

**NORTH CASTLE PLANNING BOARD MEETING  
15 BEDFORD ROAD – COURT ROOM  
7:00 P.M.  
December 12, 2016**

\*\*\*\*\*

PLANNING BOARD MEMBERS PRESENT:                      John P. Delano, Chairman  
   Steve Sauro  
   Michael Pollack  
   Jim Jensen

ABSENT:    Christopher Carthy

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

Valerie B. Desimone  
Planning Board Secretary  
Recording Secretary

:    Joe Cermele, PE  
   Consulting Town Engineer  
   Kellard Sessions PC

Conservation Board Representative:  
George Drapeau

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

\*\*\*\*\*

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

**APPROVAL OF MINUTES:**

**November 21, 2016**

Mr. Delano asked for a motion to approve the November 21, 2016 Planning Board minutes as amended. Mr. Pollack made a motion to approve. It was second by Mr. Sauro and approved with four Ayes. Mr. Carthy was not present for the vote.

**PUBLIC HEARING:**

**WERNER**

**23 Hillandale Avenue**

**122.12-4-18**

**2-Family Home Site Plan**

**Chris Crocco, Joseph R. Crocco Architects**

**Discussion**

**Consideration of site plan approval**

The applicant has submitted a site plan for the conversion of the existing single family house into a two-family home and the property is zoned R-2F.

Present for this applicant was the applicants professional Chris Crocco and his clients Sharon Werner and her brother Mr. Werner.

Mr. Delano read the affidavit of publication for the record. Neighbors present were Nancy Battistelli from NWP and Ed Loberman, 42 Nethermont Avenue. Mrs. Desimone stated all paperwork was in order for this application.

Mr. Delano noted that when the current owner purchased the house they were under the impression this was already a two family house and recently found out this was not shown in the town records as a two family house and is before the board to get approval for a two family house.

Questions were answered to the board's satisfaction.

Mr. Delano asked for a motion to close the public hearing. Mr. Sauro made a motion to close the public hearing. Mr. Pollack second the motion and it was approved with four ayes. Mr. Carthy was not present for the vote.

Mr. Delano asked for a motion to approve the Werner resolution. Mr. Sauro made a motion to approve, it was second by Mr. Pollack and approved with four Ayes. Mr. Carthy was not present for the vote.

**HIDDEN OAK SUBDIVISION**

**13 Hidden Oak Road**

**107.01-1-32**

**Alan Pilch, Evans Associates**

**3-lot subdivision**

**Discussion**

**Consideration of preliminary and final subdivision resolution of approval**

The applicant is proposing a three lot subdivision of the 7.5 acre vacant lot. Lot 1 will be approximately 1.863 acres, Lot 2 will be approximately 1.869 acres and Lot 3 will be approximately 2.004 acres. All three proposed lots will be accessed via individual driveways onto a new extension of Hidden Oak Road. The applicant is proposing to dedicate the road to the Town once completed.

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

Present for this application was Alan Pilch from Evans Associates.

Mr. Pilch made a brief presentation to the board and noted the application had expired and the applicant was back before the board this evening for the exact same approval as was previously approved. He noted the SWPPP was approved by the NYCDEP in June, 2016. At the request of the board, Mr. Pilch expanded his presentation of the Conservation Subdivision. All questions were answered to the board's satisfaction.

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

Mr. Delano asked for a motion to approve the negative declaration. Mr. Sauro made a motion to approve. It was second by Mr. Pollack and approved with four Ayes. Mr. Carthy was not present for the vote.

Mr. Delano asked for a motion to approve the negative declaration. Mr. Sauro made a motion to approve. It was second by Mr. Pollack and approved with four Ayes. Mr. Carthy was not present for the vote.

Mr. Delano asked for a motion to approve the preliminary subdivision resolution of approval as amended. Mr. Sauro made a motion to approve as amended. It was second by Mr. Pollack and approved with four Ayes. Mr. Carthy was not present for the vote.

Mr. Delano asked for a motion to approve the final subdivision resolution of approval as amended. Mr. Pollack made a motion to approve as amended. It was second by Mr. Sauro and approved with four Ayes. Mr. Carthy was not present for the vote.

