

8. **245 North Midland Avenue. Kier Levesque for Tong. Application to reinstate previously approved site plan application for conversion from one nonconforming use to another nonconforming use. Property is in TFR zoning district.**

ARB approved original project on March 16, 2016 –

ARB re-approved the project on October 17, 2018

ZBA issued Special Permit on May 23, 2016 – copy enclosed. ZBA will need to re- approve the project. The Planning Board approved the original project on June 6, 2016.

Village Planner Comments-- Although nothing has changed on this application, the Planning Board approval has expired and is, therefore, considered a new application. **Received Rockland County Department of Planning comments dated 11/19/2018 on 11/26/2018.** Similar to the original application, the Planning Board should assume Lead Agency status for SEQRA at this meeting. The proposed project remains an unlisted action under current SEQRA regulations. The original Neg. Dec. can be reinstated at the Board's December meeting. The Board would also review the CAF form at that time and reinstate its previous consistency determination with the LWRP. If there are no other issues raised during their public hearing, the Planning Board can re-approve the resolution at the December meeting subject to applicant receiving the special permit from the ZBA.

SEQRA This is an unlisted action under SEQRA. The Planning Board can indicate that it will be the lead agency and wait for any comments that may be forthcoming from Rockland County Planning. The Planning Board can provide recommendations to the ZBA and then once ZBA has acted, it can make its SEQRA determination, close out SEQRA and act on the site plan application.

Village Planner Recommendation Neg Dec-- The proposed action is an application for the renovation of an existing mixed use building currently housing a workshop, offices and 2 second floor apartments. The applicant is planning to renovate the first floor by adding 3 new apartments and removing the office and workshop uses. The second-floor entry near the parking area will be relocated to meet a code requirement and the existing entry off North Midland Avenue to the second-floor apartment will remain. The proposed action is located at the intersection of Sixth Avenue and North Midland Avenue. It is located on a 6,595 square feet corner property in the TRF zone. The 2-story building has been used as an office and workshop on the first floor with two apartments upstairs. The proposal is to renovate the first floor by adding three new apartments and maintain the second floor with its two apartments. The site has 7 parking spaces which will be maintained and complies with the more restrictive RMU parking requirements. The property is adjacent to the 3-story Rose Gardens along Francis Avenue. It is across Sixth Avenue from the Nyack Ambulance Corps and the residential building to the south.

The request is for a change from one nonconforming use to a less intensive nonconforming use. The building on the property needs to be upgraded and made visually appealing. The present property is not aesthetically pleasing and represents a blighting influence on properties along North Midland Avenue. The applicant is planning to change the exterior of the building and add new trim and

roofing as well as new windows. All exterior stone work will be repointed and cleaned up. The proposal is an opportunity to upgrade the property and provide a more updated, visually aesthetic building. It will result in upgrading the property and building and provide a more aesthetic appearance to this very visible corner. It would result in a less intensive use and would provide the necessary parking on-site. It would also remove a potential blighting influence on properties along North Midland Avenue. The Applicant will also be developing a streetscape along the North Midland frontage by planting several Village approved street trees.

Based on the Board's review of Pt. 2 of the EAF, letter from Rockland County Planning, memo from the Village Planner (11/26/18) and other information provided to the Board at their public hearing, the proposed action is not expected to result in any significant adverse environmental impacts that would rise to the level of significance required for a Positive Declaration.

SEQRA – Motion by Klose to issue the foregoing NEG DEC. Second- Voletsky - Vote 5-0 no significant environmental impacts.

APPLICANT--looking for re-approval of prior application-- nothing has changed--

PUBLIC—none

Building Department ~ Rockland County Planning questioned whether a use variance was required for this application. It is the Building Department's position that this is a change from one non-conforming use to another non-conforming use pursuant to the requirements found in Article I, VON 360-1.9D (2) and is not a Use Variance request: VOB 360-1.9D. Nonconforming uses. Any nonconforming use may be continued indefinitely, but: (2) Shall not be changed to another nonconforming use without a special permit from the Zoning Board of Appeals and then only to a use that, in the opinion of said Board, is of the same or a more restricted nature.

Village Planner Comments ~ The Village Planner has prepared an updated planning memo dated 11/6/18 as well as a Negative Declaration for the Board's consideration. These have been provided to the Board. A Coastal Assessment Form has also been provided for the Board's review and consistency determination. Recommendation – Since the ZBA has re-approved the required area variance, the Board should review and issue the Negative Declaration. Board can also make a consistency determination based on its review of the CAF. Draft Resolution has been prepared and can be considered by the Board.

BOARD -- Chairman Klose moves that The Planning Board grant re-approval of the site plan to allow the renovation of the first floor converting one non-conforming use to a different non-conforming use. Specifically, the renovation of the first floor will add three new apartments and remove the office and workshop uses. The two existing apartments on the second floor will remain within the existing building known as 245 North Midland Avenue, Nyack, NY and as reflected on the set of approved plans listed above is hereby

granted, subject to the separate written resolution concerning this approval, including the requirement that the applicant plant The two American Hornbeam street trees shown on the site plan shall be installed in a healthy and vigorous state and shall be inspected at the beginning and end of the growing season within the first year of installation. Individual trees that do not survive beyond the first year shall be replaced at the beginning of the next growing season at the owner's expense. Street trees shall be maintained for the life of the facility; and comply with all conditions in the June 6, 2016 Resolution of Site Plan approval shall remain in full force and effect.

Englander Seconds the approval-- 5-0 approved by separate written resolution.

9. **66 South Broadway. Kier Levesque for Wilkinson. Request for referral to Zoning Board of Appeals for two area variances. Property is in DMU-1 zoning district.**

Building Inspector-- Site Plan Approval was granted on January 5, 1986 for the proposed alterations which excluded the 400 sq. ft. dwelling unit, for which a variance was recently granted on November 26, 2018. **ZBA granted variances on NOVEMBER 26, 2018.**

Village Planner Comments-- *The application is for the legalization of an existing fourth efficiency apartment. The lot size is 2,500 sf with 20' frontage and 125' depth. Property is completely landlocked. The first floor is occupied by the Christine Corday Salon (668 sf). There are two apartments on the second floor (400 sf and 363 sf). The third floor has a penthouse loft (720 sf) and a 400-sf efficiency apartment. The existing building is 3 ½ stories with a height of 38'. The building received a variance in May 1987 for the density increase allowing three apartments in the building. Comments from the ZBA minutes indicated that the two undersized apartments on the second floor were favorably viewed by the members and generally in keeping with the Code. The ZBA approved a special permit in 1987 for the project. The rear apartment on the second floor has a 100-sf outdoor deck. When the ZBA approved the variance in 1987 for three apartments in the building, the density was 30 units per acre. The density per acre in 2014 was increased to 50 units per acre to match the 2.0 FAR in the downtown. The applicant is not increasing the building's FAR which is 1.6 where 2.0 is allowed.*

SEQRA~A *Short Form EAF has been provided which has been reviewed. The proposed action is seeking the legalization of a fourth efficiency apartment. The proposed action does not increase the footprint, nor does it increase the FAR. The fourth apartment has been in existence for over 30 years with no adverse impacts. The action appears to be a minor action with no significant environmental impacts. The action is for a residential apartment allowed by zoning with no use variance being required.*