

PENDING COMMITTEE APPROVAL

Land Use Committee Minutes
June 1, 2020
Meeting Held By Zoom

Attendance: (13) Sylvia Alexander, Bob Bender, Paul Ellis, Bob Fanuzzi, David Gellman, Marvin Goodman, Donell Leverett, Charles Moerdler (Chair), Dan Padernacht (Vice-Chair), Karen Pesce, Julie Reyes, Laura Spalter, Marty Wolpoff (Vice-Chair)

Absent: (4) Eric Bell, Martin Gluck, Tracy Pardo, Carlos Wilcox

Guests: Mandy Blake, Rosemary Ginty (Board Chair), Jay Goldstein, Michael Hineman, Susan Morganthau, _____Rothkrug, Stu _____,

I. Meeting Called to order at 7:30 PM

II. Delafield Estates

- a. Chairman Moerdler noted that correspondence, maps and draft resolution was shared with Land Use committee members.
- b. Mr. Moerdler noted CPC expects committee decision tonight and a board decision next week.
- c. He further noted that over the past nine months the developer and those with issues (Home Owners Association and the Riverdale Sewer Corporation) have unable to come to any agreements.
- d. _____Rothkrug (developer's attorney) insisted project application before CPC reflected only "minor" modifications, widening of th roadway, that he had provided footprints (consistent with the original approved plans), with 22 undeveloped sites with 19 remaining, expansion of the roadway and curb cuts were of no concern.
- e. Mr. Moerdler felt the inability to reach agreement was due to the developer's dilatory conduct.
- f. Mr. Rothkrug noted not all correspondence between the parties was done by hard copy. Much was done via emails and telephone contact.
- g. Mr. Moerdler indicated that he was going to ask the Board to allow him to serve Pro Bono for any law suit HOA or RSC may bring against the developer.
- h. Ms. Susan Morganthau (Riverdale Sewer Corporation [RSC]), noted that there had been much communication with Mr. Rothkrug, but nothing has changed. Ms. Morgenthau is concerned with protection of the sewage pipes which are delicate due to age. She wants assurances that construction would not damage the pipes and a bond (escrow account) for repairs, should such be necessary. Further. Damage to the pipes could make uninhabitable all other residences.
- i. Mr. Stu _____, (Home Owners Association [HOA]), is concerned about establishment of an escrow account, proposed landscaping/screening and the curb cuts. He is also concerned that he has not received a certified Title report, not an opinion letter. The primary concern is who owns sections of the roadway and who is responsible for maintenance. He also pointed to inconsistencies in the filed CPC application.
- j. Jay Goldstein (developer's architect), noted that a Title Report was never promised.
- k. Justin Horsman, DCP, was asked to explain the difference between "major" and "minor" changes.
- l. It was also noted that the Riverdale Temple was concerned with easement through its property.
- m. Resolution was presented:

WHEREAS: the application is stated to be a Minor Modification of a Large-Scale Residential Development at the Delafield Estates, 680 West 246th Street, Bronx, NY. The proposal includes the repositioning of the nineteen unbuilt house sites to allow for all new houses to be freestanding. No changes to the development's overall unit count, floor area, or lot coverage are proposed. Proposal includes two new curb cuts on Douglas Avenue and one on West 246th Street for driveways; and

WHEREAS, the application initially came before the Land Use Committee of Community Board 8 ("Board 8") in September 2019 and was then and in successive months adjourned at the instance of the Applicant with the concurrence of the representative Department of City Planning and the Objectants for the stated purpose of permitting the Applicant and the Objectants to conclude a resolution of the pending disagreements of the parties centering, essentially, around (a) jeopardy to the private sewer facilities along the West 246th Street boundary of the premises by reason of the proposed Application's integral request for a curb cut on West 246th Street (the "Sanitary District") objections and (b) Neighbors' objections involving traffic and other concerns, including proposed curb cuts for driveways on Douglas Avenue, all as more fully summarized in Exhibits A and B hereto;

WHEREAS, the issues tendered by the Objectants present undeniable issues affecting the public health, safety and welfare of the community (e.g., the sewer line involved and here at risk services a number of nearby homes that would in its absence be uninhabitable and the curb cuts, including their placement, raise safety concerns);

