

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 p.m.
December 12, 2011**

PLANNING BOARD MEMBERS PRESENT: John Delano, Chairman
 Jane Black
 Guy Mezzancello

ABSENT: Beata Buhl Tatka
 Steve Sauro

ALSO PRESENT: Adam R. Kaufman, AICP
 Director of Planning

 John Kellard, PE
 Consulting Town Engineer
 Kellard Sessions Consulting, PC

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

 Valerie B. Desimone
 Planning Board Secretary
 Recording Secretary

 Conservation Board Representative:
 Larry Nokes

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

APPROVAL OF MINUTES:

Mr. Delano asked for a motion to approve the September 26, 2011 Planning Board minutes as amended. Ms. Black made a motion to approve as amended. It was second by Mr. Mezzancello and approved with three Ayes. Ms. Tatka and Mr. Sauro were not present for the vote.

Mr. Delano asked for a motion to approve the October 12, 2011, Planning Board minutes as amended. Ms. Black made a motion to approve as amended. It was second by Mr. Mezzancello and approved with three Ayes. Ms. Tatka and Mr. Sauro were not present for the vote.

PUBLIC HEARING:

**IBM WATER TOWER - 2/16/4, 1 New Orchard Road,
consideration of amended site plan resolution**

Present for this application was Donald Sneider, PE from SSM Group, Inc. Engineers and Environmental Services.

Mr. Delano read the affidavit of publication for the record. No noticed neighbors were present for this application. Mrs. Desimone stated that all paperwork was in order for this public hearing.

Mr. Sneider stated that this application was for the installation of a 150,000 gallon water tank for storage of domestic water for use on the IBM site. It is located near the training center and will be painted a forest green; it should not be seen by anyone off site.

Mr. Delano asked if the board or members of the audience had any comments or questions at this time. There were no questions at this time.

Mr. Delano asked for a motion to approve the negative declaration. Ms. Jane made a motion to approve. It was second by Mr. Mezzancello and approved with three Ayes. Ms. Tatka and Mr. Sauro were not present for the vote.

After a brief conversation it was concluded that the water will be put in this tank the same way that the water is being put into the tank that this one is replacing on site.

Nancy Haily, member of the Armonk Fire Department inquired if this tank would be used for fire suppression. Mr. Sneider stated that IBM already has on site a fire water storage tank on site. Ms. Haily inquired if necessary, could the water be used for fire suppression. Mr. Sneider responded that this is the same distribution system we have now and the fire water is on a separate system.

Mr. Delano asked for a motion to close the IBM Water Tank Public hearing. Ms. Black made a motion to approve, it was second by Mr. Mezzancello and approved with three Ayes. Ms. Tatka and Mr. Sauro were not present for the vote.

Mr. Delano asked for a motion to approve the IBM Water Tank Public hearing. Ms. Black made a motion to approve, it was second by Mr. Mezzancello and approved with three Ayes. Ms. Tatka and Mr. Sauro were not present for the vote.

DEHMER - 11 Annadale Street, 2/02/23.D01, consideration of amended site plan resolution

Present for this application was Fred Rucker, Architect and the property owners, Mr. & Mrs. Dehmer.

Mr. Delano read the affidavit of publication for the record. Mrs. Desimone stated that all paperwork was in order for this public hearing.

The following noticed neighbors were present for this application. Amy Yallop, 19 Annadale Street; Tara & Joe LaPorta, 10 Annadale Street; Robert Brown, 16 Annadale Street; Fred Coughlin (tenant), 11 Annadale Street..

The site plan application is for the establishment of an apartment and the relocation of an office from the first floor to the basement. The Applicant is also proposing the overnight storage of a commercial vehicle.

Mr. Rucker stated that the over night storage of the vehicle has been in existence for around 30 years. The uses have been in existence for about 30 – 40 years. The applicant will screen his truck from the road with a spruce barrier.

Mr. Delano stated that this is an amended site plan application. The occupancy of the house has changed around and the applicant is before the Planning Board because they are not in strict compliance with the original site plan approval. The applicant is not occupying the building in the way they told the town that they were going to occupy it, therefore; an amended site plan approval is necessary. He welcomed the neighbors to ask their questions or speak about their concerns at this time.

