



**TOWN OF GREENBURGH
PLANNING BOARD MINUTES
GREENBURGH – NEW YORK
Wednesday – March 6, 2024**

RECEIVED

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**TOWN OF GREENBURGH
DEPARTMENT OF COMMUNITY
DEVELOPMENT & CONSERVATION**

The Work Session of the Planning Board of the Town of Greenburgh began at 7:04 pm on Wednesday, March 6, 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, Thomas Hay (remote participant), Walter Simon, Kirit Desai, Michael Golden, Johan Snaggs, and Aisha Sparks (Alternate Voting Member)

Absent: Leslie Davis

Staff: Aaron Schmidt, Deputy Commissioner, CD&C
Joe Danko, Esq., Town Attorney
Amanda Magana, Esq., First Deputy Town Attorney
Matthew Britton, Planner, CD&C

2. APPROVAL OF MINUTES

Chairperson Schwartz asked if there were any comments on the draft minutes of the February 21, 2024 Planning Board work session. Mr. Simon stated that, in the discussion for Case No. PB 22-07 Chick-fil-A, it should be added that the Applicant's newly submitted data is consistent with industry standards. Mr. Schmidt stated that, in the discussion for Case No. PB 24-05, the words "The Applicant" would be added in front of the Applicant's name, to make it clear who is being referred to. There were no other comments. On a motion made by Mr. Simon and seconded by Mr. Desai, the Planning Board unanimously voted to approve the minutes of the February 21, 2024 work session, as amended.

3. CORRESPONDENCE

a. Letter Regarding Edgemont School District Bond Project

Chairperson Schwartz reported that the Conservation Advisory Council (CAC) issued a letter to the Town Board expressing environmental concerns with the proposed project at Edgemont High School, part of which involves paving a path into a two-lane road through a heavily wooded area. He stated that the area already has stormwater runoff issues, with Crane Pond being affected. Chairperson Schwartz stated that he shared the CAC's concern that the School District has not conducted a comprehensive enough review to address potential environmental impacts. He added that he has concerns about potential traffic issues and, to his knowledge, the School District has not hired a traffic consultant. Chairperson Schwartz stated that the Planning Board is an interested agency and can issue a letter to the lead agency. He indicated that he would like the Planning Board to consider issuing a letter stating that the Board supports the concerns of the CAC and encourages the School Board to study potential environmental and traffic impacts.

Chairperson Schwartz added that the School District desires to construct a new parking lot with access to Ardsley Road at the Seely Place School. He stated that he would like the Planning Board to consider issuing a letter suggesting that a traffic consultant be hired for that project as well.

Ms. Sparks asked if the School District had rejected hiring a consultant. Chairperson Schwartz responded that he was not sure if the School District has rejected it but noted that the bond issue is being rushed to ballot and the School District may hire a consultant after the bond is voted on. Mr. Simon opined that it would be a good idea for the School District to hire a traffic consultant.

On a motion made by Mr. Simon and seconded by Ms. Sparks, the Planning Board unanimously voted to request the Planning Board Chair draft a letter to the Edgemont School Board supporting the Conservation Advisory Council's concerns and suggesting that they hire environmental and traffic consultants, if they have not already done so, with the letter to be reviewed by Planning Board members prior to dissemination.

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), Tree Removal Permit, and Recommendation to the Zoning Board of Appeals*

A continuation of a work session (September 20, 2023, October 4, 2023, November 1, 2023, January 3, 2024, and February 21, 2024) 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 17 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 Planning Board will be considering a recommendation to the Zoning Board of Appeals on the required area variances. The Applicant proposes to remove 16 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, along with supplemental traffic analyses, which have 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 on this project and stated that Mr. Danko would be filling in for her. Chairperson Schwartz stated that the Board has spent a considerable amount of time reviewing the project and felt that the site plan layout could not be adjusted more than it has already. He requested Mr. Schmidt review the revisions to the draft Negative Declaration which was circulated to the Board and the Applicant. Mr. Schmidt stated that the Applicant had some suggested revisions to the draft Negative Declaration, some of which have been incorporated. He reviewed the

revisions, which included: (1) clarifying that the NYSDOT is an involved agency; (2) identifying that the variance associated with the height of the proposed site lighting has been reduced down from 27 feet (initially proposed) to 17 feet (currently proposed); and (3) that the public discussion held by the Planning Board was duly noticed. Mr. Simon suggested that, under Impact on Land, the Traffic Management Plan should specify that it is for internal management. Chairperson Schwartz noted that the Traffic Management Plan also accounts for off-site circulation and suggested adding that the plan is for internal and external traffic management in parenthesis. Mr. Desai noted a typographical error.

