

**Planning Board
March 13, 2018**

The Planning Board meeting was held on Tuesday, March 13, 2018 in the Municipal Center Courtroom. The meeting commenced at 7:05 p.m. with Chairman John Gunn, Members Rick Muscat, Gary Barrack, Pat Lambert, Randall Williams and Jill Reynolds. Also in attendance were Building Inspector Tim Dexter, City Attorney Jennifer Gray, City Engineer Art Tully and City Planner John Clarke. Member David Burke was excused.

Training Session

Mr. Clarke provided a detailed review of proposed changes to Chapter 134 “Historic Preservation” which will add certain buildings along Main Street, as well as some houses directly behind Main Street. The process and required criteria to designate a new historic landmark properties will be updated to create a committee to review inventory, make recommendations, and allow owners or groups the ability to petition to be added to the inventory. Discussion took place with regard to flexibility and discretion within the guidelines. The new legislation also mandates the City Council to apply the new standards to all Special Use Permits located in the Historical Overlay District. Discussion will continue during review of the law.

Regular Meeting

Mr. Gunn made a motion to open the regular meeting, seconded by Ms. Reynolds. All voted in favor. Motion carried. The regular meeting started at 7:30 with Mr. Gunn calling for corrections/additions or a motion to approve minutes of the February 14, 2018 meeting. Mr. Gunn made a motion to approve the minutes of the February 14, 2018 meeting as presented, seconded by Mr. Williams. All voted in favor with the exception of Ms. Reynolds who abstained because did not have the opportunity to completely review the minutes. Motion carried; 5-1.

ITEM NO. 1 CONTINUE PUBLIC HEARING ON THE APPLICATION FOR SITE PLAN APPROVAL AND HOLD A PUBLIC HEARING ON THE APPLICATION FOR SUBDIVISION APPROVAL, WOLCOTT AVENUE AKA “PARCEL L”, SUBMITTED BY RIVER RIDGE VIEWS, LLC

City Attorney Jennifer Gray clarified that the public hearing was closed in February so this is on the agenda for further review. Attorney Jennifer VanTuyl reported review of this project has been ongoing and the applicant had no objections to consultant recommendations outlined in review memorandums. City Attorney Jennifer VanTuyl reported the DEC flagged as a potential site for Indiana Bat habitat therefore felling of trees cannot take place between April 1st and October 20th. The applicant requested permission to perform tree removal prior to obtaining all other agency approvals on conditions that can be outlined in the resolution of approval – if trees are taken down, the stumps must remain and if a building permit is not obtained within one year of tree removal, a tree restoration plan must be submitted to the Planning Board for review and approval.

After careful consideration, Mr. Gunn made a motion to adopt the resolution of approval as presented, seconded by Mr. Muscat. All voted in favor. Motion carried.

ITEM NO. 2 CONTINUE PUBLIC HEARING FOR SEQRA ENVIRONMENTAL REVIEW AND HOLD A PUBLIC HEARING ON THE APPLICATION FOR SUBDIVISION APPROVAL, 13-LOT RESIDENTIAL, SUBMITTED BY AK PROPERTY HOLDING, LLC, 25 TOWNSEND STREET

Mr. Gunn made a motion to reopen the SEQRA public hearing, seconded by Mr. Muscat. All voted in favor. Motion carried. Attorney Taylor Palmer summarized the review process which began in 2016, and reported they met with property owners since the last meeting resulting in additional changes to the plans. They submitted correspondence from SHPPO, and a traffic impact report which revealed no significant traffic impact would be created from the project.

Mr. Clarke summarized his review memorandum and encouraged side yard parking rather than front facing garages, and asked that sidewalks be set back behind a 5 ft. planting strip to allow for street trees and snow storage. In addition he recommended the sidewalks continue across the driveways. A lengthy discussion took place with regard to sidewalks and members generally agreed sidewalks should be on both sides of the development. Further debate took place about the possible loss of street significant trees near the termination of the sidewalk therefore consideration will be given to the location of the crosswalk.

