

**TOWN OF GREENBURGH  
PLANNING BOARD MINUTES  
TOWN HALL – GREENBURGH – NEW YORK  
Wednesday – December 5, 2018**

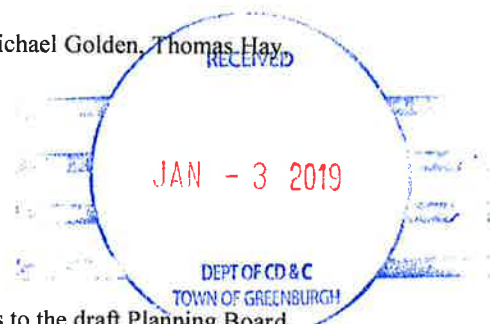
The Work Session of the Planning Board of the Town of Greenburgh was held on Wednesday, December 5, 2018, in the auditorium of the Greenburgh Town Hall, 177 Hillside Avenue, Greenburgh, New York, and began at 8:00 pm.

**1. ROLL CALL**

Present: Chairperson Walter Simon, Mohamed Ayoub, Kirit Desai (8:05 pm), Michael Golden, Thomas Hay, Viola Taliaferrow and Hugh Schwartz

Absent:

Staff: Aaron Schmidt, Deputy Commissioner, CD&C  
David Fried, Esq., 1<sup>st</sup> Deputy Town Attorney



**2. APPROVAL OF MINUTES**

**a. November 20, 2018 Work Session Minutes**

Chairperson Simon asked Planning Board members if there were any comments to the draft Planning Board minutes of November 20, 2018. There were none. On a motion made by Mr. Schwartz and seconded by Mr. Hay, the Planning Board voted to approve the November 20, 2018 minutes, as written.

**3. CORRESPONDENCE**

a. Mr. Schwartz requested that a draft memorandum to the Town Board be prepared by staff, related to the Planning Board's concerns with respect to Section 285-40C(6) of the Town's zoning ordinance, which specifically allows development on any parcel of land having access to a street shown on the Official Map of the Town and having an area or frontage width less (as little as 50% less) than that prescribed for the district in which such parcel is situated, subject to certain requirements. He asked that a draft of the memorandum be provided to the Planning Board for review, prior to distribution to the Town Board. Mr. Schmidt replied that he would work with Mr. Fried on preparing a draft memorandum for the Board's review.

**4. OLD BUSINESS**

**a. Case No. PB 17-21 Wang-Liu Subdivision, 25 Roxbury Road (P.O. Hartsdale, N.Y.) Subdivision & Tree Removal Permit**

A work session to consider the decision of a final subdivision and tree removal permit application involving the proposed subdivision of one (1) existing lot to create two (2) lots, for the purpose of constructing one (1) new single-family residence. An existing single-family residence, located on proposed Lot 1, is proposed to remain, and to undergo alterations in order to conform to zoning setback requirements. The alterations to the existing structure on proposed Lot 1 will include the removal of a portion of an existing sun room, and the removal of an area of approximately 388 sq. ft. from the existing residence. Lot 1 is proposed to be 7,574 sq. ft. in area, and Lot 2 is proposed to be 6,220 sq. ft. in area, with a new one-family residence to be built, along with related improvements. The applicant proposes one new curb cut on Roxbury Road. The applicant proposes the removal of twenty (20) regulated trees from the site, requiring a tree removal permit from the Planning Board. The applicant has proposed the planting of twenty-four (24) new trees, as part of its application. The property consists of approximately 13,794 sq. ft. and is situated on the southerly side of Roxbury Road, at the intersection of Old Army Road and Roxbury Road. The property is located in the R-5 One-Family Residence District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.540-371-23, 24, 25, & 26.

Chairperson Simon stated that a draft decision had been prepared by staff and circulated to the Board for comment. No comments were issued by the Board. On a motion made by Mr. Golden and seconded by Mr. Ayoub, the Planning Board unanimously voted to waive the public hearing on the final subdivision application. On a motion made by Mr. Schwartz and seconded by Mr. Ayoub, the Planning Board unanimously voted to grant final subdivision approval. On a motion made by Mr. Golden and seconded by Mr. Ayoub, the Planning Board unanimously voted to issue a tree removal permit in connection with the project.

