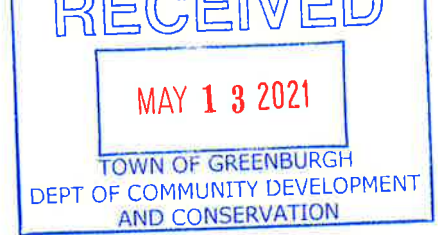


**TOWN OF GREENBURGH  
PLANNING BOARD MINUTES  
GREENBURGH – NEW YORK  
Wednesday – April 21, 2021**



The Work Session of the Planning Board of the Town of Greenburgh began at 5:02 pm on Wednesday, April 21, 2021, online via Zoom-enabled Video Conference.

**1. ROLL CALL & ANNOUNCEMENTS**

Present: Chairperson Walter Simon, Hugh Schwartz, Kirit Desai, Mona Fraitag, and Thomas Hay

Absent: Michael Golden and Johan Snaggs

Staff: Aaron Schmidt, Deputy Commissioner, CD&C  
Garrett Duquesne, AICP, Commissioner, CD&C  
David Fried, Esq., 1<sup>st</sup> Deputy Town Attorney  
Matthew Britton, Assistant Planner, CD&C

**2. APPROVAL OF MINUTES**

Chairperson Simon asked if there were any comments to the draft minutes of April 7, 2021. Mr. Hay requested a minor language correction to page 7, to add the word “additional” before bollard lighting, as some bollard lights already had been proposed. Ms. Fraitag noted that that minutes did not mention her request for additional ADA parking spaces in the southern lot, and requested that be added. Mr. Schmidt stated that these corrections would be made.

On a motion made by Chairperson Simon and seconded by Mr. Hay, the Planning Board, by a count of four (4) in favor and with one (1) abstention, approved the minutes of the April 7, 2021 meeting, as amended. Mr. Schwartz abstained, noting he was not present at this meeting.

**3. CORRESPONDENCE**

**a. Planning Board Agenda Items**

Chairperson Simon announced that there would be no public hearing for Case No. PB 21-01 Chung & Wong, 18 Mount Pleasant Lane, P.O. Irvington, N.Y., as the applicant did not mail the public notice to its neighbors, as required by Town Code. He stated that the matter would be heard at the May 5, 2021 Planning Board meeting.

Chairperson Simon reported that he was considering having a work session and public hearing for Case No. PB 21-06 Essential Jiu Jitsu, 10 County Center Road, P.O. White Plains, N.Y. at the next Planning Board meeting. The project involves a special use permit and may require a shared parking reduction, associated with an indoor commercial recreation facility that seeks to relocate from its current location on East Hartsdale Avenue. He asked if there were any objections to holding the work session and public hearing on the same evening. There were none.

**b. Case No. PB 21-02 Patel, 25 Bayberry Road (P.O. Elmsford, N.Y.) – Minor Project Wetland/Watercourse Permit**

Chairperson Simon explained that, previously, the Planning Board has turned over minor project wetland/watercourse permit applications to the Town Wetlands Inspector, for decision, as permitted by the Town Code. He asked Mr. Britton to describe the application.

After Mr. Britton described the project as a minor project wetland/watercourse permit for a proposal consisting of the construction of a new front porch with roof, and first and second floor additions, with related improvements, Ms. Fraitag reported that she had visited the site and felt it should be turned over to the Town Wetlands Inspector, based on the minor nature of the proposal and the highly unlikely impact to the on-site watercourse. Mr. Hay and Mr. Schwartz agreed. Mr. Desai asked if the Building Department has reviewed the project. Mr. Schmidt responded that the Building Department



advised there were no variances required as part of this application, and noted that any determination by the Town Wetlands Inspector would include conditions to ensure conformity with Town regulations.

On a motion made by Mr. Schwartz and seconded by Mr. Desai, the Planning Board unanimously voted to waive jurisdiction, and to turn the matter over to the Town Wetlands Inspector for decision.

c. **Case No. PB 16-25** Teverbaugh Subdivision, *Woodlands Avenue North (P.O. White Plains, N.Y.) – Preliminary Subdivision 1<sup>st</sup> Extension Request*

Chairperson Simon stated that the applicant has requested a 90-day extension of its preliminary subdivision approval. He stated that it is common procedure for the Planning Board to grant such requests.