**DOONEY WOODWORKS LLC**  
**30 Bedford Banksville Road**  
**102.04 -2-65**  
**Amended Site Plan**  
**Peter Dooney, property owner**  
**Discussion**  
**Consideration of amended site plan resolution**

The applicant is proposing a site plan for a 1,395 square foot addition to the recently approved retail showroom and artisan's workshop on the 2.3-acre property in the CB-B Zoning District.

Present for this application was the owner Peter Dooney and his business associate Paul Matthews.

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

Mr. Dooney presented the application to the board. Discussions were had regarding the land banked parking spaces and exterior lighting on site. It was noted that the exterior lighting will remain the same as the prior approval. All questions were answered to the board's satisfaction.

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

Mr. Sauro made a motion to approve the resolution. Mr. Jensen second the motion and it was approved with four Ayes. Mr. Carthy was not present for the vote.

**DEMPSEY**  
**38 Creemer Road**  
**108.04-2-15**  
**Accessory apartment**  
**Taylor Palmer, Esq. Cuddy & Feder LLP**  
**Discussion**  
**Consideration of special use permit approval**

The Applicant is seeking to secure reapproval of the special use permit for an 1184 square foot accessory apartment. This accessory apartment was previously approved by the Planning Board in 1996 for the previous owner. According to the Town code the special permit uses for accessory apartments shall terminate upon change of ownership.

Mr. Delano asked for a motion to reopen the public hearing. Mr. Sauro made a motion to approve, it was second by Mr. Pollack and approved with four Ayes. Mr. Carthy was not present for the vote.

Mr. Dempsey was present as well as his attorney Taylor Palmer.

Present for this application was Barry Malvin, 4 Green Valley Road; Mary Vierengel at 23 Green Valley Road; Rosemary Bellantoni at 35 Green Valley Road; David & Margie Grossman – 49 Creemer Road; Richard Abromowitz & Alexander Abromowitz – 22 Green Valley Road. Robert and Terry Orlofsky – 5 Green Valley Road.

Mr. Palmer stated that he has letters of support and in recommendation of the application and letters of no objection from 23 Green Valley Road (Vierengel) and 28 Green Valley Road (Gasparino). These letters were submitted to the secretary for the file. Mr. Taylor briefly reviewed the application before the board and noted since the last meeting the board went out to do a site walk per comments from the last meeting.

Mr. Delano welcomed members of the public to provide their comments or ask their questions.

Mr. Malvin lives across the street and noted his view is that this is a Quintessential New England house and barn, it is picturesque. He noted the Walsh's lived at this site for 20 years and the Dempsey's have lived there this past 20 years and they have been good quiet neighbors. This has been a rental for many years. He feels the rights of the neighbors should be respected as much as the rights of the property owners. The Dempsey's have had tenants on and off for 20 years. He then referenced the Zombie house that faces the Orlofsky house and how that house impacts the neighborhood. He would like to see this application approved.

Mrs. Bellantoni stated that for 45 years she has been passing by this residence and this house is a very charming asset to the road and it would be a disaster if this house or lot were changed in any way. This house was used in a major motion picture and it was great seeing it on the big screen. She would like to see it for another 200 years.

Mr. Pollack stated that there were three conditions in the prior approval, Board of Health approval for the septic system which will be a condition in our approval, replacement of wood burning stove which now is a pellet stove which complies with the spirit of that and removal of the screen porch which remains today.

Mr. Delano stated that he had a discussion with the Director of Planning and neither one of them saw any logical reason why the screened porch had to be removed. Mr. Delano stated this was a typical use and not out of the ordinary. Mr. Sauro stated that the porch is located in the lower part of the lot and did not see any logic to change anything on this lot or this building. The pellet stove is a great addition to the property. Mr. Jensen agreed with Mr. Sauro's comments and did not see the purpose of removing the porch. Mr. Pollack noted that it troubles him that original conditions of the board were not complied with regarding the porch and noted the porch denigrates from the

architectural charm of the accessory apartment, the porch is not balanced with the structure. Mr. Delano stated that he can't disagree with Mr. Pollack's visual observations but would have a hard time imposing the removal of the porch at this time; if this were new it would have gone to the ARB. Mr. Delano wants to make sure the septic system is code compliant and the applicant will have to have Board of Health approval. Mr. Taylor stated that he has reached out to the Board of Health and is certain it will have sufficient capacity.

