

**Bronx Community Board 8 Land Use Committee Meeting**  
**Minutes of March 5, 2018 Meeting at**  
**Manhattan College, 3825 Corlear Avenue, Fischbach Room, 4<sup>th</sup> Floor**

**Community Board No. 8 Land Use Committee Members:**

**Present:** S. Alexander, E. Bell, B. Bender, L. Daub, E. Dinowitz, M. Donato, P. Ellis, S. Froot, D. Fuchs, D. Gellman, R. Ginty, M. Gluck, M. Goodman, D. Jackson, M. Joyce, C.G. Moerdler, T. Moran, D. Padernacht, K. Pesce, J. Reyes, G. Santiago, J. Townes, S. Villaverde, M. Wolpoff, M. Yamagata, H. Yamagata

**Absent:** D. Escano, R. Fanuzzi, J. Gomez, I. Ladimer, R. Pochter-Lowe, O. Murray, L. Parker, A.J. Robateau, J. Santiago, S. Sarao, L. Spalter, I.W. Stone, R. Zavras

**Staff:** L. Hernandez, Community Associate

**Guests:** P. LaFrieda, D. Kaltsis, F. Angelino, J. Martino, B. Switzer, S. Nuzzo, W. deFoe, B. Drake, S. Goldman, B. Fitzpatrick, F. Klein, J. Stephenson, I.C. Levenberg-Engel, F. Huerta, I. Martinez

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

**Agenda Item #9: Horace Mann School – 231 West 246 Street:**

C. Moerdler announced that Horace Mann was present at the meeting to apply for a work variance permit to work on Sundays.

Representative from Horace Mann made the following presentation:

- Horace Mann attended a previous meeting about 18 months ago to present the project with their master plan.
- Horace Mann started its renovation to add a new campus center, science building and renovate the pool building.
- Horace Mann did not plan to work on Sundays but with some issues have come up and in order to complete the construction work in time, we are requesting approval to apply for a Sunday permit.
- The work on Sundays is to perform finishing work.
- We currently have a permit to work on Saturdays beginning at 7:00AM.

C. Moerdler:

- Beginning work on Saturdays at 7:00AM is disruptive to people in the neighborhood.
- Is the work you are doing now on Saturdays, exterior work?
  - Yes, the work on Saturdays has been exterior work.
- What burdens would be imposed on you if we ask that you start work on Saturdays at 9:00AM?
  - We have a deadline to meet with Department of Buildings. In order to be able to use the building in September, we need a Department of Buildings walk through by mid-June to receive the TCO.
- Could you confine the Saturday and Sunday work to inside work until 9:00AM?
  - I will consult with our contractor, Hunter Roberts, to see how that request would affect them and see if we can comply with that request.

R. Ginty:

- Right now you have a permit to work from 7:00AM to 3:00PM, why can't the hours of the construction crew be changed to work from 9:00AM to 5:00PM to accommodate the neighborhood?
  - The work being done is in the back of the house, I don't know that anyone has been affected with the work.

Resident:

- I have been disturbed at 6:00AM by the beeping of trucks backing up into the construction site.
  - Sanitation picks up our garbage early. We have also changed the delivery of the milk to a later time to accommodate the neighbors by not having any deliveries before 9:00AM.

C. Moerdler:

- Will you undertake to let us know whether or not you can agree that no exterior work will be done before 9:00AM.
  - Yes.

K. Pesce:

- I am concerned about you potentially bringing in trucks up Post Road, a narrow road.
  - It would not be trucks, it would be the workers vehicles which would go in through the back and park for the day.
- There is a trailer on Broadway, are you building there?
  - The trailer is used for storage of electrical equipment and will be removed when the construction is complete.

C. Moerdler submitted the following resolution:

**WHEREAS**, at the March 5, 2018 Land Use Committee meeting of Bronx Community Board No. 8, representatives of Horace Mann made a request to obtain approval to submit an application with the Department of Buildings (DOB) for a work variance to perform interior construction work on Sundays;

**RESOLVED**, Bronx Community Board No. 8 approves request for Horace Mann to apply for a work variance with the Department of Buildings (DOB) to conduct work on Sundays on the condition that exterior work does not begin before 9:00AM on Saturday and/or Sundays.

