

Members Present:

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

Also Present:

Walter Sevastian, Village Attorney

Absent: Don Yacopino, Building Inspector

1. Agenda item 1: 22 Catherine Street. Paul Ferguson, applicant, pro se.

Site plan application to construct a rear deck. Recommendation to the ZBA for area variances Art. IV VON360-4.3 Dimensional Standards Table 4-1 for a lot area of 4350 sq. ft. where 5000 sq. ft. is required and a combined side yard of 15.4 ft. where 17.4 ft. is required. Property is in a TFR Zoning District and not subject to SEQRA. Applicant received approval and a positive recommendation to ZBA May 16, 2012. There is no detriment to the character of the neighborhood

SEQRA-- Type II action, not EAF required.

No public comments. Motion to close the public hearing by Chair Klose second by Jean-Gilles. Vote 5-0 to close.

Motion by Klose to issue a positive recommendation to the ZBA, on the ground that this deck will improve the property, neighborhood, and community, is not unduly large, and is in keeping with the house and the neighborhood. Board also willing to issue preliminary site plan approval, subject to reasonable conditions of the ZBA. Accordingly, Architect's site plan dated 2004 re-dated to 10/11 is accepted subject to ZBA and ARB approvals and reasonable conditions, with all lighting fixtures, if any, to be downward facing and subject to Building Inspectors approval. Second by Hammond. Approved 5-0.

2. 55 route 59. Howard Geneslaw of Gibbons P.C. for McDonald's Real Estate Company.

Property is in CC Zoning District. Continuation of site plan application to demolish and rebuild existing McDonald's restaurant. Responses received from NYS Department of Transportation, County of Rockland Department of Planning, Village Engineer, New York State Thruway Authority. Awaiting comments from Town of Clarksstown and New York, New Jersey Trail Conference. Applicant appeared before Architectural Review Board at a workshop meeting of 2/29/2012 and 3/21/2012. Application has met with general approval of the ARB but issues of signage and design remain. There are a number of signs which will require variances.

McDonalds will apply to the ZBA for Special Use Permits for Fast Food Restaurant with a Drive-Through facility Per Article I VON§360-1.9D; Article III VON§360-3.1 Table of Permitted Uses, conforming to Article III VON§360-3.2E(a)(b)(c)(d). Subsection (b) of 360-3.2E indicates the hours of operation of the drive-through facility are to be limited to the hours of 9a.m. to 9p.m. in that case. Since the applicant operates a 24 hour facility, an area variance will be required.

ADDITIONALLY: The applicant has submitted a Table of Deviations from Zoning Code.

First box requires a variance.

Second box requires 5 variances.

Third and fourth boxes (freestanding signs) are permitted as pre existing per VON 360-4.11H(1).

Fifth box (freestanding signs) five variances required. Two existing freestanding .[360-4.11E2(a)].

Sixth box. All listed directional signs are greater in size than permitted two sq. ft.and require variances.

Seventh box. Variance required for intercom.

Eighth box. Variance required for lighting proposal.

Existing Nonconformities to Remain:

First box. Access greater than 24 ft. requires a variance. Fire Inspector suggests the wider the better for fire service access.

Second box. Lack of conformance to tree planting requirements of VON 360-4.5K(4)(b) would require a variance.

Third box. VON 360-4.7 gives Planning Board discretion to modify requirements.

Nyack Planning Board—June 4, 2012

The Board and the Applicant's five consultants plus Adler Consulting appeared before the Board for more than Two Hours.

Various Governmental Agencies have weighed in on this application and the Applicant has basically incorporated all comments, except for County of Rockland demands.

Meeting discussed that the property is in CC Zoning District. Continuation of site plan application to demolish existing structure and McDonald's restaurant. Responses received from NYS Dept. of Trans., County of Rockland Dept of Planning, Village Engineer, NYS Truway Auth. Applicant requires a number of signage variances.

Additional flat wall signs are proposed. One flat wall sign is permitted on the North and one on the East side of the building. Applicant proposes to have three on the North side (Rt. 59), two on the East and two on the West.

Consultant states that existing free standing identification signs would be replaced in current locations, one on Route 59 and one on Waldron Avenue. Setback variance is required. New signs slightly larger than existing. Five freestanding menu signs are requested, currently there is one, none are permitted.

One 2sq. ft. directional sign is permitted; currently there is one, applicant requests 17 signs, 14 of which are traffic safety signs. Directional pavement markings are not considered signs

Exterior that emit noise are prohibited. Currently there is one, applicant proposes to replace.

