

**NORTH CASTLE PLANNING BOARD MEETING  
15 BEDFORD ROAD – COURT ROOM  
7:00 P.M.  
November 4, 2013**

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**PLANNING BOARD MEMBERS PRESENT:**

Art Adelman, Chairman  
John Delano  
Steve Sauro  
Guy Mezzancello  
Christopher Carthy

**ALSO PRESENT:**

Adam R. Kaufman, AICP  
Director of Planning

John Kellard, 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:  
Larry Nokes

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**APPROVAL OF MINUTES:**

**October 21, 2013**

Mr. Adelman asked for a motion to approve the October 21, 2013 Planning Board minutes as amended. Mr. Delano made a motion to approve, it was second by Mr. Sauro and approved with four Ayes. Mr. Adelman abstained.

**October 22, 2012**

Mr. Adelman asked for a motion to approve the October 22, 2012 Planning Board minutes as amended. Mr. Delano made a motion to approve, it was second by Mr. Sauro and approved with four Ayes. Mr. Carthy abstained.

**PUBLIC HEARING:**

**CIDER MILL**

**Old Route 22**

**Section 107.04, Block 2, Lot 15**

**Amended site plan resolution**

**Mark P. Miller, Esq. Veneziano & Associates**

**Discussion & Consideration of amended resolution of approval**

Mr. Adelman read the affidavit of publication for the record. The following noticed neighbors were present, Michael Fareri, owner 333 Main Street and Van Loveren Augustinus, 14 Schultz Way.

Mrs. Desimone stated that 31/ 120 green cards were returned and all paperwork was in order for this application.

The Applicant has submitted a request to the Planning Board to revise Condition 7 of the "Other Conditions" section of the Sixth amended site plan resolution, the proposed further revisions to said Conditions are associated with the timing of the issuance of Certificates of Occupancy.

Mr. Miller gave a brief background from when the site was approved to where we are today. Mr. Miller noted that the Town Board for approximately the last 6 years has asked the applicant to hold off on building the MIU's on the Smith/Cockren site as they are in the process of trying to locate a more global solution for the MIU's.

Mr. Fareri expressed his concerns about granting another extension of time. He reviewed prior uses proposed on the cider mill site and stated MIU's first came to town approximately 10 -12 years ago and why they came to town. He reviewed the costs of the MIU's to build and to purchase and noted that 11 years after the approval there were still no MIU's built to date. He was concerned about what protection does the town have that they will ever be built. The differences between Fair and Affordable Housing and MIU's were briefly discussed. The Town had spoken to Mr. Fareri regarding MIU's and the Lumberyard site, discussions were had about building 8 Cider Mill MIU's, 2 Armonk Square MIU's and the Brynwood MIU's but nothing has been finalized. The board should not grant an extension of time this evening, 11 years is too long to wait for an MIU.

Mr. Van Loveren Augustinus stated that he would like to help the applicant in any way possible to get the construction done; he does not want to live through the construction any longer. He lives in Cider Mill and wants the paving done on site. Construction has been going on since 2006 and there are still three lots left to build.

Mr. Miller explained that originally Mr. Fareri owned the property and received the approvals for subdivision and site plan. When the MIU's were not built within the two year time frame, there was litigation to get the deed back which took time. The applicant is not looking to change anything, the MIU's are within the code. His client has

approached the Town to get a building permit but was asked to wait to see if a more global solution could be reached. The ultimate obligation does not change. Presently the town is in possession of \$200,000. in forfeiture bonds. His client has agreed not to build at the request of the town and his client has requested the town reduce the forfeiture bond from 150,000 to 75,000 for the next two C.O.'s.

In response to a comment made, Mr. Baroni stated if the MIU's are not built timely, the Town has the forfeiture bonds, deed to the property and the applicant will still have to build the units.

In response to Mr. Carthy's comment, Mr. Baroni stated that the property is worth approximately \$500,000.

Mr. Fareri stated that for the people to wait another year is not fair, this has been pushed off for 11 years. There have been seven amended resolutions, how much longer will we have to wait? The previous board worked this location out. Mr. Fareri inquired if Supervisor Arden had an ulterior motive with moving the MIU's due to him owning an office building down the street from the MIU site.

Mr. Adelman stated that this all comes down to timing and money. No one loved the Cockren site but it was the only site, no one thought it was a good location.

Mr. Miller stated that there was an amendment in 2005 to change the amount of CO's issued from 14 to 20 before the MIU's were built; in 2011 forfeiture bonds were introduced. The alleged motivation of the supervisor is irrelevant. No one liked the Cockren site and the town wants a global solution to build elsewhere and his client listened to the town and did not build on the Smith Cockren site.

In response to Mr. Fareri's comment, Mr. Baroni stated that there was a restrictive covenant in 2011 to move the two Armonk Square MIU's to the Cockren site.

