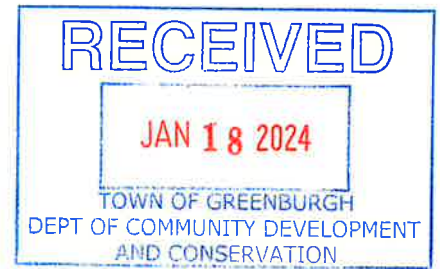




**TOWN OF GREENBURGH
PLANNING BOARD MINUTES
GREENBURGH – NEW YORK
Wednesday – January 3, 2024**



The Work Session of the Planning Board of the Town of Greenburgh began at 7:01 pm on Wednesday, January 3, 2024, and was held both in-person at Town Hall, located at 177 Hillside Avenue, Greenburgh, New York, and online via Zoom-enabled videoconference. It was also simulcast over cable television and the Town of Greenburgh website.

1. ROLL CALL & ANNOUNCEMENTS

Present: Chairperson Hugh Schwartz, Michael Golden, Walter Simon, Johan Snaggs, Leslie Davis (7:07 pm arrival), and Aisha Sparks (Alternate Voting Member)

Absent: Thomas Hay, Kirit Desai

Staff: Garrett Duquesne, AICP, Commissioner, CD&C
Aaron Schmidt, Deputy Commissioner, CD&C (via Zoom)
Joseph Danko, Esq., Town Attorney
Amanda Magana, Esq., First Deputy Town Attorney
Matthew Britton, Planner, CD&C

Chairperson Schwartz welcomes Ms. Aisha Sparks as the Planning Board's newly appointed alternate member. He noted that Ms. Sparks would be a full voting member this evening, in place of Mr. Hay, who is not present.

Chairperson Schwartz thanked Ms. Patricia Arpaia, Office Manager for the Department of Community Development and Conservation, for her thank-you card related to the Planning Board's holiday gift.

2. APPROVAL OF MINUTES

Chairperson Schwartz asked if there were any comments on the draft minutes of December 6, 2023. Mr. Simon requested that, in the discussion of Case No. TB 23-16, his comment about there not being a direct connection between East Rumbrook Park and the parcel being donated as part of Case No. PB 22-20, be included. There were no other comments. On a motion made by Mr. Simon and seconded by Mr. Snaggs, the Planning Board unanimously voted to approve the minutes of the December 6, 2023 work session, as amended.

3. CORRESPONDENCE

a. Case No. TB 23-08/PB 23-18 Regeneron, 555 Saw Mill River Road (P.O. Tarrytown, N.Y.) – Letter of Adjournment

Chairperson Schwartz reported that the Applicant has requested discussion of this project be adjourned until the February 7, 2024 meeting, as it is still working on its traffic study in response to comments issued by the Town's traffic consultant for this project.

b. Letters of Support for Federal Transportation Alternatives Program (TAP) Sidewalk Grants

Commissioner Duquesne stated that the Town is in the process of applying for two (2) new Federal Transportation Alternatives Program (TAP) grants for sidewalks along sections of both Old Army Road, from Central Park Avenue to Ardsley Road, and Knollwood Road, from The Greenburgh Shopping Center to the Preserve at Greenburgh property. He stated that the Town has received three (3) previous TAP grants, amounting to millions of dollars, and requested that the Planning Board consider issuing letters of support for these two (2) grant applications, noting that such letters have proven very helpful to the Town in receiving such grants in the past.

Mr. Golden stated that Old Army Road currently has a sidewalk which, while not ADA compliant, is still walkable. He asked why the Town should spend money on a new sidewalk when other roads, such as Fort Hill Road, do not contain any sidewalk. Commissioner Duquesne responded that Old Army Road connects to several local schools and the project involves making Old Army Road more of a complete street, with additional curbing, crosswalks, potential speed tables, and drainage improvements, among other upgrades. Mr. Golden asked how many trees would be removed and if the impacts on residents had been evaluated, in connection with the Old Army Road sidewalk. Commissioner Duquesne responded that potential impacts have been evaluated, noting that the project site (for Old Army Road) was reviewed in the field with a professional consultant. He stated that five to ten (5-10) trees would likely need to be removed. Mr. Golden asked if the Town would be contributing to the costs. Commissioner Duquesne responded that TAP grants have a minimum 20% match requirement, so the Town would be contributing roughly \$600,000 to \$800,000 of the approximately \$3 million project cost.