Mr. Gunn opened the floor to public comment however no one wished to speak. Mr. Williams made a motion to close the SEQRA public hearing, seconded by Mr. Muscat. All voted in favor. Motion carried. Members reviewed the previously circulated draft resolution adopting a Negative SEQRA Declaration, with inclusion of comments submitted by SHPPO about archeological resources. Ms. Reynolds pointed out the HDR report had reference to 248 Tioronda which was simply a mislabeling. Engineer Jon Bodendorf reported he met on site with the Giavatto's (owners of the house nearest to the entrance of the development) about screening, traffic, and trees. The City Engineer's office reviewed and agreed with Maser's traffic report. There were no further comments and Mr. Muscat made a motion to issue a Negative SEQRA Declaration, seconded by Mr. Lambert. All voted in favor. Motion carried.

Mr. Williams made a motion to open the public hearing on the application for Subdivision Approval, seconded by Mr. Muscat. All voted in favor. Motion carried.

Bridget Giavatto, 19 Townsend Street, reported she met on site with Attorney Taylor Palmer and Engineer Jon Bodendorf about the project. She continued to have concerns for increased traffic and believed 13 new houses with at least two cars each would impact their small neighborhood. She asked that the site plan document the existing fence abutting their property is to remain so it can't be removed by a future owner. Ms. Giavatto also asked that the large pine trees located on the subject property be removed because they are a nuisance to their property and new trees are slated to be planted. Lastly she explained the sidewalk will come very near their driveway and asked if it could be reconfigured.

A lengthy discussion took place about the traffic study and Richard D'Andrea of Maser Consulting answered questions about service levels, wait times, volumes and methods used to determine traffic generation. After some consideration, members agreed to continue the public hearing at the April meeting.

**ITEM NO. 3 PUBLIC HEARING FOR SEQRA ENVIRONMENTAL REVIEW
APPLICATION FOR SUBDIVISION APPROVAL AND LOT LINE REALIGNMENT, 2
RESIDENTIAL LOTS INTO 3 RESIDENTIAL LOTS, SUBMITTED BY LORI JOSEPH
BUILDERS, INC. & RINA SHUMAN, 446 WASHINGTON AVENUE**

Mr. Muscat made a motion to open the public hearing for SEQRA environmental review of the proposed subdivision, seconded by Mr. Barrack. All voted in favor. Motion carried.

Adam Gasparre of Hudson Land Design, provided an overview of his client's proposal to subdivide two parcels on Washington Avenue with one existing house in the R1-10 zoning district to create three lots for the construction of two new single family houses. Two lots will share a common driveway and will be served with municipal water and sewer. Easements will be prepared and submitted to the City Engineer and Attorney for review and approval. This subdivision will bring the existing house into more conformity and the lot line was moved as requested.

Mr. Gunn opened the floor for public comment however no one from the public wished to speak. Mr. Gunn made a motion to close the SEQRA public hearing, seconded by Mr. Muscat. All voted in favor. Motion carried. Members reviewed the previously circulated draft resolution adopting a Negative SEQRA Declaration. After careful consideration, Mr. Lambert made a motion to adopt the resolution as presented, seconded by Mr. Muscat. All voted in favor. Motion carried.

Ms. Reynolds made a motion to open the public hearing on the application for Subdivision Approval, seconded by Mr. Muscat. All voted in favor. Motion carried. Mr. Clark suggested the large 36-inch Oak tree near the center of Lot #2 be protected with grading or a tree well. He also recommended two new street trees be planted along Washington Avenue. Mr. Tully advised the applicant to shift the common driveway to allow more space in front of the garage for parking.

Mr. Gunn opened the floor for public comment however no one from the public wished to speak. Mr. Muscat made a motion to close the public hearing, seconded by Mr. Williams. All voted in favor. Motion carried.

