

PLANNING BOARD

RUTHERFORD HALL
VILLAGE HALL
SCARSDALE, NY
June 22, 2016

A regular meeting of the Planning Board of the Village of Scarsdale was held in Rutherford Hall in the Village Hall on Wednesday, June 22, 2016, at 8:00 p.m.

Those members present were: James Blum, Chair, John Clapp, Linda Doucette-Ashman, Thomas Longman and Dan Steinberg. Also present were Village Attorney Wayne Esannason, Deputy Village Engineer Greg Caccoppioli and Village Planner Elizabeth Marrinan

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Upon motion duly made and seconded, the minutes of the April 27, 2016, meeting were approved as amended.

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The Chair said good evening. As we begin this evening's meeting I'd like to take a few moments to explain the Board's procedure. We hear each application in the order in which it is noticed -- we hear first from the applicant and then from any persons speaking in favor of or in opposition to the application.

After all of the evening's hearings, the Board deliberates. Deliberations are not open to the public, but the Board's voting on all applications is done in public once the deliberations are over. You are free to leave at the conclusion of your hearing or to wait outside Rutherford Hall during deliberations and return for the Board's vote. Should you decide to leave before the vote, you can obtain the Board's decision by calling Elizabeth Marrinan at Village Hall tomorrow at 722-1132. Also, tomorrow the decisions will be posted on the web at www.scarsdale.com under Planning. Whether you stay or go has no bearing on the Board's deliberations or decision.

At the conclusion of deliberations on each application, the Board attempts to reach a consensus. For an application to be granted, at least three of the Board's five members must vote in favor of that application. The Board's decision is memorialized in a written resolution. The resolutions are filed at Village Hall and are available to the public.

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The reading of the following legal notice was waived by unanimous vote of the Board.

**LEGAL NOTICE
PUBLIC HEARING
PLANNING BOARD
VILLAGE OF SCARSDALE**

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Planning Board of the Village of Scarsdale in Rutherford Hall in Village Hall, 1001 Post Road, Scarsdale NY 10583, on **Wednesday, June 22, 2016**, at 8:00 p.m. at which time and place the Planning Board will consider the following:

1. The application of 36 Herkimer Properties LLC for a Wetlands Permit, pursuant to Chapter 171 of the Village Code, to construct a swimming pool on this wetlands controlled property at 36 Herkimer Road, identified on the Village tax map as Sec. 23, Blk. 1, Lot 67.

The Board will also consider:

2. The request of Lin Chen Tien for the first extension of time to file the subdivision plat approved by the Planning Board on January 27, 2016 which created two lots at 11 Carstensen Road, identified on the Village tax map as Sec. 3, Blk. 2, Lot 20.

3. The request of Deborah and Alan Annex, Cynthia Gray and Alain Hyman for the first extension of time to file the subdivision plat approved by the Planning Board on December 16, 2015 which relocated the lot line between 7 and 9 Park Road, identified on the Village tax map as Sec. 15, Blk. 2, Lot 7A and 6.

4. The request of Brookby Holdings LLC for the first extension of time to file the subdivision plat approved by the Planning Board on January 27, 2016 which created two lots at 35 Brookby Road, identified on the Village tax map as Sec. 18, Blk. 1, Lot 46.

Copies of the above applications are on file in the Coordinating Office at Village Hall and may be viewed by interested parties at any time during usual business hours. To receive meeting agendas by e-mail, visit www.scarsdale.com and "Subscribe to News".

By Order of the Planning Board, Scarsdale, New York, dated June 17, 2016.
Elizabeth Marrinan AICP, Village Planner.

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CASE #5 OF 2016

1. The Chair declared the hearing open on the application of 36 Herkimer Properties LLC for a Wetlands Permit, pursuant to Chapter 171 of the Village Code, to construct a swimming pool

on this wetlands controlled property at 36 Herkimer Road, identified on the Village tax map as Sec. 23, Blk. 1, Lot 67.

Mr. Frank Giuliano, landscape architect was present.

Mr. Giuliano described the project noting the applicant was seeking to build a swimming pool on this wetlands controlled lot. He noted that there is a stream and drainage pond on the Quaker Ridge Golf Course property to the rear. There are on-site wetlands associated with the stream. He said the proposed pool is set back from the rear property line but is within the 100 ft. wetlands setback which is why they are before the board. He said there would be no re-grading. The pool would be relatively small with no decking. The pool equipment would be located under a raised wood deck. They will also need a Special Use Permit from the Board of Appeals for the swimming pool.

Mr. Longman asked that the pool and edge of wetlands be staked. He said it was hard to get a rough idea how far the pool would be from the wetlands. He asked if the Stormwater Plan for the house included the pool.