On a motion made by Chairperson Simon and seconded by Mr. Golden, the Planning Board unanimously voted to grant a 90-day extension of the preliminary subdivision approval, valid through August 2, 2021.

Following the vote, the Planning Board asked staff to prepare a memorandum to the Town Board recommending that it consider amending the Code to permit a 180-day extension of a preliminary subdivision approval, versus two (2) 90-day extensions, as currently permitted.

4. **OLD BUSINESS**

a. **Case No. PB 19-03** BMR-Ardsley Park, *410-460 Saw Mill River Road (P.O. Ardsley, N.Y.) – Final Subdivision, Planning Board Steep Slope Permit, and Tree Removal Permit*

A work session to consider the decision of a final subdivision, Planning Board steep slope permit, and tree removal permit application for a proposal consisting of the subdivision of an existing campus (formerly Ciba Geigy and currently Acorda Therapeutics, Inc.) consisting of two (2) building lots, into a total of (3) three building lots, together with various site improvements, including: (1) the proposed enhancement of surface parking areas on proposed Lot 1; (2) the proposed relocation of surface parking from proposed Lot 2 to proposed Lot 1; and, (3) the addition of landscaping, sidewalks, retaining walls, and pervious pavement. The applicant proposes 156,128 sq. ft. on 15-25% slopes (STEEP SLOPES), 25,479 sq. ft. on 25-35% slopes (VERY STEEP SLOPES) and 8,537 sq. ft. on 35%+ slopes (EXCESSIVELY STEEP SLOPES). The project involves approximately 14,000 cubic yards of excavation and 0 cubic yards of imported fill. The applicant proposes the removal of thirty (30) regulated trees, requiring a tree removal permit from the Planning Board. The applicant will plant a total of 10 Sugar Maple trees, 10 River Birch trees, 6 Black Tupelo trees, and 4 Red Oak trees, as replacements. On November 13, 2019, the Town Board granted amended site plan approval in connection with the project (TB 19-05). On September 19, 2019, the Zoning Board of Appeals granted one (1) area variance required in connection with the project, to reduce the minimum lot width of Lot 3 from 200 feet (required) to 40 feet (approved). The properties consist of approximately 1,856,3161 sq. ft. (42.82 acres) and are situated on the easterly side of Saw Mill River Road approximately 1,700 ft. south of the intersection of Saw Mill River Road and Lawrence Street. The properties are located in the GI General Industrial District, and are designated on the tax map of the Town of Greenburgh as Parcel ID: 8-430-305-7, 8-500-350-3 & 8-500-350-4.

Following Mr. Britton's summary of the project and mention of the draft decision prepared for the Board's consideration, Mr. Schwartz asked if the final subdivision plat is the same as the preliminary subdivision plat. Mr. Britton confirmed that it is.

On a motion made by Mr. Schwartz and seconded by Mr. Hay, the Planning Board unanimously voted to waive the public hearing requirement on the final subdivision application.



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

On a motion made by Ms. Freitag and seconded by Mr. Schwartz, the Planning Board unanimously voted to approve the steep slope permit application.

On a motion made by Mr. Desai and seconded by Ms. Freitag, the Planning Board unanimously voted to approve the tree removal permit application.

Thereafter, Chairperson Simon asked the applicant's representative, Ms. Jennifer Gray, Esq., of Keane and Beane, P.C., what the effects on the viability of the site would be, if it had been rezoned to "Research and Development (R&D) Cluster South" as recommended in the Comprehensive Plan. Ms. Gray replied that the site would have to comply with zoning requirements, and if it had been rezoned, the site could host a Biotech company. Mr. Schwartz stated that being rezoned R&D Cluster South likely would not preclude development other than R&D, though it could result in the granting of a density bonus if a proposed development were R&D or closely related to R&D. Chairperson Simon stated that a rezoning could grant greater flexibility, in terms of development potential, for the applicant, and asked Ms. Gray to inform her client of this and provide feedback to the Board. Ms. Gray thanked Chairperson Simon and said she would do so.

b. **Case No. PB 20-25** *Correia, 5 Teramar Way (P.O. White Plains, N.Y.) – Planning Board Steep Slope Permit and Tree Removal Permit*

