

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

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PLANNING BOARD MEMBERS PRESENT: Christopher Carthy, Chairman  
Michael Pollack  
Gideon Hirschmann  
Jim Jensen

Absent: Steve Sauro

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

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

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

Valerie B. Desimone  
Planning Board Secretary  
Recording Secretary

Conservation Board Representative:  
Zenaida Bongaarts

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

**APPROVAL OF MINUTES:**

**November 20, 2017**

Mr. Carthy made a motion to approve the minutes as amended. Mr. Jensen second the motion and it was approved with three ayes. Mr. Pollack abstained and Mr. Sauro was not present for the vote.

Mr. Carthy welcomed Conservation Board representative and Co-Chair Zenaida Bongaarts to the meeting.

**PUBLIC HEARING:**

**IBM PARKING LOT EXPANSION [17-017]**

**1 North Castle Drive**

**Section 108.03-1-62**

**Amended site plan for construction of additional off-street parking**

**Pietro Catizone, PE Catizone Engineering, PC**

**Discussion**

Site plan application for the construction of 442 additional parking spaces, increasing the number of onsite parking spaces from 1,223 to 1,665. 412 parking spaces will be located at the south side of the building and 30 spaces will be provided at the building entry roadway. Realignment of loading dock roadway on the north side of building and modification to Parking Lot F access roadway to accommodate truck turning movements. Construction of a 2,250 SF outdoor patio area on the east side of the building. The Applicant is also proposing the replacement of an existing storm pipe resulting in a wetland disturbance of 527 sf and wetland buffer disturbance of 976 sf.

Present for this application was Pietro Catizone, PE Catizone Engineering , PC; Matthew DeCecco, EIT; Catizone Engineering, P.C.;Lynn Weining from Windels Marx Lane & Mittendorf, LLP; Charles Corey, PE, LEED, AP; IBM and Steve Milkovich from IBM.

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

Mr. Catizone presented the application to the board as noted above. He also reviewed the order in which these items will be addressed. He noted that the majority of the disturbance was not in the NYCDEP watershed. He noted an administrative wetland permit was necessary for this application. The lighting hours will be consistent with existing lighting on site. There are 445 trees proposed to be removed and 202 of them are 8" and above. He noted the traffic impact study had been prepared by John Collins.

Mr. Collins noted there were 9 locations studied for this traffic study between Route 22 and I-684 to Old Post Road. He then started reviewing the details of the traffic study and noted that the proposed parking area would not have an impact and F.P. Clark agreed with that comment as well. It was noted there was some increase but nothing significantly. Mr. Carthy noted in the FP Clark memo that it was suggested that the traffic report be redone in 3 – 4 years and note the differences.

Mr. Pollack inquired about the stormwater runoff for this application. Mr. Catizone explained his report to the board and Mr. Kellard agreed with his comments. He noted that the stormwater was over the land and now it is over the parking lot and it will be collected and distributed at a set pace. Mr. Kellard stated that 90% of the storms will not need to use the release.

Mr. Hirschmann inquired if the trees to be removed had been marked yet and if one

phase would be completed at a time or would they go back and forth between phases. Mr. Catizone noted it was the intent to complete one phase at a time and keep each phase independent of each other. The applicant has not marked the trees yet.

Mr. Jensen inquired about the queuing on site and the turning radius or isle width. Mr. Catizone stated that they have enough turning radii and isle width.

Mr. Pollack inquired if the queuing lane to the site while going south on Route 22 overflows onto Route 22 and if this happens, how that would be addressed. Dr. Collins stated that they would request more green time from the NYSDOT, extend the lane or cars have the option of going to the second left turn entrance off of Route 22. They would try option #1 and monitor it and see if it works, the green time would only be extended during the morning hours.

The applicant will return to the board once they have their wetland permit.

Mr. Pollack made a motion to adjourn the public hearing. It was second by Mr. Jensen and approved with four ayes. Mr. Sauro was not present for the vote.

### **PUBLIC HEARING CON'T:**

#### **OAMIC INGREDIENTS INC. [17-016]**

**6 Labriola Court**

**107.04-2-19**

**Amended Site Plan for change of use**

**Mark Miller - Veneziano & Associates**

**James Ryan, John Meyer Consulting**

**Discussion**

**Consideration of Negative Declaration and Site Plan approval**

Site plan approval and wetlands permit associated with changes to the existing warehouse building. The Applicant wishes to operate a warehouse and distribution center that would label, repack, store, and provide quality control for food and fragrance chemicals. Interior improvements include establishment of a new rack system to store the chemicals, relocation of the two existing bathrooms, establishment of a lunchroom and gym, creation of space for the quality control activities, improvements to the existing office space and the installation of a fire sprinkler system. The exterior work requiring site plan approval includes providing a water quality treatment system (none exists now), landscaping, installation of an aboveground water tank to provide fire flows to the fire suppression system and resurfacing a portion of the existing parking lot.

Present for this application was the applicants professionals Mark Miller, esq.; Steven Gu - applicant, Paul Dumont – John Meyer Consulting.

Environmental experts present on behalf of the Town of North Castle were Bill Canavan and Steve Verdibello, Hydro Environmental Solutions (HES).

Mr. Miller stated he has reviewed the report from Mr. Canavan and agrees to all of the recommendations in the memo. He also has been in contact with the NYCDEP and has an updated letter from them. The most significant change from working with HES is that nothing will go into the creek. He noted there are primary and secondary containments proposed for the site. The primary containment is for the limited ingredients and the secondary containment was a six inch curve around the entire first floor which can contain approximately 100,000 gallons. The onsite water tank has been reduced from 200,000 gallons to 150,000 gallons.