Mr. Williams made a motion to direct the City Attorney to prepare a resolution of Subdivision Approval for the next meeting, seconded by Mr. Barrack. All voted in favor. Motion carried.

**ITEM NO. 4 CONTINUE REVIEW OF APPLICATION TO AMEND AN EXISTING
SPECIAL USE PERMIT, ARTIST LIVE WORK/SELF STORAGE, 39 FRONT STREET,
SUBMITTED BY BEACON LOFTS & STORAGE**

Attorney Jennifer VanTuyl reported the Zoning Board of Appeals granted a height variance for proposed Building 16 without adding any of the mitigating conditions suggested for consideration. As a condition of the variance, the applicant agreed to submit a deed restriction that limits development to 172 units as long as the property remains in a zoning district that allows up to 243 units. This eliminates the proposed building by the creek and the existing commercial laundry which will save water and improve aesthetics. Ms. VanTuyl respectfully

requested the board forward a report and recommendation to the City Council on their Special Use Permit application. Discussion took place about the mixed use project and higher ceiling heights that will facilitate change into light industry use if needed in the future.

After careful consideration, Mr. Williams made a motion to send a positive recommendation and report the City Council for the Special Use Permit, seconded by Mr. Muscat. All voted in favor. Motion carried.

On another topic, Ms. VanTuyl highlighted her concerns with the proposed local law to amend the Historic Preservation law. Of specific concern was Chapter 134-7(B) which may have a significant impact on this project because the height of new construction “shall” reflect the typical heights of adjacent historic structures with no means of modification. She felt that section would make sense on Main Street however Beacon Lofts is a unique site with different topography and natural screening. Ms. VanTuyl explained her concern that if this law is passed as is, it could prevent approval of this project. A lengthy discussion took place about the law and how this project could be affected.

ITEM NO. 5 REVIEW APPLICATIONS FOR SPECIAL USE PERMIT AND SUBDIVISION APPROVAL, PROFESSIONAL BUILDING EXPANSION, 1181 NORTH AVENUE, SUBMITTED BY NORM SCHOFIELD

Aryeh Siegel described his client’s proposal to subdivide property at 1181 North Avenue with an existing professional office building to create a new parcel for construction of a new office building. This action would fill in a gap along North Avenue and mirror the number of houses on the other side of the street. The owner met with the City Council who were generally in support of the proposal. The property is located in the R1-7.5 Zoning District and is in the Historical District and Landmark Overlay Zone allowing office uses with Special Use Permit approval from the City Council. Mr. Siegel explained the proposal is a bit short on the lot width however Section 223-12 which considers average density allows the Planning Board flexibility if certain criteria are met.

A lengthy discussion took place about the building’s location and setback requirements. Cross easements will be created to share the parking area, as well as water and sewer connections. The new 1,200 sq. ft. building is slightly smaller than the existing, and comparisons were made between the two structures. Project engineer Dan Koehler reported they spoke with neighboring property owners who expressed satisfaction with the proposed building location. The Building Inspector will interpret the code with regard to the board’s ability to consider using the average density subdivision provision.

Mr. Williams made a motion to authorize circulation of the Planning Board’s intent to act as Lead Agent in the SEQRA environmental review process subject to submission of a Full EAF, seconded by Mr. Lambert. All voted in favor. Motion carried.

Architectural Review

Single Family House – 135 Sargent Avenue

Aryeh Siegel described his client’s proposal to construct a new single family house on Lot #1 of Rosenethe Subdivision. Members reviewed elevation drawings, proposed color

schemes and compared it to neighboring housing stock. After careful consideration, Mr. Williams made a motion, seconded by Mr. Muscat, to approve the plan as presented with the following color scheme: Siding – Whitewash Brick, Vertical Board & Batten, Galvanized Metal; Roof – Manufactured Slate & Galvanized Standing Seam Metal; Windows – Black Casement; Trim – Black Windows/White Roof; Garage Door – Glazed Carriage House Style Overhead Doors. All voted in favor. Motion carried.