Mrs. Orlofsky inquired if the board while out at the site walk viewed the Dempsey site from their property and were able to see what they see. She noted the Dempsey's extended their driveway to almost the property line and some screening was taken down at the time. She noted this was the view from her master bedroom window. Mr. Delano noted he was not at the site walk but went to the site on his own and did drive down Green Valley Road and viewed the Dempsey lot from the Orlofsky lot. He noted there were week evergreens on that side of the property. Mrs. Orlofsky stated that she wished the chairman had come down her driveway for a closer and better look.

Mr. Sauro stated he walked up the hill the day of the site walk to see the view from the Orlofsky site, he saw the evergreens and noted their house was about 150 to 175 feet away from the barn. Mrs. Orlofsky noted there was no screening from her second floor bedroom window. She noted she has lived there for 32 years and does not understand what was going on with the Town of North Castle at the time in 1983. She is concerned what if the house is sold and who will live there and rent there. She noted she has not said anything before this hearing because they were raised not to have issues with the neighbors. We don't see them very often and don't want to give anyone any trouble and we thought the site was in compliance and no one was living there. Mr. Sauro stated that Mr. Dempsey thought he was in compliance as well for the apartment.

Mr. Orlofsky stated that he and his wife feel that the town has really let them down regarding this matter. He purchased his lot in 1984 and a condition of the subdivision approval was the removal of the barn and there was a rowdy crowd living in the apartment at that time. When the prior owner, Mrs. Walsh, sold the property she filed for an accessory apartment. Mr. Orlofsky strongly objected at the time of this approval. He spoke to Ed Delaney from the Board of Health and Mr. Delaney told him at the time there was not enough room for a second septic. He does not think that Board of Health will approve this. Mr. Orlofsky followed up with the building inspector a year later and Mr. Sarnelli did not do anything regarding this matter. Today he is back again and wants to make sure that all rules and regulations are followed according to the codes.

Mr. Malvin stated that the people who terrorized the neighborhood were the Walsh children. He noted that the screening was only for one window, a bedroom, it is not screening the view from the backyard or the living room. The Dempsey's are quiet people and he looks at the zombie house on regular basis and the Dempsey's live in Arizona half the year.

Mr. Orlofsky stated that he would like some screening for the driveway when he drives up his driveway. Mrs. Orlofsky stated that this is a matter of principal and does not want

a rental property next to her and thought she was protected when she bought her house. When the Dempsey's rented their house for a movie it was a big imposition to her and her family, there was no communication from the neighbors at the time and they did not cause any trouble at the time. She has no problem with an accessory apartment within the home but two separate structures on one lot she does not agree with.

Mr. Delano noted that it was reasonable to add screening in front of the cars and breakup the headlights. He noted some written notes on the Fred Rucker plans regarding landscaping that he did not see on site today, he agreed that landscaping regarding screening of the cars was appropriate. White Pines were suggested as plantings. Mr. Sauro agreed with Mr. Delano regarding plantings in front of the cars.

In response to Mr. Sauro's comment, Mr. Kaufman noted he had seen the review prepared by Bill Richardson from North Castle Building Department and was last out to the site in October, 2016.

Mr. Palmer stated that he had a copy of the letter sent out the neighbors at the time of the filming. The board was not interested in viewing the letter at the time.

No further comments were made. Mr. Delano asked for a motion to close the public hearing. Mr. Pollack made a motion to approve. It was second by Mr. Sauro and approved with four Ayes. Mr. Carthy was not present for the vote.

After discussions were had regarding the draft resolution. The board agreed to move the Board of Health sign off as a condition to be completed prior to signing of the site plan. An additional condition regarding screening was also added to the resolution.

