

**Bronx Community Board 8 Land Use Committee Meeting
Minutes of April 9, 2018 Meeting at
Riverdale YM/YWHA, 5625 Arlington Avenue, Multi-purpose Room**

Community Board No. 8 Land Use Committee Members:

Present: B. Bender, E. Dinowitz, P. Ellis, B. Fanuzzi, D. Fuchs, D. Gellman, R. Ginty, M. Goodman, D.B. Jackson, R. Pochter-Lowe, C.G. Moerdler, T. Moran, D. Padernacht, K. Pesce, J. Reyes, L. Spalter, M. Yamagata, H. Young, R. Zavras

Absent: S. Alexander, E. Bell, L. Daub, M. Donato, D. Escano, S. Froot, M. Gluck, J. Gomez, M. Joyce, I. Ladimer, O. Murray, L. Parker, A.J. Robateau, G. Santiago, J. Santiago, S. Sarao, I.W. Stone, J. Townes, S. Villaverde, M. Wolpoff

Staff: L. Hernandez, Community Associate

Guests: D. Katsis, A. Goldfeder, M. Havens, M. Turok, M. Homics, S. Goldman, P. LaFrieda, F. Angelino, J. Horstman, E. Thompson, J. Klein, F. Rubin

Chair of Land Use Committee, C. Moerdler called the meeting to order at 7:40 p.m.

C. Moerdler announced that certification of Hebrew Home application will be done in April. This will allow the Board to convene two Land Use committee meetings to hear the project and allow the public to give their feedback.

No quorum present. February minutes could not be approved.

C. Moerdler announced the first agenda item for discussion:

Agenda Item #1:

3061 Scenic Place – CPC application (N 180268 ZAX, N 180269 ZAX, and N 180270 ZCX) and the related drawings submitted by Patrick LaFrieda pursuant to Sections: 105-421 and 105-425 of the Zoning Resolution, for the grant of authorizations for a modification of topographic features on Tier I sites and for modification of botanic environment and tree preservation and planting requirements to allow a vertical enlargement of an existing single-family residence and the reconstruction of an existing retaining wall and pursuant to Section 105-45 of the Zoning Resolution, for the grant of a certification of a restoration plan to facilitate the removal of Department of Buildings violation no. 011018C0801JM, for an unauthorized 105.7 sf vertical enlargement, and violation no. 011018C0802JM, for a modification of topographic features and removal of two trees to reconstruct a retaining wall located within the rear yard on a site located at 3061 Scenic Place (Block 5752, Lot 208) within the Special Natural Area District (NA-2), within Community District 8, Borough of The Bronx.

Mr. Angelino, attorney for Mr. LaFrieda made presentation of application:

- The application involves three actions to bring up to compliance:
 - The first action is the SNAD regulation for disturbance of soil in order to fix a retaining wall that runs 178 feet from Scenic Place along West 231 Street. The new retaining wall was built with proper footing and drainage.
 - Second action, a tree in the front yard with a width less than 6” caliper was removed and replaced. There were two trees removed by the retaining wall with width over 6” calipers. Under the botanical features, 13 trees have to be planted of 3” calipers.

- Third action, is the building FAR. The building has an FAR 0.50, it is built to an FAR of 0.31. 107.5 sq. ft. were added to the attic, all within the guidelines.

C. Moerdler:

- When the site was visited, it was visual that the retaining wall was substantially removed, who did that?
- Mr. Angelino presented to C. Moerdler a printout from the Department of Buildings (DOB), indicating who was responsible for the previous work done on the site.
- Was the new retaining wall examined by DOB and City Planning (CPC)? Did CPC determine if the wall was an appropriate replacement?
 - J. Horstman, the wall was restored to the original state based on SNAD regulations.
- You are asking us to approve the legalization of the work already done. Why was there no violation issued when the location was visited upon the complaint?
 - J. Horstman, when we visited the location, the previous wall was already removed. However, the wall needed to be replaced because of the danger to the structure and train tracks.
- Were there permits issued for the wall and work on the house?
 - Yes, there were permits issued.
- How many trees are in the front of the house?
 - There is one tree.

R. Ginty:

- If this was not a restoration plan, would you be required to plant 12 trees?
 - Yes, we would be required to plant the trees.
- Are there any violations now?
 - There is a violation for adding 105 sq. ft. to the building.
- Under what authorization are you extending the attic?
 - J. Horstman, the addition of the square footage does not require certification. Because there are multiple discretionary actions, all work is incorporated in the scope of work for the entire project.

