

BOARD OF APPEALS
VILLAGE OF NORTH HILLS
ONE SHELTER ROCK ROAD
NORTH HILLS, NEW YORK

July 25, 2023
7:30 pm

PRESENT: Douglas Weigler, Chair
Philip Goodman, Deputy Chair
Anthony Lobosco, Bruce Spenadel, Michael Strauss,
Members
Ray Dispaltro, Howard Fox, Alternate Members
Wendy Russo, Deputy Village Clerk
Peter Cinquemani, Superintendent of Building Department
A. Thomas Levin, Village Attorney (by phone)

EXCUSED: None

The Chair announced that the next regular meetings of the Board would be August 22, 2023 and September 26, 2023, each at 7:30 pm.

The full Board being present, Mr. Dispaltro and Mr. Fox participated in all discussions, but did not vote except as indicated in these minutes.

The Chair called the continued public hearing with respect to Case 23-08za, Application of Tracy Bourhill, 7 Hickory Court, Manhasset, New York, for zoning relief to permit enlargement or expansion of an existing non-conforming building which enlargement or expansion would not conform to existing Code requirements. The minutes of the hearing were transcribed stenographically, and are on file with these minutes. Maureen Chavez and John Prillo, from Matthew Korn Architects, appeared for the applicants. After hearing all interested parties, on motion by Mr. Spenadel, seconded by Mr. Lobosco and adopted unanimously, the hearing was closed.

The Board discussed Case 23-08za, on which the public hearing had been held and concluded. On motion by Mr. Strauss, seconded by Mr. Spenadel and adopted

unanimously, and pursuant to Village Code §215-44.1, the Board granted the requested variances based on the filed plans and any amendments at the hearings, on the following conditions: (a) all required permits must be obtained on or before 60 days from this date; (b) all work shall be completed and certificates of completion or occupancy shall be obtained within one year from the issuance of the required permits for such work, (c) any time periods established by this resolution may be extended by the Board upon letter application, without a public hearing, and (d) prior to any permit issuance, the applicant shall submit to the Building Department, and obtain approval from the Building Department, of plans for preservation of trees of adjoining properties, or for in kind replacement of any such trees, and compliance with such plans shall be a precondition to issuance of any certificates of occupancy or completion. The Board also directed that the Village Administrator give notice of this decision to the homeowners' association.

The Board discussed proposed amendments to the Board rules. On motion by Mr. Spenadel, seconded by Mr. Goodman and adopted unanimously, the Board adopted the following resolution making amendments to the Board rules, effective immediately, and directed that the amendments be sent to General Code Publishers for inclusion in the Village Code:

RESOLVED, that Village Code §A291-4 be amended, effective immediately, to read as follows:

“§ A219-4. Applications and appeals.

A. Applications may be made directly to the Board for consents, permits or variances, under the Code of the Village of North Hills, or the laws of the State of New York, only in cases where no building permit will be required to effect the purpose of the applications, or where otherwise permitted by law. If a building permit will be required under the Code of the Village of North Hills, then application must first be made for same to the Building Official. If said permit is denied by said Official on the grounds that a permit, consent or variance must be granted by the Board of Appeals, then an application or appeal may

be made to the Board for such permit, consent or variance, or other relief as may be permitted by law. Appeals may also be taken to the Board in any other case where permitted by law.

B. Applications or appeals to the Board may be made only by a real party in interest, such as an owner, lessee or other person having a contractual interest in the property concerned, and in case where such real party in interest is a partnership, corporation, association or estate, in its name by one of the partners, any officer thereof, or legal representative as the case may be. In cases where an application or appeal is made by a real party in interest who is a lessee or other person having a contractual interest in the property concerned, or other than an owner of the property, an affidavit of the owner expressing confirmation and consent must be included in the application or appeal.

- (1) All applications to the Board of Appeals shall include the consent of the owner(s) of the property which is the subject of the application. Where the property which is the subject of the application is common area of a condominium or homeowners' association or cooperative, the consent of the managing body of such condominium or homeowners' association or cooperative also shall be included.

C. All applications or appeals to the Board shall be made upon the proper form as prescribed by the Code Enforcement Officer or the Board, shall contain all information required by that form, and shall be presented to the Clerk, together with the prescribed fee. The Clerk shall cause each such application or appeal to be examined to ascertain whether it contains information sufficient to fully acquaint the Board or any interested person with the nature of the appeal or application, and information required as to the property concerned, the authority sought, and all other matters relevant. If, in the opinion of the Clerk, the application or appeal is sufficient and in proper form, the Clerk shall cause such application or appeal to be scheduled and noticed for a public hearing at the next regular meeting held more than 30 days after the filing of the complete application or appeal. If, in the opinion of the Clerk, the application or appeal is insufficient, the Clerk shall return such application or appeal to the applicant or appellant for completion or revision, as the case may be, as to matters in which it is found insufficient. Upon completion or revision, such application or appeal may be resubmitted to the Clerk.

D. An appeal permitted by the Village Code, or any other law, from any order, requirement, decision or determination of any administrative official shall be made within 30 days after the filing of such order, requirement, decision or determination and shall be on a form prescribed by the Board. Such appeal shall be delivered to the Clerk, who shall notify the official whose order, requirement, decision or determination is appealed from.