**Vote:**

**In favor: 24**

S. Alexander, E. Bell, B. Bender, L. Daub, E. Dinowitz, M. Donato, P. Ellis, S. Froot, D. Gellman, R. Ginty, M. Gluck, M. Goodman, D. Jackson, M. Joyce, C.G. Moerdler, T. Moran, D. Padernacht, J.M. Reyes, G. Santiago, J. Townes, S. Villaverde, M. Wolpoff, M. Yamagata, H. Young

**Opposed: 1**

K. Pesce

**Abstained: 1**

D. Fuchs

**Agenda Item #5: Bronx Office, Department of Buildings – Reason for issuance of permits to Stagg Group for early start times and weekend construction at project site: 3482 Ft. Independence a/k/a 3469 Cannon Place without requesting “Letter of No Objection” from the Community Board.**

C. Moerdler introduced Commissioner deFoe and Stephen Nuzzo from the Department of Buildings (DOB).

C. Moerdler:

- Mr. deFoe can you please tell us what the rules are in respect to early morning work, evening work and weekend work are.
  - Contractors can legally work every weekday from 7:00AM to 6:00PM, anything else is an after hour variance.
  - The Stagg Group has never received an after hour variance before 7:00AM or after 6:00PM. The only variance they received from DOB is for the weekends. DOB has not received any complaints for work on the weekends.
  - In The Bronx as a general rule we try to give weekend variances from 10:00AM to 6:00PM. But it varies depending on the situation. We do give night work variances on very special cases. Special permits are issued on the judgement of the Commissioner, depending on the specific situation.
- You also indicated that the rules now are that in certain residential districts where it involves work on private homes after hour variance are not needed.
  - The law has always been that work in 1-2 family homes do not need an after hour variance permit to work on the weekends as long as they are at least 300 ft. away from the neighboring home.

B. Drake:

- I was under the impression that the address for the location is 3482 Ft. Independence but the Department of Buildings uses 3469 Cannon Place because they were going to open on to Cannon Place. There are at least three different addresses for the location. There was a complaint filed on Saturday, February 3 that was resolved on Sunday, February 4. Another complaint was filed on Saturday, February 10, that was resolved on February 17. There have been complaints filed for weekend work being done without a permits.
- Another neighbor has been using 3470 Cannon Place to file complaints because that is the address posted on a sign at the property.

C. Moerdler:

- About 1 year ago we had a meeting with the Mr. Stagg, Stagg staff, Councilman Cohen and Assemblyman Dinowitz at which time we were asked to help them get the work done by working early and working late so that when the windows were closed in the winter there is less noise to be heard so that the work could be completed before the Spring and the Summer. The noise is still there and goes on a regular basis. I would ask no early work, no late work and no weekend permits for that site.

C. Moerdler submitted the following resolution:

**WHEREAS**, at the March 5<sup>th</sup> Land Use Committee meeting of Bronx Community Board No. 8, noise complaints and working on Saturdays without proper permits at the construction site of 3469 Cannon Place a/k/a 3482 Ft. Independence Street were presented to the Land Use Committee;

**WHEREAS**, Stagg Group representative explained that on Saturday, February 3<sup>rd</sup> they moved construction equipment and fixed mechanical equipment needed for construction and assured that it would not happen again;

**WHEREAS**, Bronx Community Board No. 8 requests that the Department of Buildings (DOB) not approve any applications for after hour / work variance permits to the Stagg Group for the construction going on at 3469 Cannon Place a/k/a 3482 Ft. Independence Street.

**RESOLVED**, Except in the event of an emergency, the Department of Buildings (DOB) shall provide 5 days written notice of any application for after hours or weekend work permits and shall consult with the Community Board in respect thereof.

**Vote:**

**In favor: 26**

S. Alexander, E. Bell, B. Bender, L. Daub, E. Dinowitz, M. Donato, P. Ellis, S. Froot, D. Fuches, D. Gellman, R. Ginty, M. Gluck, M. Goodman, D. Jackson, M. Joyce, C.G. Moerdler, T. Moran, D. Padernacht, K. Pesce, J.M. Reyes, G. Santiago, J. Townes, S. Villaverde, M. Wolpoff, M. Yamagata, H. Young

**Opposed: 0**

**Abstained: 0**

D. Padernacht:

- The frustration here is that the complaints are being lodged and are not being followed up promptly.
- Commissioner, are you receiving this information? B. Drake is saying that he is submitting videos in the 311 system, is your office getting those videos and that information?
  - We received the videos and have forwarded them to the enforcement unit. But the problem is that whenever we enter a location, the inspector can only enter what he/she sees and hears because the complaint has to be defended in court. The inspector cannot defend a video that is sent or mailed.
- But if you are receiving multiple complaints for a single site, how prompt are you in sending your enforcement unit to the site?
  - We try to be as fast as possible. We follow a grading system in regards to priority. Life and safety get priority. Noise complaints are not first priority. DOB does not have the equipment to measure noise. The Department of Environment Protection (DEP) measures noise.
  - One reason our response time is slower is that we have to coordinate with DEP.

