

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 P.M.
April 27, 2015**

PLANNING BOARD MEMBERS PRESENT:

Art Adelman, Chairman
John Delano
Steve Sauro
Christopher Carthy
Michael Pollack

ALSO PRESENT:

Adam R. Kaufman, AICP
Director of Planning

Joseph 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:
Larry Nokes

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

APPROVAL OF MINUTES:

April 16, 2015

Mr. Pollack noted some typos for the record. Mr. Adelman asked for a motion to approve the April 16, 2015 Planning Board minutes as amended. Mr. Pollack made a motion to approve as amended, it was second by Mr. Carthy and approved with four Ayes, Mr. Delano abstained.

PATTI

30 Palmer Avenue

Section 122.16, Block 4, Lot 59.

Construction of three parking spaces, retaining wall with second curb cut

Anthony Patti, applicant

Discussion

Consideration of site plan resolution

Mr. Adelman announced that this application was taken off of the agenda because the applicant had to go before the Zoning Board of Appeals and we will hear back from the applicant sometime in May, 2015.

CONTINUING BUSINESS:

DIPIETRO

20 Banksville Avenue

Section 102.04, Block 2, Lot 43

Site Redevelopment – Warehouse and Storage

P. Daniel Hollis, Esq. Shamberg, Marwell & Hollis

Discussion of Conservation Board memo

Present for this application was Dan Holt, engineer for the applicant as well as the property owner, Jack Dipietro.

Also present were residents Steve and Denise O'Connor.

Mr. Adelman asked the residents present to present their comments once and not to repeat the same material over and over again.

Mr. Holt stated that Beth Evens has prepared the wetland mitigation plan and now that the snow has melted, the Conservation Board split up into two groups and has visited the site on two separate occasions and has really studied the site. Mr. Holt has reviewed the Conservation Board memo and agrees with all the comments in the memo. Unfortunately, Beth Evans was not able to attend the meeting this evening.

Mr. Holt noted that some of the things that came out of the site walk besides the concerns of the wetlands and the Mianus River and its tributaries was a vernal pool just off the North East corner of the lot. People previously thought this vernal pool was connected to the Mianus River and it does not. The area with the most encroachment is near that vernal pool and the vernal pool does not exist 10 months of the year. Also noted in the Conservation Board memo was minimizing the impacts, they would like to see us reduce the width of the driveway and reduce the width of the driveway entrance further which would enable more mitigation on site.

Earlier today, Mr. Adelman, Mr. Fava and Mr. Kaufman reviewed the Conservation Board memo and spoke about the offsite mitigation. Mr. Fava will look into some other

off site locations because the required 2:1 mitigation can not entirely be handled on site. Mr. Kaufman noted that one of the offsite mitigation locations was next door to this property. Mr. Holt noted while out surveying his client's site the next door neighbor would not permit them on their property. Mr. Delano noted he would like the mitigation somewhere within the watershed.

Mr. Holt noted that there were no wetlands on site but this lot was affected by all of the surrounding offsite wetlands.

Discussions were had regarding further reducing the width of the driveway entrance and driveway as referenced in the Conservation Board memo. Mr. Cermele noted that based on the amount of parking spaces the width of a driveway is 20 feet and has already been reduced to 15 feet and not sure if it can reduce it any further.

Mr. Holt noted this was a residentially zoned property but we are applying commercial standards as many times as we can here. Isn't there some latitude that we can reduce it further because it is a residential property not a commercial site? He is looking for a way to reduce the size as suggested by the Conservation Board. Perhaps reduce it in the beginning middle and end of the site and leave it wider in-between those points.

It was noted the radius could be cut down due to smaller trucks on site and it was also noted that the garbage trucks and fire trucks still needed access to the site and sufficient turning radius needs to be available to those vehicles. Mr. Holt will work on that.

In response to Mr. Adelman's comment, Mr. Cermele and Mr. Kaufman noted that comments in their previous memos were still outstanding. Mr. Holt noted they will be addressed now that he has some direction from the Conservation Board.