E. Each application and appeal filed in the proper form, with required information, shall be numbered in accordance with the numbering system adopted by the Village of North Hills. A separate file shall be maintained for each application or appeal submitted to the Board, and all material submitted to the Board shall remain therein. No such file or any part thereof shall be removed from the office of the Board except upon written authority of the Board and upon such conditions as it may impose, or where required by lawful authority. Such file shall be open to the inspection of any person at any time during the hours when the office of the Board is open for business. An index system of applications and appeals shall be maintained to enable any person to be furnished any such file upon identifying the property. Copies of the minutes of proceedings may be obtained upon payment of the cost thereof to the Clerk.

F. Any applicant or appellant may withdraw an application or appeal at any time prior to determination, with the permission of the Board, and any fee paid may be returned as may be permitted by the Village Code. All withdrawals of applications shall be in writing, signed by the applicant.

G. An application dismissed or denied shall not be refiled within a period of six months from the date of dismissal or denial unless substantial new facts are alleged and established to the satisfaction of the Board to exist.

H. An applicant may amend, modify or revise an application or appeal within 10 days after filing the same, without permission of the Board. Thereafter, any modification or revision of the application or appeal shall be permitted only with the permission of the Board, which may include the requirement that new notice pursuant to the provisions of § A219-5 hereof shall be given.

I. All documentation not included with an application, or any previous amendment, modification or revision of an application, including exhibits and information intended to supplement or support an application, shall be filed with the Village Administrator at least seven business days prior to the public hearing at which such documentation is intended to be considered by the Board. Any documentation not so provided at least seven business days before a hearing shall not be considered by the Board at that hearing. Notwithstanding the foregoing, by unanimous consent of all Board members present and voting, the Board may waive this requirement with respect to documentation filed less than seven business days prior to the hearing, or at the hearing, provided that a) the applicant presents nine copies of all such documentation, and one electronic copy, at least two business days prior to the hearing, and b) the Board concludes that the circumstances permit the Board to conduct a comprehensive review of the documentation prior to or at the hearing.”

And it is further

RESOLVED, that Village Code §A291-5 be amended, effective immediately, to read as follows:

“§ A219-5. Notice of public hearings. Notice of public hearings before the Board shall be prepared by the Village Attorney, and shall be given as follows:

A. By the Board. A brief description of the nature of the application or appeal, together with the name of the applicant, the location of the premises concerned and the time, date and place of the hearing, shall be published in the official newspaper of the Village of North Hills at least 10 calendar days before the date of the hearing, and shall be mailed to any governmental entity entitled to such notice as may be provided by law.

B. By the applicant. A notice of hearing, in a form prepared and provided by the Village, shall be sent at least 10 business days before the date of hearing, by first class mail and by certified mail, return receipt requested, to each owner of real property (including common area property and private roads) wholly or partly within 250 feet (inclusive of road widths) of any point of the property which is the subject of the application, said owners to be identified by the applicant from the current assessment map and roll of the Village of North Hills or such other municipality within which the property owned by such owners may be located. In addition, where the property which is the subject of an application is located within a homeowners' association, condominium or cooperative, the applicant shall give such notice in the same manner to the President of the governing body of each such homeowners' association, condominium or cooperative, and the managing agent of each such association, condominium and cooperative, at the address for such President and agent on file with the Village office.

(1) Each application shall include a radius map satisfactory to the Building Official, showing all properties to be included in the service of notice pursuant to this rule, with the names and addresses of the owners thereof or other persons or entities to which notices are required to be sent.

(2) Proof of service of such notices shall be filed with the Clerk at least five business days before the date of the hearing, and the return receipts or undelivered notices shall be filed with the Clerk on or before the business day prior to the date of the hearing. Any return receipts or returned notices received after the business day prior to the date of the hearing shall be delivered to the Clerk prior to the hearing, or as soon thereafter as practicable.

C. Prior to the commencement of the hearing, the Clerk shall verify that a proper radius map has been filed, and that proof of notice has been filed, as required by the Village Code and the Rules of the Board.”

And it is further

RESOLVED, that Village Code §A291-7 be amended, effective immediately, to read as follows:

§ A219-7. Orders, requirements, decisions and determinations.

A. Orders, requirements, decisions or determinations of the Board of Appeals may be made in either of the following manners:

(1) By resolution approved by at least a majority of the members of the Board, at an open meeting at which a quorum of the Board is present. Where a decision is issued by resolution, the filing date of the decision shall be the date when the minutes of the meeting at which the decision is made are filed in the office of the Clerk; or

(2) By written decision, approved by signature of at least a majority of the members of the Board. Such signature may be evidenced by a signature facsimile affixed to such decision by authorization of the Board member whose signature is so affixed. Where a decision is issued by written decision, the filing date of the decision shall be the date on which the decision is filed in the office of the Clerk.

B. Within five days after filing, the Clerk shall give written notification of decisions, orders, requirements or determinations of the Board to any applicant. Within a reasonable time after filing, the Clerk shall give written notification of decisions, orders, requirements or determinations of the Board (i) to the managing body of any homeowners’ association, condominium or cooperative within which the subject property is located, and (ii) to any person who has requested such copy and provided the Clerk with a postage-paid envelope and paid any required copying charge.”

There being no further business, the meeting was adjourned at 8:05 pm on motion by Mr. Strauss, seconded by Mr. Lobosco, and adopted unanimously.

**THE ABOVE MINUTES WERE FILED IN
THE OFFICE OF THE VILLAGE CLERK
OF THE INCORPORATED VILLAGE OF
NORTH HILLS AT**

TIME: 10:18 A.M./P.M.

DATE: August 14, 2023

W. Russo