

**NORTH CASTLE PLANNING BOARD MEETING  
15 BEDFORD ROAD – COURT ROOM  
7:00 P.M.  
September 11, 2017**

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PLANNING BOARD MEMBERS PRESENT:

Christopher Carthy Chairman  
Steve Sauro  
Michael Pollack  
Gideon Hirschmann  
Jim Jensen

ALSO PRESENT:

Adam R. Kaufman, AICP  
Director of Planning

Valerie B. Desimone  
Planning Board Secretary  
Recording Secretary

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

Joe Cermele, PE  
Consulting Town Engineer  
Kellard Sessions PC

Conservation Board Representative:  
John Tiernan

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The meeting was called to order at 7:03 p.m.

**APPROVAL OF MINUTES:**

**July 31, 2017**

Mr. Sauro made a motion to approve the July 31, 2017 Planning Board minutes as amended. Mr. Pollack second the motion and it was approved with four Ayes. Mr. Jensen abstained.

**PUBLIC HEARING:**

**AIRPORT CAMPUS [17-012]  
113 King Street (Formerly MBIA)  
118.02-1-1  
Amended Site Plan  
Mark P. Miller, Veneziano & Associates  
Anthony Guccione, RLA John Meyer Consulting  
Discussion  
Consideration of resolution of approval**

Present for this application were representatives from Airport Campus Steve Wise and Geoff Ringler as well as their professionals Mark Miller, esq. and Anthony Guccione engineer.

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

Mr. Miller reviewed for the board the original approval granted in 2004 and the phasing of development at that time. The first phase consisted of removal of underground residential fuel oil tanks, removal of dead trees and pruning of healthy trees, the reconstruction of existing stone walls and the demolition of the existing Cooney Hill homes, construction of a graded earth berm up to 6 feet in height along King Street to shield the Cooney Hill area, the construction of walking paths and a fitness center to provide recreational opportunities for MBIA employees, and the construction of new stone walls around the perimeter of the property. The second phase would include the construction of the meeting house and the stormwater detention area located to the south of the meeting house; and the third phase would consist of the construction of the corporate headquarters expansion together with the new parking structure. The first phase described above was completed years ago but no action has been taken on the second or third phases.

Mr. Miller continued and reminded the board that in 2016 the phasing plan was amended to provide that the previously approved parking structure can be constructed as Phase I, with the office building comprising Phase II, and the meeting house Phase III. The Applicant also received permission to construct the parking structure, in its approved form, but with the ability to build only as many levels as necessary initially, with the right to add the additional approved levels as demand requires.

Mr. Miller stated that today, the Airport Campus is seeking amended site plan approval and amended phasing approval to permit the construction of 137 at grade off-street parking spaces adjacent to the existing 1820's house and to demolish an existing garage next to the 1820's house and construct an optional cover over an existing sidewalk.

The board reviewed the draft resolution that was prepared. The board noted that there were many conditions in this resolution that were not initially discussed with this

amendment. The board had some reservations and concerns with approving this document. The professionals informed the board that this resolution summarized all of the outstanding conditions from all of the amendments to date.

After further discussion, it was agreed that the applicant's professionals would meet and discuss this document with the Town's professionals.

Mr. Sauro made a motion to adjourn the public hearing, Mr. Pollack second the motion and it was approved with five ayes. The resolution was not voted on this evening.

**ZINMAN [17-007]**

**73 Round Hill Road**

**102.03-1-46.1**

**Site Plan**

**Joseph Risoli, Engineers, Planners, Surveyors**

**Discussion**

**Consideration of resolution of approval**

Site plan and Special Use Permit application for the construction 7,334 square foot new single family home with a detached accessory structure and in ground pool. The Planning Board, at the time of subdivision plat approval, determined that site plan review by the Planning Board is required for this lot.

Mr. Baroni recused himself from this application.

Mr. Pollack read the affidavit of publication for the record. Mrs. Desimone noted all paperwork was in order for this application. The following noticed neighbors were present.

Michael Fareri – 75 Round Hill Road

Lawrence Tsao – 75 Banksville Road

Mark D'Venchenzo – 69 Round Hill Road

Linda Fernberg – Wampus Avenue (former tenant of the caretaker cottage on site)

Jim McTigue, PE Risoli Engineering was present for this application.

