



## *Village of Nyack Planning Board*

**April 12, 2021 Minutes**

**Members Present:**

Peter Klose - Chair  
Laura Rothschild  
Alan Englander  
Peter Voletsky  
Seth Kestenbaum  
Karen Roberts alternate  
Jennifer Knarich alternate

**Also Present:**

Walter Sevastian, Village Attorney  
Don Yacopino - Chief Building Inspector  
Bob Galvin—Village Planner

**Absent:**

**COVID-19 PANDEMIC STATUS~** another PUBLIC meeting held since the NYS “Pause” to address and contend with the world-wide CoronaVirus Pandemic that has ravaged our communities and our nation. This meeting is held subject to the provisions of Gov. Cuomo’s Executive Order 202.1 (the Order), issued on March 13, 2020, which temporarily suspended the requirements to provide public in-person access to meetings and authorizes the meetings to be held remotely “by conference call or similar service.” The Order which was extended through at least May 2021, requires that the public have the ability to view or listen to the proceedings and requires that all virtual April 12, 2021 07:00 PM Eastern Time (US and Canada) Join Zoom Meeting ID 83005412532]; and will be recorded and stored by the Village

**Conflict Check:** The Chairman polled the members of the Board regarding the issue of possible conflicts of interest regarding the application. All others affirmed there were no conflicts of interest or reasons for recusal, unless otherwise noted.

**Other Business:** Chairman stated that the minutes for the March 1, 2021 meeting were distributed to the Planning Board Members for their review prior to this meeting and at that time asked if there were any corrections. As there were no corrections, Chairman made a motion to approve the December 7, 2020 Minutes as distributed. Motion seconded by Karen Roberts and then Approved by a Vote of 5-0.

- 1. 31 Second Avenue. Diedre Macallan. Application for tree removal Property is in TFR Zoning District. Arborist’s report included.**

**SEQRA –** The proposed action is a Type II action. **LWRP –** based on the Village Code, as a Type II action, this is consistent with LWRP policies.

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**Applicant**— Jeffrey Lambert from Wycks arborist-- mature oak needs to come out sapwood rot Die back and risky. recommends removal planting plan -- to be replaced with red maple

**PUBLIC**-- none.

**BOARD**-- Motion by Klose - to close the public meeting with respect to removal of the oak tree. Motion made to close the public hearing application to remove the tree. Seconded by Voletsky - Motion to close the public hearing passed. Vote 5 -0 to close.

**BOARD** -- Klose made a motion to accept and designate this as a Type II action based on: 617.5 (c)(10) and consistent with the LWRP policies and to approve Tree Removal and Replacement Application dated 9 February 2021 granted-- approved. Seconded by Voletsky. Vote 5-0- application approved.

**2. 10 Sickles Avenue. Marcy Denker for Alice Montera. Site plan application to construct bluestone patio and install a drainage system. Property is in the TFR zoning district.**

**Building Inspector**--Many of the Village Engineer's comments of 2/11/2021 have been addressed in a revised Site Plan survey dated 3/11/2021.

**SEQRA** – The proposed action is a Type II action based on 617.5(c)(12) "construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density." **LWRP** – based on the Village Code, as a Type II action, this is consistent with LWRP policies.

Applicant's testing company (Fairway Testing) conducted a perc test on April 6, 2021 in the northeast area of the property. The Assistant Building Inspector was present to observe the perc test. Based on the results of the perc test, Applicant's Engineer, Bart Rodi, will provide an amended design for the drywell. This amended design will need to be reviewed and approved by the Village Engineer. The Applicant's Engineer may be on the Zoom meeting if the Board wishes to have him briefly describe the new design approach.

**Village Planner/Building Department**-- Recommendation - Since many of the Village Engineer's comments have been updated on a revised site plan survey, the Planning Board is in a position to approve the plan with a condition that the Village Engineer will need to review and approve the amended drainage plan prior to the issuance of a building permit.