A work session to discuss the decision of a Planning Board steep slope permit and tree removal permit application involving the proposed construction of a new single-family home, with related improvements. The project site previously contained a single-family residence, which was demolished by the Town in 2017. The applicant is proposing to utilize the existing curb cut for the driveway to the new residence. The applicant proposes approximately 3,339 sq. ft. of disturbance to 15- 25% slopes (STEEP SLOPES), approximately 2,375 sq. ft. of disturbance to 25-35% slopes (VERY STEEP SLOPES), and approximately 310 sq. ft. of disturbance to 35%+ slopes (EXCESSIVELY STEEP SLOPES). The applicant is proposing the installation of ten (10) Cultec 330XL units to handle stormwater runoff created by new impervious surfaces. The project requires approximately 292 cubic yards of excavation and approximately 30 cubic yards of imported fill. The applicant proposes the removal of 13 regulated trees, requiring a tree removal permit, and has prepared a landscaping plan calling for the planting of 13 trees, as replacement. The property consists of approximately 10,340 sq. ft. (0.24 acres) and is situated along the north side of Teramar Way, approximately 180 feet from the intersection of Teramar Way and Fair Street. 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: 8.20-19-23.

Following Mr. Britton's summary of the project and mention of the draft decision prepared for the Board's consideration, Chairperson Simon identified a site specific condition on page four requiring a decorative fence atop the rear retaining wall. He asked if there were any comments. There were none.

On a motion made by Mr. Schwartz and seconded by Mr. Hay, the Planning Board unanimously voted to classify the proposed action as a Type II action, under SEQRA.

On a motion made by Ms. Freitag and seconded by Mr. Desai, the Planning Board unanimously voted to approve the steep slope permit application.

On a motion made by Ms. Freitag and seconded by Mr. Desai, the Planning Board unanimously voted to approve the tree removal permit application.



c. **Case No. PB 20-16** Captain Lawrence, 444 Saw Mill River Road (P.O. Elmsford, N.Y.) – Amended Site Plan, Planning Board Steep Slope Permit, and Tree Removal Permit

A continuation of a work session (April 7, 2021) to discuss an amended site plan, Planning Board steep slope permit, and tree removal permit application involving the proposed construction of an approximately 15,166 sq. ft., 36 space parking lot area. The applicant's proposal would increase the total number of off-street parking spaces on the site from 180, to 216. The applicant is proposing a new curb cut on Clearbrook Road to access the proposed parking area, along with a stairwell leading from the proposed parking lot to an existing parking area. The applicant proposes approximately 16,836.6 sq. ft. of disturbance to 15- 25% slopes (STEEP SLOPES), approximately 5,209.6 sq. ft. of disturbance to 25-35% slopes (VERY STEEP SLOPES), and approximately 322.6 sq. ft. of disturbance to 35%+ slopes (EXCESSIVELY STEEP SLOPES). The project requires approximately 2,272 cubic yards of excavation and approximately 949 cubic yards of imported fill, requiring a fill permit. The applicant proposes the removal of 53 regulated trees, requiring a tree removal permit, and has prepared a preliminary landscaping plan calling for the planting of 23 trees and 22 shrubs, as replacement. The proposal would increase impervious surface coverage from 55.5% to 59.2%. The applicant is proposing the installation of 44 Cultec 330 XLHD chambers to handle the additional runoff from new impervious surfaces. The property consists of approximately 393,153 sq. ft. (9.03 acres) and is situated along the east side of Saw Mill River Road (Route 9A), at the intersection of Saw Mill River Road and Hunter Lane. The property is located in the PD Nonresidential Planned Development District and is designated on the tax map of the Town of Greenburgh as Parcel ID: 7.120-17-1.

After Mr. Britton summarized the project, Chairperson Simon commended the applicant for addressing many of the items raised at the April 7, 2021 work session. He noted that there has been a comment related to the siting of ADA spaces, and asked the applicant's representative to discuss the revisions to the project.

Mr. Pietro Catizone, PE, of Catizone Engineering, representing the applicant, stated that, as the Board felt more lighting would be beneficial along the proposed stairwell, two additional bollard lights were added to the plans. Mr. Schwartz asked if the bollard lights would fully light the stairs going down. Mr. Catizone responded that the bollards are intended to light the stair treads. Mr. Desai asked what the height of the bollard lights would be. Mr. Catizone stated that they would be about 42-inches in height. Mr. Desai recommended installing the lights at the beginning and ends of the stairs. Mr. Catizone explained that the lighting from the bollards would be focused on the stairs. Mr. Schwartz expressed concern that people walking down the stairs could block the light from the bollards, resulting in a potential safety issue, if multiple people were to be using the stairwell at the same time. Mr. Catizone stated that some kind of overhead lighting, similar to what is proposed for the parking lot, could be utilized for the stairs. Mr. Schwartz suggested that the applicant speak with its lighting engineer on options, and that a condition in any decision emphasize the importance of the proper lighting.

