

**TOWN OF GREENBURGH
PLANNING BOARD MINUTES
TOWN HALL – GREENBURGH – NEW YORK
Wednesday – May 2, 2018**



The Work Session of the Planning Board of the Town of Greenburgh was held on Wednesday, May 2, 2018, in the auditorium of the Greenburgh Town Hall, 177 Hillside Avenue, Greenburgh, New York, and began at 8:00 pm.

1. ROLL CALL

Present: Vice Chairperson Hugh Schwartz, Kirit Desai, Michael Golden and Thomas Hay (Alternate – voting member)

Absent: Chairperson Walter Simon, Mohamed Ayoub, Chet Watson and Viola Taliaferrow

Staff: Aaron Schmidt, Deputy Commissioner, CD&C
David Fried, Esq., 1st Deputy Town Attorney
Garrett Duquesne, AICP, Commissioner, CD&C

Vice Chairperson Schwartz noted that alternate Planning Board member Mr. Thomas Hay was present for this meeting, and would be a voting member in place of Mr. Chet Watson.

2. APPROVAL OF MINUTES

a. April 18, 2018 Work Session Minutes

Vice Chairperson Hugh Schwartz asked Planning Board members if there were any comments to the draft Planning Board minutes of April 18, 2018. There were no comments. On a motion made by Mr. Golden and seconded by Mr. Hay, the Planning Board voted to approve the April 18, 2018 minutes, as written.

3. CORRESPONDENCE

a. Case No. PB 17-36 Zappico Subdivision, Old Colony Road Tax Lots 11 & 12 (P.O. Hartsdale, N.Y.) – Preliminary Subdivision, Planning Board Steep Slope Permit & Wetland/Watercourse Permit

Mr. Schmidt noted that an email was received from the Greenridge Civic Association, dated April 17, 2018, related to case number PB 17-36 Zappico Subdivision. He noted that copies of the email have been provided in the Board's packages this evening.

b. Case No. PB 15-06 Shelbourne Assisted Living, 448 Underhill Road (P.O. Scarsdale, N.Y.) – Site Plan, Planning Board Steep Slope Permit & Wetland/Watercourse Permit

Mr. Schmidt noted that correspondence was received from Mr. Blair Connelly, dated April 20, 2018, related to case number PB 15-06 Shelbourne Assisted Living. He noted that copies of these materials have been provided in the Board's packages this evening.

c. Case No. PB 17-24 Nakamura Subdivision, 2 Maple Avenue (P.O. Hartsdale, N.Y.) – Preliminary Subdivision

Mr. Schmidt noted that correspondence was received from Mr. Paul Petretti, dated April 20, 2018, related to case number PB 17-24 Nakamura Subdivision. He noted that copies of these materials have been provided in the Board's packages this evening.

d. Joint Town/Planning Board meeting

Mr. Golden asked if a date had been scheduled for the next Joint Town/Planning Board meeting. Mr. Schmidt stated that a Joint Town/Planning Board meeting had been scheduled tentatively for May 30, 2018, beginning at 7:30 pm.

4. OLD BUSINESS

a. Case No. PB 15-29 Ranjan Subdivision – 18 Castle Walk (P.O. Scarsdale, N.Y.) – Preliminary Subdivision, Planning Board Steep Slope Permit & Tree Removal Permit

A work session to discuss the decision of a preliminary subdivision and Planning Board steep slope permit application involving the proposed subdivision of one (1) lot into three (3) lots, for the purpose of creating one (1) additional buildable lot. Proposed Lot A would total 23,231 sq. ft. Proposed Lot B would total 25,162 sq. ft. Proposed Lot C would total 6,809 sq. ft. An existing single-family residence is proposed to remain on Lot A. The applicant proposes the construction of one, new single-family residence, with related improvements, to be located on proposed Lot B. Lot C is proposed for the purpose of creating a private

