

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 P.M.
June 18, 2012**

PLANNING BOARD MEMBERS PRESENT:

Robert M. Greene, Chairman
John P. Delano
Steve Sauro
Guy Mezzancello
Art Adelman

ALSO PRESENT:

Adam R. Kaufman, AICP
Director of Planning

Joe Cermele, PE
Consulting Town Engineer
Kellard Sessions PC

Roland Baroni, Esq. Town Counsel
Stephens, Baroni, Reilly & Lewis, LLP

Valerie B. Desimone
Planning Board Secretary
Recording Secretary

Conservation Board Representative:
Peter Limburg

The meeting was called to order at 7:00 p.m.

PUBLIC NOTICE:

99 BUSINESS PARK DRIVE

99 Business Park Drive

Section 2, Block 16, Lot 11.B09

Dan Holt, PE Holt Engineering & Consulting PA

Expansion of the existing parking area by 98 parking spaces and a change of use from office space to office and warehouse space.

Consideration of site plan resolution.

Present for this application was Mike Fareri, property owner and Dan Holt, Engineer.

Mr. Greene read the affidavit of publication for the record. The following noticed neighbor was present: Mr. Joseph Gellert, President of World's Best Cheeses, 111 Business Park Drive. Mrs. Desimone stated that all paperwork was in order for this application.

Mr. Fareri reviewed the history of the site for the board's information. Originally the building was broken down into three sections, a warehouse, manufacturing area and office space. He presented side elevations of the building and photos of the site. He noted no wetland permits were necessary for this application.

Mr. Fareri stated that the property was zoned for PLI (Planned Light Industry), the lot is 7.3 acres and the point of the application is to increase the parking spaces on site. Presently there are 327 parking spaces provided for the site, 218 are required for the gym which takes up 2/3 of the building and 96 spaces remain for the remaining 1/3 vacant building. Perspective tenants see cars parked in their area from the gym and are concerned there will not be enough parking for their use. He is proposing an additional 96 parking spaces on site.

Mr. Fareri referenced the letter dated 2007 from former supervisor Reese Berman regarding the water tank. He also referenced a letter from the Water & Sewer Department dated 6/15/12 regarding the water tank. He noted if the water tank were removed he could gain access to an additional 30 parking spaces.

Mr. Fareri referred to a copy of a letter and photo sent to the Planning Board that he received from his neighbor at 111 Business Park Drive regarding drainage.

Discussions were had if it would be better to close the Public Hearing and then have the applicant go to the ARB or keep the public hearing open while the applicant appears before the ARB. The applicant concluded that he would like to close the public hearing and go to the ARB for approval and return to the Planning Board after the ARB meeting. It was mentioned that the building department could make some field changes if necessary.

Mr. Gellert, abutting property owner stated that if the board feels the plan is alright, he has faith in the board and their professionalism as he had noted his concerns in his

letter to the board along with photos of his property during heavy rains. Mr. Kaufman stated that the drainage will not be any worse but it may be the same scenario of 3 feet of water should another hurricane occur.

Mr. Greene stated that he has read Mr. Gellert's letter and noted both Mr. Fareri and Mr. Gellert's properties were within the 100 year flood plain and Mr. Greene stated that the Town Engineer noted in his memo that the water is captured and controlled.

Mr. Greene stated that it is in the best interest for the applicant to add parking spaces to the site. Mr. Fareri did not want to have to return to the Planning Board when a new tenant wanted to move in. As an alternative, Mr. Baroni suggested the applicant present all of the likely alternatives to the ARB and have them sign off on all of them. Small field changes can be made by the Building Inspector. Mr. Greene was in favor of this suggestion as was the applicant.

Charlene Jacobi owner of Armonk Pharmacy and resident of Banksville spoke about the Town Comprehensive plan and the fact that the Town Board had done nothing about the F.P. Clark comments within the last six months. She also inquired about the estate sale at 99 Business Park drive over the weekend and noted that was not a permitted use.

Mrs. DiGiacinto, Armonk resident inquired about the storage tanks, pumping equipment and well. She also requested the public hearing be adjourned and not closed this evening. She inquired about the different parking requirements based on the uses for the site. Mrs. DiGiacinto stated that she is very concerned about the development of Business Park Drive and the piecemeal approach to the development of Business Park Drive. She is concerned about the retail in Business Park vs. Business in the Business Park. She asked that the Planning Board proceed slowly and then down the road say "What did we do, what were we not thinking about". She was concerned that adding 98 more parking spaces and not knowing what was going in the site was making her fearful.

Mrs. DiGiacinto expressed her concerns that what if the site was not rented in one year and the applicant returned to the board saying that they wanted to put retail on the site – and said to the board as reason to approve the retail use is that they had enough parking spaces to do it. She would like the board to put a restriction on with this approval that there can be no retail at 99 Business Park Drive.

Mr. Adelman stated that this is not a zoning change, we need productive re use, and The Gym and the Assisted Living are productive reuses. If we let the property languish with no taxes coming in, this is not a benefit to the town or the applicant. Things do change.

Mr. Kaufman stated that the Town Comprehensive Plan is very clear about the Business Park which is zoned PLI.