Mr. Kaufman noted that the office use and accessory apartment use is permitted within the CB zoning district.

In response to Ms. Yallop's comment, Mr. Kaufman stated that originally the site had office and storage use in the building with no fuel vehicle parking on site.

Mrs. Yallop stated that she has lived on the block for 5 ½ years and all of the residents there have paid or invested a lot into their homes and the street is beautifully maintained. Unfortunately this property is somewhat of an eyesore. The truck is one of the first things you see on our street when driving up. A lot of the neighbors do not want to see that truck on site and it takes away from our property values.

Mr. & Mrs. LaPorta, Mr. LaPorta stated that he had submitted written comments that were emailed to the department which were forwarded to the board members, attached. Mr. LaPorta stated that he had the same concerns as Mrs. Yallop. In addition to the those concerns, he was concerned about the safety of the truck on their street and what if the truck leaked or spilled or was damaged, it could contaminate everyone's well water. The truck is continually coming in and out day and night. He had no concerns with the business on site. He noted that the truck was

not appropriate; there is no other place in the remote area that a big industrial truck was parked close to a residential area.

Mrs. LaPorta noted that she has no issues with the business on site. She noted that the truck comes in and out of the site all day and idles in front of their home every time the truck backs into their driveway and is noisy. The neighbors have signed a petition and noted that the hours of operation for the truck have not been adhered to and are against the truck being parked on site. The truck goes in and out all day and all night and is not visually attractive as Mrs. Yallop noted earlier. It is an eyesore and is depreciating the property values and all of the neighbors are concerned about an oil leak. She would like the board to consider that the truck was never approved to be parked on site and the rules were not followed by this applicant and wants the board to think about this before making its decision. .

Mr. LaPorta stated that it does not really matter how long it has been there, it was never approved of in the first place. He and his neighbors are very excited this opportunity has come up and he and his neighbors feel that parking of the truck on site is not appropriate for this area. The petition against this application was submitted at this time. Mr. Delano read the petition into the record and noted there were 17 signatures on it, attached to the minutes.

Mr. LaPorta asked if there has been any testing on site regarding environmental concerns with the truck parked on site. Mr. Delano stated that there are no testing requirements that he was aware of. Mr. Kellard stated that this can be done during normal SEQR review. Discussions were had regarding pavement and gravel on site and leaking of oil into gravel vs. on pavement where it could be collected and treated.

The board concluded that there is a true concern regarding contamination as the homes on that street have well water. The board recalled the contamination that happened on Main Street many years ago and how long it took to clean that up. The board agreed that they would like to take another site walk and asked for the applicant to get together with Kellard Sessions regarding water quality. Mr. Delano noted that water quality has not been addressed in anything we have done so far. Mr. Kaufman stated that has not been addressed because there is no fueling done on site, the state inspects the vehicle every year. The neighbors expressed their concerns if the truck were to back into a tree and spill oil or if vandalism were to occur.

Mr. Mezzancello inquired what do other trucks do. Mr. Dehmer stated that you do not operate a truck that has a leak. You are very careful to maintain that equipment because if New York State catches you, the fines are very steep. He did not feel there was an issue with the truck leaking. He noted there is an area in front of the house that is paved. In response to Mr. Mezzancello's comment, Mr. Dehmer stated the state inspects the entire truck, not just the breaks and tires etc. He said that he inspects the truck daily to make sure there is nothing wrong with it. He remedies the issue before it happens.

Mr. Mezzancello asked if a gas station inspects the truck or does another state agency inspect the truck. Mr. Dehmer stated that when they inspect the truck, they look at the brakes, tires and everything on the truck.

Mrs. Yalof stated that if this has not been previously approved, how was it allowed to continue for thirty years, why wasn't it addressed. Mr. Delano stated that someone noted that it was not approved and a violation was issued. Mrs. Yalof stated that if this was not a permitted use and he is still parking his truck there, have there been any fines set. The board was not sure what the status was of this applicant and the courts. Mr. Dehmer stated that the courts told him to get site plan approval and no fines were incurred. Mrs. Yalof stated that if this was never approved of in the first place, the applicant should not be parking on the site until it is approved. Mr. Dehmer stated that he originally got this approval 35 years ago and he does not have any of the records and the town does not have any records either.