Chairperson Schwartz asked if there are issues with residents on Fort Hill Road related to the building of a sidewalk. Commissioner Duquesne responded that, generally, residents in the area are supportive, but there was a property line question in one instance. He also noted that the right-of-way of Fort Hill Road is quite narrow in numerous locations, which makes designing for such improvements more complicated. Therefore, more work is necessary before a grant to install a sidewalk on Fort Hill Road can be applied for.

On a motion made by Mr. Simon and seconded by Mr. Snaggs, the Planning Board unanimously voted to issue letters of support for the two (2) TAP grant applications. Mr. Golden stated that, while he voted in favor of the letters of support, he felt that the Town should prioritize Fort Hill Road over Old Army Road.

- c. **Case No. PB 94-01** Scarsdale Central Company, 650 Central Park Avenue South (P.O. Scarsdale, N.Y.) – Request for Relief from Condition 10 of Special Permit Approval

Chairperson Schwartz reported that, in 1994, Boston Market applied for and obtained a restaurant Special Use Permit from the Planning Board, however, this restaurant is now out of business. He stated that the landlord has a restaurant use interested in filling the vacancy, but the approval letter, dated March 17, 1994, includes Condition 10, which requires waiter/waitress service, and the landlord is requesting relief from this condition, noting that fast casual restaurants typically do not include waiter/waitress service. Commissioner Duquesne noted that, at the time of the original application, there were concerns that the restaurant could turn into a fast-food restaurant, despite a fast-food restaurant requiring a separate permit/approval. There were no objections to providing relief from this condition.

On a motion made by Mr. Golden and seconded by Mr. Simon, the Planning Board unanimously voted to relieve the requirement of Condition 10 in the approval letter for Case No. PB 94-1, dated March 17, 1994.

4. **OLD BUSINESS – WORK SESSION**

- a. **Case No. PB 22-07** Chick-fil-A, 20 Tarrytown Road (P.O. White Plains, N.Y.) – Site Plan, Special Use Permit (Quick Service/Fast Food Establishment), and Tree Removal Permit

A continuation of a work session (September 20, 2023, October 4, 2023, and November 1, 2023) to discuss a Site Plan, Special Use Permit (Quick Service/Fast Food Establishment), and Tree Removal Permit application involving the proposed construction of a new Quick Service/Fast Food Establishment, with related improvements. The Applicant proposes to construct a new, 5,028 sq. ft., 94-seat (74 interior, 20 exterior) Quick Service/Fast Food Establishment, with a double-lane drive-thru. The property has existing curb cuts on Old Kensico Road and on County Center Road. The Applicant proposes to relocate the curb cut on Old Kensico Road and add a curb cut to County Center Road. The Applicant proposes to include 112 parking spaces (79 striped, 33 credited for drive-thru), where 143 spaces are required. A total of thirty (30) off-street parking spaces, dedicated for employee

