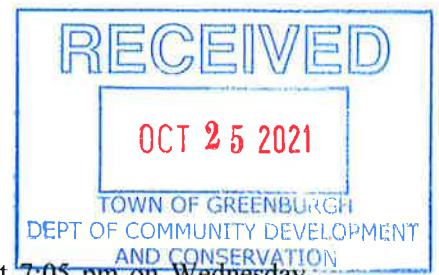


**TOWN OF GREENBURGH
PLANNING BOARD MINUTES
GREENBURGH – NEW YORK
Wednesday – October 6, 2021**



The Work Session of the Planning Board of the Town of Greenburgh began at 7:05 pm on Wednesday, October 6, 2021, and was held online via Zoom-enabled videoconference. It further was simulcast over cable television and the Town of Greenburgh website.

1. ROLL CALL & ANNOUNCEMENTS

Present: Chairperson Walter Simon, Hugh Schwartz, Kirit Desai, Michael Golden, Thomas Hay, Mona Fraitag, and Johan Snaggs (left at 8:00 pm)

Absent:

Staff: Aaron Schmidt, Deputy Commissioner, CD&C
David Fried, Esq., 1st Deputy Town Attorney
Matthew Britton, Assistant Planner, CD&C

Chairperson Simon announced that Mr. Jonathan Campozano, a Planning Board alternate member candidate, was present and observing this meeting. He stated that Mr. Campozano went through screening and had been interviewed by the Town Board. Before it renders a decision, the Town Board requested that Mr. Campozano take part in a Planning Board meeting.

Chairperson Simon announced that, effective December 31, 2021, he will be stepping down as Chair of the Planning Board, but retaining a seat on the Planning Board.

2. APPROVAL OF MINUTES

Chairperson Simon stated that Ms. Fraitag had pointed out a minor typographical error on page 2. Mr. Schmidt noted that the correction had been made and the draft minutes re-circulated. Chairperson Simon asked if there were any other comments. There were no other comments. On a motion made by Mr. Schwartz and seconded by Mr. Hay, the Planning Board unanimously voted to approve the minutes of the September 14, 2021 work session, as corrected.

3. CORRESPONDENCE

4. OLD BUSINESS

a. Case No. PB 19-12 RMC Development Company, LLC, 570 Taxter Road (P.O. Elmsford, N.Y.) – Final Subdivision

A work session to consider a final subdivision application involving the proposed formal subdivision of two (2) existing tax lots presently separated by the Town of Greenburgh and Village of Elmsford border, for the purposes of creating two (2) legally subdivided lots. A 6-story office building and associated parking area exist on Greenburgh Tax Parcel (PID: 7.240-104-8) and are proposed to remain. Proposed Lot 1 (Town of Greenburgh) would equal 194,631 sq. ft. and proposed Lot 2 (Village of Elmsford) would equal 20,300 sq. ft. The two proposed lots as part of this subdivision would match with the current tax lot designations. No development is proposed as part of this application. The property, in total, consists of approximately 4.9 acres and is situated along the eastern side of Taxter Road at the intersection of NYS Rt. 119 (White Plains Road). The portion of property located within the Town of Greenburgh is located in the OB Office-Business District and the portion of property located within the Village of Elmsford is located within the B Business District.

Chairperson Simon asked Mr. Schmidt to confirm that the final subdivision plat is the same as the approved preliminary subdivision plat. Mr. Schmidt confirmed that the plat was substantially the same and, as noted in a letter by Ms. Kristen Motel, minor edits were made as requested by the

Westchester County Department of Health to include water and sewer location details and add a signature block. He stated the Board was in a position to move forward.

On a motion made by Mr. Desai and seconded by Mr. Snaggs, the Planning Board unanimously voted to waive the public hearing requirement for final subdivision approval.

On a motion made by Mr. Schwartz and seconded by Ms. Fraitag, the Planning Board unanimously voted to approve the final subdivision application.