Light levels, all lights will be down-facing except those illuminating the building canopy. It was suggested by consultant that the canopy would block the light.

Trees in parking area and street frontage. Currently there are no frontage trees, one every 40 feet is required. Applicant proposes to retain current condition.

Parking area trees, one per ten spaces required, currently and 12 space max w/5' landscaped island. Currently, no trees and 15 & 16 space rows. Applicant proposes 14 & 17 space rows and no island. Discussion of installing landscaped island (without resolution?).

Curb cut access and Fire Marshall concern for emergency vehicles was discussed.

Bernard Adler, President of Adler Consulting, appeared. Adler Consulting conducted the traffic study and presented by Paul (?). Findings were traffic was less than expected.

Traffic for the new building is projected to increase by 12 additional trips during the mid-day period and by 89 on a Saturday mid-day. Standard not to further study if added trips are less than 100. Chair Klose asked if the queue from the intersection was studied.No, due to less than 100 trips.

That said, the Board was concerned with spill back of queuing onto Rt. 59 on site as expressed by Jean-Gilles. Drive-thru “guests” may spill onto the highway in the Rt. 59 entrance if not sufficient space in drive-thru area. Applicant explained the new double ordering situation for McD’s, two windows, two orders per minute, six locations for cars, plus at least another 5 cars before any backup onto Route 59.

Chair Klose stated that the site distance coming East is short due to curve and up-hill grade just North of the site. Applicant explained traffic data, overseen by Adler.

Paul indicated that the two order windows would relieve the spill over issue.

Paul states that NYSDOT recommended the driveways be redesigned with 20 ft curb cut for delivery trucks. Adler agreed with DOT recommendation on the Rt. 59 side and that the DOT letter be added to the record. Applicant agreed to change the configuration of the entrance to better accommodate pinch points of congestion on the lot, and to restrict entrance to right lane entry only—discouraging cars from crossing double yellow lanes and making left into site.

Chair Klose questioned the need for an exit onto Rt 59, reasoning a reduction in accidents. Per Paul there was only one accident reported at the intersection that was attributable to the restaurant. Better signage is designed to move the flow of traffic around this site, including the re-circulation lanes.

The possibility of prohibiting left turns from Rt. 59 into the Rt. 59 entrance ramp. Signage and angling the ramp to make left turns less likely was proposed by Chair Klose and recommended by Adler, and agreed by applicant.

Applicant advises that the new signs will be located in the place of the existing signs. New signs will be more visible at entrances and exits.

Storm water runoff issues were resolved with less non-permeable area and no trees being removed. Applicant is going to review the easement and comment on the ability to add green space convert the parking lot into a more enjoyable location and removing pavement.

Review of Boehler Engineering report dated 5/4/12. Applicant agreed to all of the first page points and first two points of page 2. Pt. 3 required drainage in the trash bin area. It was recommended that the issue be taken up with the engineer.

Interference with the handicap parking due to the drive thru queue was determined a non-factor due to quick movement of vehicles through the double order lanes, however, the applicant agreed to increase the width of the sidewalks to five feet near the building.

The last three items of the Boehler report were agreed to by applicant.

SEQRA lead agency issue was raised.

Nyack Planning Board—June 4, 2012

Planning Board made a positive recommendation to the ZBA to accept all of the proposed variances in the attached Table of Variances as the variances appear necessary solely to address the change in the regulations concerning drive through restaurants; do not appear to negatively impact the surrounding community and should enhance the project for all residents approaching from Waldron Avenue and Route 59. Seconded by Hammond Vote (5-0), to issue positive recommendation.

Review of all of the numerous variances is needed. Lighting must be down facing to prevent spillage onto residential neighbors or low-level LED lighting. Up-facing lighting will be installed under the eaves for illumination of logos and building. Waldron Ave. lights to be angled away from residential area.

Applicant agreed to redraw the site plan taking the Boards comments into account, and the hearing remains open.

Chair Klose moved to adjourn the meeting and declare the Planning Board as the lead SEQRA agency, second by Hammond. Vote 5-0.

Klose made oral negative declaration. Motion to accept by Jean-Gilles second by Hammond. Vote unanimous.

Public hearing remains open.

Other Business:

A motion was made by Chairman Klose, seconded by Member Voletsky, to accept the May 7 2012 Minutes. Passed 5-0.

The meeting was adjourned at 9:15 PM.

