

**Planning Board**  
**June 11, 2019**

The Planning Board meeting was held on Tuesday, June 11, 2019 in the Municipal Center Courtroom. The meeting commenced at 7:12 p.m. with Chairman John Gunn, Members Pat Lambert and Gary Barrack. Also in attendance were Building Inspector David Buckley, City Attorney Jennifer Gray, City Engineer Art Tully, and City Planner John Clarke. Members Jill Reynolds, Randall Williams and Rick Muscat were excused. Mr. Gunn made a motion to go into executive session for advice of counsel, seconded by Lambert. All voted in favor. Motion carried. Member David Burke joined the executive session at 7:27 p.m.

**Regular Meeting**

The regular meeting started at 7:35 p.m. with Mr. Gunn calling for corrections/additions or a motion to approve minutes of the May 14, 2019 meeting. Mr. Gunn made a motion to approve the minutes of the May 14, 2019 meeting as presented, seconded by Mr. Barrack. All voted in favor. Motion carried.

**ITEM NO. 1 CONTINUE PUBLIC HEARING FOR SEQRA ENVIRONMENTAL REVIEW ON APPLICATION FOR SUBDIVISION, 2-LOT RESIDENTIAL, SUBMITTED BY DELAPORTAS ENTERPRISES I, INC., 52 DENNINGS AVENUE**

This item was adjourned to the July 9, 2019 meeting.

**ITEM NO. 2 CONTINUE PUBLIC HEARING FOR SEQRA ENVIRONMENTAL REVIEW ON APPLICATION FOR SITE PLAN APPROVAL, 6 UNIT RESIDENTIAL “FERRY LANDING AT BEACON”, BEEKMAN STREET, SUBMITTED BY FERRY LANDING AT BEACON, LTD.**

Attorney Neil Alexander of Cuddy & Feder explained his client considered comments about the project and decided to reduce the building from four stories to three stories with a flat roof. Computer generated depictions showing the revisions and various views from neighboring properties were presented. There are no changes to the building’s footprint and the second story will be a brick façade. Chris Mansfield of Tinkelman Architecture described how and what data is entered into the software used to create photo simulations.

Discussion took place with regard to whether the applicant should return to the architectural review subcommittee for review of the new proposal. Mr. Alexander believed it unnecessary because materials and colors didn’t change, and asked that review be handled by the full board in an effort to save time. Discussion took place with regard to the differences between the previous submission and the revised plans. The applicant was asked to provide specific details of the proposal in a clear and direct way so it can be made part of the entire application.

Mr. Clarke summarized his review comments and asked that scaled elevations be submitted for review. He pointed out that the applicant withdrew their application for Subdivision Approval and Mr. Alexander reported units will become condominiums or rentals. Tom Elias explained real brick will be used, and the term “modular” was used only in reference to the brick size. Mr. Clarke reported minor corrections are needed to the EAF based on changes to the plan. Mr. Tully advised that traffic consultants must give their final approval and drainage

easements need to be reviewed by the City Attorney as part of Site Plan Approval. Mr. Gunn opened the floor for public comment.

Theresa Kraft, 315 Liberty Street, said this parcel was formerly occupied by a gas station and auto repair shop. She believed the property has not been fully reviewed because the DEC was not formed until 1970 after the gas station use terminated. Ms. Kraft felt the property should be retested.

Arthur Camins, 39 Rombout Avenue, did not feel any building should be constructed on the property, however believed three stories would be better than four. He felt the gray box on top of brick structure looked awkward, that it should be an all brick building, and that windows should be setback with sills. He asked if facing brick or real brick would be used.

Charles Kelly, 5 Bayview Avenue, was in support of the revised three story building as it will improve view shed concerns. He asked if mechanical equipment would be added to the third story which may negatively impact the view shed. Mr. Kelly felt a restriction or limitation should be imposed so large equipment is not added to the third story.

John Bono, 10 Stratford Avenue, appreciated the reduction to three stories however did not want any building to be constructed on this property. He expressed concern for equipment that may extend above the roof line.

Bradley, Dillon, 8 Bayview Avenue, expressed gratitude to the applicant for preserving view sheds and sight lines by reducing the building from four to three stories. He also worried about protrusions from the roof that would hinder their view shed and asked that specific height restrictions be added to the site plan.

