

**WHITE PLAINS PLANNING BOARD
MINUTES FOR THE MEETING OF APRIL 19, 2016**

MEMBERS PRESENT: Michael Quinn, John Durante, John Ioris, Lynn Oliva, Robert Stackpole, and Jon Westlund

MEMBERS ABSENT: Anna Cabrera

CB REPRESENTATIVE: None

COMMON COUNCIL: None

STAFF MEMBERS: Christopher Gomez, AICP, Commissioner of Planning
Arthur Gutekunst, Senior Assistant Corporation Counsel
Luis Saiz, R.A., Plan Examiner
Eileen McClain, Secretary

The next Planning Board meeting was scheduled for May 17, 2016, and the start time was moved from 7:00pm to **7:30pm**.

ADOPTION OF MINUTES

The March 15, 2016 meeting minutes were not available.

SCHEDULE PUBLIC HEARINGS

(207-16) **9 Woodale Place; R1-5 Zoning District – Site Plan Application for a Single Family House – Lot 1.** Environmentally Sensitive Site.

Steve Anderson, representing the applicant, described the site plan, noting that the house will be modular. He said the soil stockpile area can be moved to the front yard, but that not all of the stormwater detention can be moved to the front yard because some is needed in the back yard for the footing drains.

Mr. Quinn stated it is the Planning Board's responsibility to ensure that the steep slopes are protected to the maximum extent practicable.

Leslie Cohen, the applicant, said that there is a walk out basement, and that a 3' mason stone block wall is proposed in the back yard. He said no fill will need to be imported to the site.

Mr. Saiz confirmed that the average grade calculations were accurate, and that the other Building Department comments have been addressed in the current plan.

Mr. Quinn asked the applicant to provide an 11-foot side yard setback on the abutter's side. Ms. McClain was asked to provide a GIS map of the surrounding area, in order to determine if moving the house forward to protect additional steep slopes would be out of character with the neighborhood.

Mr. Ioris made a motion to schedule the public hearing for May 17, 2016, 7:30pm; Mr. Durante seconded the motion, and it carried unanimously.

(208-16) **7 Woodale Place; R1-5 Zoning District – Site Plan Application for a Single Family House – Lot 2.** Environmentally Sensitive Site.

Leslie Cohen, applicant, said that the house is the same as the one proposed at 9 Woodale Place, but his one has an elevated deck in the rear. The proposed house is a dimensionally conforming 2,700sf building.

Steve Anderson, from the surveyor/engineer's office said that a percolation test has been performed, and that 2 cultec units are proposed in the front yard, and 2 in the rear yard.

Mr. Quinn asked that a cut/fill analysis be done and that the items requested for 9 Woodale be provided for this lot as well.

Mr. Ioris made a motion to schedule the public hearing for May 17, 2016, 7:30pm; Mr. Durante seconded the motion, and it carried unanimously.

(210-16) **16 Reynal Road; R1-5 Zoning District – Site Plan Amendment – Environmentally Sensitive Site.**

Douglas McClure, R.A., presented the plan and identified the environmentally sensitive features of the site. He said that the proposed addition will not impact those features, and that the addition will be no closer to the watercourse than the existing house.

Ms. McClain said that there are two wetland buffers: a 50' restrictive buffer in which structures are prohibited; and a 50' protective buffer in which natural features are to be preserved to the maximum extent practicable. Mr. Gutekunst added that encroachment into the 2nd buffer area is permitted.

Dan Collins, from Hudson Engineering, stated that onsite rock prevents the use of a stormwater detention chamber, and that an attenuation system will be used instead to control flows to less than current levels. He said that daylighting in the rear yard is the best option because there are no catch basins in Reynal Road in the vicinity of the project site. Mr. Quinn said that DPW will review the proposed stormwater management and report back to the Board. He said that a double silt fence might be appropriate for erosion control.

Ms. Oliva made a motion to schedule the public hearing for May 17, 2016, 7:30pm; Mr. Durante seconded the motion, and it carried unanimously.

(216-16) **74 Coralyn Avenue; R1-5 Zoning District – Site Plan Application for a Single Family House.** Environmentally Sensitive Site.