P. Ellis:

- Is there an effective way to deal with these complaints?
  - The noise complaints should go directly to DEP.
- How about work on a Saturday?
  - Work on a Saturday is at the discretion of the Department of Buildings.
- So there have been complaints of weekend work without a permit, do you send someone out?
  - Without checking our files, I could not tell you when inspectors were sent out.
- This problem has been going on for a years now. Can you go back and check your records and see what complaints have come in and what action has been taken?
  - I noted that there are a lot of complaints. On the weekends, people respond but I can't say how fast or if not at all. It depends on the staffing and what else takes precedence.

Resident:

- On the February 3 complaint, DOB inspected on February 4 and there was no work being done.
- For the February 10 illegal work, DOB came on February 17 on a day that DOB granted the variance.

- Why was there a variance granted to a site that has so many complaints on file?
  - You have two conflicting complaints: You have a complaint about it dragging on too long and you have a complaint that they are working. If they stop working, they are not going to finish.

Stagg representative:

- The work that was done on the two Saturdays was repair work for the equipment. Two pieces of equipment were moved early in the morning because it is safer when there are less people and less traffic out on the road.
- Stagg has amended their plans to reduce the amount of rock excavation.

C. Moerdler:

- This has been going on for over a year. There have been complaints again and again. The Stagg Group has to pay attention to the need of the people who live there.
- We are on record asking that the Department of Buildings not to grant anymore after hour variance permits. That resolution was unanimously adopted.
- The violation that was resolved, was not issued by DOB, it was issued by Environmental Control Board (ECB).

R. Ginty:

- Can we include increased penalties in the resolution?
- Comm Defoe responded that they don't who imposed the fines. If it was a decision of the Court, DOB has no jurisdiction.

S. Villaverde:

- Commented that there should be a procedure that distinguishes the violators from the non-violators.

C. Moerdler:

- From DOB stand point, their function is to enforce the law as it is, they cannot make a judgement on what a fine should be.

B. Fitzpatrick, rep. Assemblyman Dinowitz:

- How do we resolve noise issues and after hours issues on the weekend or before 7AM.
- Comm Defoe responded that the noise issues should go to DEP and called into 311.
- DEP has been on site to measure noise and Stagg has been within the limit of the law in regards to noise.
- Cmoerdler responded that the City should give the residents a way to log complaints that works.

## **Agenda Item #2: 3061 Scenic Place – update on construction being done on property.**

C. Moerdler:

- DCP has certified the application to the board, but we have not received it yet. Relates to a problem dating back to December of 2016. There was a complaint that work was being done at a location on a steep slope without the proper permits. The owner of the property came to the Board and said to the Board that he gave the assignment to his architect. The assignment was to fix a retaining wall that needed work as it was in bad shape.

Mr. Angelino, attorney for Mr. LaFrieda, presented:

- The current architect and I came into the picture after the scene you described took place previously. At that point, it was revealed that there were problems with SNAD regulations. At

that point, the effort was to work cooperatively with the City Planning Commission to find out what regulations needed to be addressed and how the application can remedy the work that was done.

R. Ginty:

- Presented a chronology of pictures of when the construction work at 3061 Scenic Place was done on the retaining wall without permits in December 2016. Also presented were pictures where vegetation was removed at the site within the Special Natural Area District without permits.

C. Moerdler:

- Commissioner deFoe, there were two inspectors at the site who filed a report but did not mention the work being done at the site at the time.
  - Commissioner deFoe responded that DOB is working with CPC and have an agreement that until CPC is satisfied that the restoration is done, DOB will not sign off on any of the work.
- The Community Board was never notified that DOB and CPC have an agreement.
- When the inspectors visited the site and saw that there was illegal work going on, shouldn't DOB have issued a violation?
  - Comm deFoe responded that when the illegal work was brought to the attention of DOB, DOB notified CPC.
- There were no plans filed and no permits requested from DOB.

R. Ginty:

- The original plans were self-certified.
  - Comm de Foe responded that DOB would not look at the plans if they were self-certified because they are legal. The permit was issued in error.

C. Moerdler:

- Asked property owner: At what point did you find out that the work was being done without permits?
  - Mr. LaFrieda responded that he had no knowledge of what was required to get the work done.

