

Members Present:

Peter Klose (Chairman)
Daniel Jean-Gilles
Glen E. Keene,
Peter Voletsky
Alan Englander Alternate
Don Hammond

Also Present:

Walter Sevastian, Village Attorney
Don Yacopino, Building Inspector
Bob Galvin—Village Planner (present)

Absent:

Chairman Klose commended the Mayor and Trustees for a fine job getting Nyack back on its feet since the superstorm Hurricane Sandy.

1. 34 Dickinson Avenue, John and Linda Riveax. Site plan request for removal of seven (7) trees.

Building Inspector-- . Property is in SFR-2 Zoning District. Arborist's letter enclosed. Tree removal is part of a larger project to enlarge deck, remove portion of impervious driveway, re-configure topography and install drainage containment system. For your review is only a rear yard tree-which has split into two trunks at the base. All other trees listed in arborists report can be issued a permit from this office without additional approval because they are either diseased or not "significant" trees.

Applicant requests removal of two (2) trees for various reasons, including drainage, installation of deck, prior damage or pests. Letter from arborist attesting to this fact-- Perfect Cut tree.

After inspection by the building inspector only application to remove two trees which are leaning toward the house, applicant will install garden and appropriate vegetation.

SEQRA-- exempted as Type II action

Public None

Board discussion-- Motion to close public comment by Klose, second Hammond- vote 5-0, approved.

Resolution by Klose to permit removal of trees provided that the applicant replace the trees with appropriate landscape garden and evergreen trees or other appropriate foliage to assist and improve the drainage of the lot and steep slopes. (Second by Jean-Gilles, vote 5-0, approved).

2. 76 Main Street Application to convert second floor office space to residential use and recommendation to Zoning Board of Appeals.

Building Inspector--1. District The following area variances will be required from Article IV VON§360-4.3 Dimensional Standards Table 4-1: 3 Dwelling Units where 2 are permitted. 3 Dwelling units less than 600 sq.ft. where 600 sq. ft. is required. Preexisting nonconforming rear yard setback of less than 15 ft. above first floor where 15 ft. is required. Informal survey of Village of Nyack multiple residence housing stock included. Information regarding NYS Building Code requirements and NYC minimum dwelling unit size included . Now at 400 sq.ft., proposed to be 200 sq.ft. Village Planner Bob Galvin's comments included.

Applicant-- Kier Levesque-- Presenting for owner Girolomo Loconsole. Applicant has reduced the number of apartments requested, parking is not an issue for this size apartment on the corner of Main Street. Smallest dwelling is 451 square feet, letters submitted 8/21/12 and 10/24/12 relative to the planned changes.

Building Department provided Code provisions from the NYS Building Code suggesting that every dwelling unit have at least one room of 120 square feet, and other habitable rooms having at least 70 square feet with the kitchen being at least 70 square feet. Even efficiency units must have a closet a living room a sink, cooking appliance and refrigeration facilities with clear working space of at least 30 inches and separate bathroom.

Village Planner suggested that the number of units be cut from proposed 4 to 3, by report in September 2012. Village Attorney-- resolution to be prepared after ZBA approval, applicant to return after approval

Applicant will agree that the the office will remain as office not ever to be used as a Residential use

Public-- None

BOARD-- Resolution by Klose to close the public hearing as to the request for a recommendation to the ZBA second by Jean-Gilles, Vote 5-0 to close on ZBA determination.

SEQRA-- this is an unlisted action-- needs to have an EAF-- Applicant to provide the EAF-- Planning board shall declare itself lead agency for SEQRA-- second by Hammond vote 5-0, approved to be considered Lead Agency for this review.

Klose moves to make a positive recommendation to the ZBA for this unique application at the heart of the downtown with pre-existing offices with the understanding that this particular building is a pre-existing non-conforming use where the owner is not changing the location, size or shape of the building, is merely changing the use of this particular second floor to install three residential dwellings and one office, has agreed that the front office space shall not be used for residential purposes, and the bottom floor is an existing owner-occupied retail space. The Planning Board further suggests that any area variance approved in this particular location be conditioned upon the clearly stated condition of occupancy that only three (3) residential units are permitted and the forth space identified as office be limited to that particular use (Second by Voletsky , Vote 5-0, approved).

Applicant to return for final site plan and SEQRA approval.

3. 19 Main Street. Kier Levesque for River Village Properties. Site plan application for conversion of restaurant/apartment to multi-use residential use, and referral to Zoning Board of Appeals .

