

Village of Nyack Planning Board  
November 7, 2016

**Members Present:**

Peter Klose (Chairman)  
Peter Voletsky  
Seth Kestenbaum  
Daniel Jean-Gilles  
Alan Englander

**Also Present:**

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

Absent: Don Wilen - Alternate - Elijah Reichlin-Melnick - Alternate

**Other Business:** Motion to approve the October 3, 2016 Minutes-- made by Chairman Klose and seconded by Reichlin Melnick. Approved by a Vote of 4-0.

1. **172 North Franklin St. Michael Beckerich. Application to remove four trees. Property is in TFR zoning district. Application is for removal of four trees. Arborists report included.**

**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.*

**Applicant--Michael Beckerich.** Application for tree removal -- planted six new trees, needs removal of four dead ones, cognizant of the stormwater runoff, will plant additional trees

Member Kestenbaum says-- sees that there is a letter saying that there are several dead ones, the arborist is confirmed. Since all trees are dead there was no real reason to be before the Planning Board If trees are dead, but as the application is now before the Board no reason not to hear it.

PUBLIC-- NONE

**BOARD--** Motion by Chairman Klose to close the public hearing. Seconded by Englander- motion to close the public hearing passed. Vote 5-0 to close.

Klose moves to approve application to remove the four (4) trees by plan dated 17th day of October 2016 provided however that the applicant plant trees to ameliorate the stormwater runoff, and other appropriate landscaping, and seconded by Voletsky Vote- - 5-0- application approved.

2. **170 North Franklin Street. Michael Beckerich for Dana Harkrider. Application to remove**

**three trees. Property is in TFR zoning district. Arborist's comments included.**

**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.*

**Applicant--Michael Beckerich.** Application for tree removal similar trees.

Klose and Kestenbaum agreed with the explanation and the right to remove the three trees to permit and promote the growth of others.

PUBLIC-- NONE

**BOARD** -- Motion by Chairman Klose to close the public hearing. Seconded by Englander -- motion to close the public hearing carried. Vote 5-0 to close.

Klose moves to approve application to removal of three (3) trees by plan dated 18th day of October 2016, provided however, that the applicant plant trees to ameliorate the stormwater runoff, and other appropriate landscaping, and seconded by Englander. Vote-- 5-0- application approved.

3. **145 Main Street. Main Essentials. Request for referral to ZBA for additional parking spaces associated with a change of use from a take-out restaurant to a restaurant. Property is in DMU zoning district.**

**Building Inspector--**

Kitchen and Dining area comprise 1047 sq. ft.

Restaurant @ 1 space for each 150 sq. ft. – 1047@150sq.ft.=7 required spaces

Take-out @ 1 space for each 300 sq. ft. - 1047@300sq.ft.=4 EXISTING spaces

Variance required for 3 additional spaces.

**Pursuant to Article IV, VON Code 360-4.5B(3):**

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Change of use. When the use of a lot or building changes, additional off-street parking facilities must be provided when the number of parking or loading spaces required for the new use exceeds the number of spaces required for the use that most recently occupied the building, based on the minimum parking standards of this Zoning Chapter. In other words, 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, not the difference between the actual existing parking and the parking requirement for the new use.

**SEQRA** – the determination for this proposed action is in the jurisdiction of the ZBA. The Planning Board has only been requested for a recommendation for the ZBA

*Applicant--* Needs three (3) additional parking spaces-- patrons need parking-- Not adding more square feet. No parking identified from other locations in the Village from other establishments--

*Chairman Klose --* Concerned about the continued pressure to grant additional bar/club/restaurant spaces in downtown Nyack--but not much we can do with the existing law, better to permit the ZBA to make these variance determinations.

*Public Comment -* NONE

*Board--* Concerned by the planning aspect of this change of use without any additional parking.

*Motion by Chairman Klose--* Move to close the public hearing as to the recommendation to the ZBA-- seconded by Voletsky, passed 5-0, as to the public discussion of the recommendation to the ZBA only. 5-0.

*Variances--* Member Klose proposes to make NO RECOMMENDATION to the ZBA as to whether to grant a Per Article IV VON§360-4.5B(3) for three (3) additional parking spaces required by a change of use from take out to eating and drinking establishment by Village Board Voletsky seconds and -- Vote of 5-0 referred to ZBA with no recommendation.