**b. Case No. PB 17-14 Piekarski, Vacant Lot – South Healy Avenue (P.O. Scarsdale, N.Y.) – Planning Board Steep Slope Permit & Tree Removal Permit (Town Forestry Officer approval)**

A work session to consider the decision of a Planning Board steep slope permit application involving the proposed construction of a single family residence with related improvements, on an existing, vacant lot. The

applicant proposes 474 sq. ft. of disturbance on 15-25% slopes (STEEP SLOPES), 954 sq. ft. of disturbances on 25-35% slopes (VERY STEEP SLOPES) and 1,914 sq. ft. of disturbances on 35%+ slopes (EXCESSIVELY STEEP SLOPES). The project requires approximately 340 cubic yards of cut and 40 cubic yards of imported fill. The applicant proposes the removal of eighteen (18) regulated trees, requiring a tree removal permit from the Town Forestry Officer. The applicant has prepared a Landscaping Plan which calls for the planting of: two (2) Black Tupelo trees, three (3) Skyrocket Juniper trees, seven (7) White Spruce trees, one (1) Snow Goose Cherry tree, two (2) Sugar Maple trees, and two (2) Eastern Redbud trees. The property consists of approximately 9,997 sq. ft. and is situated on the east side of South Healy Avenue approximately 200 feet from the intersection of Stephanie Drive and South Healy Avenue. The property is located in the R-10 One-Family Residence District and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.350-253-11.

Chairperson Simon stated that a draft decision had been prepared by staff and circulated to the Board for comment. No comments were issued by the Board. Mr. Schmidt advised that the project qualifies as a Type II action under SEQRA. On a motion made by Mr. Schwartz and seconded by Mr. Desai, the Planning Board unanimously voted to classify the project as a "Type II" action under SEQRA. On a motion made by Mr. Schwartz and seconded by Mr. Hay, the Planning Board unanimously voted to approved the Planning Board steep slope permit application.

- c. **Case No. PB 18-19** *Brewer, 16 Wyndham Road (P.O. Scarsdale, N.Y.) – Planning Board Steep Slope Permit*  
A work session to consider the decision of a Planning Board steep slope permit application for a proposal to construct an approximately eighty (80) linear foot retaining wall, ranging in height from six (6) feet to fourteen (14) feet, a 229 sq. ft. expansion to an existing stone patio, and related site improvements. The applicant proposes to construct a reinforced, segmented retaining wall on its property, in order to create a level rear yard area for recreational use. The applicant proposes 763 sq. ft. of disturbance on 15-25% slopes (STEEP SLOPES) and 4,574 sq. ft. of disturbance on 25-35% slopes (VERY STEEP SLOPES). The project involves approximately 40 cubic yards of cut and approximately 250 cubic yards of imported fill, requiring a fill permit from the Bureau of Engineering. The property consists of approximately 14,782 sq. ft. (0.34 acres) and is situated on the easterly side of Wyndham Road at the intersection of Overton Road and Wyndham Road. The property is situated in the R-15 One-Family Residence Zoning District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.600-417-12.

Chairperson Simon stated that a draft decision had been prepared by staff and circulated to the Board for comment. No comments were issued by the Board. Mr. Schmidt advised that the project qualifies as a Type II action under SEQRA. On a motion made by Mr. Golden and seconded by Mr. Hay, the Planning Board unanimously voted to classify the project as a "Type II" action under SEQRA. On a motion made by Mr. Golden and seconded by Mr. Ayoub, the Planning Board unanimously voted to approved the Planning Board steep slope permit application.

- d. **Case No. PB 18-26** *Dalewood Shopping Center, 353-425 Central Park Avenue North (P.O. Hartsdale, N.Y.) – Planning Board Shared Parking Reduction Request*  
A continuation of a work session (November 20, 2018) to discuss a shared parking reduction of two (2) spaces (Planning Board approval), pursuant to Section 285-38D(5) of the Zoning Ordinance, in order to accommodate (4) electric car charging stations, with related improvements (where 6 standard parking spaces exist). The total parking required for the site is 303 spaces. There currently are 286 parking spaces on the site. A previous shared parking reduction was granted by the Planning Board in connection with a restaurant special permit (So Gong Dong Tofu House). The property consists of approximately 131,551 sq. ft. and is situated on the west side of Central Park Avenue North approximately 500 ft. from the intersection of Fieldstone Drive and Central Park Avenue North. The property is located in the CA Central Avenue Mixed-Use Impact District and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.150-96-5.