Miscellaneous Business

Zoning Board of Appeals – March Agenda

Members reviewed the Zoning Board of Appeals' agenda and the three items were each requests for side or rear yard variances. A brief discussion took place with regard to area variances and setback requirements. No recommendations were made on agenda items.

135-137 Spring Valley Street – Consider request for an additional 90-day extension of Subdivision Approval

Engineer Adam Gasparre requested an additional 90-day extension to allow the City Attorney time to complete review of the easement agreement for an existing City sewer line that runs through the site. After some consideration, Mr. Williams made a motion to grant a 90-day extension as requested, seconded by Mr. Gunn. All voted in favor. Motion carried.

City Council request to review proposed Local law to amend Chapter 134 and 223, Section 24-7 of City Code, "Historic Preservation"

Review of the proposed Historic Preservation law continued and members felt some of the "shall's" should be changed to "should's" to allow flexibility in unusual circumstances. Discussion took place with regard to language in the CMS and Linkage Districts and consideration was given to the fact that there is not a possibility to vary from the requirements. Mr. Williams made a motion to recommend the following changes be forwarded to the City Council for consideration, seconded by Ms. Reynolds. All voted in favor. Motion carried.

- 1. Add the following to Section 134-7 of the local law regarding "Criteria for approval of a certificate of appropriateness or special permit in the HDLO":**
Standards using the verb "shall" are required; "should" is used when the standard is to be applied unless the Planning Board finds a strong justification for an alternative solution in an unusual and specific circumstance; and "may" means that the "standard" is an optional guideline that is encouraged but not required.
- 2. Revise Section 134-8.E of the local law to strike the last sentence, as set forth below:**
The Planning Board shall approve, deny or approve the permit with modifications within 45 days from receipt of the completed application. The Planning Board may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Notice of the public hearing shall be provided by the applicant in the same manner as required in § 223-61.2.B. ~~Failure by the Planning Board to take action within the prescribed period of time shall constitute approval.~~

3. Revise Section 134-9.E of the local law to strike the last sentence, as set forth below:

The Zoning Board shall make a decision within 30 days of the conclusion of the hearing on the application. The Board's decision shall be in writing and shall state the reasons for granting or denying the hardship application. ~~The Zoning Board's review of said hardship application shall be in accordance with the procedures set forth in § 223-55C of Chapter 223, Zoning. Failure by the Zoning Board of Appeals to take action within the prescribed period of time shall constitute approval of the application.~~

4. The Planning Board is concerned about the absence of any flexibility in the application of some of the criteria, particularly where there is no ability for an applicant to seek a waiver or variance from the criteria. Therefore, the Planning Board recommended revising Section 134-7.B of the local law to change “shall” to “should,” as set forth below (revisions are indicated in bold, italicized text):

- (1) The ~~general~~ design, character, and appropriateness to the property of the proposed alteration or new construction.
 - (a) Construction shall build on the historic context with applications required to demonstrate aspects of inspiration or similarities to adjacent HDLO structures or historic buildings in the surrounding area.
 - (b) Compatibility does not imply historic reproduction, but new architecture shall also not arbitrarily impose contrasting materials, scales, colors, or design features.
 - (c) The intent is to reinforce and extend the traditional patterns of the HDLO district, but new structures may still be distinguishable in up-to-date technologies and details, most evident in window construction and interiors.
 - (d) Exterior accessory elements, such as signs, lighting fixtures, and landscaping, shall emphasize continuity with adjacent HDLO properties and the historic characteristics of the sidewalk and streetscape.
 - (e) ***Where possible, parking*** shall be placed towards the rear of the property in an unobtrusive location with adequate screening from public views.
- (2) The scale and height of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.
 - (a) Any addition that is deemed necessary to an historic structure ~~shall~~ ***should*** be placed toward the rear, or at least recessed, so that character-defining features are not damaged or obscured and so that the historic structure remains more prominent than the subsidiary addition.
 - (b) The height of any new building facades in the HDLO ~~shall~~ ***should*** reflect the typical heights of adjacent historic structures.
 - (c) Larger buildings or additions ~~shall~~ ***should*** incorporate significant breaks in the facades and rooflines, generally at intervals of no more than 35 feet.
- (3) ~~Texture and materials~~ Architectural and site elements and their relation to similar features of other properties in the ~~neighborhood~~ HDLO.
 - (a) It is not appropriate to disrupt the relationship between an historic building and its front yard or landscape, including screening historic properties from traditional street views by high walls or hedges.
 - (b) Historic storefronts, porches, cornices, window and door surrounds, or similar architectural features ~~shall~~ ***should*** not be enclosed, obscured, or removed so that the character of the structure is substantially changed.