C. Moerdler asked for the application to be explained to the board.

Mr. Angelino:

- The application involves three actions to bring up to compliance:
  - The first action is the retaining wall that runs 178 linear feet in a curve going back from Scenic Place along West 231 Street and then bending in a southerly direction. Water was ponding behind the wall and wall was leaning. There was no footing or drainage at the retaining wall. The new retaining wall was built with proper footing and drainage in exactly the same place. Permission is required from CPC for removal of the soil. Approximately 15% of the 12,000 sq. ft. of the soil was disturbed. A SNAD application has been filed.
  - Second action, a tree in the front yard which was less than 6" caliper was removed and replaced. There were two trees removed by the retaining wall that were over 6" calipers. There is a penalty for the removal of those two trees. Under the botanical features part of the application, the restoration of the trees is addressed. Under the regulation, 13 trees have to be planted of 3" calipers.
  - Third action, restoration plan: restoration of the wall and restoration of the botanical features. The building has an FAR 0.50, it is built to an FAR of 0.31. In the attic space,

107.5 ft. was added. It's not visible from outside. Raises the FAR to 0.32, all within the guidelines.

B. Bender:

- Who is responsible for the fact that you're in this situation?
  - Mr. LaFrieda responded that he is responsible. Initially I was told by my previous architect that I was not in the SNAD district.
  - Mr. Angelino commented that Mr. LaFrieda hired professionals to do the work that was required, but is taking full responsibility for hiring the professionals.
- What happened here has implications for SNAD throughout the entire community. It is important for us to know how it happened in the first place so that it doesn't happen again.

R. Ginty:

- City Planning (CPC) and DOB were called on multiple occasions and work would stop and then begin again.
  - J. Horstman from CPC, stated that there was not a full stop work order at this location. The retaining wall affected the structural integrity of the building. Because the original retaining wall was already torn down, they needed to complete the new wall. DOB did issue violations for the work.
- At the point in time that CPC came to that site, the wall had been torn down and work had begun. How does CPC know what the condition of the location was before CPC visited the location?
  - J. Horstman, the location was flagged with DOB. The retaining wall was out and the house could have collapsed, so the work had to be completed.

C. Moerdler:

- CPC and DOB did not tell the board that you had an agreement.

Commissioner deFoe:

- There was an agreement because the restoration would take longer. Nothing will get signed off until all plans and applications are complete.

J. Horstman:

- With the proposed SNAD changes, doing work with the as-of-right option, projects like this will improve. For small homes, DOB would be able to look at the entirety of the plan at the beginning.

R. Ginty:

- One of the primary things they want to do in the SNAD amendment is to take away the community board's review process and authorizations and instead do "As-of-right". That is the wrong way to go in a Natural Area District.

E. Bell:

- How are drainage issues being addressed?
  - When the retaining wall was built, gravel was placed behind with filtering material and drainage. Any water that ponds behind the wall will slowly drain.

S. Froot:

- The responsibility falls with the homeowner.
- Can Mr. LaFrieda, please prepare a narrative history of everything that happened since the purchase of the home. Please provide all the names and addresses of all the professionals involved; when they were retained; when they were terminated, so that we know who was responsible.

- o LaFreida responded that they will provide the information.

The application for 3061 Scenic Place will return to the April Land Use Meeting.

**Agenda Item #3: 5297 Independence Avenue (Block 5939, Lot 410) CPC application within the Special Natural Area District (NA-2), within Community District 8, Borough of The Bronx: Application (N 180136 ZAX and N 180137 ZAX) and the related drawings submitted by Daniel Wiener pursuant to Sections 105-422 and 105-425 of the Zoning Resolution, for the grant of authorizations for a modification of topographic features on a Tier II site and for modification of botanic environment and tree preservation and planting requirements to allow for site alterations to an existing single-family residence located at 5297 Independence Avenue (Block 5939, Lot 410) within the Special Natural Area District (NA-2), within Community District 8, Borough of the Bronx.**

A discussion ensued regarding the revised plans of the application and whether the revised plans were submitted to CPC.

C. Moerdler asked if the application could be held off on voting by CPC to allow the Community Board time to review the revised plans.

J. Horstman responded that CPC does not resend revised plans to the board. I reviewed the plans and they do not have a driveway. The application is moving forward for a CPC vote on March 17.

D. Padernacht asked if the application can be added to the Board Meeting agenda of March 13 for a vote.

C. Moerdler:

- Made a motion to request that City Planning Commission defer for 1 month or to its next ensuing session any hearing on Item # 3 - 5297 Independence Avenue

**In favor: 23**

S. Alexander, E. Bell, B. Bender, L. Daub, E. Dinowitz, M. Donato, P. Ellis, S. Froot, D. Gellman, R. Ginty, M. Gluck, M. Goodman, M. Joyce, C.G. Moerdler, T. Moran, D. Padernacht, K. Pesce, J.M. Reyes, G. Santiago, S. Villaverde, M. Wolpoff, M. Yamagata, H. Young

**Opposed: 0**

**Abstained: 3**

D. Fuchs, D. B. Jackson, J. Townes

B. Bender:

- Owner agreed to the conditions we requested in a past Land Use Committee meeting. It is frustrating that the project is proceeding in a different form and we have no opportunity to confirm whether the agreement made to us as a board is in effect in this altered form.