Mr. Schmidt reported that, following the Board's discussion of this project at its work session on November 20, 2018, the Board requested that the Building Inspector review Section 285-38D(5) of the zoning ordinance, and provide a memorandum back to the Board outlining whether or not it was his determination that the applicant's request for a Planning Board shared parking reduction was a valid relief mechanism, in connection with its proposal to physically remove six (6) off-street parking spaces from a portion of the site situated within the City of White Plains, in order to construct four (4) universal "fast charge" electric vehicle charging stations.

Mr. Schmidt advised that the Building Inspector issued a letter, dated November 27, 2018, concluding that Section 285-38D(5) was a valid mechanism for the relief sought by the applicant.

Mr. Schwartz disagreed with the Building Inspector's determination and quoted a portion of the section which states, "[W]here it can be conclusively demonstrated to the satisfaction of the Planning Board that one or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation, the Planning Board, upon recommendation by the Building Inspector, may reduce the total parking requirement..." Mr. Schwartz stated that, following his question to the applicant at the prior work session, the applicant represented that the use of the proposed electric vehicle charging stations would be anticipated to be utilized at the same time as other uses are in operation.

Mr. Golden requested that Town staff draft a memorandum to the Town Board, requesting that the shared parking provision of the zoning ordinance be reviewed and revised. Board members agreed. Mr. Desai suggested that guidelines be established, perhaps up to a 5-10% shared parking reduction of the total number of required on-site parking spaces, when warranted. Mr. Ayoub opined that these types of applications should be reviewed on a case by case basis. Mr. Golden agreed, and noted that input from the Building Inspector is important. He added that the situation raises a bigger question related to the overall parking requirements of the Town which, in his opinion, are far too restrictive, and should be reviewed and revised in full. He further requested that Town staff draft a memorandum to the Town Board requesting that the Town's off-street parking requirements be studied and recommendations be made for revisions. Mr. Hay agreed that the Town off-street parking requirements should be reviewed, though he noted that any review should not hold up the current request before the Board. Mr. Desai questioned how long a variance application to the Zoning Board of Appeals (ZBA) for this project would take to process. Mr. Schmidt responded that the earliest this applicant could appear before the ZBA would be during its January 2019 meeting. Ms. Taliaferrow asked if there would be any financial impact to the applicant if it were required to obtain a variance, rather than a shared parking reduction and, suggested if there was not, the applicant should pursue a variance.

Mr. Schwartz, referring to the examples in the Building Inspector's November 27, 2018 letter, stated that the Midway Shopping Center request did not result in increased traffic, and that the Dalewood Shopping Center request stemmed from the landbanking of parking spaces. He reiterated his position of disagreement with the Building Inspector's determination. Chairperson Simon opined that there is ambiguity in the Town Code related to shared parking. He stated that, pursuant to Town Code, there is a request from an applicant, along with a recommendation by the Building Inspector. He expressed his opinion that the Board should vote on this current request, and also have staff prepare a memorandum to the Town Board on this issue. Mr. Schwartz opined that there is nothing ambiguous regarding this section of the Town Code. He again noted that the applicant stated that its use (installation of electric vehicle charging stations) is intended to be utilized at the same time as other uses in the center.

On a motion made by Mr. Golden and seconded by Mr. Hay, the Planning Board, by a count of four (4) in favor, and with three (3) opposed, voted to approve the applicant's shared parking reduction request of two (2) parking spaces. Voting was as follows: Chairperson Simon – Aye; Mr. Golden – Aye; Mr. Ayoub – Aye; Mr. Hay – Aye; Mr. Schwartz – Nay; Mr. Desai – Nay; Ms. Taliaferrow – Nay.

## 5. NEW BUSINESS

### a. Case No. PB 18-29 Jersey Mike's, 53 Tarrytown Road (P.O. White Plains, N.Y.) – Planning Board Shared Parking Reduction Request

A work session to discuss a shared parking reduction of seventeen (17) spaces (Planning Board approval), pursuant to Section 285-38D(5) of the Zoning Ordinance, associated with the proposed conversion of the former Bushido Karate space, located within a commercial strip plaza at 53 Tarrytown Road, P.O. White Plains, into an approximately 2,000 sq. ft., 25 seat restaurant space (Jersey Mike's). There currently are several businesses located within the existing building, which is located within the larger White Plains Shopping Center (Bowlmor White Plains, Saks Off-5th, Smash Burger, etc.). The restaurant space requires 27 off-street parking spaces, a difference of 17 from that which were required for the prior use. The restaurant use requires a special permit through the Zoning Board of Appeals. The property consists of approximately 1.19 acres, and is situated on southerly side of Tarrytown Road (NYS Rt. 119). The property is situated in the DS Designed Shopping District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.80-42-8.