Emilio Escaladas, R.A., P.E., presented the proposed plan. He proposed a rain garden for stormwater detention because there is only 18 inches depth of soil in the front yard. The house is designed with a full basement. The house can be moved back 7'-8' to reduce impacts to the rock outcropping.

Mr. Durante said that the Board may consider a rear yard encroachment if the moving the house back will protect the onsite rock outcropping. Ms. McClain will provide a GIS map of the surrounding lots to evaluate whether moving the house back will intrude on the Greenway.

The public hearing was not scheduled. The Applicant will submit revised plans with house shifted back in order to reduce impacts to rock outcropping.

PUBLIC HEARINGS

None

OTHER MATTERS

- (211-16) **Wild Fusion** - 250 Main Street– **Special Permit for Cabaret Use**. Common Council referral.

Jack Xio requested the special permit for a cabaret.

Mr. Stackpole made a motion to recommends approval of the special permit; Mr. Westlund seconded the motion, and it carried unanimously.

The Planning Board letter to the Common Council is attached to these minutes.

- (212-16) **LCOR 55 Bank Street LLC – Site Plan Extension** for the construction of a mixed use development at 55 Bank Street. Common Council referral.

Mr. Westlund made a motion to send a letter to the Common Council finding no objection to approval of the extension; Ms. Oliva seconded the motion, and it carried unanimously.

The Planning Board letter to the Common Council is attached to these minutes.

- (213-16) **120 Bloomingdale Road LLC, - Site Plan and Special Permit Extension** for an addition at 120 Bloomingdale Road to be known as **Heritage White Plains**, (formerly The Venue). Common Council referral.

Mr. Stackpole made a motion to recommends approval of the special permit; Mr. Westlund seconded the motion, and it carried unanimously.

The Planning Board letter to the Common Council is attached to these minutes.

- (214-16) **White Plains Rural Cemetery – 365 North Broadway; R2-4 Zoning District – Application for an Interpretation of that the construction of a crematorium does not constitute the expansion or intensification of the cemetery use; or in the alternative, a Use Variance**. ZBA referral.

Seth Mandelbaum, attorney, and Lorraine Kennery, cemetery director, presented the application: 1,800 sf crematory, on a 30 acre cemetery that has operated since 1854. The application to the Common Council to establish crematory as a use in the Zoning Ordinance was not acted upon, so the applicant is seeking a use variance instead. Mr. Mandelbaum noted that the Planning Board stated no objection to the proposed zoning amendment in its communication to the Common Council in December.

There are 30,000 bodies in the cemetery and less than one acre of land left for in-ground burials. There are 75-110 burials per year now, but the number is decreasing, as the preference for cremation grows, and the land available for burials decreases. State law provides that, if a cemetery is abandoned, the municipality takes it over.

Interest on the maintenance fund is used for cemetery expenses that are not covered by funeral fees.

The proposed crematory will be screened by existing landscaping and a slatted fence. It will not be visible from any residence.

The use is permitted by NY State, Ms. Kennery and one other employee are certified as operators, they have DEC permits, they deal mainly with funeral directors, cremations would occur generally between 7:00am and 3:00pm on weekdays, 3 to 5 per day, would not include a hearse for transport, no services or procession, will park on cemetery roadways, a viewing window will be provided, cremains are returned to the family or interred at the cemetery, there are no sights, sounds, or smells associated with the use.

Ms. Oliva reiterated her concerns about the architectural compatibility of the proposed structure with the historic character and designation of the cemetery. She said that screening is not the total answer. A peaked roof would be an improvement.

Mr. Quinn advised the applicant to look into whether the Westchester County Department of Health has emissions regulations. He said that the North Broadway Neighborhood Association has expressed concerns about the proposed use. With regard to concerns about odor, Ms. Kennery restated that there is no smell associated with the cremations, and that when Ferncliff crematorium is in operation there is no smell. Mr. Mandelbaum said that air modeling for this site has not been done, but that the application includes test results from a similar facility in Florida. He explained that there is an automatic shut off if more smoke than a cigarette generates is detected. Mr. Quinn said that there is always a possibility of a malfunction or human error.