No other comments or questions were had at this time.

Mr. Adelman asked for a motion to close the public hearing. Mr. Sauro made a motion to close, it was second by Mr. Delano and approved with five Ayes.

Mr. Adelman asked for a motion to approve the amended site plan. The board had some more comments before voting.

Mr. Delano noted that he has been on the board since 2004 and wants more money if the applicant defaults. If the applicant defaults the legal fees would eat up a good chunk of the money.

Mr. Baroni stated during that the last two years, the majority of the Town Board wanted the applicant to hold off on building the MIU's on the Cockren site. The prior Town Board and Westchester County considered changing the MIU's to Fair and Affordable housing but when the new Town Board came in two years ago all of that was

withdrawn. A number of sites have been explored; it has been difficult to get the parties to agree.

In response to Mr. Carthy's comment, Mr. Baroni stated that the benefit of the reduction of the Forfeiture Bond from 150,000 to 75,000 is that the developer is listening to the Town by not building the MIU's and some accommodation should be given.

Mr. Mezzancello stated that we want some progress of why no units were built from 2002 – 2014.

Mr. Baroni stated that the board can say in this resolution that no more extensions can be granted but the board can amend the resolution and take that clause out as well.

Mr. Adelman stated that the applicant has shown good faith, no one loved the Cockren/Smith location. The best place is the lumberyard. Brynwood could come back. We should give the applicant some time.

In response to Mr. Sauro's comment, Mr. Miller stated that the applicant has been asked to hold off by the different Town Boards for the last 5 – 6 years trying to locate a different place, this is not unreasonable.

Mr. Adelman asked for a motion to approve the amended subdivision resolution. Mr. Sauro made a motion to approve, it was second by Mr. Delano and approved with five Ayes.

Mr. Adelman asked for a motion to approve the amended site plan resolution. Mr. Sauro made a motion to approve, it was second by Mr. Delano and approved with five Ayes.

The details of the resolutions are listed below.

- 7(a) Applicant shall post a forfeiture bond or letter of credit, in a form satisfactory to the Town Attorney, in the amount of \$200,000.00, the purpose of which is to provide security to the Town for the construction of the middle income units on the Cockren property. Alternatively, Applicant may deposit \$200,000.00 in an escrow account with the Town for the same purpose. Applicant shall have the right, at any time, to replace said escrow deposit with a forfeiture bond or letter of credit as aforesaid, at which time the escrow deposit will be released to the Applicant.
- (b) Upon the posting of the forfeiture bond or letter of credit, or the escrow deposit as set forth above, three Certificates of Occupancy may be issued for units on the Cider Mill property.
- (c) In the event additional Certificates of Occupancy for units on the Cider Mill property are requested, the next certificates of occupancy, numbers four and five may be issued upon the posting of an additional \$75,000.00 forfeiture bond or letter of credit for each certificate of occupancy requested. Thereafter, additional certificates of occupancy may

be issued upon the posting of an additional \$150,000.00 forfeiture bond or letter of credit for each additional Certificate of Occupancy requested. Such bond or letter of credit shall be in a form acceptable to the Town Attorney. Alternatively, Applicant may deposit the required sums in an escrow account with the Town for the same purpose. Applicant shall have the right, at any time, to replace said escrow deposit with a forfeiture bond or letter of credit as aforesaid, at which time the escrow deposit will be released to the Applicant.

- (d) Any and all letters of credit, bonds, and/or escrow deposits made by the Applicant as set forth above may be called and taken by the Town in the event the middle income units on the Cockren property have not received Certificates of Occupancy on or before December 31, 2014; however, the Planning Board, for good cause shown, may extend the December 31, 2014 deadline.
- (e) In the event of litigation, all time periods set forth in this condition shall be tolled until the final non-appealable resolution of any such litigation.
- (f) In the event the model ordinance is not adopted by the Town Board by December 31, 2014, and the middle income units on the Cockren property are not constructed as set forth above, any and all bonds, letters of credit, and/or escrow deposits made by the Applicant may be called and/or taken by the Town and the Applicant shall deed the Cockren property to the order of the Town and all remaining Certificates of Occupancy shall be released to the Applicant. The Applicant shall nevertheless have the continued obligation to construct the middle income units on the Cockren property and the Town shall grant the appropriate work permits for such construction to occur.

## **MAOUNIS**

**5 Ashfields Lane**

**Section 102.03, Block 2, Lot 34**

**Construction of a new single family home**

**Geraldine Tortorella, Esq. Hocherman Tortorella & Wekstein, LLP**

### **Discussion**

#### **Consideration of resolution of approval**

Mr. Adelman read the affidavit of publication for the record. No noticed neighbors were present. Mrs. Desimone stated that 5/ 8 green cards were returned and one envelope was returned. All paperwork was in order for this application.