parking only, are proposed to be situated on an adjacent lot located within the City of White Plains zoned Business (B-3), requiring approval from the City. The following area variances are required: (1) side yard setback to detached canopy, from 40 feet (required) to 6.8 feet (proposed); (2) Tarrytown Road side yard setback to principle building, from 40 feet (required) to 36.8 feet (proposed); (3) County Center Road side yard setback to principle building, from 40 feet (required) to 5.4 feet (proposed); (4) total of two side yards, from 80 feet (required) to 42.2 feet (proposed); (5) distance from off-street parking to principal building, from 10 feet (required) to 7.7 feet/0 feet for the parking lot/drive-thru (proposed); (6) off-street parking spaces, from 143 (required) to 112 (proposed); (7) distance from off-street parking to front lot line, from 20 feet (required) to 3.4 feet (proposed); (8) distance from off-street parking to side lot line (County Center Road), from 10 feet (required) to 2.4 feet (proposed); (9) distance from off-street parking to side lot line (Tarrytown Road), from 10 feet (required) to 2.2 feet (proposed); (10) height of exterior lighting, from 14 feet (permitted) to 27 feet (proposed); (11) Old Kensico Road front yard setback to accessory storage building (storage shed), from 30 feet (required) to 21.8 feet (proposed); and (12) County Center Road side yard setback to accessory storage building (storage shed), from 40 feet (required) to 19.5 feet (proposed). The Applicant proposes to remove several landscaped trees in the existing parking area, requiring a Tree Removal Permit from the Planning Board, and has prepared a landscaping plan providing for 19 trees and 270 shrubs, as replacement. The Applicant seeks waivers from the Planning Board for the required 10-foot landscaped buffers on all sides of the property. The Applicant has prepared a traffic impact study, which has been reviewed by the Town's traffic consultant for this project. The subject properties consist of approximately 75,065 sq. ft. (1.7 acres) and are situated on the northerly side of Tarrytown Road, at the intersection of Tarrytown Road and Old Kensico Road. The properties within the Town of Greenburgh are located in the DS Designed Shopping District, are designated on the tax map of the Town of Greenburgh as Parcel ID: 7.570-328-1 & 2, and in total consist of approximately 55,912 sq. ft. The properties within the City of White Plains are located within the B-3 Business District, are designated as Parcel ID: 125.57-3-1 & 2, and in total consist of approximately 19,153 sq. ft.

Ms. Magana recused herself prior to any discussion of this project, noting that Town Attorney, Mr. Joseph Danko, would be filling in for her and assisting the Board with its review of this application. Charles Gottlieb, Esq., of Whiteman Osterman & Hanna LLP, representing the Applicant, stated that a response to comments and questions of the Board and members of the public had been provided, and requested that the Planning Board consider a recommendation to the Zoning Board of Appeals (ZBA) on the required area variances, and also consider rendering a SEQRA determination. Chairperson Schwartz responded that the Planning Board is in the process of conducting its SEQRA review of the project and a recommendation to the ZBA as part of its discussions on this project. He stated that he drove by a Chick-fil-A near the Chesapeake Bay Bridge and observed that its drive-thru was backed up. He thanked the Applicant for its hard work, but expressed disappointment in not seeing queuing data for more restaurants of a similar size and layout as that which is proposed at the subject site. Chairperson Schwartz opined that additional queuing data, beyond the four (4) restaurants already provided, is needed for the Planning Board to adequately evaluate any potential traffic impacts. He stated that there are environmental concerns with cars idling in the drive-thru queue and added that, upon reconsideration, it may be best to prohibit a left-out onto Old Kensico Road, due to potential conflicts with vehicles waiting to turn onto Route 119 or into the former Nesto's site at 24 Tarrytown Road. He added that efforts should be made to keep vehicles out of the residential neighborhood to the north if they are to traverse the traffic circle.

Mr. Simon stated that he would like to see traffic data from sites with a similar design, to determine if any of those sites experienced spillover during peak hours. He expressed similar concerns to Chairperson Schwartz concerning idling of vehicles, noting that environmental goals worldwide have not been reached, and noting that the Chick-fil-A site in North Carolina that he had driven by included approximately 30 vehicles in the queue and 70 snaking around the parking lot, for a total of roughly 100 vehicles idling, which is concerning. Mr. Golden opined that, while he does not like idling, it is an inherent part of drive-thrus. He asked if queuing data for new sites was provided. Timothy Freitag,

P.E., of Bohler Engineering, representing the Applicant, responded that there appears to have been a communication issue, and queuing data was not provided for the newly reviewed sites. Chairperson Schwartz stated that he wanted to see more queuing data for these additional sites, opining that he was mostly concerned with the day-to-day impacts on the neighborhood. Mr. Freitag asked how many additional sites the Board would like data for, as it can present a considerable task for the project team. Mr. Golden stated that his main concern is if spillover into the adjacent streets would occur during peak hours, and suggested contacting some of the sites and asking if they have experienced spillover during their peak times. John Canning, P.E., of Kimley-Horn, the Town's Traffic Consultant for this project, suggested that queuing data for four (4) additional sites should be sufficient.

