



**TOWN OF OSSINING**  
**BUILDING & PLANNING DEPARTMENT**  
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ZONING BOARD OF APPEALS

TOWN OF OSSINING X

In the Matter of the Application of

Bethany Arts Community,

**RESOLUTION**

For a special permit pursuant to

The Zoning Ordinance of the Town of Ossining X

Whereas, Bethany Arts Community ("BAC" or "Applicant") made an application to the Town of Ossining Zoning Board of Appeals ("ZBA") for a special permit to operate a not-for-profit, philanthropic, eleemosynary institution catering to the arts in accordance with the Town of Ossining Zoning Code ("Zoning Code") §§ 200-7(B)(2) & 200-45(C), and

Whereas, the Applicant is the owner of a parcel of land located at 40 Somerstown Road, Ossining, New York, designated on the tax map of the Town of Ossining as Section 90.10, Block 3, Lot 27 in the R-40 Zoning District, and

Whereas, pursuant to the applicable provisions of law and after due notice and publication, a public hearing was held on March 21, 2016 and continued at the ZBA's regularly scheduled meeting on November 7, 2016, and

Whereas, in connection with this application, the Applicant has submitted the following materials:

- Application to the Zoning Board of Appeals dated March 3, 2016
- Narrative of proposed application consisting of letter dated May 5, 2016 with exhibits, including schematic designs and mission statements/narratives from other institutions in the tri-state area with a similar use
- Plan Set prepared by ARQ. HT, LLC dated March 3, 2016 consisting of the Title Sheet, Maps & Zoning Data (T-1), Proposed Partial Site Plan (S-1), Proposed Site Plan & Details (S-2), Proposed Site Plan (SK-1) and Proposed First Floor Plan (SK-2)
- Plan Set prepared by ARQ. HT, LLC dated March 3, 2016 and revised October 31, 2016 consisting of a Title Sheet, Maps & Zoning Data (T-1), Proposed Partial Site Plan (S-1), Proposed Site Plan and Details (S-2), Proposed Landscaping Plan (S-3) and Partial Site Plan-Lighting Plan (S-4) ("October 2016 ARQ. HT Plan Set")

- Plan Set prepared by Hudson Engineering & Consulting, P.C. dated October 5, 2016 consisting of a Stormwater Management Plan (C-1) and Proposed Site Improvements (C-2) ("October 2016 Hudson Plan Set")
- Sight Distance Plan prepared by JMC Planning, Engineering, Landscape Architecture & Land Surveying, PLLC dated October 5, 2016 (the Sight Distance Plan, the October 2016 ARQ. HT Plan Set and the October 2016 Hudson Plan Set are collectively referred to herein as the "Approved Plans")

Whereas, the property was purchased in 1924 by the Maryknoll Sisters of St. Dominic, who built a structure on an existing foundation to be used as a convent, and in 1951 a 3-story dormitory/cafeteria wing was added, as well as a Chapel, which property has been used as a dormitory/residence until the property was sold to the Applicant in 2015, and

Whereas, the Applicant proposes to convert the dormitory/missionary residence into a not-for-profit, philanthropic, eleemosynary institution catering to the arts where "[t]he proposed use of the building will be to provide a space and environment where local artists, individually, or as a group, at all levels of age and skill, will create, collaborate, grow, learn, and/or exhibit their work", and

Whereas, the Applicant proposes to operate a facility with the following elements, services and uses:

- After-school art instruction program to service children. The Applicant contemplates that the students may be transported to the site by existing Ossining school bus routes. The Approved Plans provide a designated area for school buses to drop off the students and the school buses will not park or idle on the property. The Applicant will aim to have the classes end by 6pm.
- Weekend school art instruction programs for families
- Affordable studios for local artists to use. The studios will be available 7 days/week during normal business hours. The Applicant represented that it intends to reserve approximately 3 studios exclusively for artists living in Ossining. Approximately 22 artists will have access to the facility at any given time, including those artists residing on the facility.
- Artistic residency program to allow artists from around the world to reside at the property from 1 week to 4 months maximum, so as not to create a landlord-tenant relationship. They will have their own private lodging with a kitchenette with certain appliances, including a refrigerator and microwave, but no stove or oven. There will be shared meals prepared by the staff in the commercial kitchen downstairs. The Applicant does not anticipate having more than 10 artists (and potentially certain family members) residing on the property at any given time.
- Public art presentations to be held once or twice each month on a weekday evening or on the weekends during the day. The programs will be open to the public but are anticipated to accommodate fewer than 30 guests.
- The Applicant will have a meditation trail on the property without artificial lighting. The Applicant has represented that for safety purposes it will restrict the hours of usage of the trail and will install signage to that effect.
- The Applicant anticipates that weekday evening events will end by approximately 9:30pm and weekend evening events will end by approximately 10:00pm.
- The Applicant anticipates having approximately 2 full-time and 2 part-time staff members when the facility first opens, which will likely increase to 6 full-time and 3 part-time staff members by 2018. The Applicant also anticipates having volunteers working at the site,

which will vary depending upon the time and type of event, and the number of volunteers could impact the number of staff members the Applicant hires.

- The Applicant proposes to restore an apple orchard on the property and represents that it will not use pesticides in the orchard.