A meeting will take place with Mr. Rucker and Mr. Kellard regarding how to address the truck run off.

Ms. Black asked Mr. Rucker to review the screening of the truck for the neighbors. Mr. Rucker stated that there will be 7 spruces planted which will be eight feet tall. In response to Ms. Black's comment, Mr. Dehmer stated that the truck is 8 feet tall and a three foot berm will be planted with trees for screening.

Mrs. LaPorta stated that she was not clear how seven trees would screen that large truck. It was unclear at Mrs. Dehmer's response. Mrs. LaPorta was very upset to be called stupid as were the rest of the neighbors in the audience at this time. Chairman Delano reminded everyone to address their comments to the board. Mr. LaPorta reminded the board that this applicant has been parking a truck on site in violation for a long time and is continuing to park in violation and the neighbors signed a petition against this application. Mr. Delano reminded the neighbors that just because people do not want something does not mean it should not exist. If the code permits a use, the board has to weigh out all of the items before it makes a decision. Continued discussion was had at this time.

Mr. Delano noted that the two major concerns were the oil spillage and water runoff on the truck and the applicant and the town's professionals will get together to discuss this.

Ms. Black suggested an elevation be prepared so the neighbors can get a better idea of how the screening will appear from Annadale. Mr. Delano reminded the neighbors the screening is not to totally hide things, it is to break up the mass so that things are not readily discernable. The board asked the applicant to provide an elevation with a fence and landscaping.

Mr. Delano asked for a motion to adjourn the public hearing. Ms. Black made a motion to adjourn, it was second by Mr. Mezzancello and approved with three ayes. Ms. Tatka and Mr. Sauro were not present for the vote.

In response to comments made by the neighbors, the board members stated that the neighbors would not be notified again when this item came back before the Planning Board. They suggested that they check the website as the agendas are posted on line or to contact the Planning Board Secretary.

DISCUSSION:

MILLER, 5 Valhalla Ave, 5/25/13, Ken Murphy - Petruccelli Engineering.

Present this evening was Dominick Minerva, Esq. from Minerva & D'Agostino as well as Ken Murphy, PE from Petruccelli Engineering; and their client Mr. Miller.

Mr. Murphy reviewed the changes since the last meeting. As an alternative to the infiltrators, the applicant is proposing a bio retention system at the bottom of the driveway. It will pick up the water as it comes down the road and will be treated in the bio retention system. This is a great alternative as the applicant is required to update and maintain the system which will be at grade. It was also suggested at the last meeting that a hammer head be installed for emergency vehicles to turn around in, this will be gravel and not paved. The gravel area will act as a pre treatment for the bio retention system. He noted that a concern was raised at the last meeting regarding water which currently goes down the driveway of the Stephanie Cornell – 50 Overlook Road North and her neighbor which are the first two driveways on Valhalla Avenue. Since the applicant is making improvements to the roadway, he will be eliminating part of and relocate part of the driveway and will put grass in its place at the Clair Nassetta property across from the Cornell's property. Berms are being proposed to redirect the water to Overlook Road.

Mr. Murphy stated that at the last meeting it was discussed to pick up some of the water off of Rock Cliff Place. He noted the area is not big enough to accommodate that system due to the utility lines going up to the water tower.

In response to Mr. Delano's comment, Mr. Kaufman stated that all referrals are done and there are no new issues in his memo. He would like some more information regarding the status of the right of way agreement from the applicant. The site disturbance impacts and tree removal are reasonable and the grading is not excessive.

In response to Mr. Baroni's comment, Mr. Minerva stated that agreement has been submitted to the neighbor's attorney as well as Mr. Baroni and no comments have been received back yet.

