

**NORTH CASTLE PLANNING BOARD MEETING  
15 BEDFORD ROAD – COURT ROOM  
7:00 P.M.  
July 13, 2015**

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PLANNING BOARD MEMBERS PRESENT:                      Art Adelman, Chairman  
Steve Sauro  
Christopher Carthy

PLANNING BOARD MEMBERS ABSENT:                      JOHN DELANO  
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:  
Zenaida Bongaarts

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

**PUBLIC HEARING:**

**170 BEDFORD ROAD & 156 BEDFORD ROAD**

**162 Bedford & 156 Bedford Road**

**Sec 108.03, Block 1, Lots 42 & 41**

**Amended Site Plan**

**Michael Fareri, applicant**

**Dan Holt, PE Holt Engineering**

**Joe Crocco, AIA Joseph R. Crocco Architect, pc.**

**Discussion**

**Consideration of Amended Site Plan Approval**

Present for this application was Michael Fareri, Joe Crocco and Steve DeLaurentis.

Mr. Adelman 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 application.

This application is for the redevelopment of the former lumber yard and Green property. The amended site plan application contemplates the demolition of all existing structures and the construction of an approximately 48,000 square foot, three story, building that contains 2 studio apartments, 15 1-bedroom apartments (3 AFFH) and 19 2-bedroom apartments (3 AFFH).

Mr. Fareri stated that he had a comment regarding the whereas clause for the recreation fees for this application. He noted he was providing approximately 5,000 square foot of recreation area worth approximately \$200,000 on the rooftop which includes a play area, bar-b-q area, and trellised area for some shade, tables, benches and a significant amount of landscaping. Residents have asked how a roof top recreation area could be safe enough for children. Mr. Fareri stated that there is a wall about 9 feet tall.

Mr. Fareri read a section 143-4, 143-5 and 143-5B of the code regarding recreational fees. Multiple discussions were had at this time regarding the recreation fees for this application and how it relates to what is written in the Town Code. Mr. Fareri reviewed which developments paid recreation fees and which did not and opined he should not have to pay any recreation fees because of the proposed roof top recreation area. He expressed his concern about what if the AFFH units are not able to be sold timely.

Mr. Baroni stated that the Planning Board needs to make findings and decide whether or not a proposed play area or recreation area is suitable and usually that is done in concert with the Recreation Board. This is done with the Recreation Board because what Mr. Fareri is offering may not be what the needs of the community are.

Mr. Kaufman stated that the code requires each unit to have private outdoor space, some of the units have private outdoor space and some of the units don't. The applicant proposes mitigation on the roof top. The Planning Board has the ability to

waive that requirement of each unit not having some private outdoor space, the board is ok with the roof top proposal, it is akin to a subdivision and every subdivision has a backyard which is similar to what we are doing. You also have the recreation needs of the Town above and beyond that and clearly they are all not being met here, whether they are members of the pool or participate with the senior programs in town or participate in some other recreation activities. It is a real balancing act, in this case it is appropriate, there is a park right down the street that we are planning for and money collected for this project could be used in this neighborhood or implemented in other parts of the town. .

Continued debate was had regarding the recreation fees and the amount of the recreation fees that should be paid. It was opined that it was unrealistic to think that the only place the residents of the building would recreate was on the roof top.

The board was looking for some guidance as to the flexibility it had on this decision. Mr. Baroni stated that the findings have to be suitable and what the community needs. There are credits permitted in the state law and town law for onsite facilities. Once the findings are determined that the onsite facilities being offered are suitable and are what the community needs – (He was not sure if the board could make that decision here but that was up to the board). Once the board makes that finding then the board can speak about what it is worth in form of a credit but first the board needs to decide if the facilities offered are suitable and what the community needs. The state code refers to the community needs, the local code states for the occupants of the building.

Mr. Baroni continued and stated what if the residents are not likely to have children but are of the age where they would sign up for the classes at the recreation department, the argument may be made by the Recreation Board that Hergenhan may need to be expanded at some point, therefore; the recreation board would prefer the money in lieu of the playground which may or may not ever get used.

In response to Mr. Delano's comment, Mr. Baroni stated that most communities work with the Recreation Board in this regard. It was noted this had not been done previously because the amount of the recreation fee had not been requested to be eliminated as this applicant has requested.

Mr. Adelman would like the input of the Recreation Board regarding the value of what is offered to determine how much would be appropriate. Mr. Adelman noted that these people will use Wampus Park and Wampus Park South. In response to a comment made it was noted that the Planning Board cannot determine where the funds are to be used, they only can determine the amount.