Mr. Schmidt continued reviewing the revisions, which included: (4) clarifying that the Applicant's project is under review with the City of White Plains; and (5) adding that the proposed use is permitted by Special Use Permit in the DS District, to the Community Character section. Mr. Simon opined that this section reads that the Traffic Management Plan addresses all potential impacts, though he still has concerns, and felt that a statement related to concern about back-up of vehicular traffic onto Old Kensico Road, should be added. Chairperson Schwartz suggested an inclusion that the site traffic will be monitored in the future.

Mr. Desai asked if the Board should consider a Conditioned Negative Declaration. Chairperson Schwartz noted that traffic design is an art, and traffic will be monitored on an ongoing and as needed basis. He added that the determination of both the Applicant's and the Town's Traffic Consultants is that the site design together with implementation of the Traffic Management Plan, will mitigate off-site impacts and, if it does not, there is an opportunity to correct, which would be a condition of any project approval. Mr. Simon felt that the Negative Declaration should indicate that, despite the agreement of the Town's and Applicant's Traffic Consultants, there remains a concern of the Planning Board about backup of vehicular traffic onto Old Kensico Road and County Center Road. Board members agreed and noted that very stringent conditions would be included as part of any project approval.

Mr. Desai felt that he could not say the project would not significantly impair the character of the community, as community members have made it clear they feel neglected. Charles Gottlieb, Esq., of Whiteman Osterman & Hanna LLP, representing the Applicant, suggested that the Negative Declaration state that the Traffic Management Plan will be incorporated into any approval of the project, noting that the plan would be binding if incorporated as such. Chairperson Schwartz added that the Applicant is improving the intersection of Old Kensico and Tarrytown Road as well. Philip Grealy, P.E., of Colliers Engineering & Design, representing the Applicant, stated that the traffic signal would be fixed, and noted that the Traffic Management Plan was put together due to concerns from the Board and Town Traffic Consultant. Mr. Gottlieb explained that a Conditioned Negative Declaration is primarily used when an Applicant refuses to incorporate mitigation measures into its project, whereas here the Applicant for this project has proposed mitigation measures and agreed to certain conditions on the record. Mr. Golden felt that a Conditioned Negative Declaration was unnecessary for this project, and suggested including under Community Character that the project is not anticipated to significantly impair the character of the community if all improvements are implemented and mitigation measures carried out as part of the Special Use Permit. The Board agreed.

On a motion made by Mr. Snaggs and seconded by Mr. Hay, the Planning Board unanimously voted to issue a Negative Declaration for this project under SEQRA, as amended.

Chairperson Schwartz invited Mr. Schmidt to review the draft recommendation to the Zoning Board of Appeals. Mr. Schmidt reviewed the document, noting that the height variance for the proposed site lighting was reduced to 17 feet and a portion of the last sentence would be removed. Mr. Golden asked why the Applicant reduced the height of the proposed lighting. Mr. Gottlieb responded that the Applicant understood the concerns expressed over the initially proposed height and was able to make an adjustment. Chairperson Schwartz stated that the draft recommendation indicated that, of the twelve (12) area variances requested, eleven (11) are directly related to providing a site layout plan that would maximize efficiency on the site, and seven (7) relate to existing non-conforming

dimensions. He added that the draft recommendation states that the proposed use would be very different from the prior use, from a traffic generation perspective.

On a motion made by Mr. Snaggs and seconded by Ms. Sparks, the Planning Board unanimously voted to issue a neutral recommendation to the Zoning Board of Appeals for all twelve (12) required area variances.

Mr. Schmidt stated that once the project is completed with the Zoning Board of Appeals, if approved, it will be scheduled by the Planning Board for a public hearing.

Mr. Golden requested an update on the status of the project's application with the City of White Plains. Mr. Gottlieb reported that the Applicant has met with the City's Building Department and submitted a pre-application. He noted that, with the issuance of tonight's Negative Declaration, other involved agencies can now issue their determinations.