Mr. Snaggs felt that the main concern is the potential traffic impacts from the site. Chairperson Schwartz noted that the Planning Board also has authority to review the environmental impacts for queuing vehicles. Mr. Golden asked how long it typically takes vehicles to get through the drive-thru at a Chick-fil-A site. Mr. Freitag responded that it takes four to five (4-5) minutes, on average. Chairperson Schwartz opined that any SEQRA determination should include the Planning Board's concerns about the environmental impacts associated with a proliferation of drive-thru uses.

Chairperson Schwartz asked Mr. Canning for his opinion on data collection at four (4) additional sites. Mr. Canning opined that a lunchtime survey of four (4) additional sites should be sufficient. He suggested a Thursday and Saturday lunch period survey at each location. Mr. Canning stated that, as the Applicant is shifting the curb cut along Old Kensico Road to the north, a left-turn out to Old Kensico Road likely will not present an issue, given the northbound lane is now being kept at 18 feet in width, which would allow vehicles to bypass any vehicle waiting to make a left turn in to the former Nesto's site from Old Kensico Road. Chairperson Schwartz suggested that the Board permit the left-turn out as part of any project approval, with the proviso that if any issues arise in the future, this movement could be restricted. Mr. Freitag noted that, with respect to the environmental concerns expressed, the proposed use, unlike many other drive-thru uses, is not a 24/7 business, and will not operate on Sundays.

Ms. Sparks opined that the Board should be considering if there will be spillover, and how it will be mitigated. Philip Grealy, P.E., of Colliers Engineering & Design, representing the Applicant, stated that the Site Plan has been revised to allow for additional queuing space if needed, and a plan has been developed for high-volume days that can be implemented (up to approximately 53 vehicles) at any time necessary, by Chick-fil-A team members. Ms. Davis asked how the traffic from events at the County Center would be handled. Mr. Grealy noted that the Applicant is proposing striping improvements to County Center Road (for purposes of creating uniform off-street parking spaces) and the traffic circle, to improve traffic flow. Chairperson Schwartz suggested adding a "No Thru Traffic" sign at the north exit of the traffic circle. Mr. Britton asked if such a sign would require Town Board approval. Mr. Danko stated that a conversation could be had with the Police Department for more information.

Chairperson Schwartz opined that the setback variances are not a major issue, and asked if the Planning Board could issue a Negative Declaration under SEQRA and issue a recommendation to the ZBA, while still deliberating the Site Plan and Special Use Permit issues. Mr. Britton and Mr. Schmidt advised that staff does not recommend a SEQRA determination be issued until the Planning Board has all of the additional information it has requested, in order to fully evaluate any potential traffic-related impacts of the project. Chairperson Schwartz agreed. Mr. Danko asked where the Applicant is in the process with NYSDOT regarding the traffic light improvements proposed at the intersection of Tarrytown Road and Old Kensico Road. Mr. Grealy responded that preliminary plans had been sent to NYSDOT, which issued initial comments, and the Applicant has responded to such comments.

Chairperson Schwartz summarized the additional requests of the Planning Board, stating that a queuing analysis of four (4) additional sites, to be conducted during peak hours for both a Thursday and Saturday, with the four (4) sites being agreed to by the Town's Traffic Consultant, Mr. Canning, be provided. Mr. Gottlieb stated that the project team would seek to obtain and submit the requested data within the next few weeks.

