

PLANNING BOARD

RUTHERFORD HALL
VILLAGE HALL
SCARSDALE, NY
August 11, 2021

2021 OCT -5 A 11: 49

VILLAGE OF SCARSDALE
OFFICES OF
CLERK/TREASURER

A regular meeting of the Planning Board of the Village of Scarsdale was held in Rutherford Hall in Village Hall on August 11, 2021 at 7:00 p.m.

Those members present were: John Clapp, Chair, Harold Porosoff, Deborah Pekarek, Jack Miller, and Frank Badalato. Also present were Greg Cutler, Village Planner, Daniel Pozin, Village Attorney, David Goessl, Village Engineer, and Rosy Doud, Assistant Planner.

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The Chair said please allow me to take a few moments of your time to explain the Board's procedures. We hear each application in the order in which it is noticed -- we hear first from the applicant and then from any persons wishing to speak.

After all of the evening's hearings, the Board will deliberate. Deliberations are open to the public. You are free to leave at the conclusion of your hearing or to stay for the deliberations. Some applicants choose to leave once their hearings have been concluded, while others choose to remain here. Should you decide to leave before the Board's deliberations, you may obtain the Board's decision by calling Rosy Doud at Village Hall tomorrow at 722-1137. Also, tomorrow the decisions will be posted on the web at www.scarsdale.com in the Agenda Center. Whether you stay or go has no bearing on the Board's deliberations or decision.

At the conclusion of deliberations on each application, the Board attempts to reach a consensus. For an application to be granted, at least three of the Board's five members must vote in favor of that application. The Board's decision is memorialized in a written resolution. The resolutions are filed at Village Hall and are available to the public.

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The Chair called the August 11, 2021 Planning Board meeting to order at 7:00 p.m.

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The reading of the following legal notice was waived by unanimous vote of the Board.

**LEGAL NOTICE
PUBLIC HEARING
PLANNING BOARD
VILLAGE OF SCARSDALE**

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Planning Board of the Village of Scarsdale in Rutherford Hall in Village Hall, 1001 Post Road, Scarsdale NY 10583 on **Wednesday, August 11, 2021 at 7:00 p.m.** at which time and place the Planning Board will consider the following:

1. **ADJOURNED** The application of 80 Garden Road LLC, Woodland Road LLC and 2156 2nd Avenue LLC for a nine lot subdivision with eight new houses, pursuant to Chapter 77 of the Village Code, at 80, 88 and 90 Garden Road, identified on the Village tax map as Sec. 16, Blk. 1, Lot 8A, Sec. 16, Blk. 4, Lots 3A and 1.
2. The application of Shaarei Tivkah for a special use permit for the use of up to three classrooms to operate a preschool at 46 Fox Meadow Road, identified on the Village tax map as Sec. 3, Blk. 3, Lot 9A.
3. **ADJOURNED** The application of New Cingular Wireless PCS LLC (AT&T) to renew the Special Use Permit to continue to operate a wireless telecommunications facility, pursuant to Chapter 310-80 of the Village Code, on the Village Hall site at 1001 Post Road, identified on the Village tax map as Sec. 3, Blk. 1, Sec. 1.
4. The application of Teresa Blume and Michael Raposa for Wetland Permit approval for regulated activities within the wetlands buffer and controlled area at 135 Saxon Woods Road, identified on the Village tax map as Sec. 20, Blk. 1, Lot 7A.

Copies of the above applications may be viewed by interested parties at this Dropbox link:
https://www.dropbox.com/sh/lgx0jljva35lkg/AAAZJANiVZ7fEyYW3TW36_TMa?dl=0

Please email planning@scarsdale.com or call 914-722-1131 with any comments or questions.

To receive meeting agendas by e-mail, visit www.scarsdale.com and click on “Notify Me” to subscribe.

By order of the Planning Board, Scarsdale, New York, dated July 30, 2021.
Gregory Cutler, AICP, Village Planner.