Mr. Catizone stated that the applicant had an arborist analyze the trees on-site and work with the Town arborist to complete the tree removal permit application. He stated that the plans have been revised to place trees towards the lower, existing lot. He explained that the landscaping plan is subject to slight modification as the layout of the trees is adjusted. Mr. Schmidt reported that the applicant has been working with Town staff on its landscaping plan, and expected it to be completed prior to a public hearing being held by the Board.

Mr. Catizone stated that a portion of the stone wall along Clearbrook Road is proposed to be removed and the rest of the stone wall would be cleaned up by putting back some stones that have been dislodged and clearing overgrowth from the wall. Mr. Catizone reported that the applicant is open to





requiring employees to park at the southern lot, and added that, if the proposed parking lot is very busy, employees could be used to appropriately direct traffic.

Ms. Fraitag expressed concern with the ADA space next to the proposed stairwell in the existing parking lot, explaining that a customer parking there would have to cross the parking lot entrance to get to the building from that space. Mr. Catizone responded that the applicant would shift this space to a more acceptable location. Chairperson Simon asked how ADA customers in the front lot would enter the building. Mr. Catizone identified an existing ramp on the plans. Mr. Scott Vaccaro, owner of Captain Lawrence Brewing Company, applicant for the project, explained that customers parking in that area do not usually patronize Captain Lawrence. Mr. Desai asked if the project site meets ADA requirements. Chairperson Simon confirmed that it would, due to the additional ADA spaces being added, at the request of the Board.

Chairperson Simon summarized the outstanding issues: 1) provide a type of lighting that would cover steps and landing; 2) update the landscaping plan; and 3) provide a new location for one ADA parking space so that patrons would not have to cross the driveway entrance. Chairperson Simon stated that the applicant should communicate with Mr. Schmidt on its revisions, and once Mr. Schmidt reports that he has all the requested information, the matter will be scheduled for a public hearing. Mr. Catizone stated that the applicant will be able to submit this information quickly. Chairperson Simon reiterated that once the material is received, a public hearing would be scheduled, hopefully in May.

5. **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 21-01** Chung & Wong, 18 Mount Pleasant Lane (P.O. Irvington, N.Y.) – Planning Board Steep Slope Permit and Tree Removal Permit

A public hearing to discuss a Planning Board steep slope permit and tree removal permit application involving the proposed construction of a new in-ground pool and spa, with related improvements. The applicant is proposing the construction of a new in-ground pool, with a spa contained within the pool structure, as well as decking and a pathway leading to the house. The applicant is proposing the addition of two (2) Cultec 150XLHD units to handle stormwater runoff created by new impervious surfaces. The applicant proposes approximately 1,586 sq. ft. of disturbance to 15- 25% slopes (STEEP SLOPES), approximately 0 sq. ft. of disturbance to 25-35% slopes (VERY STEEP SLOPES), and approximately 130 sq. ft. of disturbance to 35%+ slopes (EXCESSIVELY STEEP SLOPES). The project requires approximately 275-300 cubic yards of excavation. 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 6 trees and various shrubs, as replacements. The property consists of approximately 20,051 sq. ft. (0.46 acres) and is situated along the east side of Mount Pleasant Lane, approximately 600 feet from the intersection of Mount Pleasant Lane and Pine Lane. 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: 7.360-185-10.

