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TOWN OF STONY POINT ZONING BOARD OF APPEALS

NARRATIVE SUMMARY

BA MAR MANUFACTURED HOME PARK Tax Map 20.02-11-7.1

The Ba Mar Manufactured Home Park has occupied its site in Grassy Point for over 70 years. During Superstorm Sandy in November 2012, much of the Park was inundated with flood water, and most of the homes were destroyed.

In the ensuing years, the ownership of the Park has worked with Town, County and State agencies to help families that were displaced by the storm, determine which homes could be salvaged and repaired, remove those homes that could not be saved, and stabilize the site.

Maintenance of the then-existing manufactured home parks was a goal of the 2013 amendment to the 1995 Master Plan of the Town. The 1995 Plan called for the adoption of zoning code amendments to allow then-existing parks to continue as uses by right, with flexible zoning regulations to “reflect current density and bulk requirements”.¹ These regulations are now contained in the MHC zoning district.

As noted many times by Supervisor Monahan, the Park is needed to provide affordable housing for people in Stony Point. However, the Park’s ownership also recognized that any rebuilding effort had to be sustainable and safe. Any plans needed to take into account new 100 year flood elevations.

The Park is now at the point where it can begin rebuilding.

To that end, it has worked with the Town to amend the base flood elevations to provide for a realistic determination of required floor elevations for new homes. Those new elevations, referred to as “Revised Base Flood Elevations” or “RBFES”, were adopted by the Town Board in August 2018.

¹ See, 2013 Amendment to 1995 Stony Point Master Plan, p. 6.

After the RBFEs were adopted, the Park began the process of preparing a new layout and grading plan. Park representatives met numerous times with the Town's Building and Fire Inspectors. They also met with the Town's planning consultant and engineer, and with the New York State Department of Environmental Conservation.

The result of these meetings is the plan submitted herewith. The Park is proposing 138 units of manufactured homes. This is a reduction from the 152 homes that occupied the Park prior to Superstorm Sandy. The number of homes conforms to the density now required by the Town's MHC zoning regulations (5,000sf/unit).

The plan also conforms to the separation requirements of the MHC district and its parking requirements.

The layout of the plan is new. While the old layout was essentially a "spine and stub", the new layout is a series of loops. This revision eliminates the many dead-end roads that were in the Park. The loop system will make it easier for emergency vehicles to access the entire park.

In addition, the main access road, Ba Mar Drive, will be raised above the existing grade. The new grade will be high enough for fire trucks to traverse its entire length during a 100 year flood event, based on the new RBFEs.

The layout plan also moves homes away from the NYSDEC wetlands at the south end of the site. Most of the homes are outside the 100 foot regulated area adjoining the wetlands. The Park is working with NYSDEC to obtain permits to allow placement within the regulated area. It is the applicant's position that the NYSDEC regulations governing the adjoining area are at least as protective, if not more protective, of the wetlands as are those in the Stony Point Code.

Both the loop system and the grading were prepared in consultation with the Building and Fire Inspectors.

Individual homes will be erected on pilings to raise them to a level that is two feet above the RBFEs. All the homes in the Park will be new, single-wide models. Homes will be built in accordance with all applicable regulations, including Stony Point Code § 112-21 (Flood Damage Prevention, Construction Standards, Manufactured homes and recreational vehicles). No variances from these standards are contemplated, nor have any been identified as of this writing.

This plan does not constitute an expansion of a manufactured housing community, as the land area is pre-existing and the number of units is being reduced.

This application, if granted, will allow the redevelopment of the Property.

Overview

The Applicant is seeking six (6) variances. The first two are to allow for decreased “lot width”² and “lot frontage” (see Section 215 Attachment 16 use group h.5) throughout the park as follows:

Number of Units with Lot Width / Street Frontage Between:

26.7-29.9 (ft)	30.0-39.9 (ft)	40.0-49.9 (ft)
32	86	6

The other four (4) variances are from the provisions of Section 215 Attachment 16 use group h.5 ten (10) feet (front yard set back):

Unit	Existing	Proposed
11	N/A	4
12	N/A	4
13	N/A	4
14	N/A	4.8
10	N/A	4 [Amended 11/7/2019]

History of Ba Mar

Ba Mar Group, LLC purchased the property in June 2011. In October 2012, Superstorm Sandy came ashore and flooded large portions of the New York metropolitan area, including parts of Stony Point along the Hudson River. Among the areas impacted was the Ba Mar Manufactured Home Community (hereinafter “Ba Mar”), in Grassy Point.