C. Moerdler:

- When there is a violation on a property and the property owner presents CPC a plan to correct the work and remedy the violation, is it customary for CPC to allow the work to continue?
 - J. Horstman, CPC is not an enforcement agency. We are only aware of work that needs to be done when the work is presented to us or when a complaint is called in.

B. Bender: It seems that when someone gets caught, they are allowed to correct the violation without a penalty. Something has to be done to change self-certification. There has to be some penalty beyond what should have been done in the first place.

C. Moerdler: Propose to introduce a resolution to ask the city council to change the law to limit self-certification

R. Ginty: If the elements of the Natural Area district are violated, there is no incentive to abide by the law. If you get caught ignoring the regulations, you just have to do what you should have done in the first place. Someone was doing the work here, was any license challenged for the illegal work.

C. Moerlder: A request was sent to the Department of Investigations (DOI) asking for them to look into the DOB investigators who went to the location and did not issue any violations based on illegal work and that we would like to know what action was taken against the contractors doing the work. DOI never responded.

R. Ginty:

- Mr. Angelino, in your experience with DOB, do these issues get taken up DOB?
 - It may be on a case by case basis.

R. Fanuzzi: We are reporting to CPC regarding the application, but CPC has no responsibility to enforce violations, CPC did not issue them. The application is regulated by DOB. Legalization is making it the burden of the community boards to go against their own practices.

Discussion ensued regarding the practices of DOB and the enforcement of violations for illegal work on sites.

B. Bender:

- J. Horstman, if the requirement is to put 11-12 trees and it is not possible to plant all of those trees on the site; Why not ask for them to plant at a public space?
 - Planting on public spaces is complicated and something than can be considered in the future.

D. Padernacht:

- J. Horstman, what happened at the meeting between DOB and CPC?
 - DOB will not sign-off on the work until the application goes through City Planning approval. Once the application is referred out by CPC, DOB will issue the violation(s).
- What was the violation issued prior to CPC receiving the referral?
 - There were two DOB violations issued:
 - DOB Violation no. 011018C0801JM, "CPC Review required for vertical enlargement prior to Permit (Alt 2 220521264 per ZR 105-41", and DOB Violation no. 011018C0802JM, "Disturbance of natural environment and removal of trees C/Alt 2 220547273), requires CPC approval Restoration Plan per ZR 105-421 & 105-425."

C. Moerdler:

- Will those violations be removed by the action being taken now?
 - Yes, the restoration removes the violations.

C. Moerdler proposed: A request to the city council that it take action to make sure that this cannot happen again in terms of: allowing work to go forward and continue if work has been done that is illegal as a simple restoration without any penalty. To be further discussed at next meeting.

No quorum, no vote taken.

C. Moerdler excused himself from meeting and Vice-Chair D. Padernacht resumed meeting.

Agenda Item #3:

5000 Independence Avenue (Block 5940, Lot 520) CPC application within the Special Natural Area District (NA-2), within Community District 8, Borough of The Bronx: Application (N 180258 ZAX and N 180529 ZAX) and the related drawings submitted by Michael Turok pursuant to Sections 105-421 and 105-425 of the Zoning Resolution, for the grant of authorizations for a modification of topographic features on a Tier I sites and for modification of botanic environment and tree preservation and planting requirements to permit the enlargement of an existing single-family residence, the addition of a generator pad, and the relocation of a freestanding garage and driveway on a site located at 5000 Independence Avenue.

Home owner made presentation:

The plan has four goals:

1. Rebuild garage.
2. Rebuild breakfast room.
3. Install a generator screened from view.
4. Driveway to accommodate a visiting cars and provide a turn-around.

Plan will require removal of 3 trees but will be adding 14 trees.

Owner has been in contact with neighbors and have presented the plan to them. Neighbors support the plan.

M. Goldblum, architect presented:

- The garage lies on a mapped street, Blackstone Avenue and needs to be relocated. There is no parking allowed on Blackstone Avenue.
- Expansion to allow for a bedroom and a bathroom.
- The plan calls for minimal removal of trees.

D. Padernacht expressed concern regarding the trees.

- How far from Blackstone Avenue is the garage?
 - The garage lies on a through lot. Under certain regulations, if DOT is not intending on improving the street, it can be treated as a rear yard. The plans are being filed with the street being treated as a rear yard condition.
- Do you expect any effect on drainage?
 - We expect an improvement on drainage.

B. Bender:

- Are you required to move the garage?
 - We will not be permitted to rebuild the garage on the mapped street. The roof is collapsed.

Architect answered questions from the board members in regards to the plans. The home does not lie in the historic district. Indicated that all the work will be done Monday through Friday and there will be no week-end work.

No quorum, no vote taken.

Submitted by,

Lydia Hernandez
Community Associate