WHEREAS, in several subsequent meetings of the Land Use Committee the Applicant's representatives stated that discussions were well underway and a resolution could be expected in the imminent future, while the Objectants generally demurred, noting that progress had been halting;

WHEREAS, despite efforts of the Land Use Committee to advance those discussions, it appears that they have made little progress and no resolution has to date been achieved; neither is there any indication that resolution is imminent (Exhibit C);

WHEREAS, the Land Use Committee has repeatedly made clear that good faith discussion looking toward resolution does not presuppose that one side or another of a controversy will yield on any or all issues but it does presuppose that the parties will discuss or consider the issues in good faith and with a manifest predisposition to resolution;

WHEREAS the record discloses that dilatory conduct has been an essential element of the failure to reach agreement over a nine month period. The issue appears to have been addressed to date as though it is one in which the concerns of Objectants, the Board and the Community are of relatively minor moment and the application will ultimately be addressed favorably to the Applicant by the City of New York ; NOW THEREFOR

BE IT RESOLVED the Application is DENIED with the observation that the concept of repositioning of up to nineteen proposed new houses to allow all such houses to be freestanding with continuation in some as yet unspecified form of an internal roadway employing only the existing entrance and exit from the premises has not thus far been presented to or considered by the Land Use Committee and may have merit.

In Favor – (12) Sylvia Alexander, Bob Bender, Paul Ellis, Marvin Goodman, Donell Leverett, Charles Moerdler, Dan Padernacht, Karen Pesce, Julie Reyes, Laura Spalter, Marty Wolpoff
Against- (0)

Abstain: (2) Bob Fanuzzi, David Gellman

III. **7 -15 Terrace View Ave.**

- a. Chairman Moerdler noted that correspondence, maps and draft resolution was shared with Land Use committee members.

- b. Jay Goldstein, (developer’s attorney), noted that BSA will be holding hearing in August. Project calls for a structure with 59 housing units and seven stories high (74’). The site is zoned for industrial usage.
- c. Issues raised included limited space on the street for construction staging and concrete deliveries, parking for moving vans, concern that passage of ambulances and fire trucks will be impeded, the out-of-context of the proposed structure, the absence of any provision for off-street parking, and, if staging is done via the U-haul site (U-haul has not yet been approached), possible need to encroach on RR right of way, concern for construction on a major site slope, and the need for traffic and environmental studies.
- d. Mr. Moerdler suggested that the developer’s reliance on the availability of public transportation in a parking strapped area, might consider incorporating commercial parking. Mr. Moerdler felt the need to present a resolution, but noted that the developer has provided incomplete information. There was also a question as to why this item did not go through CPC although there is also a zoning question. Request was made for developer to request BSA postponement. This item will appear on the LU September agenda.
- e. Resolution presented:

WHEREAS, Applicant seeks a variance from the Board of Standards and Appeals (“BSA”) to permit at 7-15 Terrace View Ave, Manhattan, permission to build a seven (7) story building containing fifty-nine (59) rental units contrary to the provisions regulating a M1-1 Zoning District (BSA Application 2019-66-BZ), with a *BSA Public Hearing to be Held on July 20/21, 2020*;

WHEREAS, a preliminary discussion of the issues was had at the May 1, 2020 meeting of the Land Use Committee of Community Board 8, Bronx County (the “Committee”) , and the Applicant was requested to respond at this June 1, 2020 meeting to a number of specific questions posed by the application;

WHEREAS, the Applicant’s counsel responded by letter dated May 20, 2020, together with Exhibits, a copy of each of which was transmitted to each member of the Committee;

WHEREAS, the Applicant made a further presentation to the Committee at the Committee’s June 1, 2020 meeting and responded to questions posed by members of the Land Use Committee;

WHEREAS, members of the Committee have as recently as today inspected the site and are familiar with it;

WHEREAS, the provisions of Section 72-21 of the Zoning Resolution require that each of five findings must be made before the BSA may grant this application;

WHEREAS, the Land Use Committee of Community Board 8, Bronx County, concludes that Findings (c) and (e) cannot be made and have not here been made:

- (c) “that the variance, if granted, will not alter the essential character of the neighborhood or district in which the **zoning lot** is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare;”
- (e) “ that within the intent and purposes of this Resolution, the variance, if granted, is the minimum variance necessary to afford relief; and to this end, the Board may permit a lesser variance than that applied for.”