Mr. Quinn read a DEC quote provided by the North Broadway Association. Mr. Mandelbaum responded that it is a partial quote and that the DEC strictly regulates crematoria, and that any emissions generated by the use are well below the DEC thresholds. Mr. Ioris said that the technology involved in cremations may have advanced past the DEC note.

Mr. Stackpole said that there is insufficient land remaining in the cemetery and that cremation is environmentally sound, and that the survivability of a City asset is at stake.

Mr. Mandelbaum said that the cemetery pre-dates zoning in the City and that the existing use is non-conforming. He said that the crematory is not an enlargement or intensification of the non-conforming use, and there is less traffic with a cremation than with an in-ground burial. He reviewed the four factors that the ZBA will consider in determining whether to grant the use variance:

- 1) financial hardship
- 2) analysis of alternative, permitted uses
- 3) unique site, circumstances that do not apply to the rest of the neighborhood.
- 4) the use would not change the essential character of the neighborhood.

He stated why he believes this application meets those criteria.

The Board felt that the applicant should state how much longer the business can survive on the burials and the interest on maintenance fund. Ms. Kennery noted that the NYS Supreme Court must approve use of the principal.

There was a discussion about whether during the build-up of the cremation business and the decline of the burial business there would be an increase in traffic to the site, and it was agreed that any increase would be negligible and that as time goes on, there would be a net decrease in traffic overall.

Messrs. Durante, Ioris, Westlund, and Stackpole voted in favor of sending the above comments in a letter to the ZBA recommending approval of the variance; Mr. Quinn and Ms. Oliva remained neutral on a recommendation but in favor of sending the comments.

The Planning Board's letter to the ZBA is attached to these minutes.

- (215-16) **Proposed amendment to the Zoning Ordinance of the City of White Plains to add "Nursery Business" as a Special Permit Use and adding "Organic Manufacturing" as a Principal Permitted Use.** Common Council referral.

Commissioner Gomez described the proposed amendment, stating that it addresses the evolution and expansion of nursery operations in residential districts, and the noxious impacts of the industrial uses.

Mr. Gutekunst said that the proposed amendment would amortize out organic manufacturing over a period of five years, with the possibility of extending an additional three years.

Ms. Oliva noted that residential districts abut the LI districts, and asked why the City should allow organic manufacturing at all. Mr. Gutekunst said that if the use is prohibited, then the amendment might not be upheld in court if a suit were filed against the City.

Mr. Quinn suggested enclosing the operations within a building.

Mr. Stackpole said that organic manufacturing is a hazard to school children, and that acreage is needed for such uses. He noted that the City does organic manufacturing in the Gedney Yard.

The Board wants to further consider the advisability of the proposed amendment, but finds it appropriate as to form.

The Planning Board's letter to the Common Council is attached hereto.

ADJOURNED - NO DISCUSSION AT MEETING

- (245-15) **Liberty Street** - R2-4 (Residential One and Two Family) Zoning District - **Site Plan Application** - Environmentally Sensitive Site. Applicant: Manny Makan
- (252-15) **17 Fifth Street**- R2-4 (Residential One and Two Family) Zoning District - **Site Plan Amendment Application to re-grade rear yard** - Environmentally Sensitive Site. Applicant: Andrea Hamilton
- (257-15) **275-293 Central Avenue**; B-3 Zoning District – **Site Plan Amendment to Construct Retaining Walls in the Rear Yard.** (Legalization) Environmentally Sensitive Site. Applicant: Gisondi Family

- (100-16) **60 South Broadway** – CB-3 Zoning District – **Application for a 3 Lot Subdivision** to separate the development site into one lot for each residential tower and one lot for the retail/restaurant component of the project.
- (209-16) **1 Nikki Drive** – R1-12.5 Zoning District – **Site Plan Amendment for a Retaining Wall and patio on an Environmentally Sensitive Site.**



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MUNICIPAL BUILDING · 70 CHURCH STREET · WHITE PLAINS, NEW YORK 10601
(914) 422-1300 · FAX: (914) 422-1301

THOMAS M. ROACH
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EILEEN McCLAIN
SECRETARY

April 20, 2016

TO THE HONORABLE MAYOR AND MEMBERS OF THE COMMON COUNCIL

SUBJECT: WILD FUSION - 250 MAIN STREET
SPECIAL PERMIT TO OPERATE AN ACCESSORY CABARET

At its April 19, 2016 meeting, the Planning Board reviewed the application made by Wild Fusion for a Special Permit for an Accessory Cabaret Use. This is the first cabaret for this business.

