

Application of Gisondi Family Partnership

Property: 42 Burd Street (Section 63.38, Block 2, Lot 53, in the DMU-2 Zoning District)

**RESOLUTION
of the
PLANNING BOARD
of the VILLAGE OF NYACK**

Adopted November 6, 2023

**RE: Application of Gisondi Family Partnership
Property: 42 Burd Street (63.38-2-53) in the DMU-2 Zoning District**

Resolution of Site Development Plan Approval

Background

After discussion and deliberation, on motion by Laura Rothschild, seconded by Samuel Hart, and carried, the following Site Development Plan Resolution was adopted:

1. The Applicant, Gisondi Family Partnership, has requested Site Development Plan approval for the construction of an addition, and for conversion from an office building to a 4-unit residential apartment building. The subject property consists of 3,328 square feet ("sf") in the DMU-2 Zoning District. It is located at the northwest corner of Burd Street and Piermont Avenue. The Applicant is proposing a minimal addition of 136 sf to the building footprint on the west side. There will be two one-bedroom apartments on each floor, for a total of four one-bedroom apartments. The sizes of the dwelling units are all larger than the required minimum of 600 sf. The Applicant will provide five off-street parking spaces, including one handicapped space. This complies with the off-street parking requirement of 1.25 spaces per 4 one-bedroom dwelling units. Parking spaces will be relocated from the front of the building to two spaces on the west side of the driveway (including one handicapped space), and three spaces on the east side of the driveway. New stone curbs will be installed for the driveway and a new driveway apron. New pavement will replace the existing asphalt in the parking area at the front of the structure. Additionally, new concrete curbing and sidewalks will be installed along, and abutting, the subject property on Burd Street and Piermont Avenue and a new ADA ramp will be installed at the corner of Burd Street and Piermont Avenue.

2. The subject property is located in the DMU-2 Zoning District, which has a base density of 50 dwelling units per acre. The density allowed for this 0.076-acre site is 3.8 dwelling units. To attain the 4 units proposed, the Applicant can avail himself of one of the Village's sustainability bonuses: see §360-4.14 of Chapter 360 of the Code of the Village of Nyack ("Zoning Code"). Applicant proposes to reduce the site's impervious surface by 30%, and provide rain gardens designed in accordance with the *NYS Stormwater Management Design Manual* and reviewed by the Village Engineer. The rain garden consists of 110 sf including a 60 sf and 50 sf rain gardens on both sides of the driveway on the south side of the site. Each of these sustainable amenities allows for a 5% density bonus, which results in a total density bonus of 10%. This would allow a dwelling unit count of 4.18 units, rounded down to 4 units.

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3. The Planning Board determined, on April 3, 2023, that this project is a Type II Action, under §617.5(c)(3) of the Regulations of the State Environmental Quality Review Act (“SEQRA”), which states that “retrofit of an existing structure and its appurtenant areas to incorporate green infrastructure,” and §617.5(c)(18), which states that “reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance, including permitted by special use permit and the action does not meet or exceeds any of the thresholds in section 617.4 of this Part;” which SEQRA Regulations prescribe exemptions from environmental review. Based on the Code of the Village of Nyack (“Village”), as a Type II action, the proposed Action is consistent with the Village’s Local Waterfront Revitalization Program (“LWRP”) policies.

4. The Planning Board opened a duly noticed Public Hearing on April 3, 2023, and continued the Public Hearing on July 10, 2023, September 5, 2023, and October 2, 2023, at which time all those wishing to be heard were given the opportunity to be heard.

5. The Planning Board, at its meeting on April 3, 2023, made a referral to the Village Zoning Board of Appeals (“ZBA”) for area variances for front and side yard setbacks, off-street parking setback, and fence height in front yard.

6. The Planning Board has carefully examined the Application and *Project Narrative* and set of architectural drawings revised 8/25/23 prepared by Applicant’s architect, Edward G. Swaby, R.A., including plot plan, bulk table, photographs of existing conditions, rendering of the building provided to the Village’s Architectural Review Board (“ARB”), parking layout, sustainability additions (including a 110-sf rain garden consisting of 60 sf and 50 sf rain gardens on both sides on the driveway, and use of pervious pavers), landscaping plan and planting details, exterior elevations, apartment floor plans, lighting plans, and trash/recycling enclosure design details. The Planning Board also reviewed the Architect’s response letter dated 9/18/23 addressing the Village Engineer’s comments in her 8/25/23 review memo and explaining the revisions made to the final set of plans last revised 9/27/23. The Planning Board also reviewed this final set of plans. The Planning Board reviewed the *Stormwater Management and Erosion Control Plans* prepared by Hudson Engineering & Consulting dated August 9, 2023. These drawings (C-1 and C-2) completed by Hudson Engineering & Consulting replace S-1 and S-2 prepared by Edward Swaby, the Architect. The Planning Board reviewed the *Stormwater Management Plan and Drainage Analysis* prepared by Hudson Engineering & Consulting, 42 Burd Street, dated August 9, 2023, and Hudson Engineering’s responses dated 9/19/23 to the Village Engineer’s review, dated August 25, 2023. The Planning Board received, and reviewed, the Hudson Engineering & Consulting *Sight Distance Analysis* consisting of four drawings dated September 15, 2023, the Village Planner’s Site Development Plan Review dated March 27, 2023, and his comments and recommendations in Planning Notes for the April 3, 2023, July 10, 2023, and September 5, 2023 Planning Board Agendas. The Planning Board also reviewed the Village Engineer’s site reviews, dated March 16, 2023, July 9, 2023, August 25, 2023 and October 6, 2023; and information provided by the Village’s Chief Building Inspector (“Chief Building Inspector”) regarding the application, which the Planning Board has considered.