5. **NEW BUSINESS – WORK SESSION**

a. **Case No. PB 23-27** *Guy, 11 Leather Stocking Lane (P.O. White Plains, N.Y.) – Preliminary Subdivision (Initial Conference)*

An initial conference to discuss a potential future Preliminary Subdivision application involving the subdivision of one (1) existing lot into two (2) lots. The property currently contains one (1) existing residence, which is proposed to remain. One (1) new single-family residence would be proposed on the new lot. If the Applicant formally submits a Subdivision application, it is likely that area variances for lot width and the creation of a non-conforming lot would be required. The property consists of approximately 25,696 sq. ft. (0.59 acres) and is situated on the westerly side of Leather Stocking Lane, approximately 100 feet south of the intersection of Leather Stocking Lane and Winnetou Road. 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: 7.340-164-6.

Chairperson Schwartz stated that this project is on for an initial conference, for the Board to get an understanding of the project and to provide initial feedback. Yahaira Colombo, R.A., of Colombo Architectural Studio PC, representing the Applicant, presented the project, involving the potential future subdivision of one (1) existing lot into two (2) lots. She stated that one of the proposed lots would be approximately 75 feet wide, where 100 feet is required, and presented a map showing that the overwhelming majority of lots in the neighborhood have inadequate lot widths of a similar size. She explained that, on Leather Stocking Lane, only two (2) lots are compliant with lot width, and 93% are not. Ms. Colombo stated that, in 1989, a Subdivision application for this lot and the lot to its north was submitted and denied, because the Applicant wanted to subdivide the two (2) lots into a total of five (5). She advised that her proposal would address the lot width concerns of that prior case. Chairperson Schwartz asked if, beyond the lot width issue, any other variances would be needed. Mr. Britton stated that a variance for creating a nonconforming lot would be needed as well. Mr. Golden asked if the lot could be split down the middle, understanding the desire for one conforming lot. Mr. Britton stated that doing so would introduce at least one (1) additional variance to the project. Mr. Simon asked what the average lot width in the area is. Ms. Colombo responded that it is approximately 74 to 75 feet in the vicinity of the subject property, and an analysis could be completed in connection with a formal submission. Chairperson Schwartz requested that the formal submission include depictions of the proposed house, and thanked Ms. Colombo for her presentation.

b. **Case No. TB 23-09** *Accessory Dwelling Unit (ADU) Local Law – Zoning Text Amendment (Town Board Referral)*

A work session to discuss a Zoning Text Amendment (Town Board referral) to regulate and permit Accessory Dwelling Units, pursuant to Section 285-36 of the Town Zoning Ordinance, with related definitions. The Town Board of the Town of Greenburgh finds it desirable to explore allowing accessory dwelling units in one-family residential districts to provide an opportunity for development of rental housing units designed to meet housing needs that include, but are not limited to, single persons, couples, other small households, relatives of existing families within the Town, the young, the elderly, and persons seeking more affordable options. The proposed Zoning Text Amendment would allow for accessory dwellings units in the R-5, R-7.5, R-10, R-15, R-20, R-30, and R-40 Zoning Districts, by Special Permit from the Planning Board.

Chairperson Schwartz reported that the Town Board has declared its intent to serve as lead agency for purposes of SEQRA review of this proposal, and the Planning Board should consider if it has an objection. Mr. Snaggs objected to the Town Board assuming lead agency status, explaining that four (4) members of the Planning Board worked extensively on the draft local law and he considered these

members to be experts on the matter. He opined that the Town Board greatly modified the draft local law, missing some key points made by the Accessible Viable Living Committee (AVL), which prepared the initial draft. Following further discussion, it was agreed to table a vote on if the Planning Board objected to the Town Board assuming lead agency status, to a future Planning Board meeting.

Commissioner Duquesne provided an overview of the draft local law. Chairperson Schwartz noted that an accessory dwelling unit (ADU) would not change the underlying zoning. He added that an objective of the law is to allow people to stay in their homes as they age, instead of being priced out by property taxes. Mr. Golden asked how much it costs to construct an ADU. Ms. Davis noted that constructing an ADU will be a decision of the homeowner, and that this law also provides a path to legalization for any unpermitted ADUs. Mr. Snaggs added that New York State has grants available to assist in building ADUs, up to \$100,000.