Deran Soovajian, 65 Cross Street, felt the site in its current condition is unsightly and that this building will fit in appropriately.

Mr. Gunn asked if any additional equipment will be placed on the roof. Mr. Alexander responded that full engineering is not complete at this time but their intention is not to place large equipment on the roof. They will have additional information for the next meeting once engineering is done. Discussion took place with regard to the need for environmental testing and it was confirmed that if any contamination is discovered, remediation with DEC oversight will be done.

Arthur Camins, 39 Rombout Avenue, asked that a rendering showing views from the street be submitted as it is what most people will see when coming up from the train.

John Bono, 10 Stratford Avenue, felt the applicant was dancing around what equipment may or may not be placed on top of building therefore felt clarification should be made before a permit is issued.

A timely meeting of the architectural review subcommittee will be scheduled. There were no further comments and Mr. Lambert made a motion to close the public hearing, seconded by Mr. Barrack. All voted in favor. Motion carried.

City Attorney Jennifer Gray circulated SEQRA Parts 2 and 3 and outlined updates that were made to reflect changes in the plan. Mr. Clarke noted technical changes were needed to the EAF and the applicant verbally accepted those changes. Mr. Barrack made a motion to accept a verbal amendment to Part 1 of the EAF as discussed, seconded by Mr. Lambert. All voted in favor. Motion carried. After careful consideration, Mr. Lambert made a motion to issue a Negative SEQRA Declaration as amended, seconded by Mr. Barrack. All voted in favor. Motion carried.

Members reviewed the draft resolution for LWRP Consistency Determination and after careful consideration Mr. Barrack made a motion to approve the resolution, seconded by Mr. Lambert. All voted in favor. Motion carried.

Mr. Gunn made a motion to schedule a public hearing on the application for Site Plan Approval for the July meeting, seconded by Mr. Barrack. All voted in favor. Motion carried.

**ITEM NO. 3 CONTINUE PUBLIC HEARING ON APPLICATION FOR SITE PLAN APPROVAL, 9 APARTMENTS IN 3 BUILDINGS, 53 ELIZA STREET, SUBMITTED BY PIE DEVELOPMENT COMPANY**

Attorney Taylor Palmer, Engineer Mike Bodendorf, Architect Aryeh Siegel and owner Ed Pietrowski attended the meeting to provide updates on the proposal to convert the existing commercial space into nine residential apartments situated in three buildings. Mr. Siegel reported they submitted revised drawings, adjusted landscaping to create better side yard buffers, added lighting information, and met with the architectural review subcommittee. He provided an updated rendering which had not been seen by the subcommittee. After a brief overview of the building layout, Mr. Gunn opened the floor for public comment.

Arthur Camins, 39 Rombout Avenue, felt the applicant is proposing nine units in order to circumvent the affordable housing requirement. He believed the development should have an affordable element.

There were no further comments and Mr. Lambert made a motion to close the public hearing, seconded by Mr. Burke. All voted in favor. Motion carried.

Mr. Lambert made a motion to authorize the City Attorney to draft a Negative SEQRA Declaration for consideration at the July meeting, seconded by Mr. Barrack. All voted in favor. Motion carried. Mr. Barrack made a motion to authorize the City Attorney to draft a resolution of Site Plan Approval for consideration at the July meeting, seconded by Mr. Lambert. All voted in favor. Motion carried.

**ITEM NO. 4 CONTINUE PUBLIC HEARING FOR SEQRA ENVIRONMENTAL REVIEW ON APPLICATION FOR CONCEPT PLAN, SUBDIVISION AND SITE PLAN APPROVAL, MIXED USE DEVELOPMENT, 23-28 CREEK DRIVE, SUBMITTED BY 23-28 CREEK DRIVE, LLC**

Attorney Taylor Palmer, Engineer Mike Bodendorf, Architect Aryeh Siegel and owner Rodney Weber were in attendance to review the proposed project at 23-28 Creek Drive. Mr. Palmer summarized the proposal for the former DPW site on behalf of his client who is in contract to purchase the property from the City. Once the SEQRA process is complete they will go before the Zoning Board of Appeals and if approved return to the City Council for Concept Plan Approval before returning to the Planning Board for Site Plan review. Mr. Palmer reported SHPO issued a “no impact” letter confirming the project will have no adverse effects on historical and cultural resources, and the DEC issued a blanket water quality certification. The Phase II Environmental Report was provided to board consultants and the City Attorney as requested.