Building Inspector--Application has changed significantly since originally proposed. Ground floor residential use combined with nonresidential use now proposed, omitting the requirement for a use variance. Top floor space contains a preexisting 440 sq.ft. apartment. Second floor office/storage space is being proposed as a 517 sq.ft. apartment.. A continuing review of this building permit application at the above referenced location reveals a situation not previously recognized. It is my determination that Water Street is not, by definition, a Street. The final construction was not approved by the Planning Board nor accepted as a street by the Village of Nyack. Water Street exists on the Town of Orangetown, Village of Nyack Tax Map, page 66.39, revised February 28, 2011 as a portion of Claremont/Hudson Vista Associates properties, with an

easement permitting passage between Main Street and Burd Street. Furthermore, Water Street does not appear on the New York State Department of Transportation Local Roads Listing for the Village of Nyack dated 8/15/2012. 25 feet of nonresidential ground floor space is not required in that portion of the building adjacent to Water Street.

Per Article I VON§360-1.9E an area variance is required for the alteration, enlargement or horizontal extension of a building that is nonconforming with respect to dimensional and developmental standards. Area variances will be required from Article IV VON§360-4.3 Dimensional Standards Table 4-1: for one preexisting nonconforming dwelling unit less than 600 sq.ft.(440 sq.ft.) in size.and one proposed second floor apartment less than required 600 sq.ft. at 517 sq.ft.

Kier Levesque for the Applicant—Applicant to return for site plan approval and positive recommendation to the ZBA for the two area variances. No use variance residential on the first floor because the first 25 of the front of the building remains non-residential. Reconfigured the bottom floor apartments to be more than 600 feet on the first floor that are being created. The third floor unit is less than 600 square feet, and the existing is 517 square feet on the second floor. Stairway is being used, so there is some square footage being removed making the second floor apartments smaller. Again, this is a pre-existing condition, where the applicant provides plenty of off street parking for occupants. Two apartments are existing conditions and are less than the 600 square feet. Eight parking spaces provided and 5 needed under the code. River/Water Street is not a public street --so the building inspector has changed his view as to how much non-residential space might be required. This first floor non-retail use in the DMU is a problem facing the Planning Board, which will be addressed by separate referendum, and is changing the residential calculations.

Klose asked about the prior ZBA requirements about sealed windows requirement of the first floor be secured and screwed shut to accommodate the prior commercial bar/tavern use. Applicant will need to request that the ZBA specifically remove the language from the prior variance-- the prior variance was granted relative to the sealed windows and the referral to the ZBA should include decision by the ZBA.

SEQRA unlisted action, applicant to file EAF and final site plan to return for resolution of the ZBA and the site plan. Planning Board

SEQRA-- this is an unlisted action-- needs to have an EAF-- Applicant to provide the EAF-- Keene proposes that Planning board shall declare itself lead agency for SEQRA-- second by Hammond vote 5-0.

Drainage calculations. Green Infrastructure components-- applicant is looking at the permeable pavers. applicant will return for final site plan approval and SEQRA approval and will engineer some sort of retainagage pit under the pavers.

Public--None

Board--Klose moves to close the public hearing as to the area variance requests (Second by Voletsky, Vote 5-0).

SEQRA-- this is an unlisted action-- needs to have an EAF-- Applicant to provide the EAF-- Planning board shall declare itself lead agency for SEQRA-- second by Hammond vote 5-0, approved to be considered Lead Agency for this review.

Klose moves to make a positive recommendation to the ZBA that the area variance related to the pre-existing non-conformities be granted on the grounds that this is a positive improvement to the neighborhood, in keeping with the residential and mixed use properites on either side of it (Claremont) which includes office use. The footprint is not really changing so there is no negative impact on the neighborhood and we are retaining much of the same character and feel for the prior historical residential use. Subject to reasonable constraints or conditions proposed by the ZBA; , the Planning Board would recommend the area variance for the proposed size of the apartments on the ground that the existing non-conformities and size of apartments where the applicant has made dutiful efforts to ameliorate the condition by making the apartments conform to the size of the code and return the structure to mixed use residential over commercial where there is sufficient off street parking is provided. Keene second-- Vote 5-0, approved.

The application remains open for Site Plan and SEQRA resolution.

4. 150 Burd Street. Kier Levesque for Alex Vursta. Site Plan application to demolish existing commercial structures, construct multi-story mixed use building and recommendation to Zoning Board of Appeals.