Chairperson Simon advised the public that, many years ago, while he was the Warden of Grace Church in White Plains, he was represented by Mr. William Null, Esq., an attorney for the applicant. He stated that he saw no reason to recuse himself from this matter, however, he wanted to issue this statement for the record for transparency purposes.

Mr. Null, Esq. of Cuddy & Feder LLP, provided an overview of the applicant's request for a shared parking reduction of seventeen (17) spaces, associated with the proposed conversion of the former Bushido Karate space, into an approximately 2,000 sq. ft., 25 seat restaurant space (Jersey Mike's). He advised that thorough documentation was provided in connection with this request. He explained that numerous uses exist and operate at this site, though two (2) separate owners own the collective shopping center. He stated that the entire site consists of 392 off-street parking spaces, and that his client's two (2) owned parcels within the overall center contain a total of 329 off-street parking spaces. Further, based on the documentation prepared and provided by Yestadt Architecture & Design, architects for the applicant, the uses operating within those two (2) parcels owned by the client require a total of 304 off-street parking spaces. Mr. Null explained that weekday and weekend parking counts were conducted, and advised that mutual easements between the two (2) property owners within the overall site, for shared use of the entire parking area, have been in place for many years. He explained that Jersey Mike's principal demand is during the lunchtime period, when it conducts approximately 70-80% of its business typically.

Mr. Rick Yestadt, AIA, of Yestadt Architecture & Design, explained that this portion of the shopping center contains a dynamic parking area, however, parking counts were conducted, which identified that there is parking availability in the area of the proposed Jersey Mike's restaurant, during its peak demand.

Board members discussed the request. Mr. Schwartz noted that the former karate use likely had its peak demand for public at times similar to the bowling alley. He added that Jersey Mike's appears to be a complementary use within the overall shopping center. Mr. Hay noted that the parking area in the vicinity of the Wine Warehouse can get congested at times; Ms. Taliaferrow agreed. He reported that certain businesses within that parking area have dedicated parking spaces and asked if Jersey Mike's also intends to have dedicated or reserved parking spaces. Chairperson Simon stated that the allocation of dedicated or reserved parking spaces within the center seems contradictory to the shared parking concept, and suggested that these may need to be eliminated.

Mr. Null replied that this arrangement may be included within leases. He added that the use of these spaces are not strictly enforced; and towing of vehicles does not occur. Mr. Schwartz asked how many dedicated parking spaces were allocated to the former karate use, and asked if the applicant would agree not to exceed whatever number that was for its proposed use. Mr. Null responded that it is Jersey Mike's intention to have the same number of dedicated or reserved parking spaces as were allocated to the former karate use. Mr. Hay noted that, in looking at Google Maps, it appears that the former Bushido Karate had five (5) dedicated or reserved spaces allocated to it. Mr. Schwartz stated that the existing businesses within the center which have succeeded, likely rely on the dedicated spaces, and he would not want to take these spaces away from those businesses at this point. Mr. Desai opined that the signage related to dedicated parking spaces should be removed. Mr. Golden opined that the signage related to the dedicated parking spaces likely is ignored; Mr. Ayoub agreed. Ms. Taliaferrow stated that she frequently visits this center, and abides by the posted signage. Mr. Golden stated that the documentation provided by the applicant supports its request for a shared parking reduction. Mr. Golden made a motion to approve the shared parking reduction as requested. Mr. Ayoub seconded the motion. After further discussion, Mr. Golden withdrew his motion.

Ms. Taliaferrow asked if the Board could, as part of any approval of the applicant's request, condition that the applicant not exceed or increase the number of dedicated or reserved spaces previously allocated to the karate use. Mr. Fried advised that the Board could condition this as part of an approval and, if the applicant chose to at a future point, it could come back to the Board to modify the condition or legally challenge the Planning Board's condition.

On a motion made by Mr. Schwartz and seconded by Mr. Hay, the Planning Board, by a count of six (6) in favor, and with one (1) opposed, voted to approve the applicant's shared parking reduction request of seventeen (17) parking spaces, conditioned upon the applicant (Jersey Mike's) not increasing the number of dedicated spaces beyond what the former karate use had allocated to it. Mr. Golden stated that he has never been to a

shopping center with dedicated or reserved spaces and, due to the condition imposed by the Board, he did not vote in favor of the motion.