Aryeh Siegel reviewed changes that were made to the site plan, provided building elevations, showed additional landscaping, extended the sidewalk as requested, and reported work continues with the Greenway Committee. A signage and circulation plan were also submitted for review.

Mike Bodendorf reviewed changes made to the greenway trail in the area near Wolcott Avenue and showed revisions made to the mitigation area. He explained curves will be added to the long straightway on the trail and switch backs will be changed to follow natural contours of the site.

Thomas Wright, Chairman for the Greenway Committee, appreciated the engineer’s work and although work remains felt they were headed in the right direction.

Mr. Clarke advised members that they must issue recommendations to the City Council on the Concept Plan and the Zoning Board of Appeals for the required variances. He reported his concerns regarding SEQRA review have been addressed. Mr. Tully reported the Phase II Environmental report revealed contamination and a remediation plan must be submitted and approved by the DEC. A flood mitigation plan has been submitted and approved by the City Engineer’s office. Mr. Gunn opened the floor for public comment.

Kevin Byrnes, 61 Tioronda Avenue next to the creek, reported when the creek floods the stream is rapid and expressed concern that the current configuration will create whirlpools or scouring. He recommended further study.

Theresa Kraft, 315 Liberty Street, spoke about the environmental report and felt the project should not move forward until remediation is completed. She recommended that any variances be denied.

Arthur Camins, 39 Rombout Avenue, expressed concern for the proposed building height and was unconvinced that the fourth floor will not obstruct the view of the mountain. He recommended they consider utilizing green infrastructure methods to reduce impacts on the environment.

Discussion took place with regard to a remediation plan as it relates to SEQRA review. A remediation plan must be submitted to the DEC for approval and all remediation must be completed prior to the issuance of a building permit. City Attorney Jennifer Grey explained that based on the applicant's commitment to proceed with a remediation plan prior to development of the site, as well as all other factors, a Negative SEQRA Declaration can be considered.

There were no further comments and Mr. Lambert made a motion to close the public hearing, seconded by Mr. Burke. All voted in favor. Motion carried.

After careful consideration Mr. Barrack made a motion to authorize the City Attorney to draft a Negative SEQRA Declaration for consideration at the July meeting, seconded by Mr. Burke. All voted in favor. Motion carried.

Discussion took place about variances that are needed from the Zoning Board of Appeals: allow 93 parking spaces where 113 spaces are required; allow a four story building where three stories are permitted; allow building height of 53.5 feet where a maximum of 40 feet is permitted; and allow two of the apartment units to be 2,750 sq. ft. where 2,000 sq. ft. maximum is permitted. A general review and consensus of the required variances took place.

#### Parking

John Clarke explained the Fishkill Creek Development zone relies on general parking standards and felt it reasonable to consider those standards in this particular zone somewhat outdated. The Linkage and CMS zoning districts would require fewer spaces, and in this case the commercial space is the main factor in the parking requirement. He pointed out there will be shared parking with employees working and living in the same space. Mr. Clarke noted fewer spaces would cut down on the amount of impervious surfaces and felt the variance not unreasonable. After some consideration the general consensus of members was to send a positive recommendation.

#### Building Height and Number of Stories

Mr. Palmer explained his client also developed the adjacent buildings which are four stories in height and this building is set down significantly below Tioronda Avenue. This proposal is consistent and appropriate in context with the other buildings. Mr. Siegel reported 16 ft. of the building would be at the level of Tioronda Avenue and visually lower based on grade than the adjacent building at 7 Creek Drive. In addition, the heavy tree lined property owned by the MTA exists between the building and Tioronda Avenue will be preserved. In general members had little concern about the addition of a fourth floor and the building height.

#### Apartment Size

A total of eight apartments are proposed, with two out of the three upper units being 2,750 sq. ft. where 2,000 sq. ft. maximum is permitted. Mr. Siegel reported they reduced the residential units from nine to eight in order to increase the commercial space supported in the zoning district. As

a result, the difference is made up economically by increasing the size of two of the residential units. Mr. Clarke was not sure why a maximum apartment size was established in the law as it is not typical in zoning. He noted that overall the average unit size is under the 2,000 sq. ft. threshold and the two larger units provide diversity on site.