roadway extension, built to Town standards, that would connect to the existing Castle Walk. The applicant proposes 10,340 sq. ft. of disturbance on 15-25% slopes (STEEP SLOPES), 2,975 sq. ft. of disturbance on 25-35% slopes (VERY STEEP SLOPES) and 3,679 sq. ft. of disturbance on 35%+ slopes (EXCESSIVELY STEEP SLOPES). The applicant proposes the removal of six (6) regulated trees, requiring a tree removal permit from the Planning Board. The applicant has prepared a landscaping plan which includes the proposed installation of: twelve (12) Maple-leaved Viburnum shrubs, eight (8) Pinxter Azalea shrubs, seven (7) New Jersey Tea shrubs, six (6) Mountain Laurel shrubs, nine (9) American Holly shrubs, eighteen (18) Blue Spruce trees, one (1) White Oak tree, and six (6) Greenspire Linden trees. The property consists of approximately 55,203 sq. ft. and is situated on the east side of Castle Walk approximately 490 feet from the intersection of Fort Hill Road. The property is located in the R-20 One-Family Residence District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.530-363-19.10.

Mr. Schmidt provided an overview of the project, noting that a draft decision had been circulated to the Planning Board for review. Vice Chairperson Schwartz requested an update on issues related to the proposed private roadway extension, which were discussed at the public hearing on this matter. Mr. Schmidt stated that the applicant revised its plans based on comments received during the public hearing, noting that the roadway layout was redesigned so as to be set eight (8) feet off the northerly right-of-way at the beginning of the roadway, and twelve (12) feet off the northerly right-of-way where the roadway terminates, which results in the roadway being slightly angled. Mr. Schmidt added that the revised plan was circulated to appropriate Town Staff for review, all of which reported no objections to the modified layout. Mr. Schmidt noted that the applicant was asked if plantings could be placed along an area of the subject property where a utility easement currently exists, to provide additional screening to the neighboring property. Mr. Schmidt noted that he communicated with the Town's Department of Public Works (DPW), which requested that no vegetation be placed within the easement, as there could be the potential for root systems of trees to interfere with underground piping and, further that, if there were ever a need to repair or replace the piping in the area of any vegetation, the Town would remove it without any requirement for replacement. Mr. Schmidt stated that when, and if, the new lot is scheduled for development, all landscaping could be laid out in the field in an effort to provide the most appropriate screening, without affecting the area of the easement. Board members agreed this would be a reasonable way to handle this matter.

Mr. Fried made a statement about the value of the public hearing process, particularly with respect to this project. He noted that the Planning Board listened to the public's comments, and requested revisions to the proposed project. In response, the applicant revised its plans to address the comments provided. He stated that this project was a good example of the use of the public hearing process.

On a motion made by Mr. Golden and seconded by Mr. Hay, the Planning Board unanimously voted to grant preliminary subdivision approval for the project. On a motion made by Mr. Golden and seconded by Mr. Hay, the Planning Board unanimously voted to approve a Planning Board steep slope permit for the project. On a motion made by Mr. Golden and seconded by Mr. Hay, the Planning Board unanimously voted to waive the requirement that the terminated street have a circular turnaround with a pavement radius of forty (40) feet, as per Section 250-11E of the Town Code.

b. Case No. PB 18-02 Dunkin' Donuts, 221 E. Hartsdale Avenue (P.O. Hartsdale, N.Y.) – Special Permit (Incidental Dining)

A work session to discuss the decision of a special permit (incidental dining) application under Section 285-36P of the Zoning Ordinance, for a proposal to install seating for eight (8) persons at four (4) tables in a 1,423 sq. ft. Dunkin' Donuts establishment. It is noted that, on April 11, 2018, while this matter was pending, the Greenburgh Town Board adopted a local law which removed a two (2) table maximum restriction as to the number of tables associated with an incidental dining special permit. The property consists of approximately 50,000 sq. ft. and is situated on the eastern side of East Hartsdale Avenue, approximately 380 ft. from the intersection of Fisher Street and East Hartsdale Avenue. The property is located in the HC – Hartsdale Center District and is designated on the tax map of the Town of Greenburgh as Parcel ID 8.300-234-4.