CASE # 6 of 2018

1. The application of 80 Garden Road LLC, Woodland Road LLC and 2156 2nd Avenue LLC for a nine lot subdivision with eight new houses, pursuant to Chapter 77 of the Village Code, at 80, 88 and 90 Garden Road, identified on the Village tax map as Sec. 16, Blk. 1, Lot 8A, Sec. 16, Blk. 4, Lots 3A and 1 will be held over until the September 22, 2021 meeting at the request of the applicant.

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CASE # 11 of 2021

2. The Chair declared the hearing open on the application of Shaarei Tivkah for a special use permit for the use of the single classroom to operate a nursery school at 46 Fox Meadow Road, identified on the Village tax map as Sec. 3, Blk. 3, Lot 9A.

Jenna Gasner, Applicant, was present.

Ms. Gasner said she is here to request a special use permit for a pre-school. There will be no changes to the building and no bussing. The permit is solely to permit the school to be run by an outside contractor.

The Chair asked for the proposed hours of operation. Ms. Gasner said the school will operate from 8:45 a.m. to 3:15 p.m. The Chair asked if there will be any events outside of school hours such as parent-teacher conferences. Ms. Gasner said no. The Chair asked if there will there be any signage. Ms. Gasner said no.

Ms. Pekarek said thank you for sending proof of neighbor notices by certified mail.

Mr. Miller asked if the parking lot can accommodate all the expected cars during pick up hours. Ms. Gasner said yes.

Peggie Sanchez, 5 Paddington Road, was present. She said she got the notice on time. She said her concern is the timing for the permit. She requests that the Board consider granting the permit for 1 year and re-evaluating. She asked if the pre-school will follow the schedule of Scarsdale schools. Ms. Gasner said they are following the schedule for Scarsdale schools with the exception of Jewish holidays, as the building will be closed.

Sandeep Piedmont said their child will be attending the pre-school if the application is approved. He said granting only 1 year creates a lot of uncertainty for a three-year-old. They love the space and the teacher, so only having a one year permit might be a detriment.

Ms. Pekarek asked what the maximum number of students would be. Ms. Gasner said 24.

Mr. Badalato said the application was at one point one classroom with a max of 8 students. He asked Ms. Gasner if she plans on being at full capacity starting in September.

Ms. Gasner said no, the request is to give them space to grow. As of now, there are only 6 potential students, but they are hoping to grow.

The Chair asked if there was anyone else who wished to be heard with respect to this application, either in favor or in opposition. No persons desiring to be heard, the Chair ended the discussion on the application.

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CASE # 12 of 2021

3. The application of New Cingular Wireless PCS LLC (AT&T) to renew the Special Use Permit to continue to operate a wireless telecommunications facility, pursuant to Chapter 310-80 of the Village Code, on the Village Hall site at 1001 Post Road, identified on the Village tax map as Sec. 3, Blk. 1, Sec. 1 will be held over until the September 22, 2021 meeting at the request of the applicant.

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4. The Chair declared the hearing open on the application of Teresa Blume and Michael Raposa for Wetland Permit approval for regulated activities within the wetlands buffer and controlled area at 135 Saxon Woods Road, identified on the Village tax map as Sec. 20, Blk. 1, Lot 7A.

The Chair said there appears to be a diversion of the watercourse based on satellite imagery, so an additional application for that diversion has been added to the agenda.

Chris Broda, Architect, was present. Ms. Broda said a portion of the property is in Scarsdale. Her clients bought the house in 2005. In 2009, they did an extensive renovation to the house. The original walls were built around the 1920s. They have crumbled over time, and parts of the wall are extant. The work done in 2009 did not include any work on the walls. Subsequently, her clients hired a contractor in 2017 to repair the walls, and the man put up vertical walls that are visible now. He did not apply for a permit, as he told his clients he would, and therefore the walls were built illegally. They are here for new construction to replace the existing wall that was built illegally and improperly. The walls are being undermined by the river. Ms. Broda said the jurisdictions involved in this application are complex. They have been before the White Plains Planning Board twice and are going back on Tuesday. Westchester County has said they do not care what is done as long as they are not building something permanent over the easement. The New York State Department of Environmental Conservation is also not concerned about the project. Ms. Broda showed pictures of the walls from 2005, 2007, 2008, and 2018. She said there was a catastrophic flood in September, 2018. The walls held on the Scarsdale side. On the White Plains side, the water got behind the wall that had been built and tore part of the wall down. The bridge was also destroyed.