Discussion took place with regard to a green environmentally-friendly roof which was encouraged by members. The elevator and stairwell extend above the fourth story, and nearly two-thirds of the site is green space. The primary view to be preserved is that of the mountain ridgeline which will not be affected by the building, and views of the creek are available from public spaces on the site. The applicant will return to the July meeting for further discussion.

**ITEM NO. 5 CONTINUE SEQRA ENVIRONMENTAL REVIEW ON APPLICATION FOR CONCEPT PLAN, SUBDIVISION AND SITE PLAN APPROVAL, MIXED USE DEVELOPMENT, 248 TIORONDA AVENUE, SUBMITTED BY CHAI BUILDERS CORP.**

Engineer Chris LaPorta from Chazen Engineering summarized the project and reported at the last meeting the SEQRA public hearing was closed and the board authorized the City Attorney to draft Negative SEQRA Declaration and LWRP documents for consideration at this meeting. He explained documents requested by board consultants were provided and noted the Army Corps of Engineers will be visiting the site in July.

City Attorney Jennifer Gray circulated SEQRA Parts 2 and 3 and attached Negative Declaration narrative prior to the meeting for members to review. After careful consideration, Mr. Barrack made a motion to adopt a Negative SEQRA Declaration, seconded by Mr. Lambert. All voted in favor. Motion carried.

Members reviewed the draft resolution for LWRP Consistency Determination and after careful consideration Mr. Lambert made a motion to approve the resolution, seconded by Mr. Barrack. All voted in favor. Motion carried.

After careful consideration, Mr. Barrack made a motion to forward a report and recommendation on the proposed Concept Plan to the City Council as requested in their resolution to include a statement of the following: that the applicant has been responsive to requests for additional information and changes to the plan from the Board, City consultants, and Greenway Trail Committee; that from the Planning Board's perspective, the application appears complete and satisfies the Concept Plan criteria of the Fishkill Creek Development District; and to note that that more specific architectural, landscaping, lighting, parking, and engineering details will need to be reviewed by the Planning Board and will be addressed during the subsequent Site Plan review process. Mr. Lambert seconded the motion. All voted in favor. Motion carried.

**ITEM NO. 6 CONTINUE REVIEW OF APPLICATION FOR A SPECIAL USE PERMIT AND SITE PLAN APPROVAL (ADD A PARTIAL 4<sup>TH</sup> FLOOR), RETAIL/RESIDENTIAL, 208 MAIN STREET, SUBMITTED BY 206-208 MAIN STREET, LLC**

Architect Aryeh Siegel explained this project received approval in July to add three apartments on the upper floor with retail space on the ground level. He described his client's proposal to revise the approval to add a partial fourth floor to create one additional apartment for a total of nine units. There are no changes to parking requirements or engineering. The applicant agreed to a green roof garden which will be added to the next site plan submittal. A narrative outlining how this application conforms to conditions and standards set forth in the zoning code for a Special Use Permit was submitted. Discussion took place with regard to shadows and the applicant will provide additional information showing views at midday, winter, and various times to accurately reflect shadows. Members compared criteria set forth for issuance of a Special Use Permit to the application narrative. Mr. Clarke explained that in this case the Planning Board is the authority to issue a Special Use Permit, and the property is not located in or adjacent to the Historic District and Landmark Overlay Zone.

After careful consideration Mr. Lambert made a motion to set a public hearing on the applications for Special Use Permit Approval and Site Plan Approval for the month of July, seconded by Mr. Barrack. All voted in favor. Motion carried.

**ITEM NO. 7 CONTINUE REVIEW OF APPLICATION FOR SITE PLAN APPROVAL, ADD SECOND STORY, RETAIL/RETAIL, 184 MAIN STREET, SUBMITTED BY 184 MAIN STREET, LLC**

Architect Joe Buglino, Alfandre Architecture, accompanied by building/business owner Mike Arnoff, reported revised plans based on comments from the May meeting were submitted. Mr. Arnoff explained the business is run by a local family and they are excited to expand their operation. Mr. Buglino presented revised building elevations and compared them to the building as it existed in 1979 which was not the original building façade. They are seeking approval to modify the storefront and move the door from the center to the left side in order to provide access to a new second story.