**Village Engineer**-- We have completed our review of the documents re-submitted on behalf of the above captioned project consisting of: • Engineering Plan entitled "Site Plan, Montera Residence, 10 Sickles Avenue", prepared by Bart Rodi, PE, last dated April 9, 2021, 1 sheet. •

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*Perc Test Results performed by Fairway Testing. • Drywell Sizing Calculations, prepared by Bart Rodi, PE. • Survey prepared by Anthony Celentano, PLS dated 2-20-2021.*

*The scope of work for this project includes construction of a patio, bluestone paths and retaining wall improvements in the rear yard of the subject property. A seepage pit is proposed to address stormwater run-off and provide a zero-net increase in run-off.*

*The items in our prior letter have been addressed. Our comments are as follows:*

- 1. Prior to the start of construction the location of the existing water and sanitary sewer utility connections servicing the dwelling shall be confirmed to ensure there is no conflict with the proposed improvements.*
- 2. The stone surrounding the perimeter of the proposed seepage pit shall be 2.5-inch clean stone to allow for percolation.*
- 3. Erosion control measures shall be implemented to ensure no adverse impact upon adjoining properties or the village roads.*

**Applicant**— *Marcy Denker- has a conflict of interest-- Bart will present-- increasing impervious-- drainage system is coming in.*

**PUBLIC**-- *none.*

**BOARD**-- *Motion by Klose - to close the public meeting with respect to construct bluestone patio and install a drainage system. Seconded by Alan Englander - Motion to close the public hearing passed. Vote 5-0 to close.*

**BOARD** -- *Klose made a motion to accept and designate this as a Type II action based on: 617.5 (c)(12) and consistent with the LWRP policies and to approve Site Plan survey dated 3/11/2021, and application to construct bluestone patio and install a drainage system provided however that the Village Engineer's provisions in their 4/12/2021 memorandum shall be complied with, as follows:*

- 1. Prior to the start of construction the location of the existing water and sanitary sewer utility connections servicing the dwelling shall be confirmed to ensure there is no conflict with the proposed improvements.*
- 2. The stone surrounding the perimeter of the proposed seepage pit shall be 2.5-inch clean stone to allow for percolation.*
- 3. Erosion control measures shall be implemented to ensure no adverse impact upon adjoining properties or the village roads.*

*Seconded by Voletsky . Vote 5-0- application approved.*

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3. **143 Sixth Avenue. Lindenbaum/Cohen. Site Plan application for the creation of a front porch.** Property is in TFR Zoning District

**Building Inspector** Proposal complies with zoning requirements. ARB approved the application in March 2021.

**SEQRA** – The proposed action is a Type II action based on 617.5(c)(12) “construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density.” **LWRP** – based on the Village Code, as a Type II action, this is consistent with LWRP policies.

**Planner-- Recommendation** - There appears to be no issues raised by this application. After the Board’s review and if there are no other remaining questions, the Planning Board is in a position to approve the application.

**Applicant— Katie Lindenbaum-- cover front porch-- ARB etc.**

**PUBLIC-- none.**

**BOARD--** Motion by Klose - to close the public meeting with respect to the creation of a front porch. Seconded by Kestenbaum - Motion to close the public hearing passed. Vote 5-0 to close.

**BOARD --** Klose made a motion to accept and designate this as a Type II action based on: 617.5 (c)(12) and consistent with the LWRP policies and to approve the creation of a front porch. Seconded by Kestenbaum. Vote 5-0- application approved.

4. **140 North Highland Avenue. Oak Hill Cemetery. Continuation of Site Plan application for the construction of a mausoleum and request for recommendation to ZBA for required Area Variance. Property is in the SFR-1 zoning district.**

FOR APRIL 12, 2021 Village Engineer has provided an updated report, dated 4/1/2021, which has been provided to the applicant, in response to revised site plan.