*Site Plan--* Not applicable

**4. 75 North Broadway. Donald Levine. Site plan application for the creation of a paved rear yard parking space and paving of existing driveway which contained an unpaved portion. Property is in OMU zoning district.**

***Building Inspector**-- Included in the files maintained by the building department is: a 1988 survey indicating a Partially paved driveway; a July 1988 letter from Dr. Levine to Land Use Boards and Building Department indicating the existence of 4 off-street parking spaces and August 1, 1988 ZBA minutes which indicate a variance is not required for additional off-street spaces. The original driveway was at least partially paved. There are no zoning restrictions prohibiting the creation of rear yard parking spaces, but site plan approval is required for the addition of a parking place and whatever drainage implications are involved, pursuant to 360-5.7B(2).*

***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.*

***Applicant**--Village prosecuting the owner for installation of asphalt pad without approval, without stormwater remediation. Applicant concerned that the village required off street parking and he made certain improvements-- re-did the driveway-- been using the off-street parking spot-- so at the same time asked if they could re-pave the area-- clear the corner of the house and the drain pipe.*

***Public Comment** - Joe Carlin - building application -- work is already done-- this has already been done without approvals-- VILLAGE ticket  
No notification-- Building Department cited him for no site plan approval and any prosecution will include going through the site plan process  
Cosmetic and drainage issues need to be reviewed and signed off on by Village engineer with \$500 escrow to pay the engineer. No regulation on number of cars in rear yard. Need remediation and some stormwater runoff.*

Board explained the process, applicant and objectant to return next month with plans re-drawn to include landscaping, stormwater remediation and other improvements, including screening.

5. **160 North Midland Avenue. Mike Pomarico for Nyack Hospital. Site Plan application to construct a two story addition and four story stair tower. Property is in Hospital (H) zoning district.**

**Building Inspector**-- *Property is Hospital (H) Zone*

**ARB**-- *Conditional approvals and meetings from September 21, 2016*

**County**-- *Comments received from Rockland County Department of Planning, Town of Orangetown Department of Environmental Management and Engineering and Rockland County Division of Environmental Health.*

**NYS DOT** has not yet responded.

**SEQRA** - **Village Planner** *has developed and provided a Draft Neg. Dec. for this application. Mike Galante has provided his Traffic review and recommendations. Phil Greal, the Applicant's Traffic consultant, provided his Supplemental information.*

**LWRP** – *This is an unlisted action under SEQRA and once SEQRA is closed out, the Board will need to make a consistency determination for the application that it is fully consistent with the policies of the LWRP and that the proposed project will not hinder the achievement of any of the policies set forth in the LWRP. Pursuant to section 342 of the Village Code.*

*As set forth in the EAF's -*

Nyack Hospital is located at 160 North Midland Avenue between Rte. 9W/Highland Avenue and Midland Avenue, and 5th Avenue and Sickles Avenue. The total acreage of the site of the proposed action is 8.64 acres of which 1.3 acres will be disturbed. The subject property is not located within a wetland or adjacent regulated area, and is not within or in the immediate vicinity of any recognized environmental or historical resource. The subject property is located in the Hospital (H) Zoning District. The proposed action includes the reconfiguration of the existing Emergency Department. Additionally, a new Medical Village will be built as an addition above the expanded Emergency Department. The purpose of the project is to better manage visits to the ED through improved facilities and the provision of alternative treatment options via the Medical Village. No additional beds are included and ED staffing will remain unchanged.

The proposed action is code compliant and meets the Village's parking requirements. However, the Planning Board has noted the neighborhood's concern with off-site parking issues. The Board requested that the Board's Traffic Engineer (Michael Galante, EVP of FP Clark Associates) review this issue and provide recommendations to deal with the parking demand from the Hospital which spills over to adjacent

neighborhood streets. After review and consultation with Maser Consulting, the Village's Traffic Engineer recommended the following mitigation measures. These included: 1) *decal parking stickers for all employees without an on-site parking space so that the Orangetown Police, Village Parking Authority and/or Hospital Administration can identify which employees are parking on the street in adjacent neighborhoods*; **[this recommendation was discussed and not adopted by the Planning Board because it was felt that the enforcement of decal parking would only create additional animosity and confusion]** 2) Hospital Parking Policy with strict enforcement; 3) valet parking for patients and visitors on weekdays and weekends to shift the burden of parking demand from local neighborhood streets to the Hospital property. The Hospital has leased an additional 75 spaces from a nearby Synagogue for use during the week and potentially on weekends. This will free up spaces from the on-street parking inventory. Bus shuttle service will be provided between the off-site lot and the Hospital. This additional 75 spaces will result in a total of 254 off-site spaces for the Hospital.