Whereas, the Applicant proposes to use the property in the following manner and make the following modifications/improvements to the existing structure/site in connection with the proposed change in use:

- Conversion of the main floor into gallery space, a multi-purpose room (formerly the chapel), alterations to the office area, and utilization of the former sleeping units as studios or artist workshops
- On the second floor, the sleeping units that were formerly Clarke House will remain while the sleeping units that were part of the later addition will be converted into additional studios or artist workshops
- The third floor will remain for residential use
- On the ground level, the cafeteria, kitchen and multi-purpose room will remain, while other spaces will be used as ceramics workshops, children's workshops and woodworking workshops
- Minor alternations to bring the building into compliance with current Building Code requirements, accessibility, and repairs due to maintenance
- No change to the footprint, size and/or location of the structures on the property
- Enlargement of existing access driveway to accommodate fire apparatus access
- Enlargement of parking area
- Landscaping improvements
- Restoration of Apple Orchard and creation of sculpture garden, meditation trails and buffer landscaping
- Installation of outdoor lighting for safety purposes with mitigation measures to minimize impacts
- Installation of green pavers

Whereas, the Town of Ossining Planning Board ("Planning Board") declared itself lead agency for this Unlisted action for a coordinated review pursuant to the State Environmental Quality Review Act ("SEQRA"), and,

Whereas, in connection with the Planning Board's SEQRA review, the Applicant addressed certain comments and issues raised by the Planning Board, its consultants and the public by making the following modifications to the initial proposal:

- Revised parking plan with more efficient configuration, reduction in impervious surface and a stormwater mitigation plan that improves existing conditions;
- Revised landscaping plan to accommodate the new parking layout and further decrease any potential light escaping the parking area.
- Putting all outdoor lighting fixtures on timers and/or sensors.
- Modification to the proposed meditation trail to set it farther into the property and away from the property line and neighboring properties.

Whereas, at its meeting on October 19, 2016, the Planning Board issued a Negative Declaration finding that this application does not have the potential for any significant adverse environmental impacts, and

Whereas, although the Applicant cannot provide the number of parking spaces required under the Zoning Code, the Building Inspector has opined that the Applicant can seek a waiver of the parking requirements from the Planning Board as opposed to seeking a variance from the ZBA, and

Whereas, this application was referred to the Westchester County Department of Planning, the New York State Department of Transportation and the Village of Ossining Water Department and more than thirty days have passed since the referral, and

Now therefore,

Be it resolved, after duly considering all the proofs and evidence before it, this Board finds as follows:

1. Upon compliance with the conditions set forth herein, the proposed application and use will not have any negative impacts on the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular. This is a positive use for the community and is anticipated to improve existing conditions.
2. Upon compliance with the conditions set forth herein, the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the R-40 Zoning District and will not be detrimental to the orderly development of adjacent property in accordance with the zoning classification of such properties.
3. Upon compliance with the conditions set forth herein, the location and size of such use, the nature and intensity of operations involved in or conducted in connection herewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with the said residential district or conflict with the normal traffic of the neighborhood.
4. Upon compliance with the conditions set forth herein, the location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

Be it further resolved, the Applicant is granted a special permit to operate the proposed use subject to the following conditions:

1. This special permit is granted solely in connection with the proposed use and the Approved Plans. In the event the Applicant seeks to modify the use or the plans from what was presented to the ZBA and approved herein (other than changes to the Approved Plans that are deemed by the Building Inspector to be minor field changes), the Applicant must return to the ZBA for an amended special permit.
2. The granting of this application shall not be deemed to relieve the Applicant of the need to obtain approval of any other board or agency or officer prescribed by law or ordinance with regard to the plans or construction or any other phase of the project.

3. The granting of this application shall not be deemed to relieve the Applicant of the need to fully comply with all of the requirements of all applicable building and fire codes, as amended from time to time, and particularly those requirements related to occupancy, which compliance will be confirmed by the Building Inspector.
4. No portion of the property may be occupied without a valid certificate of occupancy.
5. In the event of transfer of ownership of the Property or operation of the facility this special permit shall automatically become null and void.
6. The Applicant shall comply with any and all conditions, requirements and/or recommendations set forth in the responses from Westchester County Department of Planning dated May 31, 2016 and the New York State Department of Transportation dated June 17, 2016.
7. The Applicant shall substantially comply with the representations it made to the ZBA as to the types of uses and intensity of those uses on the property as set forth herein.
8. This special permit shall expire in 3 years unless before that time the Applicant makes an application to the ZBA to have this special permit renewed. Based upon the information the ZBA receives when considering the renewal application, the ZBA may, in its discretion, add to, remove and/or alter the conditions of this approval. The ZBA anticipates that after this initial 3-year renewal period, the Applicant will then have to get the special permit renewed 5 years after the date of the renewed special permit, and every 8 years after that. However, the ZBA reserves the right to modify this renewal schedule based upon the information presented to it during the renewal applications by the Applicant, the public and/or its consultants and representatives.
9. Failure to comply with any of the conditions of this approval shall be grounds for revocation of this special permit.

Dated as of November 7, 2016

Sal Carrera, Chairman  
James Blair, Member  
David Krieger, Member  
Ed Miller, Member