Vice Chairperson Schwartz noted a discrepancy with the draft agenda. He identified that the draft agenda stated the Town Board is considering a local law, though the Town Board has approved the local law, which removes the restriction of a two (2) table maximum in connection with incidental dining special permits.

Mr. Fried noted that the draft decision prepared by staff for the Board's consideration this evening contains the proper language related to the recently adopted local law.

On a motion made by Mr. Desai and seconded by Mr. Hay, the Planning Board unanimously voted to grant a special permit (Incidental Dining) for the project.

c. **Case No. PB 15-22** Baum Subdivision, 50 Mulligan Lane (P.O. Irvington, N.Y.) – Final Subdivision, Planning Board Steep Slope Permit & Tree Removal Permit

A work session to discuss the decision of a final subdivision, Planning Board steep slope and tree removal permit application involving the proposed subdivision of one (1) existing lot for the purpose of creating five (5) buildable lots. The proposed lots would range in size from 24,669 square feet (Lot 5) to 98,435 square feet (Lot 1) and add four (4) additional single-family residences. The site currently contains one (1) existing single-family residence to remain on proposed Lot 2. Access to the site is proposed from Mulligan Lane, via a 500 ft. cul-de-sac to be built to Town standards. The applicant proposes 54,014 sq. ft. of disturbance on 15-25% slopes (STEEP SLOPES), 25,265 sq. ft. of disturbance on 25-35% slopes (VERY STEEP SLOPES) and 7,405 sq. ft. of disturbance on 35%+ slopes (EXCESSIVELY STEEP SLOPES). The applicant proposes the removal of 90 regulated trees from the project site. The property consists of approximately 251,776 sq. ft. and is situated on the south side of Mulligan Lane, approximately 743 ft. from the intersection of Taxter Road. The property is located in the R-20 One-Family Residence District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 7.370-188-22.

Mr. Schmidt provided an overview of the project, and noted that two (2) minor modifications have been made to the final subdivision plat, following its preliminary approval by the Planning Board. He explained that an existing utility pole, with wires, along with an existing wood trellis, which exist within portions of Lot 1, now are specifically identified to remain, on the final subdivision plat, at the request of the neighboring property owner at 52 Mulligan Lane. Mr. Schmidt advised that the neighboring property owner, who requested these items remain, also has signed the final subdivision plat and an agreement, acknowledging the revisions were made as requested.

On a motion made by Mr. Golden and seconded by Mr. Desai, the Planning Board unanimously voted to waive the holding of a public hearing, in connection with the applicant's request for final subdivision approval. On a motion made by Mr. Desai and seconded by Mr. Golden, the Planning Board unanimously voted to grant final subdivision approval for the project. On a motion made by Mr. Golden and seconded by Mr. Desai, the Planning Board unanimously voted to approve a tree removal permit, in connection with the project.

5. **NEW BUSINESS**

a. **Case No. PB 18-03** Nukho, 16 Rock Hill Lane (P.O. Scarsdale, N.Y.) – Planning Board Steep Slope Permit

A work session to discuss a Planning Board steep slope permit application involving the proposed demolition of an existing single-family residence, in order to construct one (1) new, single-family residence, a terrace, covered porch, and in-ground pool, with related improvements. The applicant proposes 3,458 sq. ft. of disturbance on 15-25% slopes (STEEP SLOPES), 1,220 sq. ft. of disturbances on 25-35% slopes (VERY STEEP SLOPES) and 2,399 sq. ft. of disturbances on 35%+ slopes (EXCESSIVELY STEEP SLOPES). The project requires approximately 457 cubic yards of cut and 550 cubic yards of imported fill, requiring a fill permit from the Bureau of Engineering. The applicant is proposing two (2) CULTEC systems to manage stormwater runoff. The property consists of approximately 52,459 sq. ft. and is situated on the east side of Rock Hill Lane approximately 950 feet from the intersection of Underhill Road and Rock Hill Lane. The property is located in the R-20 One-Family Residence District and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.350-252-53.