Mr. Delano noted that in Mr. Coyne's memo, there were some concerns if the swale will really work for the first two driveways and that issue needs to be resolved. Mr. Kellard stated they are concerned about the berms and their effectiveness. Mr. Kellard proceeded to explain that the Town is in the process of putting in a drainage system on Overlook Road and it is ending just short of that first driveway on Valhalla Avenue. He would like to see a drain in front of both driveways and have it piped into the new catch basin with a pipe to the drain on Overlook. He felt this would ensure that there would be no additional water on those two neighbors' properties. He noted that the location was painted in the road and this would be done in the spring. In response to Mr. Miller's comment, a copy of the drainage system plans for overlook will be provided to Mr. Murphy to he can incorporate the drains on the plans for those two lots.

In response to Mr. Miller's comment regarding drainage on Rock Cliff. Mr. Kellard stated that

he walked up and down the water discharge from Rock Cliff Place and he is convinced that the water is not going to Nethermont Avenue and is staying on the White Plains Water Shed property and eventually goes into their lake. He walked the site today with the Highway Superintendent, Jamie Norris, from the bottom to the top and back down again. He and the Highway Superintendent were convinced if the homes on Nethermont were getting water, it was from the existing homes on Nethermont and it is not from the pipe off of Rock Cliff. He is comfortable with the basin proposed by the applicant and as the plan is proposed, the water will travel the ravine to the east which is even further away from Nethermont Avenue.

In response to Mr. Miller's comment regarding the guide rail, after a brief discussion the board agreed that for safety reasons and due to the steep slope between the gravel hammerhead and the bio detention basin that a guard rail should be installed or a vehicle barrier.

Mr. Delano noted that he just received a letter from the neighbors this afternoon with a long list of questions that they would like addressed; he confirmed that Mr. Miller had a copy of the letter. Mr. Delano suggested to the applicant, if there was anything on the list that was reasonable to address, to please take care of it.

The board noted there was a list of 15 points at the end of the two page letter, copy attached. The board members discussed some of the items on the list that had been addressed and requested the applicant to submit written responses to the items listed in the memo with their next submission.

Ms. Hadley introduced the neighbors that were present and spoke about the memo. She reviewed for the board the communication history of the application since this application began with the applicant to the present day. She expressed again her frustration with the applicant and lack of communication regarding submissions. She also stated that no one is prepared to sign the Right of Way (ROW) Agreement or Maintenance Agreement until communication is better and requested no decision be made on this application until all of the questions are answered. Mr. Kaufman stated, clearly I don't think the line of the communication is really open between the applicant and the neighbors. Any information that the neighbors need is in our file and you can copy and review it, just let our office know that you are coming. Mrs. Hadley noted that she has copied everything in the file and comes into the office faithfully and fills out a FOIL request. Mrs. Hadley stated that the issues are the engineering calculations and the impact of drainage, water pressure and the width of the road. The neighbors want the width of the road to stay as close to 15' as possible and not go to 18'. Charles Sells, her professional, still needs additional information regarding drainage and engineering calculations.

Mr. Kaufman stated that he will provide whatever information he can to answer some questions. Mr. Kaufman stated that at the end of the day, there might be a difference of opinion between what the applicant wants, what the Planning Board could potentially approve and what the neighbors want. Mrs. Hadley stated that she understood that.

Mr. Kaufman stated, in regards to the neighbors memo, the board is clear on these issues and the vast majority of these will be addressed. The Planning Board has agreed to a private road standard which will reduce the width of the road to below 23 feet. The board has had a meeting with the NWP Fire Chief to minimize the impacts to an extent where the Fire Department and

the Planning Board are comfortable - and that might not meet yours and all of the neighbors desires. He did not think the board was going to go any narrower than what the plans shows because the Planning Board has essentially signed off on the width of the road with the NWP Fire Chief. In respect to the drainage calculations, our town engineer is also reviewing the drainage calculations and we have the same absolute desire to make sure that no other property is negatively impacted and yes your professional can review the material as well. Mr. Delano noted that drainage calculations have been submitted and are part of the file. Mrs. Hadley noted that Mr. Pappalardo picked up the plans on Friday and did not get the drainage calculations. Mr. Kaufman noted that the department copied whatever was requested.