Mr. McTigue stated that he has reviewed the draft resolution and then presented the application to the board and members of the public. He presented the house layout as well as the amenities and noted there was no activity in the wetland buffer.

Ms. Fernberg stated that she was a former resident of the caretaker cottage and welcomed the Zinman's to the neighborhood and North Castle.

Mr. Fareri reviewed some of the details from the original subdivision for the board ie: He presented the original subdivision IPP which showed one curb cut for access to all three lots. The construction of the 20,000 gallon cistern, but if all the homes from the subdivision were constructed with water sprinklers then the cistern did not have be built.

He references the stone walls on Round Hill road and that part of that wall was on town property and part was on private property. He noted that he sold these lots for less money because of the shared driveway. He also noted that his lot becomes less valuable because the Zinman's driveway is closer to his driveway. He noted that if anything was going to be changed on the plat that all three property owners would have to agree to it and sign an amended plat. He stated that there was a lot to review regarding this application that was posted on the website.

Mr. Fareri inquired about Mr. Baroni's signature on the draft resolution. Mr. Baroni noted his review was as to form and sufficiency and will note next to his signature on the document his relationship with the applicant. After a brief conversation, condition #7 will be updated to have approval from the Town Engineer only; the Town Attorney will be removed from this condition due to the conflict. (later on during the discussion of this application, it was agreed that special counsel would be retained for review of this application)

Mr. Fareri expressed his disappointment that there was no town counsel present this evening for this application and that special counsel was not retained for this application.

Mr. Fareri stated that he would like the public hearing kept open this evening and he would like to sit down with the town and the neighbors to go over the options for the driveway.

Mr. Fareri suggested that all three houses should have sprinkler systems and then they would not need the cistern to be built. In response to comments, Mr. Kaufman stated that the Zinman's house location is fairly consistent with the IPP except for the driveway. Discussions were had by the Town's professionals and board members regarding the curb cut for the lot. Mr. Baroni noted that special counsel will be brought in from Keane & Beane regarding this application.

Mr. DeVenchenzo stated that he has been staring at these empty lots for 10 years and disagrees that Mr. Fareri will lose money. He is thrilled with this application and has no issues with it. He would like this application to be approved and not to linger.

Mr. Risoli stated that he has reviewed the separate entrances and in this present location there are benefits of a gentler sloped driveway and he reviewed the value and importance of its present location.

Mr. Risoli stated that he will resubmit a plan showing the easement and moving the shed. The plans will be updated and compliant regarding the height and they will be installing the cistern as this is an area of town where the fire department has no water.

Mr. Baroni stated that he will retain counsel for this application; he will reach out to Judson Siebert from Keane & Beane.

Mr. Pollack made a motion to adjourn the Zinman Public Hearing, Mr. Sauro second the motion and it was approved with five ayes.

**11 WASHINGTON PLACE EAST [17-003]**

**11 Washington Place east**

**122.12-4-26 & 40**

**Mix Use Commercial/Residential**

**D'Amore Design Studio**

**Discussion**

**Consideration of resolution of approval**

Site plan approval for the renovation of the existing former Handi-Rent-All building and for the construction of additional off-street parking to support Green Hybrid Energy Solutions and Ladel Electrical Contractors along with 7 new second floor apartments.

Present for this application was Ted D'Amore as well as his clients, Frank Dellagalla, Janet Glover and James Glover.

Mr. Carthy read the affidavit of publication for the record. Mrs. Desimone stated that all paperwork was in order for this application. Noticed neighbors present were Maryann & Blas Diaz – 48 Washington Avenue. Also present was North White Plains resident Nancy Battistelli.

Mr. D'Amore presented the project to the board and noted that the exterior of the building would be redone but no additions to the building are proposed. He reviewed the interior layout as well as the outdoor green space. No variances are needed for this application.

In response to Mrs. Diaz's comment, Mr. D'More reviewed the size of the proposed green space which is 30'x60'.

Mrs. Diaz expressed her frustration with the insufficient parking and all of the commercial vehicles and illegal tenants in the area with no code enforcement of these issues by the Town. Mr. Carthy noted that the Town Board is aware and is working on it. Mrs. Diaz disagreed and felt the town was turning a blind eye, especially around the corner of Washington Avenue and Washington Place. The Town made some beautification improvements to the area and then does not maintain it, that beautification area provided additional parking spaces which are now gone due to something that has not been maintained.

Mrs. Battistelli's comments were answered to her satisfaction.