Mr. Michael Stein, P.E., engineer for the applicant, provided an overview of the project, which involves a Planning Board steep slope permit application involving the proposed demolition of an existing single-family residence, in order to construct one (1) new, single-family residence, a terrace, covered porch, and in-ground pool, with related improvements. He noted that the applicant is in the process of considering providing tiered retaining walls as part of the project, in order to break up the total height of such walls. He added that if the project plans are revised to include the tiered retaining walls, an updated landscape plan would be provided to include vegetation between the walls.

Mr. Golden asked if the applicant had discussed the project with its neighbors. Mr. Stein responded that a letter of support was received from the neighbor to the east, whose property would be facing the proposed retaining wall. Mr. Golden asked if a copy of the letter could be provided to the Planning Board, to which Mr. Stein agreed. Mr. Schwartz asked how high the proposed retaining wall would be. Mr. Stein stated that the current plan calls for a six (6) to eight (8) foot high wall, though, if revised to a two-tiered retaining wall, it would be approximately eight (8) to twelve (12) feet in total height, with fencing along the top. Mr. Golden asked if there was a rendering of the proposed wall. Mr. Stein stated that he would provide this at the time of the follow-up submission to the Board. Mr. Schwartz asked for the footprint size and age of the existing residence, to be demolished. Mr. Stein noted the existing house is approximately 3,200 sq. ft., with an approximately 1,600 sq. ft. footprint. Mr. Desai noted that the existing residence is more than fifty (50) years old, as the project was referred to the Historic and Landmarks Preservation Board, which issued no objection to the project as proposed.

Mr. Golden asked if the asphalt driveway could be reduced in size, or modified to include pervious pavers, in order to reduce the amount of impervious surface coverage on the property. Mr. Stein stated that the applicant would address the driveway as the plans are revised. Mr. Hay asked why the larger of two (2) CULTEC systems, used for stormwater management, were positioned so far to the rear of the property. Mr. Stein noted that, based on the existing grade of the property, ledge rock on the site, percolation rates, and the orientation of the property, the stormwater management system had to be split, with portions being placed at both the southern and northern ends of the property. Mr. Schmidt noted that the project had been preliminarily reviewed by the Town Engineer, who deemed the proposal acceptable and appropriate with respect to stormwater management. Mr. Desai asked if the proposed new pool would be at the same elevation as the existing pool that is to be demolished. Mr. Stein replied it would be relatively close, and added that the proposed pool would be situated so as to be accessed directly from the basement level. Vice Chairperson Schwartz asked if the existing home was inspected for asbestos. Mr. Nukho, the applicant and property owner, stated that there was no asbestos found in the existing residence to be demolished.

Vice Chairperson Schwartz noted that the project would tentatively be scheduled for a continued work session on May 16, 2018, provided the applicant submits its revised materials within the next week.

b. Case No. PB 18-05 Sherwin, 367 Evandale Road (P.O. Scarsdale, N.Y.) – Planning Board Steep Slope Permit

A work session to discuss a Planning Board steep slope permit application for a proposal consisting of the re-grading of the front yard area of the subject property. The applicant proposes 1,333 sq. ft. of disturbance on 15-25% slopes (STEEP SLOPES). The applicant currently is in the process of constructing a single-family residence on the property. Approximately 600 cubic yards of fill associated with the pre-existing site excavation will be utilized to re-grade the front yard area. The property consists of approximately 34,513 sq. ft. and is situated on the easterly side of Evandale Road, approximately 337 feet from the intersection of Underhill Road. The property is located in the R-30 One-Family Residence Zoning District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.340-248-9.

Mr. Eliot Senor, P.E., engineer for the applicant, provided an overview of the project, noting that the proposed disturbance to the existing steep slope area on the property is slightly over fifteen (15) percent. He advised that the new house under construction, was set back on the property to avoid disturbance to this regulated steep slope area, which is consistent with the surrounding neighborhood. As site work has begun, Mr. Golden asked why the applicant now is applying for a steep slope permit. Mr. Schmidt stated that the area of regulated steep slope has not been disturbed as a result of the current construction related activity on the site. He noted that the applicant separately submitted a Steep Slope Clearance Form to regrade the front yard portion of the property, and the area of proposed work was determined by the Town Engineer to consist of a regulated steep slope. Mr. Fried reported that, although the applicant had started site work, the regulated steep slope area has yet to be disturbed, and the applicant currently is pursuing the proper approvals in order to disturb and re-grade this area.