Mrs. Hadley was not clear why the two engineers had not sat down to review all of this material since the last meeting. Mr. Miller asked who would be paying for his professionals to sit down with the neighbor's professionals. Mrs. Hadley stated that neither she nor the neighbors would pay for that, it was the burden of the applicant to prove to the neighbors that there would be no negative impacts to their properties. Mr. Delano suggested to Mrs. Hadley that she have her professional, Charles Sells come into the Planning Office and copy whatever files he needs and sit down and do a review so that he can report back to the neighbors because you are their client and you can provide that information to the Planning Board and we can have a conversation here and it can be refuted by the applicant's engineer here in this forum. Mrs. Hadley said o.k.

Mr. Minerva stated that the engineer will address the issues during the next submission.

Mr. Kaufman and the board members reminded the applicant to make a written submission addressing the 15 points referenced in the neighbor's memo received this afternoon. Mrs. Hadley provided a copy of the memo to Mr. Minerva. Mr. Kaufman stated that the applicant should provide a response to all of the comments whether they are positive or negative and whether they agree or disagree. Ms. Black suggested putting the responses next to each item to make it clearer to follow and whether it has been resolved and what has been done to address it.

Mrs. Hadley thanked the board and would appreciate if communication would be better with the applicant and the neighbors.

Mrs. Gretto inquired how would we know when plans are submitted to the department, we have no way of knowing when this happens. Mrs. Desimone stated that the submission deadline was two weeks prior to the meeting and the submission for continuing business was 12 days before the meeting. Mrs. Gretto noted that they had made copies of the file at one point and new material was submitted the Friday before the meeting, how is she supposed to be notified about that. Mrs. Desimone stated that there is a list of the Planning Board meeting dates and submission deadlines were on the town's website. Ms. Gretto inquired what happens if material is submitted after the deadline. Mr. Kaufman stated that the material would be received but the professionals would not have enough time to do a review on it. Ms. Gretto stated that she will supply the board with the dates that she was referring to and does not want another late submission received again. Mr. Kaufman stated that the material would have been accepted by the town but the professionals would not have had time to provide comments. Mr. Kaufman stated that you can call the office the day after the submission deadline to verify a submission and anyone who has signed up for E-news blasts will get an updated Planning Board agenda blast when it is posted on the web.

Mrs. Cornell stated for the record that presently, there are no drainage issues on her lot. She has a drain at the bottom of her driveway which collects the water and she has no problems and would like that to continue after all of this work for this application has been completed. She was concerned about the comments from the town engineer regarding the proposed Berm not working and asked Mr. Murphy to review again what they were proposing to address the situation which Mr. Murphy addressed.

Mrs. Claire Nassetta, 54 Overlook, stated that she will not agree to any Right of Way until the exact width of the road has been finalized. Mr. Miller pointed out the width of the road at various points between 15 – 18 feet. Mr. Minerva noted that information was provided on the plans that were submitted.

Mr. Tony Nassetta, 4 Valhalla Avenue stated that he will not agree to sign the ROW until all of the questions are accepted as discussed.

No further comments were made at this time. Mr. Delano thanked everyone for coming and suggested that the neighbors call the Planning Board secretary 12 days prior to the next meeting to see if a submission has been made.

SCOTT, 80 Mianus River Road, 1 / 7 / 4 J.D. Barrett & Associates

Mr. Barrett reviewed for the board that this was a 40 acre lot which was proposed as a five lot subdivision off of Mianus River Road. He reviewed each of the lots at this time and noted that in order to prevent further subdivision of Lot #2, a clause was put on the plat that said there would only be a maximum of three driveways off of the common driveway; this would prevent any further driveways to any newly created lots. In order to accommodate any new lot, they would have to provide another driveway or town road to access the lot. The rental cottage on site is currently rented but the applicant would like to use this as a work shop.

In response to a comment by Mr. Barrett, the Planning Board will make a referral to the Landmarks Preservation Committee. Mr. Barrett stated that the applicant's attorney will prepare and easement and send it to Mr. Baroni.

Last year the DEC and Kellard Sessions were out to the site. There will be approximately 58 trees removed, principally in the area of the proposed homes. They are proposing to replant in excess of 150 trees and shrubs. A meeting will be set up with Mr. Coyne to iron out the technical concerns. He then reviewed the comments in the Town Engineer's memo that will be discussed and finalized at the meeting with the engineer.