Ms. Broda said they organized the proposal into zones. They are proposing zone 2 be completely rebuilt and zone 1 be backed with foundation. They are proposing to keep the walls vertical because it is so close to the house on the White Plains side. They are proposing

a 45 degree boulder wall on the Scarsdale side. The existing walls are vertical on both sides. They have a report from a hydrologist who shows that the proposed design will increase the volume of water that can remain on the site and slow the downstream speed. If it overflows, it will overflow towards the Scarsdale side, which is how it would naturally move.

Ms. Broda said the landscaping will mimic the natural woodland setting. They will also provide a curtain drain. There is a lot of water that flows down the central channel from upstream. They are also increasing the impervious surfaces, so they will use the water off the patio to feed the plants.

For construction management, White Plains has made comments to them. They all want to know how the construction team will access the site. Her clients also own the property upstream, to the North, at 145 Saxon Woods Road, which is a larger property with a much gentler slope. They will be able to create a construction entrance there. They will build a temporary bridge that will anchor on the neighboring property to enable the equipment to safely come over the water. They will have to divert the river some while they do construction section by section. They will make a cofferdam by creating an artificial wall of sandbags. They are estimating it will take 8-12 weeks to complete the wall. They will have erosion control with standard silt fences. They are trying to right a wrong. Her clients accept the responsibility and are open to whatever comments or corrections the Board has.

The Chair asked if they are asking Scarsdale for a permit within the 25-foot watercourse buffer. Ms. Broda said yes.

The Chair said there is an additional permit they need for the diversion of the watercourse. Ms Broda said yes, and they will be applying for this as well.

The Chair asked when the patio and pathways were completed. Ms. Broda said 2017. He asked when the bridge was added. Ms. Broda said it was there when her clients bought the property in 2005.

Mr. Porosoff asked if she anticipates changes to the river bottom at all and if so what. Ms. Broda said they are not changing the river bottom. The contractor in 2017 made some changes, and it is impossible to know where the original walls were. They are not changing the river bed's shape, grade, or slope, but they will put boulders in randomly throughout to roughen up the water and help slow it down. They are doing the 45 degree wall on the Scarsdale side because that way they do not need mortar. It will also roughen and slow the water.

Mr. Porosoff asked if the boulders risk causing a damming situation. Ms. Broda said it is unlikely, as they will not put many in there. The boulders will be heavy and are not likely to move. They can stipulate that the homeowners are required to ensure that the water is clean. Her clients are used to cleaning debris out of the river.

Mr. Porosoff asked if the Engineering department has all the resources they need to fully evaluate this application. Mr. Goessl said there will be extensive review at the permit level, which they should be able to handle. It is the inspection oversight that they are concerned about. They are going to rely on the client to handle construction oversight and will

stipulate that as part of the permit. Ms. Broda said that she and the rest of the team of professionals will be attending all required inspections and certify the designs.

Mr. Porosoff asked if all the plantings are native. Ms. Broda said they are all native to the northeast, none are on invasive species list, and all are woodlands appropriate.

Mr. Porosoff asked what is in the code about fire pits. Mr. Cutler said there is nothing in the code, but DEC regulates fires. There is no local review for fire pits.

Mr. Porosoff asked how it will be resolved if Scarsdale approves something and White Plains approves something different. Ms. Broda said they will have to do a reconciliation, and whichever regulation is more stringent typically becomes the requirement.

Mr. Miller said there is around 150 ft. of repair and reworking being proposed. How will it affect properties upstream and downstream of it? Ms. Broda said the number one concern is not to allow any debris during the construction to flow downstream, which they will control. They also do not want to make a change that will increase the volume or speed at which the water flows downstream. The volume of water will not change, but the speed gets determined by what they build. Their hydrology report clearly shows that they are slowing the speed down because they are widening the area in which the river can rise. They will not be increasing the speed or volume downstream. Upstream, they are not creating anything that is going to dam. While they are slowing it down, they are also increasing the volume that remains on the property, so it won't cause a backup.