*Building Inspector--Proposed size and height is permitted in DMU Zoning District, which comprises both sides of Main Street, continuing to Burd Street. Several area variances for, density, apartment size and parking will be required as outlined in architect's narrative, affordable housing issues and incentives. These parcels appear to exist as two separate properties and must be combined to obtain indicated lot area measurements. Per Article IV VON§ 360-4.13 F (2) a subdivision shall be required for the consolidation or merger of these lots. **The following area variances will be required from Article IV VON§360-4.3 Dimensional Standards Table 4-1 for: a. 21 Dwelling Units where 6 are permitted b. 21 DU "s of less than 600 sq. ft. where 600 sq. ft. is required A parking variance from Article IV VON§360-4.5C Minimum Parking Requirements Table 4-2 for 12 parking spaces where 24 are required. ARB APPROVAL NOT YET GRANTED AN INFORMAL LAND USE BOARD SITE VISIT TOOK PLACE SEPTEMBER 12, 2012. THE CURRENT PROPOSAL REFLECTS CONCEPTS DISCUSSED AT THAT MEETING. AFFORDABLE HOUSING LAW APPLIES-BUT DOES NOT YET APPEAR TO HAVE BEEN DEALT WITH.***

SITE DRAINAGE ISSUES HAVE NOT BEEN ADDRESSED.

Issues include affordable housing board-- payment in lieu of construction-- first time home buyers, etc. Reconsidering the situation given the size, lot and bulk being proposed. Issue of what the final plan might look like and how many apartments might render this project appropriate.

EAF for this application -- SEQRA-- unlisted action -- needs to have an EAF-- Applicant to provide the EAF-- Planning board shall declare itself lead agency for SEQRA-- Second by Hammond vote 5-0, approved to be considered Lead Agency for this review.

Application-- has been amended-- ARB-- asked to reconsidered and applicant went to the September 27, 2012 meeting. Revisited the floor plans and the building and have reviewed the plans. Retail on the first floor and dwelling units on 1 through 3 floors-- parking is below-- not provided. The applicant is considering other opportunities to park nearby, but they have not provided any particular licenses or leases for review by the

planning board, and Member Klose is not particularly inclined to believe that such arrangements are appropriate for this location in the Village. That there may be parking in other locations like other parking areas remotely located is not going to solve the problem.

Planner suggested that most households have 1 car or more per households. Planning Board is generally concerned about creating a modern day “tenement” where the apartments are so small they cannot accommodate more than two occupants, thereby discriminating against children, unless these residences are limited to 2 occupants.

Set back second and third floors to comply with the setbacks on second and third floor-- all units on the second and third floors have -- out door space. dwellings vary between 450 feet--and smaller.

Approximate rental prices efficiency between between \$1000 and \$1200 per month. Planning Board interested in that based upon “affordable housing” and whether this particular project makes sense.

Village Board could consider density relief for this particular project relative to the affordable housing law, but Planning Board is not ready to refer this to the Village.

Under this plan, the applicant would require two affordable units-- required-- here-- Planning Board needs to know what the density relief, if any might be provided -- That section of the affordable units have to be provided through out the unit. Need copy of the lease for the affordable units, and they must be randomly placed through the building.

Planning Board to make recommendations based upon the parking spots.--

Voletsky -- has a problem with the efficiencies-- need partitioned kitchens -- improves the quality of the property-- building offices and retail in an area where this is not a retail area. Creating a SRO type environment with the added economic “dead weight” in the form of two offices below. Living in very small apartments-- not sure he wants to encourage this type of development in the downtown-- overly dense.

Englander -- wants larger apartments average 450- 480 square feet area-16 or 18 units to increase the size.

Daniel Jean-Gilles-- wants to see larger units--for various reasons, including that these might become too small for families, and too many small units.

Building inspector would then ask for a use variance-- if we get rid of the office/retail-- The Planning Board is unsatisfied with the DMU requirements that this have retail or office in the front of the building, believes that we should have some flexibility in devising the right mix between residential and office. Would like to investigate the efficacies of a zone change

Traffic concerns-- to be addressed by off street parking through other venues.-- PB is concerned that the occupants have sufficient off street parking, we are at capacity. Parking concerns-- Lot Size & Bulk Concerns.

Long form SEQRA is required. SEQRA-- this is an unlisted action-- Applicant to provide the EAF-- Planning Board shall declare itself lead agency for SEQRA-- second by Hammond vote 5-0, approved to be considered Lead Agency for this review.