An area variance is required from Article III, VON§360-3.2E(1)(g) for an accessory building greater than 12 feet in height. At greater than 4,000 sq. ft. this application is considered an Unlisted Action requiring SEQRA review With a proposed land disturbance of greater than 10,000 sq. ft., a Stormwater Pollution Prevention Plan (SWPPP) is required by Article IV, VON§360-4.12A. Applicant received conditional ARB approval on 9/18/2020.

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*A Narrative, Coastal Assessment Form, Short Environmental Assessment form and SWPPP documents have been provided.*

*Village Engineer provided a positive review of the stormwater system. "The means of addressing stormwater management has been noted in the SWPPP as a Blue Roof supplemented by stormwater planters. The stormwater planters are proposed to act as an infiltration system and recharge the aquifer. Percolation tests in the area of the proposed infiltration shall be performed and results submitted to the building department and my office. Due to the nature of the existing, steep site topography, stormwater run-off is of concern. There shall be no adverse impact due to stormwater run-off to N. Highland Avenue or nearby properties."*

*Applicant's Engineer should address the Village Engineer's comment re: stormwater cited above. The Applicant should formally address the Village Engineer's comments in her review dated 10/30/20. As part of any resolution, a stormwater maintenance agreement will be required to be executed with the Village and filed with the Rockland County Clerk's Office prior to issuance of any building permit.*

***Planner Recommendation***--Village Engineer should review the updated SWPPP for the Planning Board. Applicant should provide a set of revised plans reflecting County Planning's GML comments. Applicant should address Village Engineer's 10/30/20 comments and provide a memo summarizing the status of these items and other changes on the plans.

### ***Drainage review comments:***

- 1. The drainage watersheds should not be delineated on mapping with a contour interval greater than 50 feet. Rockland County Planning has mapping available with a contour interval of two feet.*
- 2. The watershed delineations should be based on topography and not necessarily property lines/municipal boundaries.*
- 3. The drainage area for Subarea 2S in the hydrologic model is the same for existing and proposed conditions of 16.5 acres. Portions of this sub-area are being diverted to the channel on North Highland Avenue, which is a known flooding area. Impacts of this diversion should be clearly demonstrated.*
- 4. The proposed conditions subarea delineation appears to have two additional sub-areas added for proposed conditions. There is an additional subarea 5S included in the proposed conditions hydrologic model. This should be coordinated.*

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5. *Rims and inverts should be added for catch basins, stormwater planters, diversion swale and infiltration trench.*
6. *There appears to be only a nominal amount of storage available for stormwater runoff. Based on a building footprint of 108' x 36' feet and six stormwater planters, only 0.3 inches of rainfall runoff can be stored in the proposed mitigation.*
7. *The hydrologic model should also include the 100-year, 24-hour rainfall event.*
8. *The infiltration trench for stormwater is less than ten feet from the septic system leaching fields, which does not meet code requirements.*
9. *The location of the proposed diversion swale shall be clearly shown and a detail provided. It appears to traverse existing gravesites.*
10. *Provide a narrative and executive summary for the hydrologic model explaining methodology and selection of subareas.*
11. *We will review the revised SWPPP when the drainage comments noted above are addressed and the SWPP is updated accordingly.*
12. *A Stormwater Maintenance Agreement shall be executed with the Village.*

***Engineer Site Plan review comments:***

13. *Though it is helpful to include a plan with aerial photography, the basis of the design of a site plan shall be a topographic survey with 2-foot contours. This topographic information is readily available through the Rockland County Planning. The source and datum of the topographic information shall be provided. Sheet C-3.2 is noted as the Mausoleum Grading Plan but existing topographic information and proposed grading is not clearly shown. A Grading Plan shall be developed clearly presenting existing topography, contour lines and proposed grades.*
14. *The ADA access shall be fully designed per ADA regulations and spot elevations noted. Details of the ramp shall be provided.*
15. *There are substantial retaining walls proposed. Signed, stamped structural calculations will be required to be submitted to the building department. Certification from an engineer will be required to be submitted to the building department noting the retaining walls were built in accordance with the approved structural plans and calculations.*