Mr. Clarke explained the current storefront may be newer than the 1979 rendering but it is more historically compatible to the neighborhood. The only historically significant element remaining is the brick façade surrounding the storefront and the brick parapet which he felt should be preserved in a similar context. He noted that the height and window sizes of the second floor should not exceed those on the bottom floor. The sidewalk in that area is relatively narrow therefore nothing should extend any further into the sidewalk. Mr. Clarke advised members that a landscape waiver can be considered with addition of a street tree either in front of the building, and removal of the curb cut will provide an additional on-street parking space. After some discussion, members were willing to waive the 10% landscaped area permitted for lots under 5,000 sq. ft. but wanted a tree planted to fill in an existing gap in the row of trees on that portion of Main Street. In addition they agreed the applicant should work with the City to remove the unnecessary curb ramp to provide an additional parking space.

After careful consideration Mr. Barrack made a motion to set a public hearing on the application for Site Plan Approval for the month of July, seconded by Mr. Burke. All voted in favor. Motion carried.

**ITEM NO. 8 CONTINUE REVIEW OF APPLICATION FOR SPECIAL USE PERMIT, ACCESSORY APARTMENT, 27 FOWLER STREET, SUBMITTED BY MARIANNE HUGHES-JOINER**

Architect Steve Whalen, Whalen Architecture, described his client's proposal to replace an existing garage in order to create a studio accessory apartment at 27 Fowler Street. They went before the Zoning Board of Appeals and originally requested five variances, yet after working with the board their request was reduced to only two variances needed for off-street parking. The original garage will be moved to comply with rear and side yard setbacks, the building size was reduced to comply with restrictions on the size of the accessory structure, and they were granted one variance to allow parking in the front yard and another to allow parking to be within the required side yard setback. Mr. Whalen reported he received and will address comments from board consultants. Property owner Marianne Hughes-Joiner explained they are first time homebuyers, and the accessory apartment will only be used by her parents and in-laws who live a distance away.

Mr. Clarke asked that a note be added to the plan confirming that the house is a single-family residence and will remain owner-occupied. He asked that parking spaces be 18 feet long, and that an aerial photo showing house locations and major site plan elements of adjoining properties be submitted. Mr. Clarke suggested they reverse the floor plan so the main living area windows overlook the back yard rather than the neighbor's property, or alternately install a fence to block the view from neighbors. Ms. Hughes pointed out that flipping the floor plan will significantly reduce sunlight to structure, and they are trying to maintain their view of the mountain. Mr. Tully reviewed his comments which were relatively minor.

After some discussion, Mr. Gunn asked members to comment on the application to make a recommendation on the Special Use Permit for the City Council. In general members were supportive, with the exception of one member who was not in favor of the law allowing accessory apartments in accessory structures. They gave thought to the fact that the applicant has worked with the board(s) to modify their original proposal to address most of the concerns presented thus far, and has agreed to think about reorienting the windows so they are not directly facing the neighboring property. After careful consideration, Mr. Burke made a motion to make favorable recommendation to the City Council supporting the application, seconded by Mr. Barrack. On roll call Mr. Burke, Mr. Barrack, and Mr. Gunn voted in favor of the motion; Mr. Lambert remained neutral. Motion carried; 3-1

**Miscellaneous Business**

Zoning Board of Appeals

There were no applications submitted for the June Zoning Board of Appeals meeting.

One Forrestal Heights – Existing Wireless Telecommunications Facility Equipment Upgrades

AT&T submitted an application for equipment upgrades at an existing telecommunications facility located at One Forrestal Heights. Under Section 223-26.4.C(2) of



City Code, the Planning Board must review the application to determine whether the action is appropriately characterized as an “eligible facility request”. After reviewing the application materials with the City Attorney’s office, the Building Inspector determined that new transmission equipment will not substantially change dimensions of the existing tower. After careful review of materials submitted, Mr. Barrack made a motion to deem the application an Eligible Facility Request, seconded by Mr. Lambert. All voted in favor. Motion carried.