Mr. Adelman stated in order to find a compromise; the Planning Board needs some advice from the Recreation Board. In response to Mr. Adelman's comment, Mr. Baroni stated that the board cannot go to the second point of determining an appropriate amount without doing the first point of deciding if the facilities being offered are worth anything as recreation space. No matter what they cost, if that is not what the Recreation Board envisioned as the needs of those 36 units then you have not

accomplished anything because you have not made those findings. It is premature to speak about a negotiated amount until you have some input from the people that deal with that about whether or not what is being offered is important to that community, they are not only going to stay on their roof top. Mr. Adelman stated that the board will not be able to move on this resolution without the input of the Recreation Board. Mr. Fareri asked that the amount be reduced to more than half and not have to be paid until the CO is issued for the site.

In response to Mr. Adelman's comment, Mr. Baroni stated that the full amount has been broken down into installments throughout the approval process, that has been done before and the board can do that.

Continued discussions were had regarding the fees and how much they have changed from \$3,000.00 to \$3,500. to \$10,000.00 per lot as it exists today.

A \$93,000.00 fee was agreed upon as the applicant should get credit for the original lot. It was agreed upon to break the payments down into quarters, \$23,500 per quarter which will be paid prior to the signing of the plat; prior to the issuance of Building Permit; prior to the issuance of the 1<sup>st</sup> Temp CO and prior to the issuance of the 1<sup>st</sup> CO.

Discussions were had regarding conditions in the resolution and what kind of permits Mr. Fareri could and could not get without signed plans. Discussions of the restrictive covenant were had at this time and Mr. Baroni stated that this covenant has to be on before a foundation permit can be issued. Mr. Fareri stated that will take 6 months to go through. Mr. Baroni stated that the covenant in the form that is provided can be signed tomorrow; Mr. Fareri wants to negotiate a special deal for himself that is outside the parameters of what the county normally does. He may be successful in doing that but the loss in time is on him, not on the Town of North Castle. Mr. Fareri stated that the county requires him to build these AFFH units and after they have their CO's, what if the county has no one to move into them, he is left with units like the developer in Yorktown was. If after six months no one purchases the units, he wants the county to purchase them. The County agrees to the problem but does not have a solution. The board agreed to allow the demolition permit and tree removal permit to be obtained prior to signing the plans and resolution and the resolution will be updated accordingly along with the updated recreation fee amount and payment plan of recreation fees.

Mr. Adelman asked for a motion to close the public hearing. Mr. Delano made a motion to approve. It was second by Mr. Carthy and approved with three Ayes. Mr. Sauro and Mr. Pollack were not present for the vote.

Mr. Adelman asked for a motion to approve the Negative Declaration. Mr. Delano made a motion to approve. It was second by Mr. Carthy and approved with three Ayes. Mr. Sauro and Mr. Pollack were not present for the vote.

Mr. Adelman asked for a motion to approve the resolution as amended. Mr. Delano made a motion to approve. It was second by Mr. Carthy and approved with three Ayes. Mr. Sauro and Mr. Pollack were not present for the vote.

**DISCUSSION:**

**AT&T**

**1 New Orchard Road**

**Section 113.02, Block 1, Lot 18**

**Amended Site Plan**

**Daniel Laub, Cuddy & Feder**

**Discussion**

**New Singular Wireless PCS (Personal Communication Services)**

**Present for this application was Lucia Chiocchio, esq. Cuddy & Feder.**

Ms. Chiocchio stated that she was present on behalf of New Singular Wireless also known as AT&T. Presently there are other carriers on top of the IBM Learning Center. The applicant is proposing the addition of two LTE antennas and appurtenances to the existing AT&T wireless telecommunications facility located on the roof of the IBM Learning Center. These are basic upgrades. She started to review the new rules and legislation that was passed by the FCC within the last few years.

Mr. Adelman summarized what he had read in the applicant's submission and stated that based on the recent legislation that was passed, the Town basically cannot say no to this application. Ms. Chiocchio agreed with this brief summary.

After much discussion with the applicant and Town Attorney, the board agreed it was of no value to send this applicant to the ARB.

A public hearing was scheduled for August 3, 2015.

**ST. NERSESS ARMENIAN SEMINARY**

**486 Bedford Rd**

**Section 2, Block 8, Lot 17.B**

**Amendment to the SWPPP (Stormwater Pollution Prevention Plan)**

**Rob Aiello, JMC**

**Discussion of field change**

Mr. Aiello stated that the seminary is close to opening and he would like to make a modification to the stormwater pond which is located just south of the Theological Building. During construction, some of the soils and infiltration system were unfortunately disturbed. In efforts to curb some of the large storms that came through, the sediment trap was enlarged and the soils that were tested during the infiltration test were disturbed. It was noticed that the pond was not draining as he would like it to. He is proposing to convert the pond within the same footprint from an infiltration pond to a stormwater practice known as a pocket wetland. This is expanding the basin by 25%, in the SWPPP submitted to the Town Engineer and we are demonstrating that we are significantly reducing peak rates of run off.