The Hospital has also established written policies regarding parking, vans, no idling, sirens and community notice. The Hospital has committed to conducting quarterly community forums to review parking and other Hospital issues as part of final approval. A parking structure represents the long-term solution for the Hospital. Discussions are now on-going between the Applicant and the Village on this initiative. The Board's Traffic Engineer also reviewed sight lines and made recommendations including bump-outs on Midland Avenue at each of the three driveways and relocating the Hospital sign and pruning shrubbery at the North Highland/5th Avenue corner. On-site circulation has been reviewed and changes made to improve circulation, control parking and provide improved sight distances at driveway exits. Any on-street parking eliminated will be replaced on the Hospital property. The Village Planner, Village Engineer and Building Inspector reviewed landscaping, lighting and drainage plans w/Applicant. A rendering has been provided to the Board for the Midland Ave streetscape with street trees and proposed buildings in the background. Landscaped details have been provided. Lighting poles are 12' with downward neck and are dark sky compliant. It does not appear based on review of the photometrics that there will be any spillover to neighboring properties. The SWPPP and drainage improvements have been provided and reviewed by the Village Engineer. The Applicant will be providing rain gardens and porous pavement. The Applicant has addressed the comments by the Village Engineer, Orangetown Dept. of Management & Engineering, Rockland County Planning, and Rockland County Department of Health with submission of a complaint Mosquito Breeding Suppression Plan.

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Based on a review of the EAF, the Traffic Reports and recommendations submitted by Maser Consulting and FP Clark Assoc., the applicant's supporting documentation and summary of responses provided to the Village Engineer and other agencies, the Board has determined that 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.

Prior Meetings-- from the public and the Nyack planning Board September 12, 2016 and October 3, 2016. It contains written policies on the following: Applicant has addressed various concerns of neighbors

- 1) Hospital van policy and procedure (Security 9W Van and Hospital courier)
- 2) Hospital employee "Good Neighbor" Initiative (parking using community driveways to turn around)
- 3) Ambulance no idling regulation
- 4) Ambulance siren and back up signal policy and procedure (NYS Dept of Health Bureau of EMS Policy 00-13 w/comments, Ground Vehicle Standard for ambulances v. 1.0 edition)
- 5) Parking Policy
- 6) Community Notice (DSRIP Forums)
- 7) Full time Employees (701) and number of active beds (220)

**Resolution - Village Planner has also developed draft resolution which the Board can consider for approval at their meeting. The resolution was discussed and adopted except for the decal parking suggestions.**

**Village Engineer--** *Village Engineer has met with applicant and reviewed plans relating to lighting, and stormwater drainage. She provided comments to applicant who will incorporate into the site plan drawings. The Village Engineer will provide final comments and review for the Board and Building Department when final set of plans are completed and provided to her office.*

**Applicant--** Dennis Lynch--requested that the matter be closed

SOUND-Applicant to hire acoustic engineer and meet with neighbors about continuous 65 dB noise when temperature is above 65 degrees. Acoustic engineer will examine and report to the Planning Board about the generator and all mechanical sound attenuation at the building. Also consider other sound attenuation measures for the emergency ambulance backing up when loading and unloading patients. These issues were discussed, and addressed by the Hospital and the neighbors.

**Public Comment- NONE**

**BOARD--** Motion to close the public hearing by Klose, seconded by and approved by vote of 5-0.

Board next considered the SEQRA and Coastal Assessment forms as prepared by the Village Planner and Chairman Klose moved to adopt the negative assessment for each-- seconded AS reflected in the individual and separate documents which are incorporated by reference and included herein and both were carried with a vote of 5-0.

Finally, the Board discussed and upon motion by Klose, adopted the resolutions for the Hospital Expansion, seconded as set forth in the individual document that is incorporated by reference herein-- Vote of 5-0 to approve.