*Chairperson Simon stated that, as the applicant did not mail out the notices as required by the Town Code, so this public hearing is not being heard, and has been rescheduled to the May 5, 2021 Planning Board meeting.*

6. **NEW BUSINESS**

a. **Case No. PB 20-15** Gjonbalaj, 14 Rock Hill Lane (P.O. Scarsdale, N.Y.) – Planning Board Steep Slope Permit and Tree Removal Permit



A work session to discuss a Planning Board steep slope permit application involving the proposed demolition of an existing guest house and stairway, and the proposed construction of a pool, pool patio with a cabana, a basement addition with a terrace above, a deck, a driveway expansion, and related improvements. The applicant is proposing the addition of three (3) rain gardens to handle the additional runoff created by impervious surfaces. The applicant proposes approximately 2,122 sq. ft. of disturbance to 15- 25% slopes (STEEP SLOPES), approximately 1,617 sq. ft. of disturbance to 25-35% slopes (VERY STEEP SLOPES), and approximately 3,247 sq. ft. of disturbance to 35%+ slopes (EXCESSIVELY STEEP SLOPES). The project requires approximately 218 cubic yards of excavation. The project requires the removal of six (6) regulated trees, requiring a tree removal permit, and the applicant has prepared a landscaping plan calling for the planting of 20 trees and various shrubs, as replacements. It is noted that the Planning Board issued a steep slope permit on March 29, 2018 (Case No. PB 17-23) involving a similar proposal at the site. The property consists of approximately 42,644 sq. ft. (0.98 acres) and is situated along the east side of Rock Hill Lane, at the start of the cul-de-sac. The property is located in the R-20 One-Family Residence District and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.350-252-54.

After Mr. Britton introduced the project, Mr. Michael McGarvey, P.E., the applicant's representative, provided a brief history of the project, stating that the applicant was granted prior approval in an earlier case (PB 17-23), though the actual work conducted on the site following approval was performed by a contractor, without official permission from the owner or with the issuance of a building permit. After a stop work order was issued, the owner decided to make some modifications from the approved plan.

Mr. Luigi Landi, R.L.A., representing the applicant, presented an overview of the current project, involving the proposed demolition of an existing guest house and stairway, and the proposed construction of a pool, pool patio with a cabana, a basement addition with a terrace above, a deck, a driveway expansion, and related improvements. Mr. Schwartz asked how wide the new driveway is proposed to be, noting that the curb cut on the drawing shows a width of 42 feet, where 20 feet is the maximum permitted. Mr. McGarvey replied that the actual proposed width of the driveway is 20 feet and it flairs out to 42 feet, though he acknowledged this is not permissible and would be corrected. Mr. Schwartz asked what the slope of the new driveway would be. Mr. Landi responded that he was unsure at this time. Mr. Schwartz asked how the runoff from the driveway, which would appear to slope down towards Rock Hill Lane, would be captured and treated. Mr. McGarvey responded that runoff from the front of the house would be captured and sent to the rain gardens in the rear. Mr. Schwartz noted that runoff from the proposed driveway expansion does not appear that it would be captured by that system. Mr. McGarvey responded that the site meets NYSDEC standards for stormwater runoff. Mr. Schwartz and Chairperson Simon suggested adding a drain at the end of the proposed driveway expansion. Mr. McGarvey stated that he would discuss this with the property owner. Mr. Schwartz suggested using a Cultec drywell unit or permeable pavers, to address the runoff from the proposed driveway.

Mr. Landi continued presenting the applicant's proposal. Mr. Hay recalled that discussion during the prior application included concerns about the size, length, and materials of the proposed wall, as well as neighbor's views. Mr. McGarvey responded that the neighbor would see the wall only above grade. Mr. Landi stated that the wall would be most visible at the end, around the stairs. Mr. Desai asked how tall the wall would be along the south side. Mr. Landi responded that the proposed wall varies in height, and would be as high as twelve feet. Mr. Desai asked what finish would be on the wall. Mr. Landi replied that it would be a stone veneer. Chairperson Simon asked if the wall would have a fence atop it. Mr. McGarvey confirmed that it would.

Mr. Daniel Sherman, project landscape architect, presented the applicant's landscaping proposal, which includes a mixture of trees and shrubs. Mr. Sherman indicated that the proposed driveway



would be able to be situated between the trees in the front yard. Mr. Schmidt explained that the Town would have to confirm that the trees' critical root zones would be protected, as per Town Code. Mr. Desai asked if there would be lighting in the pool area. Mr. McGarvey responded that he was unsure and he would check with the owner. Mr. Hay requested a view from the backyard of what the proposed project looks like. Mr. Landi stated that he would prepare a rendering. Ms. Fraitag asked if the applicant had spoken with neighbors about the project. Mr. McGarvey responded that it had not done so.