Mr. Gellert stated that if all applications were treated that same way as this one was this

evening, he did not see an issue with retail use in the Business Park.

Mr. Greene stated that no Planning Board in their right mind would accept or reject an application without reviewing the merits of the application first. He feels this is a good move to increase the parking lot capacity.

Mr. Greene made a motion to close the public hearing regarding 99 Business Park Drive application. Mr. Adelman second the motion and it was approved with five Ayes.

Mr. Baroni stated to the board - do you think it would be wise when you get to the point of considering an approval if there are retail sales occurring there on weekends, that you add a conditions to the site plan resolution that those retail sales cease.

In response to Mr. Greene's comment, Mr. Baroni stated that it was mentioned that estate sales were occurring in that building on weekends. Those are retail sales, and if it is true, since we just had a discussion about retail uses not being a permitted use in that zone, it would be great, if in fact it were true, to add a condition to the resolution of approval, that the applicant agree not to have them in the future.

Mr. Fareri stated that he did have an estate sale on site over the weekend and sold his personal furniture on Friday, Saturday and Sunday. Instead of putting a tent outside of his barn on Round Hill Road and having to worry about the weather, he decided to have it in his vacant building at 99 Business Park. He stated he received a phone call from the Assistant Building Inspector on Friday afternoon at 2:00 p.m. which he did not get until Monday Morning. The message said that the Assistant Building Inspector went over to the site and found they were doing retail sales. Mr. Fareri stated that it was not retail sales it was his own personal furniture. He had an estate sale, a tag sale, one weekend. He did not believe it was retail use; it was his own personal belongings whether it was at his house or at the vacant building. Just like anyone else who owned there own home and had a tag sale, which would not be a violation.

Mr. Kaufman stated that the way the tag sale works is that it is a permitted accessory use. Mr. Fareri stated that he would not do it again. Mr. Kaufman continued to state that there is a nexus of owning a home and having a tag sale. There is not a nexus in the commercial property/office space.

Mr. Baroni stated that if it were not a commercial venture and it was his own personal property, it is not such a big issue. Mr. Fareri stated that certain residents in this community have an ax to grind with him and that is why this has become an issue.

Mr. Greene asked Mr. Fareri for the record, if it was his intention to market this site for tag sales? Mr. Fareri stated no.

DRAMATIC ARTS SCHOOL

1 Labriola Court

Section 2, Block 11, Lot 13.-1

Robert Peake, AICP John Meyer Consulting

Zoning Amendment to permit a dramatic arts school as a permitted

Principal Use within the RELIP Zoning District and site plan amendment for a student drop-off area.

Present for this application was Bob Peake, John Meyer Consulting.

Mr. Kaufman noted that presently part of the building has some vacant space. The Dramatic Arts School would like to operate from this location. A petition has been sent to the Town Board requesting a zoning change in the RELIP zoning district for this specific use. This petition was referred to the Planning Board and Mr. Kaufman prepared a memo to the Town Board and Planning Board with some broadening of that request. His memo stated how it would be appropriate to expand this type of request into the other industrial districts and not limit it to just the dramatic arts school but for other similar uses like fine arts in general which would include other arts, dance studios and potentially karate instruction. His memo continued to state that we could then allow what we permit in the PLI zoning district with recreation centers into our other industrial districts as well. The biggest change with how we interpret recreation centers is how we define children's activities. Over the years we have had some specific requests from business to operate specifically for children and children's parties and presently there is no clear way for the board to approve those uses according to the zoning code. This would be a good way to address those uses and those uses seem more appropriate in our industrial districts than in our commercial hamlet areas. If the board were to approve this specific use in this district the board has some minor issues to review like the entrance to the site off of Labriola Court and the drop off area to the building.

Mr. Peake stated that 1 Labriola Court is located right off of Old Route 22. The Dramatic Arts School would like to relocate the Light House Theatre in Thornwood to 1 Labriola Court. The other new tenant proposed for this site is a language and occupational suite. A zoning change is necessary from the Town Board and Site Plan approval is necessary from the Planning Board regarding both uses. Mr. Peake stated that he has no objection to the expanded proposal as mentioned earlier by Mr. Kaufman. Mr. Peake stated that we can restrip the parking lot to accommodate the uses on site. A parking study was submitted which shows our design should work for dropping off children and there will be sufficient parking on site. There is also a stream on site and this application is within the wetland buffer and wetland mitigation will be necessary. One twelve inch pine tree will need to be removed for a stormwater infiltrator.

Mr. Peake was told he could apply to the Conservation Board directly.

Mr. Greene inquired if Mr. Peake had given any consideration to the comment in Mr. Cermele's memo regarding shifting the curb cut for better site distances and moving further away from the wetland buffer. Mr. Peake stated that he recalled that being discussed in the preliminary meeting but did not have time to review that comment once

the traffic study had been finalized for submission.

Mr. Cermele stated that when they had preliminarily met, the applicant did not know what the queing was and what the traffic would be in and out of the site. At the time we suggested moving the driveway which we thought would adjust the queing of vehicles during drop off and possibly eliminate the wetland buffer disturbances and may improve site distances. It may also help with some of the ingress and egress of some of the existng driveways by aligning them.