Mr. Delano asked for a motion to approve the Dempsey accessory apartment resolution as amended. Mr. Sauro made a motion to approve. It was second by Mr. Jensen and approved with three ayes. Mr. Pollack voted nay and Mr. Carthy was not present for the vote.

## **WHIPPOORWILL CLUB DRIVING RANGE**

**150 Whippoorwill Road**

**100.04-1-41 - Amended Site Plan**

**Richard Cordone, Design Manager, John Meyer Consulting**

The project area is currently being utilized as a driving range, a green waste storage area and a staging area for sod and other landscape materials. The Applicant is proposing a site plan and tree removal permit application for the redevelopment of the existing driving range, with associated short game practice areas, replacement of the existing golf course netting, installation of retaining walls, additional landscaping, and cart path and drainage improvements.

The application was adjourned to the January 9, 2017 meeting to enable the applicant to complete his application before the Zoning Board.

**CONTINUING BUSINESS:**

**PATTI**  
**30 Palmer Avenue**  
**122.161-4-59**  
**Site Plan**  
**Grossfield Macri Consulting Engineers, PC**  
**Discussion**

The site plan application to construct two off-street parking spaces, a retaining wall as well as a second and third curb cut on the existing 7,765 square foot lot within the R-5 Zoning District.

Mr. Delano recused himself from this application.

Present for this application was Paul Berte, professional for Mr. Patti who was also present.

Neighbors Don Ahrenberg, Ken Kaufman and John Junker were present for this application. Also present was Mike Siriano attorney for Ken & Cyndy Kaufman.

Mr. Berte stated that that there is a two car garage which is very small on site and can only hold one car and there is no driveway in front of the house. The applicant originally proposed three parking spaces and now is proposing two parking spaces. The eight foot retaining wall has been reduced down to a four foot retaining wall. Previously there was no walking path, a walking path from the proposed parking spaces to the residences has been incorporated into the plan, there will be two additional curb cuts for this proposal and one tree will be removed.

Mr. Ahrenberg, Mr. Ken Kaufman and Mr. Junker expressed their objections to this application and noted they were not in favor of this application. Mr. Siriano also expressed his objections to the application on behalf of his client Mr. & Mrs. Ken Kaufman.

Mr. Sauro suggested that the applicant expand the present garage and dig out the side yard, Mr. Patti stated he was not in favor of this suggestion.

The board discussed this application and was reminded that this was an oversized lot and it did not have enough land to subdivide. The board asked the applicant to have the site staked showing two pull in parking spaces and two parallel parking spaces. The applicant was asked to submit plans showing pull in parking spaces for the board to compare the pull in vs. the parallel parking spaces. The board noted that the applicant would need a Gross Land Coverage Variance and a site distance variance from the Zoning Board of appeals for this application. The board also asked the applicant to show the board which other lots had three curb cuts. The applicant's professional will let the board know once the site has been staked and a site walk will be scheduled.



**CORDONA**  
**15 Bedford Banksville Road**  
**102.04-1-17**  
**Site Plan**  
**John Scarlato, AIA**  
**Ralph Alfonzetti, PE Alfonzetti Engineering**  
**Discussion**

The site plan application for the construction of a 1,520 square foot accessory garage and the conversion of the existing residence to an office and apartment within the CB-B Zoning District.

Present for this application was John Scarlato, architect.

Mr. Scarlato presented the application to the board. The apartment will be located on the second floor. His client owns a landscaping business and will store his equipment and materials inside the oversized barn. There will be three doors, two cars deep. The first floor will be used as the office and utility room. He presented the floor plans of both structures at this time. A rain garden is proposed instead of dry wells due to the conditions of the ground.

Mr. Kaufman noted the board needs to discuss two items. The property is zoned CB-B and according to the code, the board needs to decide if the detached structure is an incidental use to the office use and if the board thinks that it is, then they can approve this structure for the storage of equipment. The second issue is the conversion of a single family lot into a commercial lot, the plans will have to be updated to address the comments in his memo per the town code requirements. Mr. Scarlato stated that he can accommodate the second issue and will update the plans.

Discussions were had regarding Adam's first comment and what if the business use changes. It was noted that there were two other applications before the board that had more storage than office space. The board discussed options for the site if the business moved out; the oversized structure could have cars parked in it.