Applicant is going to try to get to parking code neutral-- application to remain open--

Planning Board to suggest that a potential zoning code text change be recommended here. The office/retail in this location does not make much sense.

5. 91 Piermont Avenue. Kier Levesque for Terry Plank, Application for Deck.

Building Inspector--Property is in TFR Zoning District. Per Article I VON§360-1.9E an area variance is required for the alteration, enlargement or horizontal extension of a building that is nonconforming with respect to dimensional and developmental standards. Without alteration the building is nonconforming with respect to: lot area of 3510 sq.ft. where 5000 sq.ft. is required; lot width of 26.6ft. where 50ft. is required; minimum side yard of -1ft. where 5ft. is required and dwelling size of 897 sq.ft. where 900 sq.ft. is required. Additionally an area variance is required from Article IV VON§360-4.3 Dimensional Standards Table 4-1 for a rear yard of 38 ft. where 39.6 ft. is required. Applicant received ARB approval October 17, 2012.

Public-- NONE

Board-- SEQRA-- exempted as Type II action as single family residence.

Klose makes motion to close the public hearing, second by Jean-Gilles; vote 5-0.

Klose proposes to make a positive recommendation to the ZBA on the ground that the variance upon this application is minimal in a pre-existing non-conforming lot, the character of the neighborhood will not be negatively impacted accept the site plan as drawn September 24, 2012 and redated October 2012, subject to reasonable conditions imposed by the ZBA or the ARB, and all exterior lighting down facing and non-spill over. (Second by Daniel Jean-Gilles Vote- 5-0, approved for the positive recommendation on the ZBA).

Klose proposes to accept the site plan as drawn September 24, 2012 and re-dated October 2012, subject to reasonable conditions imposed by the ZBA or the ARB, and all exterior lighting down facing and non-spill over. (Second by Jean-Gilles Vote- 5-0, approved for the positive recommendation on the site plan).

6. 20 Burd Street. Robert Silarsky --Site Plan application for exterior alterations to a residential dwelling.

Building Inspector Property is in TFR Zoning District Application to extend and connect balconies on east façade, and construct carport in driveway on west side and referral to ZBA. Property is in TFR Zoning District. . Per Article I VON§360-1.9E an area variance is required for the alteration, enlargement or horizontal extension of a building that is nonconforming with respect to dimensional and developmental standards. Without alteration the building is nonconforming with respect to: lot area of 2990 sq.ft. where 5000 sq.ft. is required; lot width of 40ft.. where 50ft. is required; rear yard of 12ft. where 24.45 ft. is required, and building height of 2 ½ stories where 2 is permitted. Additionally an area variance is required from Article IV VON§360-4.3 Dimensional Standards Table 4-1 for a side yard of 3.5 ft. where 5 ft. is required and a combined side yard setback of 3.5ft. where 12ft is required.

Robert Silarski-- for applicant- Jeffrey Tognetti Original architects for the location, drainage is the newest element for this proposed car-port from the west elevation area variances (a) pre-existing non-conforming home side yard of five (5) required; (b) side yard variances of 6.5 feet where 12 combined side yard is

required. Code has changed since this application was approved, and we now have a 2 ½ story dwelling where 2 is permitted, on an undersized lot. Glass roof on the carport building over existing paved driveway.

Open on all three sides-- blocking own windows.-- does not want any shadow. Drainage already has 2 seepage pits as per the prior application. ARB--preliminary approval for the plan, subject to PB approval and ZBA area variances for side yard vaiances combined side yard set-- asked that the super structure be changed to stained wood. They are returning to the ARB with that change -- Lisa Buckley is a member of the ARB is okay with the project and is the adjoining neighbor.

SEQRA--exempted as a type II action.

Motion to close public hearing by Klose, second by Hammond, passed 5-0.

Motion to make a positive recommendation to accept the variances proposed in the plans dated 10-25-2012 -- positive recommendation to the ZBA as this will not adversely impact the charm and character of the building or the neighborhood-- second by Keene, Vote 5-0).

With respect to the Site Plan application dated 10-25-12 and drainage calculations by engineer-- November 2, 2007 Celantano. No exterior lighting and subject to reasonable recommendations of the ZBA and ARB, Second by Hammond Vote 5-0, approved.

Other Business:

A motion was made by Chairman Klose, seconded by Member Voletsky, to accept the Octboer 2012 minutes. Passed 5-0. With Klose recusing from the RRA application and Hammond recusing for his application.

The meeting was adjourned at 9:00 PM.