5. NEW BUSINESS

a. Case No. PB 21-07 Greystone PUD Lots 4-7, *Carriage Trail (P.O. Tarrytown, N.Y.) – Amended Site Plan and Preliminary Subdivision*

A work session to discuss a Planning Board amended site plan and resubdivision application for a proposal consisting of the resubdivision of four (4) building lots and one (1) lot containing a roadway, in order to remove the cul-de-sac roadway and revegetate it, distributing the land amongst Lots 4, 5, 6, and 7 of the development. The applicant previously petitioned for and was granted a zoning change to a PUD Planned Unit Development district, allowing for multiple dwellings on a single lot (Case No. TB 19-02). The applicant previously received a Planning Board steep slope permit in connection with its prior subdivision approval (Case No. PB 11-13). The applicant previously received a Planning Board steep slope permit and site plan approval (Case No. PB 20-08) in connection with the development site. The properties consist of approximately 415,303 sq. ft. (9.5 acres) and are situated on the east side of South Broadway (NYS Route 9). The properties are located in the PUD Planned Unit Development District and are designated on the tax map of the Town of Greenburgh as Parcel ID: 7.290-141-9.4, 7.290-141-9.5, 7.290-141-9.6, 7.300-142-3.7, and 7.290-141-9.15.

Following Mr. Schmidt's introduction of the project, Mr. Andy Todd, representing the applicant, provided a detailed presentation of the project. Chairperson Simon, noting that lots 5, 6, and 7 were under one owner, asked how an accessory use such as a bike track could be on a separate lot from the house while still being in compliance with zoning regulations. Mr. Todd responded that it was legal with the PUD and the use already had been built and approved by the Building Department. Mr. Schwartz asked if the Board could get a determination from the Building Inspector. Mr. Schmidt responded that he would ask and get the PUD language to the Board.

Mr. Schwartz asked if the driveway had to be moved. Mr. Todd responded that it did not. Ms. Fraitag, noting that a fire hydrant at the end of the cul-de-sac was proposed to be removed, asked if the Tarrytown Fire Department needed to take a look. Mr. Schmidt noted that the project was circulated to the Tarrytown Fire Department, which issued no objection to the fire hydrant removal. He added that the Fire Department primarily was concerned with access if homes were built on the other lots in the future. Mr. Fried asked how many homes were originally planned when the area was subdivided. Mr. Todd responded that 12 homes were envisioned. Mr. Fried asked how many are anticipated now. Mr. Todd responded that eight or nine homes were anticipated. Mr. Fried noted that the hydrant can be capped for use in the future if needed.

Mr. Schmidt commented that the bulb of the cul-de-sac is the only part to be eliminated. Mr. Todd affirmed that, noting that the rest of the cul-de-sac will be used as a driveway for the existing home. Mr. Desai asked how access to the three lots would look if they were owned separately. Mr. Todd provided plans showing access. Mr. Hay recalled that he had seen plans with houses and other improvements, although no such construction was proposed. Mr. Todd clarified that those plans were prepared to demonstrate compliance with code and fire access.

Mr. Schmidt asked if, instead of replanting with grass, the applicant would consider adding trees. Mr. Todd responded that it planned to plant screening on the hillside between the houses. Mr. Fried

requested that, when the plan was ready, it be shared. Mr. Todd stated that they would be available. Mr. Fried stated that the plan is not necessarily for next meeting, but more so for Mr. Schmidt to be aware of the plantings.

Chairperson Simon asked if there were any other questions. There were none. He stated that the Board needed the PUD law and verification from the Building Department that accessory uses can exist on their own lot in the Greystone PUD. Chairperson Simon stated that the matter would be discussed as part of a public hearing at the Board's 10/20/21 meeting, with the understanding that the questions would have to be answered prior to closing the hearing.