In response to Mr. Greene's comment, Mr. Cermele stated that we are not all on the same page regarding the driveway. Mr. Peake noted the driveway was entry only, which mitigates some of the traffic conflicts.

Mr. Peake was directed to go to the Conservation Board and to consider alternative access.

Mr. Adelman noted there was a dance studio on site and there had been no issues that he was aware of. Mr. Kaufman noted that a use variance was granted for the dance studio previously.

Mr. Delano made a motion to positively refer this use back to the Town Board along with a positive recommendation regarding the expanded uses as proposed in Mr. Kaufman's memo. The motoin was second by Mr. Adelman and approved with five Ayes.

Mr. Delano made a motion to declare lead agency intent. Mr. Adelman second the motion and it was approved with five Ayes.

RONDEAU

477 Bedford Road

Section 1, Block 9, Lot 17.2B

Joe Palumbo, Architect LLC

Construction of a five bedroom, 3,619 square foot

new home on a 3.89 acre lot located in the R-2A zoning district.

Consideration of site plan resolution.

Present for this application this evening was Joe Palumbo, Mr. Rondeau and abutting property owner JR Cavallaro.

Mr. Greene stepped out of the room at this time and asked Mr. Adelman to take over during his absence.

Mr. Adelman asked Mr. Palumbo if he reviewed the resolution and if he had any comments. Mr. Palumbo noted some minor revisions to resolution.

Discussions were had regarding revisions to the resolution and moving certain items

around in different locations or eliminating certain conditions which had been addressed. The board agreed to the changes discussed and the changes will be reflected in the final draft of the resolution.

Mr. Delano confirmed the additional trees requested by Mr. Cavallaro were reflected on the plans. Mr. Palumbo stated they were shown on the plans.

Mr. Cavallaro stated that his underground utilities for his home at 479 Bedford Road, come across Mr. Rondeau's property located at 477 Bedford Road and wanted to know if there was an easement for his utilities. He noted his pole for electric service was on Mr. Rondeau's property and wanted to know if he upgraded services to his house and needed to access the pole how would that work. Mr. Baroni stated that was a private matter and this board would not be able to address that matter. Mr. Baroni stated that the utilities are usually very good at making sure they have the right to be there. It is not up to the town to create easements or obligate people. Mr. Kaufman suggested speaking with Mr. Rondeau when the matter arrived.

Mr. Adelman made a motion to approve the Rondeau resolution as amended. Mr. Delano second the motion and it was approved with five Ayes.

61 & 67 OLD ROUTE 22

61 & 67 Old Route 22

Section 2, Block 11, Lots 9-2 & 9-4

Bob Peake, AICP John Meyer Consulting

Preliminary subdivision approval of a two lot commercial subdivision in the RB Zoning District. The site is currently a 4.58 acre property containing a restaurant and a day care center/school.

Consideration of preliminary subdivision resolution, final subdivision resolution and site plan resolution.

Present for this application was Bob Peake, John Meyer Consulting.

Mr. Peake reviewed the resolutions and had no comments.

Mr. Greene noted a revision to the resolution to reflect shared parking agreement and access to the site.

Discussions were had regarding the trigger for the construction of the sidewalk for both lots. Mr. Kaufman stated that the construction of the parking lot is the trigger for the side walk construction.

Mr. Greene made a motion to adopt the negative declaration. It was second by Mr. Adelman and approved with five Ayes.

Mr. Greene asked for a motion to approve the preliminary subdivision approval. Mr. Adelman made a motion to approve. It was second by Mr. Sauro and it was approved

with five Ayes.

Mr. Greene asked for a motion to approve the final subdivision resolution of approval. Mr. Adelman made a motion to approve. It was second by Mr. Mezzancello and approved with five Ayes.

Mr. Adelman made a motion to approve the site plan resolution of approval. Mr. Greene second the motion. It was approved with five ayes.

RICHTER

6 Ridge Lake Drive

Section 2, Block 5C, Lots 19-4

Nicola Arpaia, AIA Arpaia Associates, PC

Legalization of existing accessory garage.

Present for the applicant is Nick Arpaia.

Mr. Arpaia stated that the accessory structure was built in 1997 and received a Certificate of Occupancy by the Building Department in 1998. The house is presently on the market and it was noted that a Special Use Permit was not issued for the accessory structure from the Planning Board and needed to be done.

In response to Mr. Greene's comment, Mr. Arpaia stated the structure was built according to code and all is in order with this structure.

A public hearing and resolution for consideration of approval was scheduled for July 23, 2012.

COCKREN MIDDLE INCOME HOUSES

22 Old Route 22

Section 2, Block 15, Lot 1

Discussion

Mr. Greene made a motion to grant a six month extension of time resolution for the Cockren/Cider mill resolution. Mr. Adelman second the motion. It was approved with five Ayes.

Mr. Greene made a motion to positively recommend to the ZBA that the ZBA grant the requested variance for an extension of time and the Planning Board is in support of this requested variance. Mr. Adelman second the motion and it was approved with five Ayes.

Meeting adjourned at 9:01 p.m.