5. NEW BUSINESS – WORK SESSION

a. Case No. PB 23-24 Lee & Cheng, 260 South Healy Avenue (P.O. Scarsdale, N.Y.) – Wetland/Watercourse Permit and Tree Removal Permit

A work session to discuss a Wetland/Watercourse Permit and Tree Removal Permit application involving the proposed construction of a new single-family home on an existing lot. The Applicant proposes to remove an existing, burnt-out single-family home and construct a new home with related improvements. The Applicant proposes to disturb approximately 3,619 sq. ft. of wetland/watercourse buffer area on the property, associated with an on-site watercourse. The Applicant proposes the removal of one (1) regulated tree, requiring a Tree Removal Permit, and has prepared a landscaping plan providing for the planting of four (4) trees, as replacement. The property consists of approximately 23,339 sq. ft. (0.54 acres) and is situated on the easterly side of South Healy Avenue, approximately 500 feet south of the intersection of South Healy Avenue and Elizabeth Street. 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: 8.290-224-42.

Chairperson Schwartz stated that this project involves the proposed construction of a new house on an existing lot. Mr. Schmidt added that the project was referred to the Conservation Advisory Council, which issued a positive recommendation with conditions about removing invasive plant species and performing test pits for the stormwater detention system. Vageles Sophias, P.E., of Hartland Engineering, representing the Applicant, provided a detailed presentation of the project. He added that test pits have been performed, which revealed shallow rock. Mr. Sophias stated that the stormwater management system was therefore redesigned to include two (2) rain gardens connected to several low-profile detention systems. He explained that runoff from the proposed house would be directed to the rain gardens and runoff from the driveway would be directed to the low-profile detention systems.

Mr. Schmidt asked if the revised stormwater management system has been reviewed by the Town Engineer. Mr. Sophias responded that it has not been yet, as the test pit results only came back yesterday. Mr. Schmidt noted that the plans provide for some new landscaping to be installed, and asked Mr. Sophias to elaborate. Mr. Sophias stated that four (4) trees are proposed to be planted around the rear rain garden. Mr. Golden asked how many trees are proposed for removal. Mr. Sophias responded that one (1) tree is proposed for removal. Mr. Golden asked if there is a way to preserve the tree, noting that it is the largest tree on the property, based on his site inspection. Mr. Sophias responded that the tree is too close to the proposed house. Mr. Schmidt added that the critical root zone likely would be severely damaged by demolition and construction activities.

Mr. Desai suggested the Applicant consider modifying the footprint of the proposed house to preserve the tree. Chairperson Schwartz asked if blasting or chipping of rock would be required as part of the project. Mr. Sophias responded that he would have to defer to the construction team, but any rock removal required would be in accordance with Town requirements. Chairperson Schwartz stated that

he would like to know if rock removal will be part of the review process, expressing concern that, if a full basement is proposed, it likely will require the removal of a large quantity of rock, which the Board will want to be aware of and evaluate. Mr. Schmidt asked if borings had been conducted in the vicinity of the proposed house. Mr. Sophias responded that they have not but stated that the rock is likely shallow throughout the site. Chairperson Schwartz suggested that borings be completed in the vicinity of the proposed house. Mr. Hay asked if the existing house has a basement. Mr. Sophias responded that he would check and report back to the Board. He stated that he will bring the rock removal issue to the attention of the owner and return to the Board with more information about the anticipated amount of rock removal and method to be utilized. Mr. Schmidt suggested submitting the revised stormwater management plan to the Town Engineer for comments and requested that the Applicant notify staff when it is ready to come back before the Board.

6. OLD BUSINESS – WORK SESSION (continued)

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

A continuation of a work session (January 3, 2024, January 17, 2024, February 7, 2024, and February 21, 2024) to consider 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 Use Permit from the Planning Board.

Chairperson Schwartz stated that the accessory dwelling unit (ADU) local law was drafted by the Accessible Viable Living Committee (AVL) to help provide more affordable housing opportunities in the Town. He indicated that the Town Board referred a modified ADU local law which contains additional restrictions on minimum lot size, which are opposed in the Planning Board's draft recommendation up for consideration this evening. Chairperson Schwartz stated that he would like to add the local law history to the recommendation. Mr. Golden suggested putting it as a footnote to the recommendation on eliminating the lot size minimums. Mr. Snaggs suggested an alternative, including it earlier in the recommendation when the Planning Board first received the draft local law. Chairperson Schwartz opined that including both would be good.