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7. The Applicant appeared before the ARB on December 21, 2022. The ARB reviewed the Project's siding, stone façade and parking layout. After review, the ARB approved the proposed building and project at this meeting, subject to siding being Hardie board, or similar durable material, and Applicant providing samples and specs of the actual faux stone material, as well as colored renderings of the final appearance of the project as planned.

8. On April 24, 2023, the ZBA opened a Public Hearing on the Applicant's request for area variances for side yard and rear yard setbacks, off-street parking of motor vehicles less than required 15' distance, and fence height in front yard, so as to redevelop the subject property for four residential dwelling units in the existing building. Except for the fence height, all of the other area variances were for pre-existing, non-conforming site conditions. The Zoning Board of Appeals closed the public hearing on April 24, 2023, and approved the requested area variances on that date.

9. The Planning Board closed the Public Hearing on October 2, 2023, and, thereafter, on November 6, 2023, the Planning Board deliberated in public on the Applicant's request for Site Development Plan approval.

Determination

The Planning Board determines that, based upon the findings and reasoning set forth herein, the Application for Site Development Plan approval is granted, subject to the conditions set forth below.

I. Findings

The Planning Board finds that the Planning Board has considered the standards set forth in Zoning Code §360-5.7, and finds that, subject to the conditions set forth below, the proposed Site Development Plan is consistent with the Site Development Plan design, development principles and standards set forth therein.

The Planning Board has reviewed the Applicant's Site Development Plan and application. The proposal is a rehabilitation of the existing building so as to contain residential dwelling units, instead of offices. Also proposed is a minimal addition of 136 sf to the building footprint on the west side. The Applicant proposes two one-bedroom apartments on each floor, for a total of 4 one-bedroom apartments. The unit sizes are all larger than the required minimum of 600 sf. On the first floor: Unit A and Unit B are 629 sf and 624 sf, respectively. On the second floor, Unit C and Unit D are both 649 sf. . The off-street parking requirement is five spaces calculated at 1.25 spaces per 4 one-bedroom dwelling units. The Applicant will provide five parking spaces, including one handicapped space. These parking spaces will be relocated from the front of the building to 3 spaces on the west side of the driveway, and one parking space plus the handicapped space on the east side of the driveway. The driveway leading into the property will be 22.5' wide.

New stone curbs will be installed for the driveway and a new driveway apron. New pavement will replace the existing asphalt in the parking area at the front of the building. There will be

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pervious pavers placed along the parking area in front of the building, and in the southwest corner of the site where the dumpster and recycling area will be located. Additionally, a 110-sf rain garden, consisting of a 60 sf and 50 sf rain gardens on both sides on the driveway on the south side of the site, will be installed. The proposal also includes demolishing the existing retaining wall at the Burd Street and Piermont Avenue intersection, which wall will be rebuilt starting approximately 10' from Burd Street and continuing along the length of Piermont Avenue. The wall will be a maximum height of 3'6" with an open railing to be installed on top of the wall. The wall will include a stone façade on the exterior of the retaining wall. Five-foot high wood slat fencing is indicated around the dumpster, and around the recycling area which is in the front yard in the Village right-of-way. There will be a 3' gate for the dumpster and recycling, and another 3' gate for an adjacent AC condenser unit. The screening specifies additional landscape buffering from the street. Additionally, new concrete curbing and sidewalks will be installed abutting the subject property along Burd Street and Piermont Avenue with a new ADA ramp installed at the corner. The final location and make/model of the relocated fire hydrant will be coordinated with the Fire Department during the building permit application process. All construction fencing and silt fence on C-2 has been removed from the Village r-o-w and relocated to be entirely onsite.

The existing site does not contain a stormwater management system. The Applicant's Engineer has provided a stormwater management system and drainage improvements, including a new catch basin and one culvert 330 XL chambers providing infiltration on the site. Applicant's Engineer has provided a 12" diameter stormwater conveyance system pipe, and added a steel trench drain which will be installed at the entrance to the driveway. Stormwater calculations have been provided by Applicant's Engineer for review by the Village Engineer. Roof leader connections have been shown connecting to a proposed catch basin. The Applicant will also be providing a total of 571 sf of pervious surface to the site, which is more than the 541-sf minimum required. The Applicant is providing a 110-sf rain garden consisting of 60 sf and 50 sf rain gardens on both sides on the driveway on the south side of the site. The applicant's Engineer has developed an erosion control plan (drawing C-1).