Present for this application was Robert Cardella, Dave Reilly, Lou DeMarzo and Geri Tortorella.

Mrs. Tortorella stated that since the last meeting she has returned to the Conservation Board and received approval as well as approvals from the Architectural Review Board. She is currently before the board for Site Plan, Special Use Permit, Wetland and Tree removal permits.

Mr. Demarzo reviewed the application, the existing house will be removed and a new residence will be built in basically the same location. He reviewed the reuses on site and the three objectives of the SWPPP. He has Health Department approval. The Wetland restoration plan was reviewed as well.

No further questions were had by the board or the professionals.

Mr. Adelman asked for a motion to close the public hearing. Mr. Sauro made a motion to close, it was second by Mr. Delano and approved with five Ayes.

Mr. Adelman made a motion to approve the site plan resolution. Mr. Sauro second the motion and it was approved with five Ayes.

**DIPIETRO**

**137 Bedford Banksville Road**

**Section 1, Block 04, Lot 16-14**

**Jim DeLalla, RLA, DeLalla & Associates**

**New construction of a 3 bedroom 4,972 square foot home**

**Consideration of approving extension of time site plan resolution**

Present for this application was Geri Tortorella, esq. for the applicant.

Mrs. Tortorella stated that the applicant is working on updating plans, recording restrictive covenant and finalizing the metes and bounds of the covenant. The applicant has been working long and hard and is close to completion and we do not want this to expire.

Mr. Adelman asked for a motion to approve the extension of time resolution. Mr. Delano made a motion to approve. It was second by Mr. Mezzancello and approved with five Ayes.

**ADJOURNED PUBLIC HEARING:**

**23 BEDFORD BANKSVILLE ROAD**

**23 Bedford Banksville Road**

**Section 102.04, Lot 1, Block 9**

**Referral from Town Board regarding Outdoor Nursery sales – George  
Bridge Boxwood Nursery**

**Paul Sysak, RLA, ASLA – John Meyer Consulting**

**Discussion**

**Consideration of Site Plan approval**

Mr. Adelman asked for a motion to reconvene the public hearing. Mr. Carthy made a motion, it was second by Mr. Delano and approved with five ayes. .

Present for the application was Bob Roth, John Meyer Consulting.

The applicant is seeking site plan approval for the establishment of a nursery on the property. The proposed nursery is located within previously developed portions of the site and no new physical improvements are proposed as part of the site plan application. Nurseries are permitted in the CB-B Zoning District via a Town Board Special Use Permit and Planning Board site plan approval. The applicant received a special use permit for the nursery operation from the Town Board on September 25, 2013.

Mr. Kaufman stated that an outstanding issue from the last meeting was how the street scape would be addressed. Multiple discussions were had about this subject. The board concluded that the resolution will be updated to include the following: The site plan shall be revised to depict improvements to the streetscape along the property frontage. Specifically, the plans shall be revised to depict the creation of new sidewalk and street furniture. The site plan should also note that the construction of the improvements shall not be required until a site plan for the redevelopment and/or change of use of the site is approved by the Planning Board.

Mr. Roth noted that the landscaping on site is vital and will be left on site to sell next year.

Mr. Adelman asked for a motion to close the public hearing. Mr. Delano made a motion to close the public hearing. It was second by Mr. Sauro and approved with five Ayes.

Mr. Adelman asked for a motion to approve the amended site plan resolution. Mr. Sauro made a motion to approve, it was second by Mr. Mezzancello and approved with five Ayes.

**CONTINUING BUSINESS:**

**AMEC CONSTRUCTION, LLC  
BUILDING MATERIAL YARD  
2 Bates Lane, Bedford  
Section 102.04, Block 1 Lot 19  
Sy Gruza, Cuddy & Fedder  
Discussion regarding administrative wetland permit**

Present for this application was Sy Gruza, attorney for the applicant and Dennis Lowes from the Ralph MacDonald Company.

Mr. Gruza stated his client, the Riccardi brothers are before the board this evening to get an administrative wetland permit. This site has been a materials storage and contractors yard from 1984 to 2012. The Bates Brothers had the same use since 1950. There are no significant impacts on the wetlands. The stone wall is at the rear of the site. While out on site the NYSDEC said the wall was deteriorating and should be replaced. The DEC said the proposed wall location was appropriate. He reviewed the wall as it relates to the property line and wetland buffers on site. There are no buildings going up or down on site and he would like the board to recommend an administrative wetland permit.

It was noted the SWPPP was submitted on Wednesday, October 30, 2013 and the professionals did not have enough time to review the material prior to today.