Discussions were had about the flood zone and Mr. Cermele stated that the entire property is within zone A and there is no elevation associated with it. He reviewed the town code with the board and explained some of the gray area as it pertains to this application.

In response to Mr. Delano's comment, Mr. Kaufman stated that the board will have to decide about the detached structure as an incidental use to the office and conduct a site walk.

In response to Mr. Delano's comment, Mr. Scarlato stated that his client was doing a storage shelf on top in the accessory structure for tools and was open to whether they do that or not.

The professional will let the board know when the site is staked for a site walk.

The board noted that they have seen this type of use previously and theoretically is alright with the concept and in the past they have requested to see the layout of the interior space of the accessory structure and what material would be stored on site. The board will go out and visit the site.

**850 NORTH BROADWAY (LITTLE SPOT)**

**850 NORTH BROADWAY**

**122.12-5-62**

**Site Plan**

**Hudson Engineering & Consulting, Michael Stein, PE**

**Discussion**

The site plan approval to permit several changes of use on the property. The proposed site plan would include a 1,095 square foot carry-out restaurant (Little Spot), a 1,120 square foot carry-out restaurant (Ralph's Ices) and a 920 square foot office. The property is located within the CB Zoning District.

Present for this application was Michael Stein, PE President of Hudson Engineering & Consulting and the applicant Scott Rosenberg.

Mr. Stein stated that the little spot restaurant would remain and Ralphs Italian Ices would occupy about half of the other building and the other half of that building would be an office.

Discussions were had regarding curbing, sidewalks and planters along route 22 and whether the DOT would approve a Merritt Style guard rail and which side of the sidewalk the guardrail should be put on. Mr. Stein then presented revisions to the plans based on the comments from the professional's memos for this meeting

Mr. Delano noted that this building has been hit three times within the last 15 years. Approvals have been granted on this property previously, but the property owner has not done the required improvements.

Mrs. Battistelli noted there was water runoff from this property or the Santomero property that crosses Route 22 to Fisher's garage and then down to the residents behind Fishers garage. Mr. Delano asked her to give him a call the next time she sees this and he will go and take a look.

In response to Mr. Loberman's questions, Mr. Stein stated that this application is not contingent on the sale of the Little Spot. This lot is only one lot not two lots. Mr. Loberman welcomed any improvements to the site like a guardrail.

Mr. Jensen questioned if a guardrail was installed, would that imply that people would drive faster on the road.

It was noted that the sidewalk when installed on this site would connect to the Santomero Building next door. The applicant's professional will submit a traffic report for this site.

Mr. Kaufman stated this was a Type II action and the applicant was not building anything and Lead Agency intent was not necessary for this application.

Mr. Stein will speak to Mr. Santomero about removing the rock and connecting the parking lots.

## **BTDT PROPERTIES**

**18 Carolyn Place**

**100.04-1-5**

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

**Frank Guiliano, Landscape Architect**

**Referral from RPRC - Tree Permit**

### **Discussion**

The site plan application for the establishment of tree restoration plan on the above referenced property. The Applicant has removed trees that were not approved by the RPRC. The RPRC determined that given the environmental constraints of the property and the amount of proposed disturbance, a detailed review by the Planning Board and the Conservation Board is warranted.

Present for this application was the applicant Kurt Scuderi and his attorneys Mark Miller, Veneziano & Associates and Jacob Amir, Delbello Donnellan Weingarten Wise & Wiederkehr LLP. Frank Giuliano, Landscape Architect for the applicant and neighbor Penny Kramon – 12 Carolyn place was also present.

Mr. Miller noted that since the site walk his client has staked the site as requested by Westchester County and the reps from Westchester County have been back to the site but he has not heard anything further. Mr. Kaufman noted that he received communication from Westchester County to Westchester County who expressed some concerns in that email. Mr. Baroni stated that Westchester County stated in that email that the ground had been graded down the hill and many of the stumps covered over with dirt and to the point the inspector could not examine what he was there to examine. Mr. Miller was not familiar with this information. Mr. Delano noted the email also mentioned that one of the survey markers was not there in addition to the stump being covered over. Mr. Baroni noted the county reps were not able to do what they came out to do. Mr. Miller stated he was not aware of this.