Mr. Senor stated that a proposed retaining wall was eliminated from the original plan at the request of the property owner, due to it being inconsistent with the surrounding neighborhood. Instead, the front yard area is proposed to be re-graded, which is consistent with surrounding properties. He added that the proposed grade from the front of the house to the roadway would be approximately eleven (11) to twelve (12) percent. Mr. Schwartz asked if the proposed grade changes could effect drainage on the property. Mr. Senor replied

that there would be no effect, and added that all impervious surfaces would be captured and directed to the stormwater management system.

This item is scheduled for a public hearing to be conducted by the Planning Board on May 16, 2018.

c. **Case No. TB 17-25** Chapter 285 – Supplementary Use Regulations (Public Hearing Noticing) – *Zoning Text Amendment (Referral from Town Board)*

A work session to discuss a Town Board referral of a proposed local law to amend Section 285-38 of the Code of the Town of Greenburgh, entitled “supplementary use regulations.” Following recommendations made at joint meetings of the Town Board and the Planning Board, the Town Board of the Town of Greenburgh finds it in the best interest of the Town to amend Section 285-38 of the Code of the Town of Greenburgh, to establish signage requirements for public hearings related to Land-Use Board applications, in an effort to ensure broader related public notification and participation.

Commissioner Duquesne provided an overview of the proposed local law, and noted that it would mandate that a sign be posted at the site of a property requiring any land-use Board public hearings, noting that contact information would be included on the sign. Mr. Duquesne noted that the Village of Tarrytown’s procedure for Public Hearing signage was used as an example to draft the proposed local law. Mr. Golden asked whose contact information would be placed on the sign. Mr. Duquesne replied that his Department would be provided as the contact, adding that all land use Board processes funnel through this Department. The Planning Board discussed whether the applicant should be required to pick up the sign from the Department, or if the signs should be brought to Planning Board meetings to be distributed to the applicant. It was suggested that the signage should be issued to the applicant during the appropriate Planning Board meeting if, and when possible. Mr. Golden suggested that an identifier, such as the case number or applicant’s name, be placed on the Public Hearing signage. The Planning Board agreed that the project case number should be provided on the Public Hearing signage, in order to provide an identifier to anyone viewing the sign, which would be helpful for an individual to refer to when contacting the Department for more information.

Commissioner Duquesne noted that, to simplify the law, as much as possible, a subsection is proposed to be added to Section 285-36, Supplementary Regulations, of the Zoning Ordinance, which would act as a catch all for all instances within the Code where a public hearing is required. Mr. Schwartz asked how the signage would apply to an applicant who would be required to attend public hearings in front of multiple land-use boards. Commissioner Duquesne specified that there would be a space on the signage where the type of Public Hearing could be listed, making each sign customizable to the particular project. Mr. Golden asked if there were guidelines on where the sign would be placed on a subject property. Mr. Fried noted that the posting standards are listed within the proposed local law, and he recited them. Commissioner Duquesne noted that general instructions would be provided to the applicant, along with the sign. Mr. Schwartz asked what would be the ramifications if the sign was not posted. Mr. Fried advised that, if no sign was posted, there could be an option to not close the public hearing. Commissioner Duquesne noted that instructions issued to the applicant would require that a photograph be taken of the sign on the property, and be sent to the Department of Community Development and Conservation, which would be kept on file. Mr. Golden asked if there would be a fee for the signs. Commissioner Duquesne stated the signs are not costly, and there would be no increase in Public Hearing or related Application fees. Mr. Fried noted one minor typographical error in the proposed local law language. Commissioner Duquesne acknowledged the typographical error and noted this would be updated.