(II) Approved Plans

Except as otherwise provided herein, all work shall be performed in strict compliance with the plans submitted to, and approved by, the Planning Board, as follows:

The Project is described on the following drawings, prepared by Edward G. Swaby, R.A., for *Gisondi Family LTD Partnership Multiple Dwelling Conversion 42 Burd St. Nyack, NY*, dated April 10, 2019, and last revised September 27, 2023 (unless otherwise noted), the *Stormwater Management Plan (C-1) and Erosion & Sediment Control Plan (C-2)*, both dated August 9, 2023 and last revised 9/15/23, the *Sight Distance Analysis* composed of four drawings (*SD-1 - SD-4*) dated 9/15/23 which were prepared by Huson Engineering & Consulting, P.C., and comprise the approved plans entitled, unless otherwise noted:

- A-1 ***"Demolition Plot Plan"***
- A-2 ***"Exterior Elevations"***
- A-3 ***"Zoning, Drainage & Building Code Analysis"***
- A-4 ***"Construction Plans" dated 2/28/19 and revised 9/30/23***

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- A-5 *“Demolition Plans Attic Plan”*
- A-6 *“Power & Plumbing Plans” revised 8/14/23*
- A-7 *“Sections & Details”*
- A-8 *“Specifications Habitable Room Schedule” revised 7/13/22*
- A-9 *“Plumbing Diagram Disabled Plan & Details” revised 8/14/23*
- S-1 *“Paving Plot Plan Alternate Design” dated 4/17/23 and revised 9/20/23*
** Information on S-1 is based on Hudson Engineering Drawings dated 8/9/23.*

- S-3 *“Lighting Plot Plan” dated 2/15/23 and revised 9/27/23*
- C-1 *“Stormwater Management Plan”*
- C-2 *“Erosion & Sediment Control Plan”*
- SD-1 *“Sight Distance Analysis (Driveway)”*
- SD-2 *“Sight Distance Profiles (Driveway)”*
- SD-3 *“Sight Distance Analysis (Burd St & Piermont Ave)”*
- SD-4 *“Sight Distance Profiles (Burd St & Piermont Ave)”*

All of the above comprise the Approved Plans

NOW, THEREFORE, BE IT RESOLVED that the Site Development Plan application submitted by Gisondi Family Partnership, requesting Site Development Plan approval for the conversion of an existing office building into four residential dwelling units, and the construction of a 136-sf addition, is hereby granted, subject to the following conditions:

1. The Applicant shall obtain any required State, County and local (besides the Village) permits, and approvals, prior to the issuance of a Building Permit.
2. All requirements of the Village Engineer, that have not already been complied with, including a detailed planting schedule shall be added to the plans. There should be a specific design for those areas noted to be rain gardens and those areas noted to be planted beds. The rain garden design shall be more robust and follow the criteria set forth in the *NYS Stormwater Design Manual* and shall be satisfied, as determined by the Village Building Inspector, Village Planner and/or the Village Engineer (as applicable).
3. In relation to the pre-existing 6-inch overhang on the north side of the building, the Applicant has noted on the plans that the 2nd floor overhang will be removed with the Zoning Table noting that the rear yard setback is proposed as 0' indicating that the building will be on the property boundary line (see Drawings A-1 and A-2). This will be verified with the Applicant's submission of *As Built Drawings* to the Village Building Department, closing out the project.
4. The trash/recycling enclosure design shall be architecturally consistent with the proposed structure. The detail shall reflect the enclosure dimensions, height of the enclosure, concrete pad and gates.
5. After issuance of a Building Permit, the Applicant shall conduct a percolation test, and provide the test results to the Building Inspector and to the Village Engineer, to confirm the viability of a cultic system at this location.

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6. Prior to the issuance of a Building Permit, a *Stormwater Management Agreement*, for the stormwater management facilities related to the multiple dwelling conversion, in a form satisfactory to the Village Engineer and Village Attorney, shall be fully executed and submitted to the Building Inspector/Stormwater Management Officer (SMO) with proof that the *Stormwater Management Agreement* has been recorded/filed in the Rockland County Clerk's Office.

7. If the Applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, insufficient sized piping, or any other unusual circumstances or conditions that were not foreseen in the original planning, the Applicant shall report such conditions immediately to the Village Engineer. The Applicant may submit recommendations as to the special treatment to be provided for alternate solutions to secure adequate, permanent and satisfactory construction. The Village Engineer, without unnecessary delay, shall investigate the condition or conditions, and shall either approve the Applicant's recommendations to correct the conditions, order a modification thereof, or issue the Village Engineer's own specifications for the correction of the conditions.

November 6, 2023

VOTE:

Ayes:

Nays:

PLANNING BOARD OF THE VILLAGE OF NYACK

By: 
Laura Rothschild, Chair

Date: November 6, 2023