet away, as the crow flies. It is approximately 550 feet (and two traffic lights) distant via Highland Avenue (Route 9W) and High Street, and approximately 485 feet and one traffic light away via Route 59 and Polhemus Street. Thus, any traffic generated by this project will be absorbed by the already existing traffic on the adjacent state highways. Unless Thruway Authority regulations require submission to the Authority under these circumstances, we ask that this recommendation be overridden. The proposed columns in the cellar parking area must be shown on the map to ensure that they do not conflict with proposed parking spaces. In addition, the elevator and/or stairway must be depicted on the plans

Attorney responses to the GML-- Rockland County

*Will call the Thruway authority and refer to what happened
Need to have site plan review by brooker and eve mancuso*

*Sub-division-- attorney to review the title report- to combine lot final resolution-
Need SQRA-*

Applicant to do long form EAF--

ARB recommended with conditions-- wanted to see additional materials--

Public Comment-- none

BOARD-- The application remains open in all respects.

7. 17 North Franklin Street. Vibes Café. Site Plan application for the installation of handicap accessible ramp and request for recommendation to Zoning Board of Appeals. Property is in DMU zoning district. Proposed front porch outdoor dining is less than 50 feet from MFR-1 zoning district to the West. Per Article III, VON§360-3.2E(6)(b)[2] an area variance will be required an area used for outdoor dining located within 50 feet of the MFR-1 zone.

SEQRA – This would be a Type II action under NYS DEC 617.5 (c) (7). *“construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls....”*

LWRP – Type II actions are consistent with Village’s LWRP

Applicant-- Applicant-- Rajeev Sathiya Murthy-- to build handicapped accessible ramp. Outdoor dining from 11AM to around 12 AM- has in mind Outdoor dining would cease being served kitchen will be serving No alcohol service past 12 AM-- no amplified music after 11 PM-- the hours of operation and compliance in compliance with the Village Sidewalk Cafe permit hours of operation Permitted use -- by right use.

Public Comment-- none

BOARD-- Klose recommends that Planning Board Close with respect to ZBA-- second Englander-- 5-0-- Klose Moves to make a positive recommendation to grant variance from the requirements that the **Proposed front porch outdoor dining be more than 50 feet from MFR-1 zoning district to the West. Per Article III, VON §360-3.2E(6)(b)[2] an area variance will be required an area used for outdoor dining located within 50 feet of the MFR-1 zone.** Planning Board would suggest the reasonable accommodation of all such outdoor dining adhere to Village of Nyack regulations and code requirements in existence for Sidewalk Cafe licenses and permits. Second by Dan Jean Gilles-- 5-0.

Motion to Close public hearing on site plan - dated 4-21-16 as revised to put in the handicapped ramp-- seconded both the close and to approve the final site plan upon reasonable recommendations by the ZBA, seconded by Voletsky--Passed 5-0 -- approved as to closure and to approve the Site Plan subject to ZBA approvals and recommendations.

8. **31 Laveta Place. Kier Levesque for Justine Girard. Application to replace existing retaining walls and garage to house a Professional Studio. Property is in SFR-1 Zoning District. A parking space is required for the Studio in addition to the two spaces required for the dwelling. In all other respects the proposal appears to comply with zoning regulations.**

SEQRA – Type II action under 617.5 (c) (10) “construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density;”
LWRP – Type II actions are consistent with Village’s LWRP

Applicant-- Applicant-- permission to take the garage down; then take the wall out for rebuilding a new properly re-anchored wall.

ARB gave approval 5-18-16- This seems like an improvement (Klose)

Public Comment-- none

BOARD-- Motion by Klose to close the public hearing with respect to the site plan-- second by Voletsky- 5-0, approved.

Motion to approve the site plan 4-26-16 and revised 5-10-16-- Second by Voletsky- Passed-approved.

9. **1 Orchard Street. Kier Levesque for Adler. Site Plan to replace existing wood deck and stone patio with new enlarged, stone patio. Property is in SFR-1 zoning district.**

SEQRA – Type II action under 617.5 (c) (10) “ construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density;” LWRP – Type II actions are consistent with Village’s LWRP.

Applicant-- Applicant-- 65 feet to the water-- it appears that water quality should not be adversely affected (All members agreed)

Public Comment-- none

BOARD-- Motion by Klose to close the public hearing with respect to the site plan Voletsky seconds motion to close. Vote 5-0-- closed.

Klose moves to recommend the approval of the the site plan -- 5-17-16-- site plan as drawn, seconded by Jean-Gilles - Vote Passed-approved 5 - 0.

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OTHER BUSINESS-- Motion to adjourn by Chairman Klose, seconded by member Dan Jean-Gilles- passed by a vote of 5-0. Meeting adjourned at 9:22 pm.