6. **OLD BUSINESS (continued)**

a. **Case No. PB 18-15** Paolucci-Gallousis Subdivision, 135 Old Army Road (P.O. Scarsdale, N.Y.) – Preliminary Subdivision Extension Request

A work session to discuss a request for an extension of the applicant's preliminary subdivision approval.

Following Mr. Schmidt's introduction of the project, Mr. Eliot Senor, P.E., L.S., of Gabriel Senor, P.C., representing the applicant, provided background for the extension request, stating that the owners planned to move the solar panels but the cost became too great. He stated that, at a prior Planning Board meeting, a Board member suggested applying for a variance to keep the solar panels on the new lot. Mr. Senor stated that the applicant sought and received an area variance to keep the solar panels on the new lot, without a principal use (residence). Mr. Hay clarified that no Planning Board member suggested applying for a variance, but that Mr. Golden asked how the applicant would be able to keep the solar panels, to which Mr. Senor responded that it would need a variance. Mr. Fried stated that as per Town Code, the Zoning Board of Appeals (ZBA) must seek a recommendation from the Planning Board for area variances associated with subdivisions, which it did not do. He noted that the variance granted refers to swimming pools, and opined that it was unclear if the requested variance even is an area variance.

Mr. Golden opined that to correct a ZBA decision would require an Article 78 action, most likely not initiated by the Planning Board. He noted that the Planning Board can waive its right to a recommendation and asked what the harm of keeping the solar panels was, since nothing had changed. Mr. Fried stated that it was within the discretion of the Board to grant a *nunc pro tunc* extension of the preliminary subdivision approval, and added that the variance was a significant change the Board must be aware of. He stated that, while he generally agreed with Mr. Golden's comments on an Article 78 action, the final subdivision has not been approved. Chairperson Simon opined that a simpler way, without getting into if the ZBA granted a variance correctly or not, would be to decide not to grant an extension and require the applicant to re-submit and go through the process.

Mr. Snaggs asked if there was an applicable variance that could be applied to the property. Mr. Fried responded that there was the possibility of a use variance, although those are more difficult to obtain. He noted that there may be a way that this is an area variance, but not the area variance the applicant received. Mr. Schwartz expressed his agreement with Mr. Golden that few people would care about the variance as the status quo remains at the site. He opined that the Zoning Ordinance does not permit an accessory structure on a piece of property without a principal use. Mr. Schwartz stated that the Board could request an opinion from the ZBA on the variance, but opined that the simplest solution might be to not grant the extension and have the applicant re-apply at the time it is selling the property. As the Board already has demonstrated it does not have a problem with the plans, it was just operating under the assumption the solar panels were to be removed.

Mr. Desai asked if there was a provision in the Town Code for the ZBA to grant a temporary area variance that expires when the property is sold. Mr. Fried responded that he cannot give an opinion on that question, but that it can be asked of the ZBA. He agreed with Mr. Schwartz's opinion that the applicant could re-apply. Mr. Desai suggested letting the ZBA decision stand and grant an extension of the preliminary subdivision approval. Mr. Schwartz commented that granting such an extension could be precedent setting for the future, and asked if an extension would cause conflict with the ZBA. Mr. Fried replied that the Planning Board would only be extending its approval. He noted that, if the Planning Board extends its preliminary subdivision approval and the applicant comes back for final subdivision approval, there has been a significant change to the plans, and the Planning Board may or may not wish to approve the application at that point.

Mr. Golden asked if the Planning Board would have to amend the preliminary subdivision approval to grant an extension. Mr. Schmidt stated that it did not, but if the applicant came for final subdivision approval, he would indicate that there has been a change to the plans to retain the solar panels, and the Planning Board would have to consider if it should grant approval or hold a public hearing. Mr. Golden asked how long of an extension is requested. Mr. Schmidt responded that it would be for 90 days, retroactive 13 months. Mr. Golden stated that he was troubled by the notion that the Planning Board did not like the ZBA decision and should challenge it. He opined that since there is no harm with leaving the solar panels, it was pointless to put the applicant through the process again.