Mr. D'Amore inquired about comment #6 in the resolution regarding permanent outside seating in front of the building. He expressed his concerns with it being a hangout for kids. He also discussed comment #1 on page 8 regarding the parking of commercial vehicles on site. Discussions were had about overnight parking and if there was enough parking on site to accommodate overnight vehicles as well. After a lengthy discussion the board concluded that by adding five overnight parking spaces closest to the building that they would not be exacerbating a nonconforming use, the applicant will submit updated plans showing the designated overnight parking spaces.

The board had further discussion on the permanent furniture in front of the building and concerns of garbage being left around the permanent furniture. The applicant agreed to remove the furniture and put planters in front of the building, the board and professionals were in agreement as was the applicant regarding this revision.

Mr. Sauro made a motion to close the public hearing. Mr. Pollack second the motion and it was approved with five Ayes.

Mr. Sauro made a motion to approve the resolution as amended. Mr. Pollack second the motion and it was approved with five Ayes.

**DEMASI/FEIT/GIZZI LOT LINE CHANGE [15-155]**

**6, 4 & 8 HUNTER DRIVE**

**101.03-4-6&5**

**Lot Line Change**

**Barry Naderman, PE, Naderman Land Planning & Engineering**

**Discussion**

**Consideration of resolution of approval**

Present for this application was the applicants professional Barry Naderman.

The application involves a land exchange between the Demasi, Feit and Gizzi properties. No new building lots will be created with the proposed land exchange and will eliminate an existing driveway. All three properties are located within the R-1A Zoning District. Lot Width for both Lots 1 and 2 do not meet the minimum requirements of the Town Code and the Zoning Board of Appeals granted all required variances on June 2, 2016 and this will not result in the removal of Town-regulated trees or disturbance to Town-regulated steep slopes or disturbance to any Town-regulated wetland or Town-regulated wetland buffer.

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

Mr. Naderman presented the application to the board and noted this approval was granted once before and has since expired, all three property owners are ready to move forward with this application at this time. All questions were answered to the board's satisfaction.

Mr. Pollack made a motion to close the public hearing. Mr. Sauro second the motion and it was approved with five ayes.

Mr. Pollack made a motion to approve the negative declaration. Mr. Sauro second the motion and it was approved with five ayes.

Mr. Pollack made a motion to approve the preliminary subdivision resolution of approval. Mr. Sauro second the motion and it was approved with five ayes.

Mr. Pollack made a motion to approve the final subdivision resolution of approval. Mr. Sauro second the motion and it was approved with five ayes.

**NEW AND CONTINUING BUSINESS:**

**OAMIC INGREDIENTS INC. [17-016]  
6 Labriola Court  
107.04-2-19  
Amended Site Plan  
Mark Miller, esq. Veneziano & Associates  
James Ryan, John Meyer Consulting  
Discussion of water tank**

Present for this application was Mark Miller.

Mr. Miller stated that he was before the board this evening for the board to make a decision regarding the outside water tank on site for the fire suppression system located at the rear corner of the building. He noted there were no other exterior changes proposed with this application.

After all of their questions were answered to the board's satisfaction they unanimously agreed that it was not necessary to refer this matter to the ARB.

**BRYNWOOD [11-079]  
568 Bedford Road  
101.02-1-28  
Site Development and Preliminary Subdivision  
Janet Giris, esq. Partner - Delbello Donnellan Weingarten Wise & Wiederkehr, LLP  
Discussion**

Present for this application was Peter Wise, esq.

In March of 2016 the Applicant secured Planning Board site plan approval for improvements to the golf course. The Applicant is seeking to subdivide the property into two lots. Lot 1 is proposed to encompass the golf course and all of the related golf club facilities, including a new club house and other ancillary facilities, and consist of approximately 130 acres. Lot 2 is proposed to be the Golf Course Community development parcel, and to consist of approximately 26 acres. During the environmental review of the Brynwood project the applicant committed to a perpetual conservation easement in favor of the Town that would permanently limit the future use of the golf course to either a golf course or as private open space.

Mr. Wise stated that his client has informed him that the investors for this application will either invest in the golf improvements or the residential part of this application. They need to subdivide the property to get the necessary financing to move forward with this application.

The board members discussed the impacts this subdivision could have on the town if only one lot was developed without the development of the other lot. The board considered a referral to the Town Board for their input regarding this matter prior to public hearing. The Planning Board wanted to make sure the town is protected.