Ms. Pekarek asked if they considered a permeable material for the patio. Ms. Broda said it is an existing patio so they are hoping to legalize it. Ms. Pekarek asked what the material is. Ms. Broda said it is bluestone, and the patio is not very large.

Ms. Pekarek asked Ms. Broda to describe the drainage system a bit more. Ms. Broda said they will dig a hole, put in filter fabric, add gravel, put in a pipe with perforation, and add more gravel on top. Water will get trapped and flow off the patio. It then gets collected by the pipe and distributed along the planting bed. Ms. Pekarek asked if there has been erosion. Ms. Broda said there has not been much erosion, but there is one section above the patio where they get a fair amount of silt, so this drainage system would help catch that. Ms. Pekarek asked if the curtain drain would need to be maintained. Ms. Broda said yes. Ms. Pekarek asked if there is a maintenance schedule. Ms. Broda says it is examined seasonally.

Mr. Porosoff asked what happens if the property owners do not maintain the curtain drain. Ms. Broda said it gets clogged and it doesn't work properly anymore. It won't affect the wall.

Ms. Pekarek asked if they are just moving the boulder wall back. Ms. Broda said they are smashing it back, excavating six feet behind it, and putting new boulders over it. Ms. Pekarek asked what they are proposing is historically how the wall looked. Ms. Broda said no, the walls were pretty much vertical and made of loosely stacked stone. Ms. Pekarek asked if there was ever a natural bridge. Ms. Broda said there was once a spillway that you could walk across on low water, but that was man-made. It has since been removed.

The Chair asked how the 45 degree walls compares to the natural contour of the slope. Ms. Broda said the property is six feet above the river bed. She does not know what the natural one was because nobody documented it prior to the house being built in the 1920s. What they had when her clients bought the house were vertical walls with a 6 foot distance. The Chair asked if they had considered making it shallower. Ms. Broda said they considered it but doing so would significantly reduce the size of the yard.

Mr. Badalato asked if the patio and existing fire pit are within the 25 foot buffer and if they were originally permitted. Ms. Broda said they are within the buffer and were not permitted. Mr. Badalato asked if the fire pit is something that is necessary and unavoidable. Ms. Broda said most people do not understand why you need to permit a patio. She said people do it all the time, and she has legalized many patios. They can't put the patio or firepit anywhere else.

Mr. Badalato asked if the Board has ever done a replacement wetland before. Mr. Cutler said he believes it has been used by this Board in the past. Ms. Broda said she wants to clarify that this is not a wetland. It not has been designated by FEMA, New York State, the County, or Scarsdale.

Mr. Goessl said he would like to see details on anchoring the bridge and would like to tie that into the elevation of the high water during the flood. For the construction phasing plan, he would like to see more information on the coffer dams, stream diversion, and other measures for erosion control. He needs more information on pumping such as proposed hours of operation, information on when it is necessary, and so on. Design professionals need to be on board to come out and certify. They also need to have a plan in place in the event there is a flood during construction. He would also like to know how many people have bridges upstream and downstream of the property. Ms. Broda says she knows the neighbors upstream and downstream both have bridges.

Mr. Cutler said because there are two agencies involved, and Scarsdale has been in contact with the White Plains Department and decided both Boards can do their own environmental review. As the application concerns the environment, the Board may consider both the White Plains and Scarsdale portions of the property. For the wetland buffer, they should only be reviewing the Scarsdale portion of the property. He said that invasive Japanese knotweed is present on the property, and that should be noted on the plan.

Mr. Porosoff asked what the Board is being asked to approve tonight. The Chair said he does not think they are going to get to the approval tonight. He imagines there will be follow up requests and additional appearances.

The Chair asked if any members of the public wished to speak.

Victor Sinansky, 131 Saxon Woods Road, White Plains, was present. Mr. Sinansky said his property gets a lot of water damage due to what the neighbors did. His biggest concern is that they are in hurricane season, which goes from June to November. They get the biggest storms in August, September, and October. He asks the applicants be careful of when they are going to do the work. He said preliminary drawings should specify the size of the

steel rebars. He said that he would like to see that the water leaves at the same speed that it enters. He said the river was slightly narrowed when they did the work in 2017. By doing that, they have decreased the width of the river, and it has increased the speed. What is done on one side needs to be done on the other side. He showed a video of the stream.