**McDonald's USA, LLC
Section 65.35, Block 1, Lot 1
55 NYS Route Highway Route 59
CC Zone
Nyack, New York**

April 13, 2012

Table of Deviations from Zoning Code

Variances

ZONING LAW SECTION	DESCRIPTION	REQUIRED/ PERMITTED	EXISTING	PROPOSED
§ 360-3.2.E.(2)(b)	Operating hours of a drive-through on a lot or site adjacent to a lot containing a residential use, unless separated from the residential structure by an intervening building, alley or public street	9:00 a.m. to 9:00 p.m.	24 hours daily	24 hours daily
§ 360-4.11.E.(1)(a)	Number of flat wall signs	North (front): 1 East (Waldron): 1 West: 0 South (rear): 0	1 "McDonald's" — — —	1 "M" logo 1 "McDonald's" 1 "Welcome" 1 "M" logo 1 "McDonald's" 1 "M" logo 1 "Welcome" —
§ 360-4.11.E.(2)(b)	Setback of freestanding identification signs	15' to property line	Route 59: 4.92' Waldron Avenue: 10.01' Side Lot Line: 0.23'	Route 59: 4.92' Waldron Avenue: 10.01' Side Lot Line: 0.23'

ZONING LAW SECTION	DESCRIPTION	REQUIRED/ PERMITTED	EXISTING	PROPOSED
§ 360-4.11.E.(2)(b)	Number of freestanding identification signs	1 per property 60 s.f. per face	2 McDonald's freestanding signs Route 59: 30 s.f. Waldron Avenue: 45 s.f.	2 McDonald's freestanding signs Route 59: 40 s.f. Waldron Avenue: 40 s.f.
§ 360-4.11.E.(2)(b)	Number of freestanding signs (relating to drive-thru)	0	1 menu board (43.66 s.f.)	2 menu boards (43.66 s.f. each) 1 pre-sell board (10.19 s.f.) 2 COD trio signs (2.17 s.f. each)
§ 360-4.11.E.(3)	Directional sign area	2 s.f.	1 "Drive-Thru" clearance bar sign (4 s.f.)	1 "Drive-Thru" clearance bar sign (4.5 s.f.) 2 "Order Here" signs (4.5 s.f. each) 2 "Do Not Enter" signs (6.25 s.f. each) 6 "Stop" signs (5.14 s.f. each) 1 "No Right Turn" sign (4 s.f.) 4 "Stop Here for Pedestrians" signs (12 s.f. each) 1 "Any Lane, Any Time" sign (2.13 s.f.)

ZONING LAW SECTION	DESCRIPTION	REQUIRED/ PERMITTED	EXISTING	PROPOSED
§ 360-4.11.G.(7)	Exterior signs that emit noise	Prohibited	Intercom on menu board	Intercom on canopy column of "Order Here" sign
§ 360-4.10.C.	Maximum light levels	Property line: 2.0 Parking areas: 5.0 Pedestrian walkways: 3.0		Property line: 5.7 Parking areas: 10.1 Pedestrian walkways: 5.8

Existing Nonconformities To Remain

ZONING LAW SECTION	DESCRIPTION	REQUIRED/ PERMITTED	EXISTING	PROPOSED
§ 360-4.5.G.(2)	Access (total width)	24'	29.9'	29.9'
§ 360-4.5.K.(4)(b)	Trees in parking areas	1 tree/10 spaces; 12 space maximum uninterrupted row without a 5' landscaped interruption	Row of 15 and 16 parking spaces without landscaped island	Row of 14 and 17 parking spaces without landscaped island
§ 360-4.7	Street trees (Planning Board can modify this requirement)	1 deciduous or ornamental tree for every 40 linear feet of street frontage or portion thereof (min. 2 per lot)	None provided along street frontage	None provided along street frontage

Notes:

1. No signs will utilize LED illumination. See Note #5 on the Site Plan (Sheet 4) under "Project Specific Notes."
2. "Enter" and "Exit" directional signs are to remain unchanged and comply with the maximum sign area of 2 s.f. in § 360-4.11.E.(2) for directional signs.
3. Directional pavement markings (e.g., "Stop", "Do Not Enter", "Drive-Thru" and "Thank You") are not signs because they do not meet the definition of "sign" in § 360-6.1 by virtue of not being attached to or mounted on a building or structure.
4. Special permits are required pursuant to §360-3.1 (Table of General Use Regulations) for a fast-food restaurant as a principal use, and a drive-thru facility as an accessory use, in a CC District.