Mr. Caccioppoli said the pool is not considered coverage as any rainwater is captured in the pool. An amended SWEC will be required to reflect the location of the pool.

Ms. Doucette-Ashman also asked that the project be staked. She said the reason for a Wetlands Permit review is to make sure there will be no disturbance or impact on the wetlands.

Mr. Steinberg noted a wetlands permit had not been required for the house. Ms. Marrinan indicated the house plans showed all construction was outside the 100 ft. wetlands setback. She said the plans submitted for the pool seem to show a corner of the house and the deck intruding. This will need to be confirmed.

Ms. Doucette-Ashman said the Board has an obligation under the code to make certain findings that there will be no impact on the wetlands.

Mr. Giuliano said there would be no disturbance in the wetlands or the 25 ft. buffer. He could explore a wetlands mitigation planting proposal within the buffer to replace the lawn that is there now.

Mr. Steinberg asked if the soils were tested by a wetlands specialist. Mr. Giuliano said yes. While there is no wetlands vegetation there now, the soils were tested and found to be hydric, that is they were affected by standing water and can support wetlands vegetation. He said they might create a wetlands habitat where now there is none.

The Chair asked if there was anyone in the audience who would like to speak to the application either in favor or opposition.

Dr. Moskowitz, 32 Herkimer Road, said he and his wife are here to oppose the pool.

They have lived in the area for many years and are concerned about flooding and the disturbance of the wetlands. He said a prior owner was concerned about the ponding in the rear yard and installed a dry well system in the rear yard. He also read a letter from an environmental attorney which he agreed to submit to the Board. He said the letter noted the stream is a tributary to the Hutchinson River and is wetlands. He suggested the Army Corps of Engineers and the New York State Department of Environmental Conservation should be reviewing the application.

Mr. Giuliano said this is not a New York State regulated wetland nor is it in a floodplain. The stream is not on the applicant's property and they are not proposing any construction within 55 ft. of the wetlands adjacent to the stream. He agrees that the proposal should be staked and with the Board's comments regarding mitigation in the wetlands. As for the drainage and the drywell system, he would leave it up to the engineers to work out. He noted that Scarsdale has one of the most restrictive Stormwater Management codes in the county.

Ms. Susan Samtur, 40 Herkimer Road, read a letter and submitted photos of the property. She said she has concerns regarding the potential of flooding and the impact on the wetlands. She said the pool will negatively affect her quality of life as the pool fence will be taller than she is and the required plantings will block their view of the golf course. She said the neighborhood was originally developed to allow all of the homes a view of the golf course. She said the fencing should be around the pool, not around the property line.

Ms. Samtur also discussed her dissatisfaction with the construction of the new house including the size of the house, the re-grading of the front and rear yards when no re-grading was proposed, the construction vehicles blocking the private road and parking on adjacent properties, the 10 ft. side yard setback which is too narrow to accommodate construction vehicles and certain tree removal. She also questioned the applicant's intention to live in the house, pointing to a real estate listing for the property.

Mr. Giuliano said he understands her and her neighbors concerns. He said new houses are larger because that is what the market demands. He said the original houses had no drainage facilities, but with the new laws all of the impervious surfaces are detained. He said he would address the staking and discuss a wetlands mitigation plan with the applicant. He also said the real estate listing was a six month agreement with the broker, but in the meantime, his client had decided to live there.

The Chair thanked Ms. Samtur and Dr. Moskowitz for their comments.

No other person desiring to be heard, the Chair declared the hearing closed.

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CASE #23 OF 2015

2. The Chair opened the discussion regarding the request of Lin Chen Tien for the first extension of time to file the subdivision plat approved by the Planning Board on January 27, 2016 which created two lots at 11 Carstensen Road, identified on the Village tax map as Sec. 3, Blk. 2, Lot 20.

Mr. Steinberg made a motion to approve the request for the first extension of time to file the subdivision plat. Ms. Doucette-Ashman seconded. The Board voted unanimously in favor of the motion.

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CASE #19 OF 2015

3. The Chair opened the discussion regarding the request of Deborah and Alan Annex, Cynthia Gray and Alain Hyman for the first extension of time to file the re-subdivision plat approved by the Planning Board on December 16, 2015 which relocated the lot line between 7 and 9 Park Road, identified on the Village tax map as Sec. 15, Blk. 2, Lot 7A and 6.

Mr. Longman made a motion to approve the request for the first extension of time to file the re-subdivision plat. Mr. Steinberg seconded. The Board voted unanimously in favor of the motion.