Mr. Lowes stated that the drainage accommodates both residences and repair building on site. He reviewed the SWPPP and noted this was a functioning construction and material yard. The board walked the site about 1 ½ years ago. Mr. Adelman, Mr. Delano and Mr. Mezzancello had walked the site, Mr. Sauro and Mr. Carthy would like to visit the site. (A site walk was scheduled for Thursday, November, 14, 2013 at 4:30 p.m.)

In response to Mr. Gruza's comment, Mr. Kaufman stated that you need to receive site plan approval in order to build the wall. All changes on commercial property require site plan approval.

Mr. Gruza noted that he was before the court here in town and the agreement states that site plan approval is not necessary. The board and professionals were not aware of such an agreement. Mr. Gruza will provide a copy.

Mr. Nokes stated that this site is located within the CEA (Critical Environmental Area) as noted in Mr. Kaufman's memo. He also noted that the Conservation Board has not been out to the site in a long time and would like to join the Planning Board on its site walk.



Mr. Adelman noted that the paperwork submitted shows hours of operation from 6:30 a.m. to 5:00 p.m. He asked for the noise ordinance to be reviewed as he did not think that window of time was accurate.

It was decided that the applicant would return to the next meeting on 11/18/13. This will give the applicant time to supply the board and professionals with the agreement from the court. It will also give the professional's time to review SWPPP that was submitted after the deadline and the other board members will have a chance to walk the property that did not have a chance to walk it last year or were not on the board at the time.

**170 BEDFORD ROAD**

**162 Bedford Road**

**Sec 108.03, Block 1, Lot 42**

**Michael Fareri**

**Site plan development of 20, 2 bedroom units on the former lumber yard site**

**Discussion**

Present for this application was Mr. Michael Fareri.

Mr. Fareri presented an Aerial photo of the property to orient the board with the site and surrounding properties. The property was purchased in 2002. Mr. Fareri reviewed some of the other plans he had proposed for the site and noted he tried building during the moratorium and was not able to. One of the most recent proposals before the board was a strip mall with offices on the second floor.

Mr. Fareri reminded the board that his last proposal was a multifamily, single structure which would have 16 apartments, 2 penthouses and underground parking for a total of 18 units, he presented all plans for this this proposal to the board. He noted this was a similar layout to the Boise building on Main Street and Whippoorwill Commons. The common element was the public walkways inside the buildings and underground parking. The common charges were \$400.00 a month for heating the hallways, carpets and common areas etc. It has been said that the Town would like to use this site as an MIU destination, 8 for Cider Mill, 2 for Armonk Square and 8 for Brynwood.

Mr. Fareri then presented his most recent plan, 20 units, three stories, ten 16 x 30 units across the front and 10 across the rear, all 20 units are connected, and all units will have their own green space and outside area. Each unit will have two bedrooms, there will be no elevator or common charges for this proposal and made fee simple. Each unit could be individually taxed. The parking lot would be an HOA and still within the single structure zone.

Mr. Kaufman asked the board if they liked the plan and if the board wanted to respect the setbacks. The board will have to decide if they want to refer this to the ZBA.

Discussions were had at this time regarding the FAR. Mr. Adelman liked the plan and asked if Mr. Fareri was ready to build?

Mr. Fareri presented the floor plans and noted the second and third floor would be master bedrooms with bathrooms. He then presented another plan where there would be two 10 unit structures that would be perpendicular on the site facing one another. He then asked the board which plan they preferred at this time. He noted that this site was approved for Fair and Affordable Housing. What does the community want for this site? This is not the best location but it is not so bad either. He noted this site was further from I-684 than the Cockren site from Route 22. He has heard rumors of 22 family units over Elide Plaza. Every 3 or 4 years the market changes for the Lumberyard. He would like some direction on how to proceed. He does not want to spend money on engineers and traffic consultants without knowing exactly what to do. If he is able to build these units, Armonk Square could purchase 10 of the units and convert them to MIU's.

Mr. Baroni stated that he understands Mr. Fareri's drive behind the single structure, the zoning would have to be updated and this presentation should be made to the Town Board. With the zoning change it will add 6 months to the project.

## **NYCDEP BOWLING ALLEY**

**1 George Smith Place**

**Section 2, Block 11, Lots 11.A, 11.A1-2, 11A1-3**

**Wetland Permit**

The above referenced project was granted approval April 8, 2013. Included with that approval was a condition which read as follows: NYCDEP has offered to construct an off-street parking area adjacent to Old Route 22 that is consistent with the Town's Streetscape Improvement Project for Old Route 22.

The Planning Board recently received a letter from the DEP stating they would not build the parking lot per conversations with Supervisor Arden. The board and professionals were not aware of this meeting or conversations with the Supervisor and will follow up on this matter.

To date the resolution has not been signed and plans have not been submitted for final signature.

Meeting adjourned at 9:51 p.m.