6. **70 Cedar Hill Avenue. Pavion.** Application for special permit for the merger of two or more adjacent lots.

***Building Inspector-**The Applicant has already received site plan and subdivision approval from the Planning Board. The request for a special permit is a pro-forma decision based on the Board's prior subdivision approval for Pavion. The SEQRA and LWRP determinations remain the same from the previous site plan and subdivision approval. The Planning Board can approve by motion the special permit for the application so that the Applicant can move forward to building permit application from the Building Department.*

VON Code 360-5.9 - Special Permit is required to merge two lots (see below).

§ 360-5.9 **Special use permits.**

**A.**

Purpose and applicability. This section provides for the review and approval of special permit uses, as identified by Table 3-1 of this chapter<sup>[1]</sup>, by the Zoning Board of Appeals or Planning Board. . . . ***In addition, the merger of two or more lots requires a special permit approval.***

[Amended 7-16-2015 by L.L. No. 3-2015]

**C.** Criteria. In authorizing the issuance of a special permit, the Zoning Board of Appeals or Planning Board shall take **into consideration the public health, safety and welfare** and shall prescribe appropriate conditions and safeguards to ensure the accomplishment of the following objectives:

[Amended 7-16-2015 by L.L. No. 3-2015]

**(1)** That all proposed structures, equipment and material shall be readily accessible for fire and police protection. YES

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(2) That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

(3) That, in the case of any use located in or directly adjacent to a residential district:

(a) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with said residential district or conflict with the normal traffic of the neighborhood.

(b) The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

(4) That the application is consistent with any additional use-specific standards required by Article III of this chapter.

**Applicant--** Matt Sheffield made the presentation and promised that none of the plans had been changed or were changing.

**Board-** Expressed concern that what was approved remains *actually approved in the Site Plan – if any change is made to the # or types of units or amenities, the impact of the development could change.*

**Public Comment** - none

**Board--** *Motion by Chairman Klose-- Move to close the public hearing as to the Subdivision plat and combination of lot lines-- seconded by Voletsky, passed/approved 5-0.*

**Board--** *Member Klose proposes to approve the Special Permit, subject to Conditions on the grant of the Special Permit:*

1. On August 3, 2015, the Planning Board granted Site Development Plan approval for the construction of a 135 residential unit development at the sites in question (Orangetown tax lots 66.45/1/34, 35, and 36 and 66.46/2/54). The approved development plan consisted of 18 Townhomes, 8 live/work units, and 109 apartments with specifically delineated numbers of bedrooms, bathrooms, kitchens and other amenities. Certain retail, clubhouse, swimming, and parking facilities were also included in the approved Site Development Plan.

2. The Planning Board's August 3, 2015 Resolution is incorporated into this Special Permit Resolution by reference; and the Planning Board specifically finds, when considering the Special Permit factors contained in Village Code 360-5.9(c)(1)-(4), that the location, size and character of the development, in the context of the grant of this Special Permit, will only be in harmony with the appropriate and orderly development of the district, and not be detrimental to the orderly development of adjacent properties, if the development that was applied for is constructed without variation from what was set forth in the drawings referenced in the August 3, 2015 Planning Board Resolution.

Therefore, the Planning Board finds that the grant of this Special Permit is conditioned and contingent upon the applicant building what was approved in the Site Development Plan as shown on the drawings referenced in the August 3, 2015 Resolution, and that the Special Permit shall lapse if any changes are made to the (i) number townhomes, or (ii) number of live/work units, or (iii) number of apartments, or (iv) number of kitchens and other amenities within the units as shown on the drawings, or (v) the nature and scope of the retail, clubhouse, swimming, and parking facilities included in the approved Site Development Plan. In the event that there is a change to any of the items set forth in this condition, the Special Permit shall lapse and the applicant, its successors and/or assigns, shall be required to appear before the Planning Board to renew the Special Permit.

*Seconded by Member Jean Gilles -- Vote of 5-0 to approve-- approved.*

7. **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.**

**APPLICANT did not appear.**

*OTHER BUSINESS-- Motion to adjourn by Chairman Klose, seconded by member Englander-- passed by a vote of 5-0. Meeting adjourned at 8 pm.*