- (c) Deteriorated building features ~~shall~~ *should* be repaired rather than being replaced and, if not repairable, ~~shall~~ *should* be replicated in design, materials, and other historic qualities.
- (d) New buildings in the HDLO ~~shall~~ *should* have a top-floor cornice feature and first-floor architectural articulation, such as an architecturally emphasized entrance doorway or porch, to accent the central body of the building.
- (e) Architectural features and windows shall be continued on all sides that are clearly visible from a street or public parking area, avoiding any blank walls, except in cases of existing walls or potential common property walls.
- (f) New HDLO buildings shall have a front entrance door facing the primary street and connected to the sidewalk.
- (g) Primary individual window proportions shall be greater in height than width, but the approving body may allow exceptions for storefront, transom, and specialty windows. Mirrored, reflective, or tinted glass and all-glass walls, except greenhouses, shall not be permitted. Any shutters shall match the size of the window opening and appear functional.
- (h) Finish building materials should be wood, brick, traditional cement-based stucco, stone, smooth cast stone, smooth-finished fiber-cement siding, or other materials deemed acceptable by the approving body. Vinyl, aluminum or sheet metal siding or sheet trim, exposed concrete blocks or concrete walls, plywood or other similar prefabricated panels, unpainted or unstained lumber, synthetic rough-cut stone, synthetic brick, synthetic stucco, exterior insulation and finishing system (EIFS), direct-applied finish system (DAFS), and chain link, plastic, or vinyl fencing shall not be permitted.
- (i) Materials and colors should complement historic buildings on the block. Fluorescent, neon, metallic, or other intentionally garish colors, as well as stripes, dots, or other incompatible patterns, shall be prohibited.
- (j) Mechanical equipment and refuse containers shall be concealed from public view by approved architectural or landscaping elements and shall be located to the rear of the site. Window or projecting air conditioners shall not be permitted on the front façade of new buildings or additions.

City Council request to review proposed Local Law Section 223-26.4, "Short-Term Rentals"

Mr. Clarke John Clarke reviewed the proposed Local Law to govern short term rentals and detailed requirements within the law. Application must be made to the Building Department and they will conduct a health and safety inspection before a permit is issued. Bi-annual inspections are required thereafter as permits are valid for a two year period and are revocable. Mr. Dexter reported the Council is trying to provide a law to address concerns generated by these types of rentals. He explained occupancy cannot take place in basements, attics or garages, and smoke detectors are required. Parking is not addressed other than spaces must be documented in the application. Mr. Dexter explained the International Building and Fire Code will be the governing code as defined by the type of occupancy. A lengthy discussion took place about permitting and inspection fees, and potential fines for violations. At this time, no review or permits will be required from the Planning Board. After careful consideration, Mr. Williams made a motion to send a positive recommendation to the City Council supporting the proposed Local Law, seconded by Mr. Barrack. All voted in favor. Motion carried.

There was no further business to discuss and the meeting was adjourned on a motion made by Mr. Barrack seconded by Mr. Lambert. All voted in favor. Motion carried. The meeting adjourned at 10:15 p.m.