Mr. O'Connor stated that he was concerned about two items. The fact that this lot was located within the CEA (Critical Environmental Area) and the Conservation Board noted consideration to the CEA in their memo as well. The second item was the mitigation, not the location of the mitigation but how to eliminate the impacts to the wetlands and then minimizing the impact to the wetland and the creating or establishing wetlands to replace lost wetlands and banking as a last resort. He noted the vernal pool is around longer than two months a year as stated earlier by Mr. Holt. Mr. O'Connor opined that this lot should be treated better because it is within the CEA. He would like to preserve the wetlands and to preserve the function of the wetland.

Mr. Holt stated that the only thing not in the buffer is the existing residence, all of the other disturbances are within the buffer right now and we are correcting the bad encroachments into the buffer area. A lot of the wetlands in our backyard are higher than we are. We do not even drain to those wetlands; we are not actually impacting them.

Mr. Carthy stated that he would like to re-walk the site. Mr. Pollack offered to walk the site with Mr. Carthy as he has not been to the site yet. Mr. O'Connor suggested he pay

attention to the wetlands on site that goes over the border, your feet will squish when walking.

Discussions were had regarding if the application was ready to be scheduled for a public hearing. It was noted the applicant needed final comments from the Conservation Board; their preliminary comments were discussed this evening. The applicant needed ARB approval. The applicant also needed to respond to the Town Engineer and Director of Planning memos. The location of the offsite mitigation had to be determined and mitigation plan then had to be submitted. The majority of the board felt a little rushed into the public hearing as there were a lot of unanswered questions and were not ready to schedule a date until all information was submitted for review.

Mr. Nokes noted that he knew the neighbor to the west and felt he was community minded. Mr. O'Connor offered to speak with that neighbor regarding proposed mitigation on site. He noted that 8,000 of the 34,000 square feet of mitigation has been decided on and the remaining 26,000 square feet still needs to be finalized. Mr. Adelman noted the Middle Patent Cemetery was being considered. Mr. O'Connor felt that the mitigation should be within the CEA.

Mr. Holt reminded the board that the site is not physically large enough to accommodate all of the required mitigation and the majority of the site is within the wetland buffer.

Mrs. Desimone stated the submission deadline for the May 28, 2015 meeting was Monday, May 11 by 12:00 p.m.

Discussions were had again regarding some direction with the width of the driveway and width of the driveway entrance. Mr. Delano suggested a driveway width that works and put some gravel on the sides so the trucks tires don't sink. He would like as much meaningful stormwater treatment for stormwater water quality done on site as possible. Regardless of the standards imposed, he would like the applicant to take it higher because it is located within the CEA. The other regulations don't necessarily take CEA into their regulations and that is why we need to go above and beyond. Mr. Delano noted he would like the mitigation somewhere in CEA and the watershed.

The board was in agreement with Mr. Delano's comments regarding the driveway entrance and driveway. The Board confirmed that the applicant will return to the board with plans that will address memos from the professionals, the Conservation Board memo, narrower driveway and narrower driveway entrance and mitigation plan.

MONTESSORI SCHOOL

67 Old Route 22

Section 107.04 Block 2, Lots 8

Amended Site Development for swimming pool

Robert Peake, AICP, John Meyer Consulting

Discussion

Present for this application was Bob Peak and Janine St. Jacques from John Meyer Consulting and Phil Went from Montessori School.

Mr. Carthy recused himself from this application.

The application is for the construction of a new 25' x 35' in-ground swimming pool, within the Town-regulated wetland buffer, at the Montessori school. The property is located within the RB and R-1A Zoning Districts.

Mr. Peake stated that the plans have been revised since the submission made two weeks ago. Ms. St. Jacques presented hard copy plans at this time. They are now making the pool handicapped accessible and will not have to go into the rock ledge. Two variances will be needed for this application; the location of the shed and location of the pool do not meet the minimum setbacks. The pool in its new location will minimize the disturbance. The slide will be moved and the play area and swing sets will remain in their present location. The area of disturbance will remain the same from the original plan to the new plan.

In response to Mr. Adelman's questions, Mr. Went stated that the pool will only be used during school hours, during the summer months and not on the weekends, the pool will be 3 – 3 ½ feet deep. The ages of the children at the school are between 14 months and 7 years. Equipment will be brought in alongside of the property.

Mr. Peake stated that he would like the board to declare lead agency intent and get a referral to the ZBA.