Chairperson Simon stated that the applicant should remain in contact with Mr. Schmidt and submit the requested information, after which it will be determined if another work session is required, or if the project can move on to a public hearing.

b. **Case No. TB 21-04** Chapter 285 – Battery Energy Storage System Facilities – *Zoning Text [Local Law] Amendment (Referral from Town Board)*

A work session to discuss a zoning text [Local Law] amendment referral from the Town Board related to Battery Energy Storage System (BESS) facilities. The local law would create a special permit and related processes for BESS facilities, as a newly defined use, applicable in various Zoning Districts of the Town, using a Tier-based system for differently scaled systems. The proposed amendments would also make modifications to clarify aspects of § 285-10A(4)(b) Public Utility Structures. The Town-initiated local law was prepared with guidance from a Town Board-appointed BESS Committee, and was referred on April 14, 2021.

Chairperson Simon introduced Commissioner Duquesne to summarize the draft local law noting that Planning Board members would be asked to review and consider the draft local law and come up with questions over the next two weeks. He requested that Planning Board members send their questions to Commissioner Duquesne for him to respond to, in order to limit the amount of repeat questions at the next Board meeting. Commissioner Duquesne's remarks are as follows:

"Hello Chairperson Simon and Planning Board members. Thank you for the opportunity to present a Battery Energy Storage System draft local law, which also includes modifications to the utility portion of the Zoning Ordinance in the One-Family Residence Districts. I'm going to give an overview of the law, and the process leading to its formation, and am available to answer your questions.

- I know Planning Board members closely reviewed the Knollwood Country club proposal, and made site visits to a few smaller BESS sites in the Town, so you have developed some BESS knowledge base prior to reviewing the draft local law, which is certainly helpful.
- I worked directly with the Town Board appointed Battery Energy Storage local law committee, comprised of residents, which also included Planning Board and CAC members.
- Since the formation of the Committee late January of this year, the committee met a minimum of once weekly and a total of 11 times.
- Collectively, it was recognized that: - Battery storage has been identified by NYS as an important energy infrastructure component, as energy demand continually increases placing stress on the existing electrical grid, with planned reliance on power from fossil fuels decreasing over time. - BESS is being promoted with significant infrastructure funding from NYS (over \$350 million) and as a result proposals for these systems will be prevalent in the Town of Greenburgh and other NYS municipalities.
- The following sources are among those that contributed to the local law draft:
  - questions and concerns received from residents regarding BESS,
  - interview and Q&A with representatives of Arup Engineering (now contracted as the Town's safety engineer associated with the local law),



- review of the NYSERDA (New York State Energy Research and Development Authority) template BESS local law and guidebook,
- an interview of a representative from NYSERDA,
- interviewing a representative from Con Edison's Energy of the future division,
- review of various BESS sites existing and approved in NYS,
- interview with Ardsley School District Facilities manager regarding their experience with a BESS proposal
- meeting with and discussing various safety aspects of BESS facilities with ARUP,
- interview and Q&A with BESS industry developers and conducting independent review of numerous other BESS documentation.
- review of relevant portions of the Town of Greenburgh Comprehensive Plan
- Comprehensive review and discussion of all these documents by the BESS Committee.

A guiding principle of the Committee is as follows: There is a need to place safety considerations and community character at the forefront of planning, when considering land use and zoning considerations for BESS, while recognizing local and regional sustainability and energy resiliency goals.