A majority of eligible residents sought relief through the “New York Rising Program” and were either relocated to other manufactured home communities or placed in other housing.

² Pursuant to Stony Point Zoning Code Section 215-21(J), in the Manufactured Home Community (MHC) district all references to “lots” shall refer to manufactured housing sites. See Use group h.1 for lot width and street frontage.

Redevelopment was delayed, in part, because FEMA had not revised base flood elevations for the area.³ In May 2018, Ba Mar Group, LLC, petitioned the Town Board to adopt revised base flood elevation standards which were based on data collected by the Applicant and reviewed by the Town Engineer. The Town Board adopted these standards by Local Law 4 of 2018, and they are now set forth in the code. The new revised base flood elevations are intended to provide more realistic protections against future damage in the event of a major flood event.

Ba Mar thereafter filed its application for site plan approval in December 2018. Since that time, the Applicant has worked with the Town's consultants and professionals, especially the Building Inspector and Fire Inspector, and attended numerous workshops and Planning Board meetings to refine the plan. On September 26th, 2019, the Planning Board issued a negative declaration (a copy of which is attached hereto as Exhibit A) and referred the Applicant to this honorable Board.

Existing Conditions

A map of the existing conditions is submitted herewith as Exhibit B. The existing site is poorly laid out from a fire safety/emergency services perspective in that there is no roadway circulating the entire site – rather, there are several dead end streets which connect to Ba Mar Drive and terminate at the west end of the Property adjacent to the CSX Railroad tracks. At the time of Sandy, there were 151 units on the Property. The Applicant is now proposing to build 138 units.

A majority of the existing units are doublewides and do not comply with the Zoning Code in terms of, among other things, lot width and distance between units. In fact, there are units that are as close as 1'1" apart.⁴

Proposed Plan

The proposed plan responds to the lessons learned from Superstorm Sandy. The "spine and stub" road layout, which included many dead-ends, will be replaced by a series of loops. 83,000 cubic yards of soil will be brought in to raise the roads, in most places by about eight feet in height. The new road layout was the priority in Ba Mar's planning with the Fire Inspector. It will allow multiple access routes to individual units, and will be high enough for fire trucks to pass under projected flood elevations.

³ Although FEMA issued Advisory Base Flood Elevations (ABFE) maps, they were not intended to be final. ABFEs were replaced by permanent BFEs in most affected areas, but not in Rockland County.

⁴ See Exhibit B.

In addition, while some existing homes are pressed against the wetlands, all of the new units will be placed well away from these areas. All units will be singlewide (16 feet wide) and erected on piers. The piers reduce the actual footprint touching the ground, allowing surface water to percolate beneath the units. The units will also be raised to a level that is at least two feet above the revised base flood elevations. All of the units comply with the 10 foot separation requirement of the State Building Code and the Zoning Code.

A copy of the proposed site plan is submitted herewith as Exhibit C.

However, in order for the new plan to be fiscally feasible, the Applicant requires relief from the 50' lot width requirement, and in three sets of cases, the front yard setback requirement.

Criteria for Variance

One of the purposes of a zoning board of appeals, and of the ability to grant variances, is to provide a "safety valve" where the strict application of a zoning code cannot allow an otherwise appropriate use of property because of the peculiar circumstances applicable to that property. For this reason, any municipality that adopts a zoning code must also establish a board of appeals. *See*, 2 Salkin, *New York Zoning Law and Practice* (3d ed.), §§27:07 – 27:10; *McKinney's Town Law*, Practice Commentary to § 267-a; Town L. § 267.2; *McKinney's Village Law*, Practice Commentary to § 7-712-a; Village L. § 7-712(2).