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16. *The septic review and approval are within the jurisdiction of the Rockland County Department of Health.*
17. *Sheet C-3.1 indicates the extent of the proposed gas, water and electric utility extensions. The Erosion Control Plan shall incorporate all disturbed areas into the plan.*
18. *Sheet C-3.2 notes “possible additional off-road parking”. The response letter indicates additional parking is not needed and not proposed. Kindly clarify.*
19. *The location of the concrete washout area shall be shown on the plan; the note provided on sheet C-4 is not clear. A detail shall be provided.*
20. *Proposed signage shall be shown.*
21. *All construction details shall be provided.*

***For the April 2021 Meeting*** -- *In reviewing Part 2 of the EAF, the one item identified as to have potential for moderate impact was stormwater. Applicant appears to be addressing this but it should be reviewed by the Village Engineer.*

*The Village Engineer provided her comments in a report on April 1, 2021. The highlights of the report concerned the sub-areas delineated for the drainage:*

*# 3 The drainage area for Subarea 2S in the hydrologic model is the same for existing and proposed conditions of 16.5 acres. Portions of this sub area are being diverted to the channel on North Highland Avenue, which is a known flooding area. Impacts of this diversion should be clearly demonstrated.*

*# 4. The proposed conditions subarea delineation appears to have two additional sub areas added for proposed conditions. There is an additional subarea 5S included in the proposed conditions hydrologic model. This should be coordinated.*

*Applicant received this review from the Village Engineer on last Monday and is revising their drainage plans to address these concerns.*

*The Planning Board will need to be provided the revised plans and final comments from the Village Engineer. Once this happens and the Village Engineer and Board are satisfied with the response, the Board will be in a position to approve a Negative Declaration Board for this project.*

*This would close out SEQRA and allow the Applicant to proceed to the ZBA for a*

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*determination on the area variance for height. If the variance is received a formal resolution can be prepared for the Planning Board's consideration.*

**Applicant—**

**PUBLIC--** none.

**BOARD--** No ACTION

- 5. 23 Route 59. Claudio Iodice. Site Plan application for proposed retail/warehousing building and request for recommendation to Zoning Board of Appeals for required variances.** Property is in the CC zoning district.

**Building Inspector--** Site Plan Application requires the following three area variances:

- a. Article IV, VON§360-4.3, Dimensional Standards Table 4-1, for a front yard setback of 60' where the minimum required setback from street is 15' and maximum permitted setback is 25'.*
- b. Article IV, VON§360-4.3, Dimensional Standards Table 4-1, for a side yard setback to the east of 0', adjacent to residential zone SFR-2, where 15' is required.*
- c. Article IV, VON§360-4.3, Dimensional Standards Table 4-1, for a minimum setback for both side yards of 0', where 15' is required.*

*Applicant has requested not to appear before ARB prior to the Planning Board and Zoning Board of Appeals until site plan approval and variances are issued.*

*Application has been sent for review under GML. To date, only Rockland County Department of Planning, Rockland County Sewer District #1 and the Town of Clarkstown Department of Planning have responded.*

*The Village Engineer has provided a review dated March 17, 2021. Comments related to vehicle access and maneuvering and turning radius on site, lighting plan, screening of headlights for vehicles parked adjacent to Route 59. The Village Engineer notes that the Village of Nyack has an enhanced standard for stormwater management of disturbance of 10,000 sf or greater. The proposed project disturbance is over 12,000 sf or 0.29 acres. The site may be considered a redevelopment and addressed accordingly. Concrete sidewalks and concrete apron shall be constructed along the full property frontage along*



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*Route 59. Applicant's Narrative indicates that no drainage improvements are proposed since the area is already a parking lot and impervious. I would think that stormwater management would need to be addressed with the Village Engineer.*