Mr. Baroni stated that he will communicate the board's concerns to the Town Board.

A public hearing was scheduled for the September 25, 2017. Mr. Baroni will get back to the Planning Board with Town Board comments.

**NORTH BROADWAY TOWNHOUSE DINER [14-097]  
720 North Broadway  
122.16-3-31  
Amended Site Plan  
Joel Greenberg, Architectural Visions  
Construction Performance Bond**

Present for this application was the property owner Gus Kutros.

The board has received the construction performance bond and construction cost estimate from the Town Engineer for review and recommendation to the Town Board.

Mr. Loberman inquired what the time line would be for the work to be completed regarding this bond. How do we ensure the work gets completed? When will the town step in and activate the bond. Mr. Loberman was informed that a building permit was good for two years and if the work was not done the building department has the authority to reissue the permit or not. It was noted that as the work is completed the Town Engineer can make a recommendation to reduce the bond amount to the Planning Board who would then make a recommendation to the Town Board.

Mr. Pollack made a motion to refer the construction performance bond to the Town Board. Mr. Sauro second the motion and it was approved with five ayes.



**HIRSCHMANN [17-015]**  
**5 Spruce Hill**  
**101.04-2-61**  
**Gideon Hirschmann**  
**RPRC Appeal or Site Plan**  
**Discussion of site walk**

Mr. Hirschmann recused himself from this application.

Mr. Hirschmann stated that he is before the Planning Board to appeal the decision of the RPRC to send his tree removal permit to the Planning Board. The board has walked the site; he has letters of support from both neighbors on either side of the property. He has submitted two separate arborist reports. He has surveyed the property and has board of health sign off for the septic location. He reminded the board that these trees were not in good shape.

Mrs. Bongaarts, Conservation Board Co-Chairman reviewed the files and reports from the arborists and noted that there is no information in those reports with quantitative information. There is no site plan in the file and most of the trees proposed to be removed are within the septic area.

Mr. Kaufman stated that the board has a much better sense of the house location, where the trees are and what is proposed to be removed. The RPRC referred this application to the Planning Board and the applicant has appealed this decision, the applicant has submitted additional material and the Planning Board can overturn or reverse the RPRC decision and the applicant will go to the Building Department for a tree removal permit and return to the RPRC for new house construction.

Mr. Pollack appreciated the time and work that has gone into this and there is no question that those trees should come down.

The board was not in favor of separating the project into pieces like this with just reviewing the tree removal at this time. Mr. Kaufman stated even if the house were to remain, the trees would still have to come down. Mr. Hirschmann stated that this application is only for tree removal not site plan approval. The rest of the application will go before the RPRC and follow the RPRC process and procedures. Mr. Carthy stated that once we review part of an application, we have to review the entire application. Mr. Sauro stated that we should do what we are tasked to do which is reviewing the trees, not the full site plan. We need to approve it or overturn their decision. The board noted that as a board they agreed with the RPRC decision to send it to the Planning Board. Mr. Hirschmann stated that all the information has now been submitted and we need to let the RPRC do their job.

The board must now decide to affirm, modify or reverse decision of the RPRC. Mr. Pollack noted that the board does not typically clear a site without seeing the proposed landscaping.

Mr. Carthy made a motion to uphold the RPRC decision. We will grant tree removal this evening provided there are no issues with the Town Engineer and the applicant will return the Planning Board for site plan approval of the house which will include landscaping. Mr. Pollack second the motion and it was approved with four ayes. Mr. Hirschmann has recused himself from this application.

**Local Law to Amend Section 355-22**  
**Referral from Town Board**  
**Discussion**

Local Law to Amend Section 355-22 of the Town of North Castle Town Code to Eliminate Multifamily Dwellings Located on the First Floor within the CB-A Zoning District and to Prohibit Residential Units in the CB-B Zoning District on the First Floor.

Mr. Kaufman stated that the feedback he received from the Town Board was that the type of project recently approved at 470 Main Street was not something they would like to see continued to be permitted. In particular they were concerned about the first floor residential units that were part of that project, where you had the main building up at the street and apartments behind. This local law would prohibit that type of development and restrict residential units other than the first floor.