**Agenda Item #7: Request for downzoning area around Webb Avenue between West 195 Street and West 197 Street**

C. Moerdler announced that there is a request for down zoning the area around Webb Avenue between West 195 Street and West 197 Street.



Resident:

- Wrote a letter requesting the down zoning. There are 2 homes that were converted to Social Service facilities. One is on the corner of West 197 Street and Webb Avenue. Now, there is one on West 195 Street and University Avenue. Next door to me there is a two-family home that was operated as an illegal SRO. New owner wants to make it a subsidy for veterans.

B. Fitzpatrick, rep for Assemblyman Dinowitz:

- Read a historic statement to the committee on behalf of Assemblyman Dinowitz in support of the down zoning of Webb Avenue to an R1 Zone.

R. Ginty made a presentation of the area to show what the area looks like now.

C. Moerdler asked that the item be laid over to do more research. You cannot downzone just two or three blocks. That would be spot zoning, and it would be illegal. The area has to be further looked into.

S. Villaverde asked if there will be, by next month, a broader plan to vote on and requested the matter be further researched.

B. Bender: The function of downzoning is to prevent 1-2 family homes from becoming multi-family dwellings. Would that have any bearing on the group home? Wouldn't that still be allowed even under the downzoning?

C. Moerdler stated that group homes are not a valid reason for re-zoning/downzoning. By state law, they are allowed to do various of these sightings.

M. Wolpoff stated that it is probable that the IAHD facility fits under the Padavan Law and by definition is a single family residence, based on the state law.

R. Ginty made presentation of pictures of Webb Avenue. The area is zoned R-6.

S. Villaverde asked that the motion be tabled.

**Agenda Item #8: CPC Application #: N180239 PXX – Notice of Intent to Acquire Office Space. The Department of Citywide Administrative Services filed a “Notice of Intent to Acquire Office Space” pursuant to section 195 of the New York Charter for use of property located at 188 West 230 Street for office space to be used by the Taxi & Limousine Commission (TLC) of New York City.**

B. Switzer, Director of Operations for TLC stated that the location will be a temporary home for TLC's Enforcement Division. The office will be used for the dispatching of most of the officers. There will be no fleet vehicles in the street. The location is not a public office. There will be no visitor area, no counter operation and no waiting room. It will not be a licensing center, just an employee back office operation.

T. Moran:

- How long is temporary?
  - It will be a 5 year lease.
- Where will you park the fleet cars?
  - The location has a parking garage for 100 cars that we will be using.

R. Ginty asked, What is the rent per square feet?

- TLC does not know what the rent per square feet is.

D. Gellman requested that there be no parking/double parking at the location.

M. Yamagata asked, Are all 100 fleet cars will be dispatched from this location at a daily basis?  
o No, it is a 24 hour operation. Cars will be dispatched at different times of the day.

C. Moerdler submitted the following resolution:

**WHEREAS**, at the March 5<sup>th</sup> Land Use Committee meeting of Bronx Community Board No. 8, CPC Application #: N180239 PXX – The Department of Citywide Administrative Services filed a “Notice of Intent to Acquire Office Space” pursuant to section 195 of the New York Charter for use of property located at 188 West 230 Street for office space to be used by the Taxi & Limousine Commission of New York City (TLC);

**WHEREAS**, TLC will have 100 parking spaces for 100 TLC fleet cars which are dispatched at various times throughout the day on a 24 hour basis;

**RESOLVED**, Bronx Community Board No. 8 approves the application with the conditions that TLC will not park or double park TLC fleet cars on West 230 Street and Exterior Street and will formally request TLC employees not to park TLC fleet cars at said locations and that once the rent per square foot for the location is determined, TLC will inform the Community Board of that fact.

**Vote:**

**In favor: 20**

S. Alexander, E. Bell, L. Daub, E. Dinowitz, P. Ellis, S. Froot, D. Fuchs, D. Gellman, R. Ginty, M. Gluck, M. Goodman, C.G. Moerdler, T. Moran, K. Pesce, J.M. Reyes, G. Santiago, S. Villaverde, M. Wolpoff, M. Yamagata, H. Young

**Opposed: 3**

M. Joyce, D. Padernacht, J. Townes

**Abstained: 3**

B. Bender, M. Donato, D. Jackson

Submitted by,

Lydia Hernandez  
Community Associate