***Applicant--*** has provided a Narrative describing the Project. The subject property is located at 23 Route 59. The property is essentially a vacant parking lot consisting of 16,025 sf (0.37 acres) in the CC zone. The property was formerly used by the electrical contractors for parking while working on the Mario Cuomo Bridge. The Applicant is appearing before the Planning Board before going to ARB and ZBA. There will be several area variances required for front yard setback, side yard setbacks for side yards against residential zoned property (even though it is used as retail). The Applicant is proposing a warehouse with approximately 5,800 sf. The proposed building is proposed to be divided up to three tenants. The parking requirement is six parking spaces with 14 spaces being provided. There is an existing retaining wall located approximately 40' from the rear property line. The retaining wall was constructed due to the higher topography at the rear of the site. This results in a front setback of 60' where the maximum setback allowed is 25'.

*The Planning Board should require a landscape plan with an enhanced landscaping buffer along Route 59.*

***SEQRA*** – the proposed action is an Unlisted Action. While the Planning Board could declare its intent to be lead agency, I would recommend that the Board wait until they get more information of the proposed project.

*The Applicant already owns lot 21 adjacent to the east. This parcel consists of 27, 258 sf or 0.62 acres. The existing building on Lot 21 is vacant and was formerly used as a bank and deli. The applicant has also expressed interest in revitalizing the existing building. The Planning Board should be aware of this since the merger of both properties would result in a larger one- acre property with more possibilities.*

### ***GML Review -- Rockland County--***

- 1 It will be difficult for vehicles parked in the northwestern and southeastern parking spaces to maneuver out of the spaces without a turnaround area. The proposal includes more than double the required number of parking spaces. The applicant should consider reducing the number of parking spaces so that turnaround areas can be provided. This will allow for vehicles to more safely maneuver throughout the site. In addition, the removal of some parking spaces will free up space on the site that could then be used for landscaping, thus*

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*reducing the impervious surfaces that are currently occupying , and proposed to occupy, the\_ property.*

- 2 Areas designated for snow removal must be clearly delineated on the site plan so that the plow drivers will know where to place the snow piles. Providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by employees and customers.*
- 3 Prior to the start of construction or grading, all soil and erosion control measures must be in place for the site. These measures must meet the latest edition (November 2016) of the New York State Standards for Urban Erosion and Sediment Control.*
- 4 There shall be no net increase in the peak rate of discharge from the site at all design points.*
- 5 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water.*
- 6 If any public water supply improvements are required, engineering plans and specifications for these improvements shall be reviewed by the Rockland County Department of Health prior to construction. In order to complete an application for approval of plans for public water supply improvements, the water supplier must supply an engineer's report pursuant to the "Recommended Standards for Water Works, 2003 Edition," that certifies their ability to serve the proposed project while meeting the criteria contained within the Recommended Standards for Water Works. These standards are adopted in their entirety in 10 NYCRR, Subpart 5-1, the New York State regulations governing public water systems. Further, both the application and supporting engineer's report must be signed and stamped by a NYS licensed professional engineer and shall be accompanied by a completed NYS Department of Health Form 3 8, which must be signed by the public water supplier.*
- 7 Public sewer mains requiring extensions within a right-of-way or an easement shall be reviewed and approved by the Rockland County Department of Health prior to construction.*
- 8 As designed, it may be difficult for sanitation workers to be able to maneuver the site to access the dumpster. If parking spaces are eliminated as noted above, the parking area could be reconfigured, and the dumpster could be relocated to an area that is more easily accessible and does not impact parking maneuverability.*
- 9 The bulk table indicates the side setback and total side setback variances are required due to*

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*the west side of the site bordering a residential zoning district. This shall be corrected to the east side.*

**Applicant**— Ken Moran for the Applicant Ms. Rachel Barese-- one story building about 20 feet high located to the rear of the property -- cliff in the rear- they don't want the building