Mr. Miller stated at the last meeting his client was not clear as to whether he needed to submit a steep slopes permit or wetlands permit and has since made that submission and would like to appear before the board on January 9, 2017.

Mr. Cermele stated that Mr. Marino had flagged the water course and wetlands and Mr. Sessions was out to the site and moved the flags a bit regarding the water course and Mr. Marino was going to complete the flagging and Mr. Cermele's office would go back out to the site this week and verify it.

Mr. Miller reminded the board that he would like the building permit separated from these other permits. He would also like this board's actions to be separate from the County's actions. He noted that there is not a scintilla of evidence that his client took down any trees and will continue to work with the town regarding the reforestation plan, wetland permit, steep slopes permit and tree removal permit.

Mr. Baroni stated that the RPRC referral to this board seems to have bifurcated a permit for the house from the rest of the site. There is nothing in the code that states the RPRC could have done that. You are dealing with the entire site.

Mr. Delano stated that Adam was out to the site the day before the RPRC meeting and noted the trees were already down. He sees this site as one application and Westchester County as a different approval. The Town does need to share information with the County in order to proceed but Westchester County approvals will not hold up North Castle approvals.

Mr. Pollack stated that he agrees this is one application for site plan in a unified way. He is troubled by the email we received by Westchester County that more work has taken place on site and the applicant is objecting to that because they are not aware of the contents of the email. Mr. Kaufman read the email at this time. Mr. Miller requested to see a copy of the email. The email was forward to Mr. Miller the following day by Mrs. Desimone.

It was noted that there is no building permit for the structure, only the foundation permit was issued. Mr. Miller will address the email.

Mrs. Kramon stated that many loads of dirt have been brought on the site, surpassingly with approval from Mike Cromwell to protect the foundation. She would like remediation of the trees to project the rim of the pond. Mr. Delano stated that fill is appropriate to be brought in regarding a foundation.

Mr. Kaufman asked if the applicant was going to resubmit planting plans based on the comments from the Town Engineer. Mr. Delano stated that in order for this application to move forward the board needs a boundary survey, topography and details regarding which trees are left standing, wetlands and water course information. Mr. Kaufman stated that we can get some of that information but we need the Westchester County Survey so the Town can see their property lines and North Castle can then figure out where their lot is. Mr. Delano asked the applicant to work on his other requests while the county surveys their lot.

Mr. Cermele stated that the trees on the town property are not shown. The trees on the applicant's site are not coordinated with the landscaping plan or the plan submitted for the Building Permit and that needs to be worked out and coordinated. Mr. Scuderi stated that surveyor did that all already. Mr. Cermele noted his comments were based on the submission.

Mr. Cermele continued - whether to separate from Westchester County as far as what they want to do, there is still a connection to this site whether the applicant wants it or not, there are still local wetlands on their property, town property and county property. There are steep slopes on all three properties and whatever the county decides to do they have to get access through these properties. This all needs to be reviewed by this board and the conservation board to agree on the mitigation.

Mr. Jensen stated this was the third meeting on this matter and the two stakes are not done yet. Mr. Miller stated they were staked. Mr. Scuderi stated that the stakes are still there. The board said they will forward the email to Mr. Miller and asked that Mr. Miller reach out to Westchester County to resolve the matter.

Mr. Pollack wanted to be clear as to what the applicant needed to submit for the next meeting. Mr. Miller stated that he has been advised that there is a survey and a topo survey and will submit that. Mr. Scuderi stated that he has submitted a wetland permit and steep slope permit.

In response to Mr. Jensen's comment, Mr. Cermele stated that the plans submitted for the building permit, Ralph Mastromonaco's plans and Frank Guiliano's plans do not agree regarding the existing trees, removed trees or otherwise and are different on all three plans and need to be coordinated. Mr. Miller stated he will take care of that. Mr. Cermele stated that there are no trees shown on the town parcel and the town needs to know how many trees were removed from the Town Parcel. Mr. Miller stated his client did not remove any trees. He has an affidavit from the neighbor stating that he took down all of the trees on the county property and the town property.