- Greenburgh is unique from a BESS perspective. There exists miles of Con Edison distribution lines, two Con Edison substations, and two Con Edison transmission lines across the unincorporated area of the Town's 18-square miles.
- While this various existing Con Edison infrastructure could facilitate massive numbers of BESS sites of varying scales throughout the Town, the local law has been drafted to: - Ensure comprehensive and stringent standards from a safety perspective - Allow for very limited applicability in the one-family residence districts. - Allow for small scale installations in the Town's mixed-use corridors and nonresidential zoning districts. - Facilitate installations that will not be heard or seen from sensitive viewsheds, namely existing residential uses
- While a conservative approach has been taken with respect to the local law and related potential BESS development in the Town the law does recognize the unique infrastructure that exists, and would provide for some BESS development in the Town which would align with NYS's overall goal of 1,500 MW by 2025 and 3,000 MW by 2030.
- Utilizing the NYSERDA local law template as a guide, and factoring in the information collected as part of the process, the draft contains the following, constituting an outline of the Greenburgh BESS law:
- 3 tiers or categories of BESS
  - Tier 1 includes those small scale systems that many Town residents have already had installed in their homes. The BESS power-pack installed in one-family residential homes are an example. Tier one systems are those that have an aggregate energy storage capacity less than or equal to 75kWh. The process for these systems is no different than currently exists, administrative, requiring a Building Permit and any other applicable permits.
  - Tier 2 Battery Energy Storage Systems have an aggregate energy storage capacity less than or equal to 2,400kWh. Displayed on the screen is an example of a system that is slightly smaller than this size, at 2,380kWh. These systems would be subject to a special permit and site plan process. Sites with a minimum of almost 2-acres (80,000 sq. ft.) in the Town's commercial/mixed-use districts would be eligible to apply for a BESS not to exceed 2,400kWh. This minimum site size was selected as these sites contain larger footprints with greater flexibility to meet the 100 ft. property line setback. These types of larger sites (think Crossroads Shopping Center, Westchester Square Shopping Center) have larger energy demands and are more likely to be retrofitted with electric vehicle charging stations. The minimum site size requirement creates a limited pool of sites in the CA, DS, UR and other mixed-use districts, which have been mapped by Town staff and identified by applicable Fire District. While the sites in these districts could likely facilitate much larger BESS systems, from a neighborhood character perspective, the smaller system 2,400 kWh





maximum was deemed important and carries through in the law. Tier 2 systems in the GI, LI, PD and PED Districts are also subject to a special permit and site plan process but due to their general lack of proximity to one-family residences, can be up to 4,800 kWh systems. An additional 300 ft. requirement from the nearest one-family residence would apply for these districts, when a system is proposed to exceed 2,400 kWh. Tier 2 BESS systems would have limited applicability in the One-Family residence districts. These systems, not to exceed a 2,400 kwh system, would be subject to a special permit and site plan process only on sites that are at least 5-acres in size and containing an existing approved municipal building, government use, building of religious worship, private school, hospital, Assisted living facility, Continuing Care Retirement Community, or Continuum of Care Facility. All tier 2 systems, regardless of size, would be screened from view and would be required to be at least 100 ft. from all property lines.

From a safety perspective, I'd like to highlight several aspects of the draft local law as compared to the NYSERDA law:

- NYSERDA recommends defaulting to the underlying setbacks of the applicable zoning district for BESS setbacks, which can range from as low as 50 ft. or less in the Towns nonresidential districts. The draft local law sets the minimum setback as 100 ft.
- NYSERDA recommends a minimum of 10 ft. separation from existing buildings. The draft local law sets the minimum setback as 100 ft., which can be reduced only if the Hazard Mitigation Analysis identifies safe conditions exist.
- NYSERDA does not reference a traffic safety circulation plan; this requirement has been established and is a part of the local law.
- NYSERDA contains not maximum size allowance provisions; the local law allows for a maximum of 2,400 kWh.
- Based on the Town's use of a professional Consultant, that advised the Committee, the local law additionally cites the: - NFPA 855: Standard for the Installation of Stationary Energy Storage Systems; - requirement for applicant funded independent engineer review; - Requiring applications include a copy of the UL 9540 listing; - Requiring additional information on system monitoring. - The adequacy of the safety protection is required to be certified and updated annually.
- As noted prior, the Town is unique in that it contains two existing Con Edison substations. One is located in the Village of Elmsford, on Rt. 119 (Tarrytown Road); and the other is located in the Tarrytown P.O., located adjacent to the Saw Mill River Parkway, south of Old Saw Mill River Road. Recognizing the importance of the potential for a BESS connection from these sites, but similarly placing safety and neighborhood character at the forefront of planning, the local associated with the substations is as follows: - A maximum of one Tier 3 BESS (not to exceed 80MWh) can be installed per substation (for a maximum of two total in the Town), if approved via the special permit and site plan process. - The host site must be within 3,000 linear ft. of the substation, and at least 25 acres if containing an existing use to remain, or ten acres if proposed on a stand-alone subdivided lot. These limiting criteria reduce the pool of available sites to one private recreation site, one institutional use site, and a few industrial/Research & Development sites. - An additional 500 ft. setback from the nearest one-family residential structure is required. - Provisions identifying a preference for underground lines and a minimization of tree removals - Systems equal to or exceeding 80MWhs are expressly prohibited in the local law.
- With respect to the Comprehensive Plan, and particularly regarding utilities, the plan identified that no zoning text amendments are recommended other than as may be needed to address advances in technology. I believe that the approach of the local law, which places safety considerations and neighborhood character as the primary aspects of the law, is well balanced with the Towns overall commitment to environmental sustainability, which is also a major component of the Comprehensive Plan.”