**6. ITEMS FOR PUBLIC HEARING & PUBLIC DISCUSSION (ITEMS WILL START NO SOONER THAN 8:15 P.M.)**

*Full transcripts of the items on for public hearing and public discussion are available through the Department of Community Development and Conservation, and are posted on the Town of Greenburgh website.*

**a. Case No. PB 18-18 Westchester Hills Cemetery, 400 Saw Mill River Road (P.O. Hastings-on-Hudson, N.Y.) –Planning Board Steep Slope Permit & Tree Removal Permit (Town Forestry Officer Approval)**

A public hearing to discuss an amended site plan (Town Board approval referral to Planning Board) and Planning Board steep slope permit application for a proposal involving the full interior renovation of an existing on-site administration building, with related improvements. The project also involves the construction of a small addition to the existing administration building, in order to provide a service area and additional crypts. An existing shed is proposed to be removed. The applicant proposes 1,430 sq. ft. of disturbance on 15-25% slopes (STEEP SLOPES), 161 sq. ft. of disturbance on 25-35% slopes (VERY STEEP SLOPES), and 128 sq. ft. of disturbance on 35%+ slopes (EXCESSIVELY STEEP SLOPES). The project requires approximately 60 cubic yards of excavation and 0 cubic yards of imported fill. The applicant proposes the removal of two (2) regulated trees requiring a tree removal permit from the Town Forestry Officer. The applicant has prepared a landscaping plan which calls for the planting of various shrubs, flowers, and groundcover. The project also involves the removal of curbing, walkways, and other minor improvements, in the area of proposed work. On October 18, 2018, the Zoning Board of Appeals granted area variances required in connection with the project. On November 14, 2018, the Town Board adopted a resolution approving an amended site plan application required in connection with the project. The property consists of approximately 638,464 sq. ft. (14.66 acres) and is situated on the easterly side of Saw Mill River Road approximately 2,500 feet from the intersection of Saw Mill River Road and Jackson Avenue. The property is situated in the R-30 One-Family Residence Zoning District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.490-349-2 & 3.

*On a motion made Ms. Taliaferrow and seconded by Mr. Hay, the Planning Board unanimously voted to close the public hearing, and to leave the written record open through December 19, 2018.*

**b. Case No. TB 18-22/PB 18-17 Maria Regina School, 500 West Hartsdale Avenue (P.O. Hartsdale, N.Y.) – Amended Site Plan (Town Board Approval), Planning Board Steep Slope Permit & Tree Removal Permit (Town Forestry Officer Approval)**

A public discussion and public hearing to discuss an amended site plan (Town Board approval, referral to Planning Board) and Planning Board steep slope permit application for a proposal consisting of the conversion and expansion of an existing athletic field, the construction of two (2) tennis courts, and the reconfiguration of an existing parking lot, with related site improvements. The applicant proposes to convert an existing grass athletic field into a synthetic turf soccer field with perimeter running track. The applicant also proposes to construct new tennis courts, and to re-configure an existing parking area. The applicant proposes 9,400 sq. ft. of disturbance on 15-25% slopes (STEEP SLOPES), 3,000 sq. ft. of disturbance on 25-35% slopes (VERY STEEP SLOPES), and 3,000 sq. ft. of disturbance on slopes greater than 35% (EXCESSIVELY STEEP SLOPES). The applicant proposes the removal of seventy-two (72) regulated trees from the subject property, requiring a tree removal permit from the Town Forestry Officer. The project involves approximately 1,000 cubic yards of cut and approximately 20,000 cubic yards of imported fill, requiring a fill permit from the Bureau of Engineering. The applicant proposes a subsurface stormwater infiltration system to capture and treat stormwater runoff from impervious surfaces. The property consists of approximately 923,908 sq. ft. (21.21 acres) and is situated on the west side of West Hartsdale Avenue, at the intersection at Keats Avenue and West Hartsdale Avenue. 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: 8.130-82-1.

*The public discussion and public hearing held in connection with this matter were adjourned to the Planning Board's January 16, 2019 meeting.*



6. **ESTABLISH DATE FOR NEXT MEETING**

The next regularly scheduled meeting of the Greenburgh Planning Board will be held on Wednesday, January 2, 2019, and will begin at 8:00 pm in the Greenburgh Town Hall Auditorium.

7. **ADJOURNMENT**

The December 5, 2018 work session of the Town of Greenburgh Planning Board was adjourned at 11:03 pm.

Respectfully submitted,



Aaron Schmidt  
Deputy Commissioner,  
Department of Community Development and Conservation