Mr. Baroni stated that he needs to know if any trees were removed from town property as he needs to file a claim with the town's insurer; the town has coverage for property damage. Mr. Cermele stated this all hinges on a common line between the town parcel and the county parcel and then a survey can be done for the town parcel. Mr. Miller stated that his client marked his property line.

Mr. Baroni confirmed with Mr. Miller that his client states that only fill was put around his foundation and not on town or county property. Mr. Scuderi agreed with this comment and stated only on his property and around his foundation was the fill put. Mr. Scuderi offered to visit the site tomorrow with the board to see where the fill was.

Mr. Cermele inquired about happened to the trees on the hillside that were cut down, his office saw they were gone while out at the site. Mr. Scuderi stated that they are all still there. Mr. Cermele stated that there are a lot of threes that fell and have since been removed. Mr. Scuderi stated none of them have been touched.

Mr. Pollack stated that regardless of who removed the trees. He thinks it is this boards expectation that your plans will show them to be restored no matter who is paying for them, Mr. Scuderi or the neighbor. Mr. Miller stated that his plans show the reforestation of his property. Mr. Baroni noted that in the Westchester County Commissioners letter dated October 25, 2016 he stated that BTDT has submitted a tree restoration plan. Mr. Miller and Mr. Scuderi stated they had not submitted anything to Westchester County. Mr. Baroni questioned why the county would be reviewing a plan for a private lot.

Mr. Cermele stated that is sounds like this board is only going to get more information from the applicant regarding their property. The board has been asking for a comprehensive plan for all of the removal and we still have not seen it and does not sound like they are going to do it.

Mr. Jacob Amir stated that this is a restoration plan; his client is not obligated to restore what he did not do. We have an affidavit from the neighbor to this affect. He does not understand why the Planning Board has the issue of a building permit before it. Why did the Building Inspector defer his statutory obligation and that question has not been answered because the code as he understands it states he shall issue the Building permit. Mr. Baroni stated that the RPRC can only refer to the Planning Board the plan for the property; including the house and the site plan for the property. You can't bifurcate it so that the house goes to the Building Department and the land goes to the Planning Board, that can't happen. Everything is properly before this board and until this board approves a site plan for this property a building permit cannot be issued.

Mr. Amir stated that did not appear to be what the code requires. That is not what the Building Inspector told the applicant. The Building Inspector said that he did not want to do anything; he wanted to refer it to the Planning Board. That issue is still up. Mr. Baroni stated that is not still up, the Planning Board has determined that they have the entire site before it. Until this board issues a site plan approval a building permit cannot be issued and he advised the building inspector of that. Mr. Amir stated that we are talking about trees taken down by someone other than the applicant on Westchester County land. If there are issues with respect to the building permit then let those issues come to light and be addressed. If we are talking about trees on Westchester County land that is a separate issue even if it can be addressed by this board. This board should allow the applicant to continue to build per the building permit. He stated at the last meeting that Westchester County takes more than three weeks to do anything and that is crystal clear at this point and now it will be another month before it does anything. Mr. Baroni stated that we know that a wetland permit and steep slopes permit need to be issued and that will be part of the site plan approval. You can't get a building permit without all of those other permits issued first.

Mr. Amir stated that we are being held hostage by Westchester County.

Mr. Delano stated that the applicant went to the RPRC and stated that no trees were going to be taken down and the Director of Planning was out to the site the day before

the meeting and saw that trees were taken down. The building department issues a tree removal permit and certificate of compliance all on the same day and after the fact. Mr. Miller stated his client will address the concerns noted by the Town Engineer this evening.

Mr. Scuderi stated that in the beginning he went in for a building permit with no intention of taking any trees down. While waiting for the building permit and demolition permit, he went in to see Mike Cromwell. He was actually waiting to see the RPRC for the first building permit. Then he went to see Mike Cromwell and said he would like to take down some trees while he was waiting also for the demolition permit because they had to do testing for the asbestos.