**PUBLIC**-- none.

**BOARD**-- NO ACTION--ASKED FOR ADDITIONAL INFORMATION--

6. **262 A&B Main Street. Lino Sciaretta for Tarrasenko. Application to amend previous Site Plan application. Property is in the DMU-2 zoning district.**

**Building Inspector**-- A Building Permit was issued on **10/31/2018** for the installation of rear yard bollards to prevent parking within 15' of any wall of a three – or more family dwelling as required by Article VI, VON§360-4.5E(3): “The parking of motor vehicles within 15 feet of any wall or portion thereof of a three- or more family dwelling, which wall contains legal windows (other than legal bathroom or kitchen windows) with a sill height of less than eight feet above the level of said parking space, is prohibited.” Historically, tenants parked directly in front of the front wall of building 262B. Bollards were proposed to create a fire lane in front of 262B and prevent parking directly in front of building 262B. The applicant must indicate how parking in front of 262B will be prevented without bollards. The application should be referred to the Fire Department for review and comment.

The previous Planning Board Minutes at which this application was reviewed have been provided to the Planning Board for their background on this application.

**Applicant**— **no one appeared**

**PUBLIC**-- none.

**BOARD**-- Motion by Klose to consider area variances for the location ?????RESULT???

7. **Zoning Code Amendment** --The Village Board has referred a Zoning Code Amendment to permit rooftop dining in DMU-1 Zoning district to the Planning Board for a recommendation and report as required by 360-5.6B(3)(a). The Village Planner's memo to the Village Board on rooftop dining is being provided separately as background for the Planning Board.

**Village Attorney**-- Please take a look at the proposed Code revisions to permit Rooftop Dining in the Village, keeping in mind that Code section 360-5.6(c) requires both the Village Board

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*and Planning Board to "consider":*

- (a) Whether such change is consistent with the aims and principles embodied in this chapter as to the particular districts concerned.*
- (b) Which areas and establishments in the Village will be directly affected by such change and in what way they will be affected.*
- (c) The indirect implications of such change in its effect on other regulations.*
- (d) Whether such proposed amendment is consistent with the aims of the Comprehensive Plan of the Village.*

### ***PREAMBLE-- Background (highlights from the Planner's Memo)***

*The COVID – 19 pandemics has had significant economic disruption, especially in the restaurant segment. There has been renewed interest and new applications seeking rooftop dining as well as outdoor dining in rear yards. I have been requested to provide an update to my previous review and recommended approaches to rooftop dining. The Planning Board requested that I expand this to include outdoor dining in rear yards.*

*American Planning Association Research--Rooftop dining is growing in popularity in these communities and have been economic drivers of activity for the municipalities. Most local governments address rooftop dining/seating either through licensing and special permitting requirements or through use standards in their zoning codes. The primary issues covered by these regulations are permitting, site design standards, operating standards including hours of operation limitations, height of fence or wall surrounding the rooftop, and in some cases the requirement for liability insurance. Many communities also place restrictions on how far the rooftop dining areas are to be from residential dwellings. In cases where the dining area is in a mixed use building that has residential units, standards require the floor below to be non-residential.*

*Special Permit Research These communities included: City of Canandaigua, Oneonta, and the Villages of East Aurora, Pittsford, Valley Stream, West Carthage, Westhampton Beach and Patchogue. A growing number of municipalities provide specific conditions/criteria for bar and restaurant special permits in addition to their general requirements. The issuing authority now toward Planning Boards issuing these special permits since there are usually site issues involved. The Appendix includes examples of conditions related to Rooftop Dining in other communities.*

*Village Planner - Recommendation-- recommendations related to rooftop dining including the use of special permits, conditions and use of definitions.*