Ms. Francene Gallousis, applicant, provided background for the application, stating that the cost to move the solar panels is much higher than its worth, but she did not wish to throw out the solar panels as she attempts to live in an environmentally conscious manner. She added that she planned to sell the proposed lot to her sons. Mr. Fried asked if the intention was to continue using the solar panels. Ms. Gallousis responded that it was. Ms. Fraitag stated that she had been under the impression the solar panels were no longer in use.

Mr. Schwartz opined that the law on accessory uses needs to be changed, and suggested extending the preliminary subdivision approval. Ms. Fraitag agreed. Mr. Hay asked how long they could extend the approval. Mr. Fried responded that the Board could extend 180 days assuming things remain the same. Mr. Schwartz noted that, to get around several of the issues raised, the preliminary subdivision approval could be extended and the conditions within enforced prior to any final subdivision approval.

Mr. Golden made a motion to extend the preliminary subdivision retroactive 13 months plus 90 days, seconded by Mr. Desai. Mr. Schwartz suggested that any extension should acknowledge the ZBA decision, and said decision should be attached to the extension.

On a motion made by Mr. Golden and seconded by Mr. Desai, the Planning Board unanimously voted grant a 90 day *nunc pro tunc* extension to the preliminary subdivision approval, acknowledging the decision of the Zoning Board of Appeals.

7. PUBLIC HEARING AND PUBLIC DISCUSSION

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

a. Case No. PB 21-15 Fountainhead Apartments, Fountain Lane (P.O. Scarsdale, N.Y.) – Amended Site Plan

A public hearing to discuss a request to amend a condition of prior site plan approval in connection with the subject property under Case No. PB 79-01, which required that a 6 foot high wooden fence be provided along the entire westerly property line.

On a motion made by Chairperson Simon and seconded by Mr. Golden, the Planning Board unanimously voted to close the public hearing and keep the written record open through October 26, 2021.

b. Case No. PB 21-10 Parashis, 23 Springwood Avenue (P.O. Ardsley, N.Y.) – Planning Board Steep Slope Permit

A public hearing to discuss a Planning Board steep slope permit application involving the proposed construction of a two-car garage, as well as front and rear additions to the home. The applicants propose to demolish retaining walls and staircases at the front of the house and construct a new two-car garage, a new stairway up to the house with planters, an extended front entrance to the house, and a retaining wall. The applicants currently do not have a driveway. The applicants propose to construct a three-season room/enclosed deck in the rear of the house. The applicants additionally propose to replace their roof to support 17kW solar panels. The applicants propose approximately 567 sq. ft. of disturbance to 15-25% slopes (STEEP SLOPES), approximately 734 sq. ft. of disturbance to 25-35% slopes (VERY STEEP SLOPES), and approximately 331 sq. ft. of disturbance to 35%+ slopes (EXCESSIVELY STEEP SLOPES). The project requires approximately 178 cubic yards of excavation. The applicants propose the addition of two (2) new drywell units to handle the runoff created by impervious surfaces. The following five (5) area variances are required: (1) front setback to principal building from 20 feet required to 17.5 feet proposed; (2) accessory structure setback to principal building from 10 feet required to 3.666 feet proposed; (3) accessory structure setback to side yard from 10 feet required to 0 feet proposed; (4) accessory structure coverage from 6% permitted to 6.4% proposed, and; (5) accessory structure in a front yard. The property consists of approximately 7,500 sq. ft. (0.17 acres) and is situated along the west side of Springwood Avenue, approximately 700 feet from the intersection of Springwood Avenue and Riverview Avenue. The property is located in the R-7.5 One-Family Residence District and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.320-238-13.

On a motion made by Chairperson Simon and seconded by Mr. Golden, the Planning Board unanimously voted to issue a positive recommendation to the Zoning Board of Appeals on all five (5) requested area variances.