Ms. Broda said that her clients want to make it clear that the neighbor is not allowed to enter their property. She said there are a few factors that will not make it possible to do what Mr. Sinansky has asked for. There is a big rock outcropping, and they cannot enter the site on the White Plains side with any big equipment. It is too steep to slope it 45 degrees on both sides. It would also be too close to the house. She said she as an Architect, the DPW of White Plains, and the structural engineers agreed it would be perilous to put sloped walls close to the house. White Plains put in a concrete vertical wall for the stormwater drain. The stairs going down from the deck also would not have space.

Mr. Porosoff asked if with the proposal that is before the Board, the effect to the downstream property is equivalent, better, or worse from before the changes to the wall were made in 2017. Ms. Broda said it is going to be improved.

The Chair asked if there was anyone else who wished to be heard with respect to this application, either in favor or in opposition. No persons desiring to be heard, the Chair ended the discussion on the application.

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CASE #6 OF 2018

1. 80 Garden Road LLC, Woodland Road LLC and 2156 2nd Avenue LLC
80, 88, and 90 Garden Road
Sec. 16, Blk. 1, Lot 8A, Sec. 16, Blk. 4, Lots 3A and 1.
Subdivision—9 Lot Subdivision with 8 new houses.

At the request of the applicant, the application of 80 Garden Road LLC, Woodland Road LLC and 2156 2nd Avenue LLC, case #6 of 2018, for a nine-lot subdivision with eight new houses, pursuant to Chapter A319 of the Village Code, at 80, 88, and 90 Garden Road was, upon motion duly made and seconded, adjourned to the September 22, 2021, Planning Board meeting. The Planning Board made the following determinations with respect to process:

1. The applicant must make all submissions by the published Planning Board deadline preceding the September 22, 2021, meeting.
2. All submissions must be deemed complete by the Village Planner in consultation with the Village Engineer to be considered at the September 22, 2021, meeting.
3. Village staff and consultant will provide feedback by the Friday prior to the September 22, 2021, meeting. Members of the public and their advisors are encouraged to do the same.
4. All submissions must be prepared by professionals currently on the record and available to respond to questions at Planning Board meetings.
5. Prior to the next open hearing the following materials must be submitted:
 - a. Full set of plans produced by the engineering firm of record detailing the current subdivision proposal.
 - b. An updated full environmental assessment form, signed by a current professional of record.
 - c. Stormwater Pollution Prevention Plan and drainage plan agreed as to form, scope and onsite testing parameters among appropriate professional representatives of the applicant, Village, and members of the public who have retained professionals.
 - d. Tree inventory.
 - e. Explanation of recent tree removal activities.

CASE #11 OF 2021

2. Shaarei Tikvah
46 Fox Meadow Road
Sec. 3, Blk. 3, Lot 9A, Sec. 4 Blk. 3 Lots 330 and 331
Application for a special use permit to operate a pre-school education program in a residential district

The Board considered the application of Shaarei Tikvah, case #11 of 2021, for a special use permit to operate a pre-school education program, at 46 Fox Meadow Road and, upon motion duly made and seconded, adopted the following resolution unanimously:

- WHEREAS: the Board has considered the subject application pursuant to the State Environmental Quality Review Act and Chapter 152 of the Village Code; now therefore be it
- RESOLVED: The proposed action, the grant of a Special Use Permit for a private pre-school education program, is a Type II Action pursuant to Chapter 152 of the Village Code and 6 NYCRR 617.5 (c) (26) and no further review is required pursuant to said regulations; and
- WHEREAS: The property, consisting of three tax parcels, is located in the A-3 (10,000 sq. ft.) zoning district and is listed in the Assessor's records as 107,558 sq. ft.; and
- WHEREAS: Chapter 310-7F of the Village Code states that private schools are permitted in Residence A zoning districts, subject to the provisions of 310-89A, Non-residential Special Use Permits; and
- WHEREAS: Chapter 310-89A of the Village Code gives the Planning Board the authority to consider Special Use Permits for certain non-residential uses including private schools; and
- WHEREAS: The Planning Board, on May 31, 2006, approved a Site Plan for the construction of a new synagogue and associated site work which was completed and a Certificate of Occupancy issued in 2009; and
- WHEREAS: On May 27, 2009, the Planning Board approved a Special Use Permit to permit the use of the classrooms in the new building by a private non-affiliated nursery school for a period of 27 months through August 27, 2011 with certain conditions regarding the maximum number of students, daily sessions and evening events as well as permitted signage; and
- WHEREAS: On May 25, 2011, the Planning Board approved the renewal of the Special Use Permit for an additional three years; and

- WHEREAS: On August 28, 2014, the Planning Board approved the renewal of the Special Use Permit for an additional five years to August 27, 2019; and
- WHEREAS: The nursery school operating under the previous Special Use Permit no longer operates at the Shaarei Tikvah facilities at 46 Fox Meadow Road; and
- WHEREAS: The application materials include a letter from the Director of Operations requesting a Special Use Permit for a new operator (Yellow Acorn Montessori School) to utilize up to three existing classrooms for up to 24 pre-school age students; and
- WHEREAS: The Board members have visited the site and are familiar with the application; now therefore be it
- RESOLVED: That the application of Shaarei Tikvah for a Non-Residential Special Use Permit, pursuant to Chapter 310-89 of the Village Code, to allow the use of up to three existing classrooms by a private, non-affiliated pre-school education program at 46 Fox Meadow Road, as shown in the application materials, be approved conditioned on the following:
1. There shall be a maximum of 24 students per day.
 2. The school must be licensed by New York State.
 3. No events shall take place outside of regular school hours.
 4. No buses will be utilized for transportation of students to and from the facility.
 5. No street signage advertising the pre-school is permitted.
 6. The term of this Special Use Permit is three years.

CASE #12 OF 2021

3. New Cingular Wireless (AT&T)
1001 Post Road
Sec. 3, Blk. 1, Lot 1
Application for renewal of special permit renewal to continue to operate a wireless telecommunications facility at Village Hall

The Board considered the application of New Cingular Wireless (AT&T), case #12 of 2021, to renew a Special Use Permit for a wireless telecommunications facility at 1001 Post Road, and, upon motion duly made and seconded, set the escrow fund for professional review at \$5,000 to be replenished at the request of the Village Planner, and adjourned the public hearing to September 22, 2021.

CASE #13 OF 2021

- 3. Teresa Blume and Michael Raposa
 135 Saxon Woods Road
 Sec. 20, Blk. 1, Lot 7A
 Application for wetland permit approval to repair a stone retaining wall, construct a new bridge, and legalize an existing stone patio and pathways

The Board considered the application of Teresa Blume and Michael Raposa, case #13 of 2021, for a wetland permit, at 135 Saxon Woods Road and, upon motion duly made and seconded, adjourned the item to the September 22, 2021 Planning Board meeting for the following reasons:

- 1. To provide the applicant the opportunity to submit additional information regarding the extent and characteristics of the pre-2017 riverbanks.
- 2. To provide the applicant the opportunity to research and inventory walls, channelization, structures and other controlled activities within the 25-foot watercourse buffer both upstream and downstream from the property.
- 3. To provide the applicant the opportunity to demonstrate that the proposed activities comply with the requirements set out in Chapter 171-7 of the Village Code.
- 4. To provide the applicant the opportunity to submit a watercourse diversion permit application.

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Upon motion duly made and seconded, the minutes from May 26 and June 23 were approved as amended.

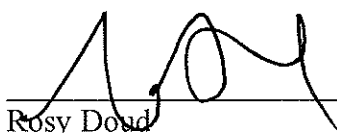
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The Chair announced that the next meeting of the Planning Board would be held on Wednesday, September 22 at 7:00 p.m.

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The meeting was adjourned at 10:01 p.m.

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 Rosy Doud
 Assistant to the Village Planner