Mr. Schmidt reviewed the draft recommendation. Chairperson Schwartz stated that the recommendations have been separated to identify those that are considered non-negotiable by the Planning Board. Mr. Schmidt explained that the draft recommendation was prepared as a conditional positive recommendation, where if the top three (3) recommendations on removing the lot size requirements and the parking requirement adjustment were not implemented, the Planning Board's recommendation would be a negative recommendation. Chairperson Schwartz felt that the modified parking language recommendation should not be included with the lot size minimums recommendations. Mr. Desai expressed some concern with the parking requirement. Mr. Snaggs stated that the requirement has been discussed at length and is designed to accommodate as many people as possible. He recommended that the parking recommendation be moved to the additional recommendations section of the draft recommendation. The Board, with the exception of Mr. Golden, agreed.

Chairperson Schwartz asked the Board for its opinion on a distance separation between ADUs. Mr. Desai opined that the ADU local law should not require a set distance separation. Mr. Golden declined to give an opinion, stating he is opposed to ADUs. Mr. Snaggs agreed with Mr. Desai. Ms. Sparks also felt there should not be a distance separation. Mr. Hay stated that he was previously in favor of a separation but did not feel strongly about it now. Mr. Simon opined that he would prefer to defer

the issue to after the first year of the local law implementation and review it then. Chairperson Schwartz and Mr. Snaggs agreed.

Mr. Desai felt that legalizations of existing ADUs should not count against the recommended 25 per year application cap being recommended by the Planning Board, and that large developments be permitted to include ADUs as part of their application, also not counting against the cap. Chairperson Schwartz agreed, and felt that there should be a one (1) year legalization sunset provision, where owners of existing ADUs may legalize through the Building Department. Mr. Hay agreed. Mr. Golden suggested giving two (2) years to legalize the ADUs through the Building Department. Chairperson Schwartz felt that was too long, and suggested that a year be given initially, with an extension considered after the first year.

Chairperson Schwartz opined that adding ADUs to new construction would be easy, and asked the Board how large of a new development should be required before ADUs are able to be integrated into the application. After discussion, the Board agreed that, for new construction, one third of the houses being constructed may apply for an ADU without counting against the recommended cap.

Mr. Hay expressed concern with the conditional positive nature of the draft recommendation, feeling that it could put the law in jeopardy of not passing. Ms. Magana noted that the local law would need a supermajority of the Town Board to pass it, if the first two (2) recommendations were not implemented resulting in a negative recommendation. Mr. Snaggs stated that the draft Local Law the Planning Board received was not what the AVL had drafted, and the Planning Board's recommendations are to make it clear that the lot minimums were not part of the initial law put forth by the AVL, but indicated he did not feel comfortable with requiring a supermajority to pass an ADU local law. Chairperson Schwartz suggested removing the conditional aspect of the recommendation and clarify that the Planning Board is vehemently opposed to the lot size requirements, and inclusion of such requirements significantly impair the spirit and effectiveness of the law. Ms. Magana suggested listing those two (2) recommendations as crucial recommendations. Chairperson Schwartz directed staff to update the draft report to be consistent with the amended recommendation.

On a motion made by Mr. Simon and seconded by Ms. Sparks, the Planning Board, with six (6) in favor and one (1) opposed, voted to issue a positive recommendation to the Town Board on the draft ADU local law, as amended.

On a motion made by Mr. Snaggs and seconded by Ms. Sparks, the Planning Board, with six (6) in favor and one (1) opposed, voted to issue a report to the Town Board on the draft ADU local law, as amended.

Mr. Golden opposed both motions, noting that he is not in favor of ADUs in the Town.

7. **ESTABLISH DATE FOR NEXT MEETING**

The next regularly scheduled meeting of the Greenburgh Planning Board will be held on Monday, March 18, 2024, and is scheduled to begin at 7:00 pm.

8. **ADJOURNMENT**

The March 6, 2024 work session of the Town of Greenburgh Planning Board was adjourned at 9:20 pm.

Respectfully submitted,


Aaron Schmidt
Deputy Commissioner,
Department of Community Development and Conservation