Chairperson Simon noted that, although districts named as single-family zones implies that only homes could be built within those districts, in reality, many other facilities such as religious uses, schools, and government uses, also are permitted. Mr. Desai asked how this local law relates to the Planning Board appeal of the Building Inspector's determination on BESS facilities. Mr. Schwartz responded that, if the Zoning Board of Appeals (ZBA) decides in favor of the Planning Board, the applicant would be able to reapply under the new law. If, however, the ZBA upheld the Building Inspector's determination, Mr. Schwartz suggested that the Town Board could include within the conditions of a special permit decision several parameters of the local law.

Chairperson Simon opined that the issue with the current language in the Code pertained to a special permit use is a lack of clear standards, which could result in someone applying for a BESS facility at a site that is not as conducive or compatible for a BESS as other sites. Mr. Schwarz noted that the newly proposed local law aims to mitigate fire safety issues with BESS facilities while still striking a balance. He stated that the law goes beyond what NYSERDA recommends and limits large facilities because their fire safety impact is not fully understood and may not be able to be sited to provide adequate setbacks. Mr. Schwartz pointed out that the proposed local law does three things: 1) requires a minimum of 10 acres and 500 foot buffer area for large BESS facilities; 2) limits the number of large facilities to a total of two (2) in the Town, and; 3) codifies that people can have small units at home, with a permit.

Commissioner Duquesne stated that the Consolidated Edison (Con-Ed) transmission lines could support BESS facilities much larger than the proposed maximum of 80 MWh, but the size identified in the draft local law has been limited, in order to preserve community character. Mr. Schwartz concurred, adding that the draft law was scaled to the character of the Town. Mr. Schwartz stated that the draft law includes provisions to require training for fire districts, in an attempt to standardize training between fire districts. Chairperson Simon suggested that, as part of a recommendation to the Town Board, it be requested that the Town Board makes an effort to get the fire districts to coordinate with one another to come up with a common strategy to address any fire resulting from a BESS facility.

Ms. Fraitag asked if existing BESS facilities in the Town would be grandfathered in under the new law. Chairperson Simon responded that the existing facilities appear to already meet the proposed requirements. Mr. Schwartz noted that at least one facility is located at a distance from the building that would have to be supported by a HMA. Commissioner Duquesne stated that property owners and applicants would be able to file a Hazard Mitigation Analysis (HMA) to verify that the location of a BESS is safe, and that such a HMA may reduce the required 100-foot setback from a building. Commissioner Duquesne noted that the reduction in setback is only for the setback from the building, and not from the property line.

Mr. Desai asked if there was a synopsis of what was different from the NYSERDA prototype law, to help understand if the new law is too conservative. Mr. Schwartz and Ms. Fraitag agreed and also requested a synopsis of differences. Chairperson Simon clarified that the NYSERDA prototype law is a broad document, designed to be modified to fit the needs of a community. Commissioner Duquesne confirmed that he had a synopsis of the differences and would distribute to the Planning Board. Mr. Schwartz commented on the success of the local law committee and suggested that other Board members join future committees. Chairperson Simon agreed.

Chairperson Simon provided a brief update on the status of the Planning Board's appeal of the Building Inspector's determination to the ZBA on the BESS proposal at Knollwood Country Club, reporting that no final decision had been made yet. Mr. Schwartz added that a decision is expected at the ZBA meeting to be held on May 18, 2021.



---

7. **ESTABLISH DATE FOR NEXT MEETING**

The next regularly scheduled meeting of the Greenburgh Planning Board will be held on Wednesday, May 5, 2021, and will begin at 5:00 pm via Zoom-enabled Video Conference.

8. **ADJOURNMENT**

The April 21, 2021 work session of the Town of Greenburgh Planning Board was adjourned at 8:00pm.

Respectfully submitted,



---

Aaron Schmidt  
Deputy Commissioner,  
Department of Community Development and Conservation