Mr. Kaufman stated that this application is now 80% done and in general this is a concept the board can work with and let's continue to move forward.

Mr. Nokes, Conservation Board Representative, stated that the Conservation Board conducted a site walk in December, 2010. If the Planning Board would like final comments from the Conservation Board regarding this application, they should request them and they will be provided. Mr. Kaufman will address this.

Mr. Barrett is aware that he needs DEC sign off and the DEC only like to look at the plan once and he would like to finalize the plan with the Planning Board and then go to DEC. He will submit that plan.

ERRICO, Byram Lake Rd, 2/5/11, 11E-2 & 15, Charlie Martabano

Present for this application was Charlie Martabano, Esq, Barry Naderman and the applicant Vito Errico.

The application is for a proposed two lot subdivision consisting of Lot 1 of 3.03 acres and Lot 2 of 56.03 acres within the R-1A Zoning District. In addition, the Applicant is seeking Town Board special use permit approval for the establishment of a private membership club. The membership club would consist of a 19,593 square foot club house, associated car storage (58 vehicles) facility (for members) and a caretaker's apartment. Club activities would include the storage, display, detailing and light maintenance of special interest automobiles as well as club functions, including special events at which members of the public will be invited to attend.

Mr. Martabano reviewed all of the details above with the board members. He just wanted to give them a preview before this application goes before the Town Board. He noted this application only affects the property that is west of I-684. He also reviewed the maximum development of the property as per SEQR requirements.

Mr. Naderman oriented the board with the site and abutting roads to the site. He noted that shaded areas on the plan had regulated steep slopes that were greater than 25%. He also pointed out the pond, some miscellaneous wetlands as well as some state wetlands and their buffers. The entrance to the site, Lot #1, the car club, will be off of Byram Lake Road. He showed the board a house location on Lot #2 which is not proposed to be built but has to be shown on the lot in order to obtain Board of Health sign off. For SEQR purposes, the maximum development potential of the property has to be shown as well and a seven lot subdivision was presented to the board. A zoning conformance map and calculations was presented at this time to show that each of the potential lots created with their respective deductions for wetlands, steep slopes and the net deductions still conform to the zoning requirements; as well as the contiguous buildable area. He then reviewed the point of the subdivision, to build the car club.

Mr. Naderman reviewed the details of the single story building regarding double and single sided bays for car storage. He also reviewed the central club facility which will be two stories. The first floor will house Mr. Errico's cars and the mechanicals of the building. The second floor will be an approximately 2,000 square foot club area, which will include a couple of offices, kitchen, common area and two bedroom apartment for the caretaker. This lot will consist of septic and wells. The sewage system is designed to accommodate 550 gallons a day. Portable devices will be brought on site for larger events. He presented an architectural rendering at this

time. He reviewed the landscaping between the club house and Byram Lake Road. He noted the clubhouse does sit down in comparison to the road.

Mr. Martabano stated that this site will not have a lot of use with a membership between 58-75 people. Mr. Errico is very interested in doing things to support the school and has made sure the design has a low profile. There will be some special events, but they will be minimal.

In response to Mr. Delano's comment, Mr. Naderman stated that the net lot size was between 2.47 acres and 6.69 acres.

Mr. Martabano asked to schedule a meeting with the professionals to go over their memos.

Mr. Delano asked for a motion to declare lead agency intent. Ms. Black made a motion to declare lead agency intent. Mr. Mezzancello second the motion and it was approved with three ayes. Ms. Tatka and Mr. Sauro were not present for the vote.

Resident, Doug Mancinelli, 13 Byram Hill Road was present to understand the application a little further. He expressed his concerns about the seven lots to be built and the access to the two lots near or through his property. Mr. Naderman reminded Mr. Mancinelli that they are not proposing to create a seven lot subdivision and why that information had to be provided. He then briefly reviewed what the applicant was applying for. Mr. Martabano offered to answer any further questions from Mr. Mancinelli should he have them.

Mr. Delano thanked Ms. Black for her five years of service on the Planning Board as her term will expire at the end of the year.

Meeting adjourned at 8:55 p.m.