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CASE #17 OF 2015

4. The Chair opened the discussion regarding the request of Brookby Holdings LLC for the first extension of time to file the subdivision plat approved by the Planning Board on January 27, 2016 which created two lots at 35 Brookby Road, identified on the Village tax map as Sec. 18, Blk. 1, Lot 46.

Mr. Steinberg made a motion to approve the request for the first extension of time to file the subdivision plat. Mr. Clapp seconded. The Board voted unanimously in favor of the motion.

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CASE #5 OF 2016

1. 36 Herkimer Properties LLC
36 Herkimer Road
Sec. 23, Blk. 1, Lot 67
Wetlands Permit - Swimming Pool

The Board considered the application of 36 Herkimer Properties LLC, Case #5 of 2016, and, upon motion duly made and seconded, held the application over to a future meeting pending receipt and review of the following:

1. The applicant should stake the pool, the edge of the wetlands and the 25 ft. wetlands buffer.
2. The applicant should confirm the location of the 100 ft. wetlands buffer in relation to the existing house and deck.
3. The applicant should provide a wetlands planting mitigation plan for the wetlands area on the property.
4. The plans should be amended to show the gravel driveway, the 25 ft. and 100 ft. buffer, as clarified, and erosion control measures to help insure there is no impact to the wetlands during construction.

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CASE #23 OF 2015

2. Lin Chen Tien
11 Carstensen Road
Sec. 3, Blk. 2, Lot 20.
First extension of time to file the subdivision plat

The Board considered the request from Lin Chen Tien, Case #23 of 2015, for an extension of time to file the subdivision plat, and upon motion duly made and seconded, unanimously adopted the following resolution:

WHEREAS: the Planning Board granted approval of this two lot subdivision at its January 27, 2016 meeting creating one new lot; and

WHEREAS: the subdivision approval is null and void if the plat is not filed within 180 days of the resolution or by July 25, 2016; and

WHEREAS: the Planning Board has the authority to grant two 90 day extensions of time to file the subdivision plat; and

WHEREAS: the applicant has requested additional time to file the subdivision plat; now therefore be it

RESOLVED: that the Planning Board hereby grants the first 90-day extension of time to file the subdivision plat for the two lot subdivision resulting in one additional lot located at 11 Carstensen Road which will expire on October 23, 2016.

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CASE #19 OF 2015

3. Deborah and Alan Annex, Cynthia Gray and Alain Hyman
7 – 9 Park Road
Sec. 15, Blk. 2, Lot 7A and 6
First extension of time to file the subdivision plat

The Board considered the request from, Deborah and Alan Annex, Cynthia Gray and Alain Hyman, Case #19 of 2015, for an extension of time to file the subdivision plat, and upon motion duly made and seconded, unanimously adopted the following resolution:

WHEREAS: The Planning Board granted approval of this two lot subdivision at its December 16, 2015 meeting creating one new lot; and

WHEREAS: the subdivision approval is null and void if the plat is not filed within 180 days of the resolution or by June 14, 2016: and

WHEREAS: the Planning Board has the authority to grant two 90 day extensions of time to file the subdivision plat; and

WHEREAS: the applicant has requested additional time to file the subdivision plat; now therefore be it

RESOLVED: that the Planning Board hereby grants the first 90-day extension of time to file the subdivision plat for the re-subdivision of 7 – 9 Park Road which will expire on September 12, 2016.

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CASE #17 OF 2015

4. Brookby Holdings LLC
35 Brookby Road
Sec. 18, Blk. 1, Lot 46
First extension of time to file the subdivision plat

The Board considered the request from Brookby Holdings LLC, Case #23 of 2015, for an extension of time to file the subdivision plat, and upon motion duly made and seconded, unanimously adopted the following resolution:

WHEREAS: The Planning Board granted approval of this two lot subdivision at its January 27, 2016 meeting creating one new lot; and

WHEREAS: the subdivision approval is null and void if the plat is not filed within 180 days of the resolution or by July 25, 2016, and

WHEREAS: the Planning Board has the authority to grant two 90 day extensions of time to file the subdivision plat; and

WHEREAS: the applicant has requested additional time to file the subdivision plat; now therefore be it

RESOLVED: that the Planning Board hereby grants the first 90-day extension of time to file the subdivision plat for the two lot subdivision resulting in one additional lot located at 35 Brookby Road which will expire on October 23, 2016.

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Upon duly made and seconded, the minutes of the April 27, 2016, meeting were approved as amended.

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The Chair announced that the next meeting of the Planning Board would be held on Wednesday, August 3, 2016, at 8 p.m.

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The meeting was adjourned at 9:30 p.m.

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Elizabeth Marrinan, AICP
Village Planner