Mr. Nokes, Conservation Board representative noted there were wetland buffers at the rear of the site and inquired where the mitigation was going to be planted. Mr. Peake stated that the wetland was already disturbed and he will reach out to the Conservation Board Chairman regarding the mitigation plan and its location. It was noted the next Conservation Board meeting was Tuesday May 19, 2015.

Mr. Peake will submit an updated plan and revised calculations to Mr. Kaufman first thing tomorrow morning.

Mr. Delano made a motion to declare lead agency intent. Mr. Pollack second the motion and it was approved with four Ayes. Mr. Carthy recused himself.

Mr. Delano made a motion to refer this application to the ZBA, Mr. Pollack second the motion and it was approved with four Ayes. Mr. Carthy recused himself.

CVS

450 Main Street

Section 108.01 Block 6, Lots 22 & 27

Site development plan for various amendments to the site and the establishment of a 17,389 square-foot pharmacy and 2,497 square-foot retail space.

Paul Vitaliano, PE, CPESC , VHB Inc.

Discussion

There was no one present for this application.

The applicant has to return to the Planning Board regarding the bond for the relocation of the utility pole at the intersection of Maple Avenue and CVS's site access drive. The pole is proposed to be relocated approximately 10' to the east as depicted on the town's approved plans. There was a condition indicating that prior to the reissuance of the TCO (Temporary Certificate of Occupancy) by the Building Department the applicant must return to the Planning Board every 90 days to provide a progress update on the work with Con Ed about relocating the telephone pole.

Tonight is the applicant's second request for the 90 day extension for the TCO. Discussions were had regarding keeping the pole in its Planning Board approved location or not moving it at all in exchange for the applicant putting down a side walk from CVS to Maple Avenue in addition to permitting some outside users of the shopping center to park on site. It was noted that when this was originally before the board the pole had to be moved due to a safety issue with fire apparatus entering the site in an emergency.

Mr. Kaufman noted that the applicant is looking for another 90 day extension of time. CVS is looking to proceed with establishing the sidewalk as discussed at the last meeting. This 90 day extension would give the applicant time to finalize their details with the sidewalk and the town time to finalize comments with the fire department which would then enable the board to make a final decision as to whether they will permit the pole to remain in its present location or to be moved as previously approved.

Mr. Carthy confirmed that the Planning Board would have to approve keeping the pole in its present location. Mr. Kaufman agreed. Mr. Carthy confirmed that the board still needs to decide if the pole should be moved or not. The board still has to review the plans regarding the installation of the sidewalk and someone needs to present this information to the board. Mr. Kaufman agreed. Mr. Cermele stated this would become a field change. Mr. Adelman noted the board has to be extremely comfortable with this in order for it to happen.

Multiple discussions were had by the board at this time, the board discussed whether the pole should remain in its present location or moved. They discussed the advantages and the disadvantages of moving the pole. It was noted the cost to the applicant would be over \$150,000. to move the pole. The board wants to make sure the Fire Department is absolutely satisfied that all of their needs have been met in any

situation.

Mr. Adelman stated he would like an updated letter from the Fire Department that all of their needs have been addressed.

Mr. Adelman likes the idea of a new side walk and community parking and hopes the board does as well instead of the applicant paying \$150,000. to move the telephone pole, he felt this was a good solution.

In response to Mr. Carthy's comment that he has not seen a sidewalk plan and is not that comfortable with the concept having not seen a plan. Mr. Kaufman stated that the sidewalk plan was reviewed when CVS originally came before the board. At that point it was a concept and the town was certainly planning for it as there is a stub of a sidewalk on the edge of the CVS property, that stub would continue out to Maple avenue.

Mr. Delano stated that keeping the pole in its present location was not approved. This is an item of significance and should not be considered as a field change, we should have a site plan. We should discuss and review the issues. Mr. Kaufman noted if this was not a field change that CVS would probably just move the pole.

Mr. Delano stated that is what he would like to see done because that is what the Planning Board approved and in the long run that would be better, it takes away all possibility of liabilities for the town in regards to that telephone pole. To try and accommodate CVS by letting them build a sidewalk with a mountable curb invites vehicular traffic onto a side walk, he does not want to invite any vehicular traffic of any kind on a sidewalk that goes in and out of down town Armonk. He felt that was ridiculous, that should be a regular, conventional curb. They should not go up and over and run the risk of hitting anyone on the sidewalk, he felt this was absolutely ridiculous and irresponsible. He opined to put a mountable curb against a down town sidewalk is insane and invites vehicles onto a pedestrian access. This should not be a field change

Mr. Adelman liked the mountable curb option, he felt the proposed sidewalk from CVS to Maple Avenue was a good exchange for leaving the pole in its present location and felt that the proposed sidewalk was safer for the pedestrians than walking on the driveway to access Maple Avenue as they do today. He would like a letter from the fire department stating that all of their needs have been met before making a final decision on the location of the pole.