Commissioner Duquesne reported that staff contacted several municipalities that have ADU laws in place, and explained their experience indicates that there is not a significant number of ADU applications per year. Mr. Golden questioned the purpose of an ADU law if there are so few applications. He provided Seattle as an example, which permitted ADUs in 2006 and only had about 240 applications through 2019. In 2022, Seattle eliminated the owner-occupied requirement, which has resulted in over 1,000 applications since. Mr. Golden clarified that he did not want ADUs without any restrictions. Chairperson Schwartz stated that if the Town does not regulate ADUs, New York State may mandate and regulate them for the Town.

Ms. Davis expressed concern with Section 14 of the draft local law, which allows the Town Board to set a cap on the number of ADU permits, asking how a cap could be determined. Commissioner Duquesne responded that the intent is for the Town to learn what does and does not work, providing flexibility to react as needed. Ms. Davis felt there should be a fair distribution of ADUs for applicants who desire an ADU. Chairperson Schwartz noted that Section 15 allows the Planning Board to limit ADUs if density becomes an issue.

Ms. Davis opined that constructing new homes with ADUs was not the spirit of the draft law, as it would not help existing homeowners. Mr. Snaggs stated that constructing new homes with ADUs could help make new construction more affordable, as the ADUs could be a source of income. He noted that the draft law is focused on existing residents, while providing options for future growth and development. Chairperson Schwartz added that Section 8 housing and affordable housing set-asides are the only methods the Town has to increase the amount of affordable housing units in the Town, and that permitting ADUs is another tool to increase the potential affordable housing supply.

Mr. Simon stated that he did not understand the logic behind the lot size requirement for the ADUs introduced by the Town Board. Chairperson Schwartz stated that the Town Board's rationalization relates to a concern about density. Mr. Snaggs recited the Zoning Ordinance requirements for a roomer and boarder Special Permit, noting that such a permit already exists and could increase density similarly. Commissioner Duquesne added that a concern of the Town Board is that enlarging a driveway to accommodate an ADU may be out of character with the neighborhood. Chairperson Schwartz stated that such a concern is accounted for in the draft law already. Mr. Golden expressed concern with the discretion afforded the Planning Board by Section 15 and that it is too vague, without objective criteria. He added that the Planning Board would have to conduct site visits for every project where an objection is raised. Chairperson Schwartz noted that the discretion is similar to the SEQRA process, where the Lead Agency reviews the facts of the project and makes an informed determination. Mr. Simon agreed with Mr. Golden and asked how the Board could have more clarity on its requirements. Commissioner Duquesne stated that the alternative to the discretion provided in Section 15 would be to include a hard setback number, which was disfavored, and noted that every ADU Special Permit will involve a public hearing. Ms. Davis asked if the occupants of an ADU can remain in the unit if the property changes hands. Chairperson Schwartz responded that they could until the end of their lease, if the new property owner does not wish to retain an ADU Special Permit.

He scheduled the local law for a public discussion on January 17, 2024 in order to obtain public input before the Planning Board issues its recommendation back to the Town Board.

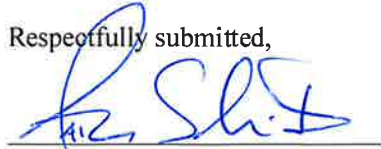
6. **ESTABLISH DATE FOR NEXT MEETING**

The next regularly scheduled meeting of the Greenburgh Planning Board will be held on Wednesday, January 17, 2024, and is scheduled to begin at 7:00 pm.

7. **ADJOURNMENT**

The January 3, 2024 work session of the Town of Greenburgh Planning Board was adjourned at 10:00 pm.

Respectfully submitted,



Aaron Schmidt
Deputy Commissioner,
Department of Community Development and Conservation