In making a determination to grant an area variance, a board of appeals "shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant." Town L. § 267-b.3(b); Village L. § 7-712-b.3(b). The board must also consider five questions when engaging in this balancing test. The questions, and the applicant's responses, are set forth below:

(1) *"whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance"*:

The revitalization of the existing park will only improve the overall appearance and value of the parcel, and will have a positive impact on the neighborhood. There are very few residences in the vicinity. The current view is of a mostly vacant manufactured home park. Many of the homes have been unoccupied for years. The Applicant is proposing to replace the existing homes with an assortment of three state of the art models in neutral color schemes.

The Town's 1995 Comprehensive Plan recognized the need for this type of housing.⁵ The subsequent adoption of zoning regulations limiting manufactured home parks to those existing at the time of adoption⁶ implicitly approved the continuation of the Ba Mar MHP. A recent letter from Town Supervisor Monahan to the New York State Department of Environmental Conservation expressly stated that "the proposed site plan for the reconstruction of the Ba Mar MHP is consistent with the goals of the Town's Comprehensive Plan and Zoning Code."⁷

(2) "whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance":

In order for the revitalization of the park to be fiscally feasible, relief from the Zoning Code, in particular the individual lot width dimension, is required. The lot width requirements were adopted at a time when many, if not most, of the manufactured home parks in the area housed doublewide units. These units are between 30 and 34 feet wide. The applicant believes that requiring the same lot width – 50 feet – for both single- and doublewide units is not logical. In addition, as stated above, the majority of the existing units, mostly doublewides, are situated on lots far less than 50 feet wide. Finally, it is worth noting that in the context of a manufactured home park, there really are no "lots" other than the Property itself. The code recognizes this and recognizes that in the MHC zone any reference to a lot is deemed to refer to the "manufactured housing site." See Stony Point Zoning Code §215-21(J).

(3) "whether the requested area variance is substantial":

Whether a requested variance is "substantial" is more than simple arithmetic. It requires an understanding of the general area and of the existing conditions. See, 2 New York Zoning Law and Practice, § 29:15.

The proposed variances are not substantial when viewed in light of existing conditions and the surrounding area. The proposed plan, even with the requested variances, is a significant improvement over existing conditions.

As noted above, the Code requirements contemplate doublewide units. Singlewides are proposed here. The resulting massing of structures will be similar to that sought by the Code.

(4) "whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district":

⁵ 1995 Town of Stony Point Comprehensive Plan, p. II-83, 2013 Amendment to 1995 Plan, p. 6.

⁶ Local Law No. 5 of 1988.

⁷ Copy annexed as Exhibit D.

The proposed plan will have the opposite effect. The physical layout will be much more aesthetically pleasing, and the Applicant is going to great lengths to ensure that the environmental impacts – both on site and off – are minimized. Positive impacts include: (a) insuring the continuation of affordable housing in Stony Point; (b) hardening the site to provide better flood protection and emergency access; (c) maintaining Stony Point’s residential tax base; and (d) maintaining opportunities for longstanding residents of Stony Point to remain in the Stony Point community. These goals are consistent with Stony Point’s Comprehensive Plan, which sets forth as one of its goals: “[p]rovide for the existing mobile home parks to be uses permitted by right in the zoning law with no provision for the establishment of new mobile home parks. Create flexibility in mobile home zoning regulations to reflect current density and bulk requirements.”⁸

(5) “whether the alleged difficulty was self-created”:

The Applicant purchased the Park in June 2011. Sandy struck in 2012. The circumstances the Applicant faces today do not arise from a self-created difficulty but rather a natural disaster that could not have been anticipated.

On balance, there is no detriment to the health, safety and welfare of the neighborhood or community which would result from granting the requested variances.

Relief requested

Accordingly, the applicant requests the following variances:

Lot Width	Required	50 ft	Proposed 26.7 ft (minimum)
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Street Frontage	Required	50 ft	Proposed 26.7 ft (minimum)
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Front Setback

Unit 11	Required 10 ft	Proposed 4 ft
Unit 12	Required 10 ft	Proposed 4 ft
Unit 13	Required 10 ft	Proposed 4 ft
Unit 14	Required 10 ft	Proposed 4.8 ft
Unit 10	Required 10 ft	Proposed 4 ft [Amended 11/7/2019]

⁸ 2013 Amendment to 1995 Comprehensive Plan, p. 6.

Thank you for your consideration.

Very truly yours,


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