In response to Mr. Sauro's comment, Mr. Kaufman stated that the CB district which is all of Main Street and North White Plains refers you to the CB-A and CB-B zoning districts which is essentially all of the commercial districts. There are a few approvals where there is commercial on the first floor towards the street and there is residential at the rear of the building on the first floor or on a detached structure at the rear of the site. The proposed legislation would not permit first floor residential whether it is in an attached or detached structure.

Mr. Baroni stated that this was the case, that you could not have first floor residential until Pembroke/Heritage Square application was proposed and the town changed the code to permit that project to happen and it never did happen and 470 Main Street did happen and it kind of was an unintended consequence of the change made to permit Pembroke/Heritage Square to go forward. The Town Board does not want separate structures or separate interior structures to be apartment style buildings. They like the idea of second floor residential, not first floor residential in these interior buildings. This is the legislative history.

The board discussed the draft local law and was concerned with the impacts of this legislation and noted the market does not support 1<sup>st</sup> floor offices at this time. Continued discussion was had on this proposed legislation. The Planning Board concluded that the current law regulating first floor residential in commercial districts provides maximum flexibility with respect to permitted uses in the commercial districts by allowing property owners the ability to provide commercial uses with limited residential opportunities (on the first floor under certain circumstances). The Board also believes that the proposed legislation may be too restrictive and could result in the

construction of additional first floor retail and office space, that can't be supported by the local market (and may remain vacant), in order to construct new second floor apartments that are currently in high demand within the hamlets. The Planning Board concluded that it wanted to wait on making a decision until the Town Comprehensive plan was updated.

The Planning Board adopted a negative recommendation (5-0) regarding the draft legislation and recommends that the proposed legislation not be considered until after the Comprehensive Plan update has been completed.

**PATERNO DAM [15-154]**  
**17 Windmill Road**  
**101.04-2-67 & 29, 101.04-3-50 & 51**  
**Spillway Channel**  
**PW Scott Engineering & Architecture, P.C.**  
**Consideration of extension of time resolution**

Mr. Sauro made a motion to approve the extension of time request. Mr. Pollack second the motion and it was approved with five ayes.

**HIDDEN OAK SUBDIVISION [14-106]**  
**13 Hidden Oak Road**  
**Section 107.01-1-32**  
**Alan Pilch, Evans Associates**  
**3-lot subdivision**  
**Consideration of extension of time resolution**

Mr. Sauro made a motion to approve the extension of time request. Mr. Pollack second the motion and it was approved with five ayes.

**850 NORTH BROADWAY (LITTLE SPOT) [16-037]**  
**850 North Broadway – Ralphs Ices/ Toxic Wings**  
**122.12-5-62**  
**Site Plan**  
**Hudson Engineering & Consulting, Michael Stein, PE**  
**Discussion of field change**

Mr. Jensen inquired about the recent Town Engineer memo regarding this site that was in the packet. Mr. Cermele updated the board regarding the site and some proposed field changes. He reviewed with the board the access issues that the garbage truck had to the refuse containers. The last section of curb is 70 feet in total, 30' of planted strip and 30 - 40 feet of asphalt meeting the side walk. The 30' of planted strip will be moved to in front of the building as it was built on an angle and will not impede the truck access. With these changes the garbage truck can enter and exit the site easier.

Mr. Pollack noted that he has driven past the site during peak hours and the traffic and parking situation continues to be problematic. People are parking on Route 22 and opening their car doors into the north bound traffic. He did not feel that looking for the employee with the vest was working. He did not see anyone out there directing traffic. He is glad he is doing well but is concerned about the peak hours.

Mr. Baroni stated that Mr. Santomero, who owns the building next door is considering purchasing the town lot next door to Ralphs Ices for employee parking and with that he is hoping the Zoning Board will look favorable on that and grant the variances needed for his lot and amend his site plan application. In good faith, for a price, Ralphs can use the parking after hours to alleviate the parking issues. He is not sure how many parking spaces can be put on that land.

Mr. Pollack expressed his concerns about the current conditions because up in Bedford there was a fatality with someone parking across the street at the hardware store and crossed Route 22 to access the restaurant. The traffic is worse in front of Ralph's ices. Mr. Jensen stated that he saw people crossing Route 22 last night accessing their cars in front of the old school. The board was concerned about the safety of the people on site. Continued discussions were had regarding this site.

Mr. Sauro made a motion to adjourn the meeting, it was second by Mr. Carthy and approved with fives ayes. Meeting was adjourned at 10:58 p.m.