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A. *Zoning Districts--In the **DMU-1**, [M and WF Districts] only DMU-1 , rooftop dining shall be permitted by site plan and special permit issued by the Planning Board. The term of the special permit shall be for one year initially subject to review by the Planning Board at which time the Planning Board may extend the special permit for an additional three (3) years or until the owner and or management of the use under the special permit changes. The applicant, in receiving approval for a rooftop dining facility, must acknowledge that such use can be immediately revoked for the violation of any of the conditions of that use. An applicant seeking a rooftop dining permit must submit a site plan to the Building Inspector, who shall review the plan and draft a recommendation to the Planning Board.*

B. *Special Permits with Term Limits - I would limit the use of a Special Permit with time limits to be issued by the Planning Board for rooftop dining and outdoor dining in the rear yard. The Planning Board has expressed support for a tool such as time limited special permits for more control over such activities. I am most familiar with the Village of Mamaroneck **ZBA's practice** for special permits for these types of activities. In the Village of Mamaroneck, the practice is for the ZBA for these types of uses to issue a special permit for an initial term of **three (3) years**. At the end of the initial three-year term, the ZBA reviews the special permit considering police reports on underage drinking, disorderly conduct, etc. and any neighborhood complaints regarding items such as noise, and sanitation issues. The ZBA can then extend the term for an additional year if problems arise. The one-year extension is designed to have the applicant remedy these issues. If there are no problems, the ZBA will then make the special permit permanent unless the owner and or management of the use under the **special permit changes**. The applicant in receiving approval of the special permit must acknowledge that such use can be revoked for the violation of any conditions of the special permit or the use ceases operation for 6 consecutive months. The Village of Mamaroneck ZBA does not have direct authority in the Code for this process. The ZBA instead relies on their ability to impose conditions on the special permit. They have not been challenged on this.*

**Sample Language** to be considered-- I have provided sample language to enact this time limited special permit tool. See the sample language to be added to §360-5.9:

**Time limits.** *In granting a special permit, the approving agency may impose time frames and/or time limits on the special permit either stipulating the date and time upon which the special permit expires or setting forth the requirements for an extension of the special permit. The approving agency, if it so deems it to be necessary, may also stipulate the details, conditions and requirements for renewal."*

**"Renewal.** *The approving agency may require that special permits be periodically*

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*renewed. Such renewal shall be granted following due public notice and hearing and may be withheld only upon a determination by the approving agency that such conditions, as may have been prescribed by the approving agency in conjunction with the issuance of the original permit, have not been or are no longer being complied with. In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the revocation of said permit."*

**"Existing violations.** No permit shall be issued for a special use for a property where there is an existing violation of this chapter."

**"Periodic renewal.** The approving agency may require that conditional use permits be periodically renewed. Such renewal shall be granted following a due public notice and hearing and may be withheld only upon a determination by the Planning Board to the effect that such conditions as may have been prescribed by the Planning Board in conjunction with the issuance of the original permit have not been, or are being no longer, complied with. In such cases a period of 60 days shall be granted the applicant for full compliance prior to the revocation of said permit. The sixty-day time period for full compliance only applies for the first violation. If any subsequent violation occurs the conditional use permit will be revoked."

*Who is reviewing the revocation issues?-- Building Inspector? Should be Don and coordinated with Walter for any necessary legislative language*

**C. Special Permit Conditions** -The rooftop dining site plan must meet the following special permit conditions and criteria: To be added to §360-3.2 (Use-specific standards)

**Rooftop Dining** subject to the following:

1. All outdoor dining areas including rooftop dining shall provide a food menu, but this shall not be interpreted to prohibit the service of beverages only.
2. Hours of operation shall be limited to no later than 11:00 pm on a Friday and Saturday and 10:00 p.m. Sunday through Thursday.
3. No portion of a rooftop dining area may be located any closer than **fifty feet from the boundary of any SF,, TFR or MFR District**, measured horizontally at grade.