Mr. Scuderi continued - The application was already in with nothing to do with trees. At his request, Mr. Cromwell agreed to go out and take a look at the trees and that is what we did. Mr. Scuderi stated that he went forward to take down the trees on the 14<sup>th</sup> and 15<sup>th</sup> - actually it was the 13<sup>th</sup> & 14<sup>th</sup> that they took down the trees. Mr. Scuderi stated that Mr. Kaufman brought up the tree removal at the RPRC meeting, that he came out after the fact and trees were already taken down. Mr. Scuderi explained that he had a building permit to take down the trees. Then Mr. Cromwell said to Mr. Scuderi after Westchester County came out to the site because of the neighbor that he, Mr. Cromwell, could not issue a building permit until he spoke with the Town Attorney, then he told him that he could not issue the building permit even though it was already issued, because of the tree removal, Mr. Scuderi had to go to the RPRC. Then he submitted a tree removal application to the RPRC for 12 trees that is why we are here. He said that Mike Cromwell said that his hands are tied right now, if the Planning Board would release the Building Permit he, Mr. Cromwell, would give it to Mr. Scuderi, it is already printed and ready to go. This was an afterthought that is the problem.

Mr. Baroni asked the Building Inspector routinely issues tree removal permits when an application is before the RPRC. Mr. Kaufman stated that he does not know what happened. Mr. Baroni stated that voids what the RPRC is there to do. Mr. Scuderi stated it was not his fault; he came in the office and asked what to do. Mr. Kaufman stated that when he was out to the site and saw the tree removal he said to Mr. Scuderi, what are you doing with the tree removal. Mr. Scuderi told him that he had a building permit. Mr. Kaufman followed up with Mike Cromwell and Mr. Cromwell stated that there were some dead trees right around the foundation that he authorized for removal. Mr. Scuderi stated that was not true, he took a picture off of his deck on the 12<sup>th</sup> with Mike of the trees to come down. Mr. Kaufman stated that the trees that came down were well beyond 12 trees.

Mr. Delano noted that we are not going to get any further with this application this evening.

Mrs. Kramon stated that her husband is friendly with John Skeel, the neighbor who signed the affidavit which is legally questionable, let me just say that. John Skeel stated that he intended to cut down two trees and somehow everything else went down too as well. The signing of the affidavit was on the way to the airport, he was brought over to

Kirk's lawyers office and signed the paper and then went to the airport to go to Florida. Her husband did not think that John was taking this seriously and reached out to Mr. Skeel's daughter, she has not heard anything further.

**CVS**

**450 Main Street**

**Section 108.01 Block 6, Lots 22 & 27**

**Paul Vitaliano, PE, CPESC , VHB Inc.**

**Discussion regarding the relocation of utility pole and potential alternatives**

**Consideration of 90 day Extension of time**

Janet Giris, partner from Delbello Donnellan Weingarten Wise & Wiederkehr llp.

Ms. Giris stated that part of the approval was a condition to move the utility pole. A bond was posted and the applicant was to return every 90 days to update the board on the progress and keep the bond in place. The installation of sidewalks was discussed in lieu of moving the utility pole with the neighbor. CVS would like to get their final CO and they are looking to move the utility pole. She spoke with the neighbor's attorney, Mark Miller, Veneziano & Associates; this morning and his client has a renewed interest in completing the sidewalks. She would like the town to issue the temp CO and would like 180 day extension due to winter whether it was to move the pole or pour the concrete it would be too cold to do within the 90 day extension.

The board discussed the letter submitted by Paul Vitaliano dated December 2, 2016 stating they will move the pole along with Ms. Giris's comments as noted above. The board agreed to grant a six month extension. Mr. Delano asked for a motion to approve the six month extension of time to coordinate the pole relocation/sidewalks. Mr. Jensen made a motion to approve, it was second by Mr. Pollack and it was approved with four Ayes. Mr. Carthy was not present for the vote.

Mr. Delano asked for a motion to adjourn the meeting. Mr. Pollack made a motion to adjourn. It was second by Mr. Sauro and approved with four Ayes. Mr. Carthy was not present for the vote. Meeting was adjourned to 10:07 p.m.