WHEREAS, while there clearly are unique physical conditions attendant to the currently vacant lot, including a steep downward grade approximating a 35 degree angle, the balance of Findings (a) and (b) have not been sufficiently made in applicant’s

submission (i.e., that no enterprise within the specifications of a Manufacturing Zone could develop the site (even using variants the proposed construction methodology proposed by Applicant) in a fashion that would generate a reasonable return for Applicant (e.g., storage, warehousing, parking);

WHEREAS, the Committee makes, among others, the following Findings of Fact applicable to the conclusions reached above:

Terrace View Avenue is a narrow street providing one of two entranceways to the Marble Hill community. It is a one way street that, given parking one side and prevalent illegal parking on the other, supports only tight passageway for motor vehicles and questionable passageway and clearance for trucks and other large vehicles when illegal parking is present. It cannot provide access for, let alone, facilitate construction equipment and vehicles for the proposed construction phase of this project without impeding all emergency and other vehicles.

The traffic problem is exacerbated by Applicant's stated intention not to provide any parking at all for the proposed 59 residential units. The area is already parking starved, with parking on the sidewalks a frequent event. Indeed, with the advent of congestion pricing, it can be readily established that the parking problem will be exacerbated on both sides of the premises by non-residents parking in order to use the nearby Metro North facility or subway service to downtown Manhattan (commercial off street parking being at a minimum).

While one of the owners of the Applicant LLC represents he can develop a construction plan using the U-Haul site (at the bottom of the hill) to minimize the traffic issues noted above, he also admits that he does not have any binding arrangement with U-Haul, to that end (assuming that use would be permissible). Wishful thinking is not a showing supporting a finding.

The proposed structure would, by reason of height, bulk and character, materially alter the essential character of the Neighborhood and of the Zoning District in which the proposed residential high rise would be located. On the Terrace View Avenue side and in the immediately surrounding area one and two family residences abound. To the North, essentially down the hill, structures within the contemplation of a Manufacturing District abound (e.g., a U-Haul facility, gas and automobile repair facilities, a bank and an educational complex). Indeed, given both the shortage of legal parking and the proximity of mass transit, the site could well accommodate a parking facility. Indeed, the absence of parking was a significant factor in the rejection of a nearby medical facility proposed by a hospital.

NOW THEREFORE, upon, *inter alia*, the foregoing and the, it is hereby RESOLVED, that the Land Use Committee of Community Board 8, Bronx County, opposes the application and respectfully urges the Board of Standards and Appeals to deny it.

In Favor – (13) Sylvia Alexander, Bob Bender, Paul Ellis, Bob Fanuzzi, David Gellman, Marvin Goodman, Donell Leverett, Charles Moerdler, Dan Padernacht, Karen Pesce, Julie Reyes, Laura Spalter, Marty Wolpoff

Against – (0)

Abstentions (0)

IV. Webb Avenue Historical District

- a. Mandy Blake, on behalf of the effort to establish the Historic District, noted that a committee to research the area's history and file the appropriate papers has been established. The initial committee members are Mandy Blake, Nick Fazio, Rosemary

Ginty, Laura Spalter, Debra T____, and Sergio Villaverte. The area has a very rich history, including Point Four Park with revolutionary war significance.

V. 377 Sedgwick Avenue

- a. Neighbors and community board are incensed with the actions/inactions of DOB. Neighbors have photos of illegal work in progress. DOB inspectors reported no demolition visible. On a second occasion, DOB inspectors reported no demolition evident, but they were followed by EPA inspectors who reported illegal demolition. Chairman suggested this item be reported to the Inspector General.
- b. The committee needs to consider an effort for rezoning

VI. **Approval of minutes** – Minutes approved unanimously

VII. **Meeting adjourned** at 9:53 PM.

Respectfully submitted,
Martin Wolpoff,
Vice-Chair