Mr. Cermele stated that he was alright with the changes proposed.

In response to Mr. Carthy's comments, Mr. Aiello stated that during the 100 year storm the pond could get three feet deep. The outflow from the pond will go to the infiltration trench. There will be white 4' high white picket fence around the pond as well as landscaping.

Mr. Adelman asked for a motion to approve the field changes as described, Mr. Delano made a motion to approve. It was second by Mr. Carthy and approved with three ayes. Mr. Sauro and Mr. Pollack were not present for the vote.

**GJONAJ**

**7 Pine Ridge Road**

**102.01-2-7**

**Amendment to IPP along Bedford Banksville Road**

**Paul Sysak, JMC**

**Kory Salomone, esq. Veneziano & Associates**

**Discussion of field change**

Mr. Sysak stated that final subdivision was approved in February 2015. One of the conditions to be complied with was the following:

\_\_\_\_\_ 16. The Applicant shall submit documentation demonstrating approval for all work within the Bedford Banksville right-of-way from the Westchester County Department of Public Works to the satisfaction of the Town Engineer.

The material was submitted to Westchester County with 226' looking left when exiting the site and Westchester County wants a site distance of 305' when exiting left from the site. This is why the field change was proposed. As a result of these changes, 14 additional trees have to be removed and an 8' retaining wall has to be built. Additional steep slope disturbance of 1,600 square feet was also a result of this change. The retaining wall was 8' in height at some points and this is what Westchester County approved; unfortunately any wall over 6' tall needs ZBA approval.

A new plan with the same length of wall was handed out at this time showing a tiered retaining wall, which will require 6 or 7 additional trees to be removed and an additional 900 square feet of steep slope disturbance. These changes are proposed per Westchester County for safety purposes.

The board discussed the appearance of the retaining walls at this time and what type of the material will be used for the walls. His client would like to use the rocks located on site during construction. The board liked that idea of using rocks on site for the retaining wall and plans should be submitted to this effect by a structural engineer. The applicant will submit the details and calculations.

The board discussed at this time the other walls proposed as part of the subdivision which were in excess of 6'. The board agreed to give permission to the Town Engineer for his discretion regarding any wall in excess of 6' on the interior of the subdivision as a field change. The board was in agreement for a tiered wall in locations where the walls were 6' or greater. The Town Engineer noted he was reviewing plans for final signature and will make this part of the field changes. The board was in agreement.

Mr. Kaufman noted that previously there were no height limitations on retaining walls. The ZBA recently did an interpretation of the code and determined that the retaining wall height could not exceed 6 feet without ZBA approval.

Mr. Sysak reminded the board that they did a lot of work at the sites to reduce the tiers from three to two and in some cases one tier, this was done to reduce the walls and stay away from the steep slopes.

Mr. Sysak stated that he was concerned about the access to lot two with wetlands on either side of the access. He will have to see how much space is between the tiers, it might be right on the wetland buffer line, that area is going to be mitigated anyway. The board agreed to give the latitude to the Town Engineer to permit the tiered wall if appropriate. Mr. Kaufman reminded the board that this was nothing that the applicant did. Mr. Sysak stated that he will coordinate with the Town Engineer.

Mr. Salomone inquired if walls above six feet were already approved prior to this interpretation would his client be grandfathered in, in this case. Mr. Baroni stated that if the permit has not been pulled then you would have an issue.

Mr. Adelman asked for a motion to approve the field changes as noted this evening. Mr. Delano made a motion to approve. It was second by Mr. Carthy and approved with three ayes. Mr. Sauro and Mr. Pollack were not present for the walk.

**SKRILOFF/KARLBERG BARN**  
**21 Hickory Kingdom Road**  
**Section 95.03, Block 2, Lot 27**  
**Special Use Permit – Accessory Structure**  
**Paul Sysak, RLA John Meyer Consulting**  
**Discussion of site walk**

The Planning Board and Conservation Board held a joint site walk at 6:00 p.m. this evening out at the site. The wetlands were flagged and will be verified by Kellard Sessions's office. The 30 x 50 foot barn was staked out as well as the wetland buffer on site.

There will be a letter submitted to the board for an amended application regarding the accessory apartment. The apartment has a CO and was built in the 1960's and

anything built that was detached prior to 1985 is o.k. to keep. Once the ARB and CB have granted approval he will submit plans addressing the studio apartment as well as the memos from the professionals.

Mr. Adelman asked for a motion to adjourn the meeting. Mr. Delano made a motion to adjourn, it was second by Mr. Carthy and approved with three Ayes. Mr. Sauro and Mr. Pollack were not present for the vote.

Meeting was adjourned at 8:30 p.m.