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*NO VARIANCES shall be granted on this issue?? may want to indicate residential buildings in these zones and not just the zoning. Also just TFR zone since it is restricted to the DMU-1 zone*

**Additional parking ?**

4. *The rooftop dining area shall be associated with an establishment doing business within the principal building AND MUST BE THE SAME SQUARE FOOTAGE OR LESS THAN THE ESTABLISHMENT WHICH IS THE PRINCIPAL ESTABLISHMENT.*
5. *The main access to the rooftop shall be from the interior space of the business within the principal building.*
6. *Any lighting fixtures shall be Dark Sky compliant and designed to effectively eliminate glare and sharply cut off lighting levels at the property line. All lights associated with the rooftop must be turned off when the rooftop area is not in use.*
7. *The design of the rooftop dining area shall include noise mitigation measures that will minimize adverse impacts on adjoining properties.*
8. *All such operations shall not commence prior to April 15 of any given year and shall cease by November 15 of that same year.*
9. *The floor immediately below the rooftop area is occupied by a nonresidential use.*
10. *Screening shall be provided, either with landscaping, and/or a fence, trellis, overhead pergola, or other screening to be determined by the Planning Board based on the specific site circumstances.*
11. *Provide permanent walls of fencing around the periphery of the dining area at a minimum height of 42 inches to ensure the safety of persons/property.*

>>>NUMBERING??

13. *The design, operation, and use of the rooftop seating area must be approved by and certified with a seal by a qualified, licensed structural engineer and that individual must certify that the rooftop is capable of the live load to be utilized by the establishment and the design of the load.*

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14. No *[live entertainment]* amplified music, speakers, television, or public address system shall be permitted on the rooftop.
15. *No table shall be closer than 36 inches from a railing. (really want to have a protective height of 4" surrounding the perimeter which could be done with a railing.*
16. *In renewing a special permit, the approving agency shall consider reports of incidents and activities as filed with the Alcoholic Beverage Board (ABC) as well as police reports on underage drinking, disorderly conduct, other incidents, and any neighborhood complaints regarding items such as noise, and sanitation issues.*

**{Outdoor Dining in rear yard--} Village Board not willing to expand to rear yard dining.**

- D. **Definitions**-In the Village of Nyack Code, **it appears the restaurants and bars are treated the same.** If the decision is made to issue **special permits**, it would need to apply to **both bars and restaurants** unless there is a different definition provided for each use. The most obvious difference is the hours of operation. Typically, bars stay open until 2 am? or later as allowed by the NYSLA whereas restaurants stay open to 11 – 12 pm. If the Village wanted to exclude bars, a definition for bars/taverns would need to be included in the Village Code. I reviewed several definitions for Bars which I am providing below:

**New Rochelle**

*"Bar-A business enterprise primarily engaged in the retail sale of alcoholic beverages such as beer, wine, or liquor to patrons seated at a table or counter, served by a bartender or cocktail waitperson for consumption on the premises, where the consumption of chips, peanuts, finger foods, tapas, and other snacks is ancillary to the principal use of serving and consuming alcoholic beverages. The term "bar" shall not include a cabaret."*

**Village of New Paltz**

*"Bar -An establishment, which is licensed by the New York State Liquor Authority under what is generally considered to be its standard "bar license," allowing on-premises consumption of liquor, wine, and beer, and is primarily devoted to the serving and on-premises consumption of alcoholic beverages. Even if food is prepared or served on the premises, an establishment shall be deemed a bar where*



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*any bar area contains more than one seat for every five table seats, or where the bar remains open for two or more hours for alcohol consumption after the normal menu food service has closed, or allows seated patrons to acquire beverages except by waiter or waitress, or remains open later than midnight, or where at any time the establishment restricts entry to patrons 21 years or older."*

***Beacon***

*"Bar --An establishment serving alcoholic and nonalcoholic beverages for consumption on premises, and where food may be served as an accessory use. The term "bar" includes the terms "barroom," "tavern," "pub and saloon."*

***OTHER BUSINESS--*** Motion to adjourn by Klose, seconded by Englander- passed by a vote of 5-0.  
*Meeting was adjourned at 8:20 PM.*