Mr. Delano stated that he did not feel this was a field change and the applicant should come back before the board for amended site plan approval. He did not see in the Town Code where this could be considered as a field change. Mr. Adelman asked Mr. Baroni is there was anything legally that would prohibit the board from making this a field change.

Mr. Baroni stated that the practical part of bringing this back to the planning Board is that an amended approval would technically open up the statute of Limitations of their

approval and he did not believe they were going to risk re-litigating the whole matter which took over two years. If you were to require them to return to the board, he opined that they probably won't and that will be the end of it except that they will have to comply with the regular approval. Only if the majority of the board thinks it is worthwhile not to have the pole moved and have the sidewalk built, do you do it as a field change, that is the way, that is your only question.

Mr. Adelman likes the proposed sidewalk in exchange for keeping the pole in its present location.

Mr. Sauro stated that in a perfect world the sidewalk is clear but if an alarm goes off and people are exiting from a burning building, there are two means of egress to Maple Ave and one to Main Street. If there is a mountable curb and it is twilight with a mountable curb, they may not see the pedestrians. It is not inconceivable what Mr. Delano stated.

Mr. Kaufman stated that he would hope that people would not run out screaming, there are places to assemble. Mr. Sauro stated that what Mr. Delano described is not inconceivable.

Mr. Baroni inquired if a recent response was received from the Fire Department regarding their preference regarding the pole. Mr. Kaufman stated that we have a letter from the Fire Department saying that they are still concerned about the radius and getting into the site. The solution to that is potentially a mountable curb and a relocation of the stop sign. This was not a suggestion by the fire department, these were some ideas raised while brainstorming on the situation.

Discussions were had regarding the applicant's letter to the board at this time and how the discussions came about regarding not moving the pole. Mr. Baroni stated that this was kind of an outgrowth from the Town Board, they wanted more of a sense of community parking whereas the prior approval did not permit any other parking on site but its own tenants and a sidewalk to Maple Avenue made sense to get those people safely back and forth. The devil is in the details, a mountable curb for the off chance of a catastrophe or a sidewalk that could be used daily for people to safely get back and forth. Presently they are walking in the driveway back and forth.

Mr. Delano inquired if the Town had a Fire Marshal. Mr. Baroni stated that North Castle has a Fire Inspector. Mr. Delano stated that the Town needs to get a letter from the entire Board of Fire Commissioners. The Board agreed that they need an updated letter from the Fire Department regarding access to the site. It was noted that there are three access points to this location, Main Street, Maple Ave and Maple Ave through the recreation department.

Mr. Cermele stated that nothing has been submitted on paper for review. This has all been a discussion at this point. He noted that the applicant reached out to Mr. Kaufman and himself regarding potential ideas to address the comments in the Fire Department letter dated January 23, 2015 and based on the Town Board comments as noted earlier by Mr. Baroni, the applicant's hope was not to move the utility pole. Mr. Kaufman and

Mr. Cermele sat down with the applicant and reviewed some possible solutions. The concept seemed fine but nothing has been put to paper yet. Maybe that needs a wider driveway entrance, without plans to review it is hard.

Mr. Pollack inquired if without plans can we extend the bond and if we do not extend the bond what are the consequences. Mr. Kaufman if the extension is not granted the applicant would have to move the pole if the bond is not extended. Mr. Adelman stated that we would not get the sidewalk and community parking which would be a shame.

Mr. Carthy stated that he is trying to look at this from both sides but he has not seen plans showing the benefit of moving the pole, just the verbal benefits have been presented. He is open to extending it to the 90 day extension so they can get a response from the Fire Department and receive plans and hear the applicant present their proposal.

Mr. Pollack made a motion for an extension of time. Mr. Carthy second the motion and it was approved with five Ayes .

Meeting Adjourned at 8:25 p.m.