The Planning Board finds that the proposed cabaret use is consistent with the Comprehensive Plan, which recommends encouraging entertainment uses in the downtown. Therefore, the Planning Board recommends that the Common Council exercise its authority pursuant to Section 6.7 of the Zoning Ordinance, and grant approval of the Special Permit for the accessory cabaret use, with the further recommendation to require enforcement of the applicable provisions of the Noise Ordinance.

Planning Board members voting in favor of the motion to recommend approval of the Special Permit to Operate an Accessory Cabaret were: M. Quinn, J. Durante, J. Ioris, L. Oliva, R. Stackpole, and J. Westlund (6); Opposed: None (0); Absent: A. Cabrera (1).

Respectfully submitted,

MICHAEL QUINN
Michael Quinn, Chairman
White Plains Planning Board



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April 20, 2016

TO THE HONORABLE MAYOR AND MEMBERS OF THE COMMON COUNCIL

SUBJECT: LCOR 55 BANK STREET LLC – RENEWAL OF SITE PLAN APPROVAL FOR
THE CONSTRUCTION OF A MIXED USE DEVELOPMENT AT 55 BANK
STREET

At its meeting of April 19, 2016, the Planning Board reviewed the application by LCOR 55 Bank Street LLC, for a one year renewal of a site plan approval for the 55 Bank Street project, which involves the development of two, 16-story residential buildings with 561 dwelling units, 6,345 square feet of retail space, and associated parking.

The Planning Board was advised that the project remains the same as the amended plan that was approved by the Common Council in 2013. The Board voted unanimously in favor of a motion to find no objection to the renewal of the Site Plan approval for 55 Bank Street.

Planning Board members voting in favor of the motion to find no objection to renewal of the Site Plan Approval were: M. Quinn, J. Durante, J. Ioris, L. Oliva, R. Stackpole, and J. Westlund (6); Opposed: None (0); Absent: A. Cabrera (1).

Respectfully submitted,

MICHAEL QUINN

Michael Quinn, Chairman
White Plains Planning Board



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SECRETARY

April 20, 2016

TO THE HONORABLE MAYOR AND MEMBERS OF THE COMMON COUNCIL

SUBJECT: HERITAGE WHITE PLAINS - 120 BLOOMINGDALE ROAD – ONE YEAR RENEWAL OF THE SPECIAL PERMIT/SITE PLAN APPROVAL TO CONSTRUCT NEW RETAIL SPACE AND RESTAURANT WITH OUTDOOR DINING, ON AN ENVIRONMENTALLY SENSITIVE SITE AND IN A SPECIAL “S” ZONE

At its meeting of April 19, 2016, the Planning Board reviewed the application by 120 Bloomingdale Road LLC, for a one year renewal of a special permit and site plan for the Heritage White Plains project, formerly known as The Venue, to be constructed at 120 Bloomingdale Road.

The Planning Board was advised that, although the project name has changed, the project remains the same as the plan that was approved by the Common Council in 2013. The Board voted unanimously in favor of a motion to find no objection to the renewal of a Special Permit and Site Plan approval for Heritage White Plains.

Planning Board members voting in favor of the motion to find no objection to renewal of the Special Permit and Site Plan Approval were: M. Quinn, J. Durante, J. Ioris, L. Oliva, R. Stackpole, and J. Westlund (6); Opposed: None (0); Absent: A. Cabrera (1).

Respectfully submitted,

MICHAEL QUINN
Michael Quinn, Chairman
White Plains Planning Board



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LINDA PUOPLO
DEPUTY COMMISSIONER

EILEEN McCLAIN
SECRETARY

April 20, 2016

TO THE HONORABLE MAYOR AND MEMBERS OF THE COMMON COUNCIL

SUBJECT: PROPOSED AMENDMENT TO THE ZONING ORDINANCE OF THE CITY OF WHITE PLAINS TO ADD “NURSERY BUSINESS” AS A SPECIAL PERMIT USE AND ADDING “ORGANIC MANUFACTURING” AS A PRINCIPAL PERMITTED USE

At its meeting of April 19, 2016, the Planning Board reviewed the proposed amendment to the Zoning Ordinance to add “Nursery Business” as a special permit use and to add “Organic Manufacturing” as a principal permitted use.