## **Architectural Review**

### West End Lofts – Architectural changes

Sean Kearney of Kearney Realty and Architect Mario Salpeppi from Coppola Associates were present to review architectural approval for the West End Lofts project. Mr. Kearney began by explaining their company has never been charged with using subpar products or cost cutting techniques. The discrepancy focused on the projection of the window sills and brick surrounds which were demonstrated in the artist’s rendering and technical drawings reviewed by the Board during project approvals. Mr. Kearney explained they are using a thin brick product, which is not conducive to creating a protrusion around windows. He explained during architectural approval, they did not understand that the protrusions shown on the rendering were expected, considering they indicated thin brick would be used for the façade. Mr. Kearney described the difficulty they face in achieving the protrusions now that the facades are in place. He asked for clarification with regard to whether the rear elevations were included in this change and Mr. Gunn indicated only the front façade was shown on the renderings. A lengthy discussion took place with regard to the differences between the artist’s rendering and elevations reviewed by the board as part of the approved plans, and whether other noticeable discrepancies should be considered as well.

Mr. Kearney offered a solution that they may be able to use corner brick and supplement the void with an additional piece of brick, however it will be a noticeable correction. They will send details on the proposal they are considering to make it look like the representation that was approved. Mr. Clarke offered two options – to make changes that will recreate the protrusions as shown for the Building Inspector’s review or return to the Planning Board to seek an architectural amendment to the existing approval.

After a lengthy discussion, Mr. Gunn made a motion to reaffirm the board approved the architectural design that included all the elements shown in the artist’s rendering, which showed articulated brick around windows and projecting sills as part of the plan when approved in September 2017, seconded by Mr. Barrack. Mr. Tully felt clarification should be made that every detail shown in the rendering is part of the approval. The motion by Mr. Gunn and second by Mr. Barrack were rescinded. After a brief discussion, Mr. Barrack made a motion to reaffirm the board’s approval, including all elements of the rendering, projecting window surrounds, and sill protrusions as shown, seconded by Mr. Lambert. All voted in favor. Motion carried.

### Certificate of Appropriateness – 1064 Wolcott Avenue

Property owner Mark DeFabio described his proposal to repaint the structure at 1064 Wolcott Avenue which is situated in the Historic Preservation and Overlay District. Members reviewed the proposed color scheme and after careful consideration, Mr. Lambert made a motion to approve the following palette: Siding – Benjamin Moore Alexandria Beige; Window Trim –

Benjamin Moore Black; House Trim – Benjamin Moore Wheeling Neutral; Accent Trim – Sherwin Williams Fireweed. The motion was seconded by Mr. Burke. All voted in favor. Motion carried.

#### Certificate of Appropriateness – 150 Main Street

Alexa Beckham presented their proposal to create a new entrance door and to replace an existing rear door with two new windows on the building located at 150 Main Street. In addition, a new straight arm sign will be installed to advertise a new chiropractic office. After careful review of the proposals, Mr. Gunn made a motion to approve the windows and door (painted Benjamin Moore Grand Teton White) as presented; the sign was approved with the understanding that the placement of the text would have an additional border on the right side. The motion was seconded by Mr. Barrack. All voted in favor. Motion carried.

#### Certificate of Appropriateness – 146 Main Street

Alexa Beckham presented their proposal to replace one east facing window with a new entrance door and to replace an existing entrance door on the north facing exterior wall with a new white vinyl window. After careful review of the proposal, Mr. Gunn made a motion to approve the new door (painted Benjamin Moore Grand Teton White) and window subject to the window head and sill height remaining in alignment with the adjacent window (matching in configuration and color). The motion was seconded by Mr. Burke. All voted in favor. Motion carried.

#### Single Family House – 17 Wilson Street

Jon Moss presented his proposal to amend an existing approval (4/10/18) just to change siding material from Corten slate (Muscat Gray) cladding to metal cladding. After careful review of the proposal Mr. Gunn made a motion to approve the change from slate siding to vertically-seamed metal siding, seconded by Mr. Barrack. All voted in favor. Motion carried.

There was no further business to discuss and the meeting was adjourned on a motion made by Mr. Lambert, seconded by Mr. Burke. All voted in favor. Motion carried. The meeting adjourned at 11:21 p.m.