On a motion made by Mr. Hay and seconded by Mr. Desai, the Planning Board unanimously voted to issue a positive recommendation to the Town Board on the proposed local law, as amended. Mr. Fried noted that a Planning Board report would be circulated to the Planning Board, prior to May 16, 2018 meeting.

d. **Case No. TB 18-09** Chapter 285 – LOB District (Dance, Music, & Instrumental Music Schools) – Zoning Text Amendment (Referral from Town Board)

A work session to discuss a Town Board referral of a proposed local law to amend Section 285-27 of the Code of the Town of Greenburgh, entitled “LOB Limited Office Building,” to remove a restriction of dancing, music and instrumental music schools in the LOB District.

Commissioner Duquesne provided an overview of the LOB – Limited Office Building District. He noted that there are six (6) contiguous LOB areas within the unincorporated Town of Greenburgh. He noted that the

LOB Districts tend to be situated within high traffic areas. Mr. Duquesne identified the differences between the LOB – Limited Office Building and OB – Office Building District, noting that the LOB District has stricter limits on building height and does not allow for hotels. Mr. Duquesne stated that, currently, dancing, music, and instrumental music schools are not permitted within the LOB District. The proposed local law would amend the zoning ordinance to allow dancing, music, and instrumental music schools within the LOB District, as permitted uses. Mr. Golden asked if music and dance schools are prohibited in other zoning districts. Commissioner Duquesne replied that they are permitted in the CA – Central Avenue Mixed-Use Impact District, although they are not permitted in the OB District. Mr. Fried stated that, generally, if an action is not specifically permitted in the Code, it is prohibited. Mr. Schwartz opined that the subject uses may be prohibited adjacent to residential areas, due to the potential for noise related impacts. Mr. Golden suggested including the OB and OB-1 Districts, as part of the proposed local law. Mr. Golden added that there should be acoustic requirements tied into the proposed local law, to mitigate the potential noise related impacts. Mr. Schwartz noted that the Town has an ordinance to deal with noise concerns. Mr. Golden noted that soundproofing and vibration concerns should be addressed. Commissioner Duquesne noted that soundproofing requirements could be added to the proposed local law. Mr. Fried noted that the existing OB and OB-1 Districts could be mapped out for the Board, and provided in the packages ahead of the next meeting.

6. ITEMS FOR PUBLIC HEARING & PUBLIC DISCUSSION (ITEMS WILL START NO SOONER THAN 8:45 P.M.)

Full transcripts of the items on for public hearing and public discussion are available through the Department of Community Development and Conservation.

a. Case No. PB 18-09 Hutch Tarrytown, LLC, 250 Tarrytown Road (P.O. White Plains, N.Y.) – Amended Site Plan & Special Permit (Motor Vehicle Sales)

A public hearing to discuss an amended site plan application, and special permit (motor vehicle sales) application under Section 285-35 of the Zoning Ordinance, for a proposal to convert a 23,870 sq. ft. vacant space, currently and formerly occupied by Joyce Leslie and other tenants, to a Tesla local customer delivery and education center. No change is proposed to the footprint of the existing building. The applicant proposes the installation of overhead doors at the east and west sides of the building. Currently, the site contains 120 off-street parking spaces, and no change is proposed as part of the project. The property consists of approximately 94,240 sq. ft. and is situated on the north side of Tarrytown Road, at the intersection of Hillside Avenue (NYS Rt. 100) and Tarrytown Road (NYS Rt. 119). The property is located in the UR – Urban Renewal District (Neighborhood Shopping Sub-district) and is designated on the tax map of the Town of Greenburgh as Parcel ID 7.490-302-1.

On a motion made by Mr. Golden and seconded by Mr. Hay, the Planning Board unanimously voted to close the public hearing, and to keep the written record open through May 9, 2018.


7. ESTABLISH DATE FOR NEXT MEETING

The next regularly scheduled meeting of the Greenburgh Planning Board will be held on Wednesday, May 16, 2018 and will begin at 8:00 P.M. in the Greenburgh Town Hall Auditorium.

8. ADJOURNMENT

The May 2, 2018 work session of the Town of Greenburgh Planning Board was adjourned at 9:50 P.M.

Respectfully submitted,



Aaron Schmidt
Deputy Commissioner,
Department of Community Development and Conservation