The Planning Board finds the proposed amendment appropriate as to form, and has no objection to the Common Council scheduling a public hearing on this matter. The Planning Board will consider the advisability of the proposed amendment at its May 17, 2016, and offer comments for the Council’s consideration at its June meeting.

Planning Board members voting in favor of finding the proposed amendment appropriate as to form and having no objection to the Common Council scheduling the public hearing: M. Quinn, J. Durante, J. Ioris, L. Oliva, R. Stackpole, and J. Westlund (6); Opposed: None (0); Absent: A. Cabrera (1).

Respectfully submitted,

MICHAEL QUINN
Michael Quinn, Chairman
White Plains Planning Board

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DEPUTY
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EILEEN

TO: White Plains Zoning Board of Appeals
Cecilia Bikkal, Chairwoman

FROM: Michael Quinn, Chairman
White Plains Planning Board

DATE: May 4, 2016

RE: White Plains Rural Cemetery
365 NORTH BROADWAY
SBL: 125.08-1-1
R2-4 Zoning District
Use Variance
Z-2016-7

The above application was reviewed and discussed at the April 19, 2016 Planning Board meeting. The Applicant proposes to construct an 1,800 square foot crematory on the White Plains Rural Cemetery property in the existing maintenance yard. Crematory is not a listed as a permitted use in the Zoning Ordinance; therefore, the Commissioner of Building has determined that a use variance is required.

The applicant's attorney stated that there is less than one acre of land available for in-ground burials, and that the addition of a crematorium will enable the cemetery to remain economically viable. He said that State law requires that, if a cemetery fails, it becomes the municipality's obligation. He also noted that the definition of cemetery under New York State not-for-profit corporation law includes crematorium in the State enabling statute for cemeteries.

The Planning Board did not discuss or consider the applicant's request for a reversal of the Building Commissioner's determination that a use variance is required, because that decision is only within the jurisdiction of the Zoning Board of Appeals.

The applicant states that there are more than 30,000 bodies in the cemetery, and that 75 to 110 burials occur annually, but that number will decrease as available land diminishes. Operation of the crematorium would not include a hearse or funeral procession, or services. With few exceptions, the crematory operator deals only with funeral directors. Cremations numbering three to five per day would occur on weekdays, mainly between 7:00am and 3:00pm. The applicant stated that there is no smell or sound associated with the operations.

The applicant stated that the State of New York Department of State, Division of Cemeteries is the permitting agency for crematoria, but that local approvals are required before the Division of Cemeteries issues the permit to operate. Two existing employees of the White Plains Rural Cemetery are certified by New York State as operators, and the necessary air quality permit has been obtained from the Department of Environmental Conservation (NYSDEC),

The Board offers the following comments and recommendations regarding the application:

- 1) The applicant should contact Westchester County Health Department to determine if there are any regulations related to air emissions.
- 2) The applicant should provide financial information stating how long existing funding sources will sustain the cemetery business.
- 3) There are no other viable uses for the cemetery.
- 4) Because cremations generate less traffic than burials, there should be no net increase in vehicle trips.
- 5) Because the existing landscape will largely screen views of the proposed crematory there will be no visual impact of the structure. However, one Planning Board member felt that, if the use variance is granted, the structure should be designed with consideration of the historic designation of the site, and incorporate features that are compatible with the existing historic house, such as a pitched roof.
- 6) If the use variance is granted, the hours of operation should be limited to business hours during weekdays, as stated by the applicant at the meeting.

Four Planning Board members voted in favor of recommending approval of the use variance and two members were neutral in a recommendation. All members voted unanimously to send the above comments for the consideration of the Board of Appeals. Planning Board members voting in favor of recommending approval of the use variance for a crematory on the White Plains Rural Cemetery property: J. Durante, J. Ioris, R. Stackpole, and J. Westlund (4). Members who were neither supported, nor opposed the use variance: M. Quinn and L. Oliva. Opposed: None (0); Absent: A. Cabrera (1).