On a motion made by Mr. Schwartz and seconded by Mr. Golden, the Planning Board unanimously voted to adjourn the public hearing to November 3, 2021.

c. Case No. PB 19-26 Kaufmann, 36 Hillcrest Avenue (P.O. Ardsley, N.Y.) – Preliminary Subdivision, Planning Board Steep Slope Permit, and Tree Removal Permit

A continuation of a public hearing (September 14, 2021) to discuss a preliminary subdivision, Planning Board steep slope permit, and tree removal permit application for a proposal consisting of the subdivision of 3 existing tax lots (8.320-238-10, 8.320-238-11 & 8.320-238-9..L6) into two buildable lots to allow the construction of one new single family home. The applicant proposes approximately 1,891 sq. ft. of disturbance to 15-25% slopes (STEEP SLOPES), approximately 4,985 sq. ft. of disturbance to 25-35% slopes (VERY STEEP SLOPES), and approximately 4,283 sq. ft. of disturbance to 35%+ slopes (EXCESSIVELY STEEP SLOPES). The project involves approximately 70 cubic yards of excavation and 0 cubic yards of imported fill. The applicant proposes the removal of 24 regulated trees and proposes the planting of 18 new trees and 9 new shrubs, as replacement. On June 17, 2021, the Zoning Board of Appeals granted an area variance related to the newly proposed lot not having frontage onto a roadway built to Town standards. The properties consist of approximately 23,334 sq. ft. (0.54 acres) and are situated on the east side of Hillcrest Avenue approximately 350 ft. north of the intersection of Larchmont Street and Hillcrest Avenue. The properties are located in the R-7.5 One-Family Residence District and are designated on the tax map of the Town of Greenburgh as Parcel ID: 8.320-238-10, 8.320-238-11 & 8.320-238-9..L6.

On a motion made by Mr. Schwartz and seconded by Ms. Fraitag, the Planning Board unanimously voted to adjourn the public hearing to October 20, 2021.

8. **NEW BUSINESS (continued)**

- a. **Case No. PB 21-23** Worthington Estates (DiNapoli), 1490 & 1952 Saw Mill River Road (P.O. White Plains, N.Y.) – Preliminary Subdivision & Planning Board Steep Slope Permit (Pre-Submission Conference)

A pre-submission conference to discuss a potential future subdivision application involving the subdivision of two (2) existing lots into thirteen (13) lots for the purpose of constructing thirteen (13) new single-family residences, with related improvements, to be accessed via a new, 950-foot cul-de-sac, off of Whitehouse Road, to be built to Town standards. The existing 8.03 acres (349,974 sq. ft.) property is proposed to be subdivided to create thirteen (13) lots all meeting the requirements of the R-20 One-Family Residence Zoning District. The subject properties contain regulated steep slopes and regulated trees that would be disturbed/removed as part of the project, requiring appropriate permits from the Planning Board. The properties consist of approximately 349,974 sq. ft. (8.03 acres) and are situated on the easterly side of Saw Mill River Road, adjacent to the intersection of Whitehouse Road and Saw Mill River Road. The properties are located in the R-20 One-Family Residence District, and are designated on the tax map of the Town of Greenburgh as Parcel ID: 7.450-256-22.1 & 7.450-256-22.2.

Chairperson Simon apologized to the applicant that there was not enough time to discuss this application, and stated that it would be discussed first at the October 20, 2021 meeting.

9. **ESTABLISH DATE FOR NEXT MEETING**

The next regularly scheduled meeting of the Greenburgh Planning Board will be held on Wednesday, October 20, 2021, and will begin at 7:00 pm online via Zoom-enabled video conference.

10. **ADJOURNMENT**

The October 6, 2021 work session of the Town of Greenburgh Planning Board was adjourned at 10:08 pm.

Respectfully submitted,



Aaron Schmidt
Deputy Commissioner,
Department of Community Development and Conservation