Bill Canavan stated that he was tasked by the Town to review this application with information provided by NYCDEP, the applicant and John Meyer Consulting. He prepared a memo which includes the SDS (Safety Data Sheets) for the compounds proposed on the site. He noted that two years ago a universal Safety Data Sheet (SDS) was created by all the following groups to work with: OSHA (Occupational Safety Health Association), NIOSH (National Institute for Occupational Safety & Health); NYCDEP (New York City Department of Environmental Protection); NYCept. These SDS sheets explain if a compound is mixed with another compound stored on site what the result of that would be. The applicant will have to follow the SDS guidelines.

Mr. Canavan stated that the people who are involved in the warehouse side of this business - loading and unloading the trucks, inventorying and working in the warehouse have to be HAZWOPER (Hazardous Waste Operations & Emergency Response) trained – you need to know the differences between the compounds. If and when approval is granted, qualified people will have to run this side of the operation.

Mr. Carthy inquired if there was any particular mixture of components stored on site that are toxic or would present a problem or if mixed together they are inert. Mr. Canavan stated that he would have to go back to the SDS sheets. If all the regulations and safeguards which are at the end of his report are all followed, it will be safe.

Mr. Hirschmann inquired what if the safeguards fail, what is the potential of problems. Mr. Canavan noted there are so many variables and there are so many different scenarios for this to happen, that is why most facilities have an individual on staff that know this stuff verbatim, a health and safety officer who often times are a chemist or scientist. If all the safeguards and regulations are followed and an individual is on site there should not be any issues.

Mr. Pollack was concerned that we can require all of the reporting, the manifests, the training and monitor it as closely as humanly possible. When something happens is there a gate, a valve or something put in place so that we can contain this before this material can migrate too far. Mr. Canavan noted from his report the third recommendation was the spill prevention control and counter measure plan – a phone book size document that he wrote and notes exactly what is to be done if something happens on site.

Mr. Hirschmann inquired what happens if the right person is not there or the person did not read the book. Are any of the components hazardous, together or individually? If they do get to the creek is there problem? He is not so concerned with the staff or the

book on site, he is concerned with the chemicals stored on site what does that mean to us if they spill or if they mix, or get wet, go into our drinking water or get burnt if there is a fire. Mr. Canavan stated this was on the benign side vs. something that is really bad. Small volumes to the water would not have an impact. Mr. Miller reminded the board that there are no floor drains on site and the curbing around the warehouse that can hold up to almost 100,000 gallons.

Mr Jensen inquired if there were defined standards to build this type of facility. Mr. Canavan noted all of the different agencies have different opinions on these chemicals and there is no standard to build this because of the differences between the agencies.

Mr. Canavan and Mr. Verdibello stated that a lot these chemicals have not and are not under their radar and had to research many of these chemicals that are found in foods.

Mr. Miller stated that Mr. Canavan in his report made some general recommendations, which he reviewed for the board; all of those requirements should be put into the site plan approval as conditions of approval. He is agreeable to have Mr. Canavan review those conditions for the town and he will get independent experts to prepare those reports and Mr. Canavan can review that and that can be a condition in the resolution.

Mr. Jensen followed up on his comment regarding the qualifications for someone to design such a facility or define someone who has that capability to design this facility. Mr. Canavan stated that there five companies within this area that he could recommend in this regard.

In response to Mr. Carthy' s comment, Mr. Canavan is using a 6 inch curb as an example until a professional reviews it and determines if a different size curb is more appropriate around the first floor. Mr. Hirschmann noted he would like a condition in the resolution that an outside professional come in and do an annual review and submit that to the town. Mr. Miller suggested that this can be tied to the building permit.

Mr. Jensen stated that if it is still protected by the EPA (Environmental Protection Agency) and not on the NYS (New York State) list, should we still be worried about that. Mr. Canavan stated that you should be worried but as long as they design the facility properly and follow the safeguards that are in place and follow the health and safety guidelines then it will fine.

Mrs. Bongaarts was pleased about the water detention proposed on site. She was concerned about the staff on site and exposure if there is a spill. In regards to the fire, most of the materials to be stored on site may cause irritating, corrosive or toxic gasses. She noted some items when mixed with the chemicals may spontaneously combust and you have to dispose of the materials correctly because of the spontaneous combustion. Mr. Pollack inquired at what point our fire chief opines on this matter. Mr. Kaufman noted he has met with the fire chief a couple of times on this application.

In response to comments, Mr. Gu noted that these ingredients are more for fragrance and flavors.

Mrs. Bongaarts requested the inventory list be given the cast number to make sure the inventory list is correct. She presented some of her findings to the board from her review of the materials to be stored on site.

The board discussed what steps to take moving forward based on comments from Mrs. Bongaarts and Mr. Canavan's report. Mr. Kaufman also noted that the board is still waiting on comments from the NYCDEP and Fire Marshal Bill Richardson. Mr. Miller stated that there are enough objective standards that the board could consider a site plan resolution with conditions subject to the most continuing report from HES and the comments outlined in the letter with a focus on the containment.

The board agreed to take some more time to review the report that was received earlier today which would allow them to do a more comprehensive review. It was suggested a condition be added to the resolution regarding design safety of the facility. Mr. Miller reminded the board that this has been a warehouse for many years and is a principal use in this zoning district.

It was suggested that the HES report be sent to the Fire Marshal – Bill Richardson and the Fire Department and the NYCDEP.

Mr. Pollack made a motion to adjourn the public hearing. Mr. Hirschman second the motion and it was approved with four ayes. Mr. Sauro was not present for the vote.

### **NEW AND CONTINUING BUSINESS:**

**SCOTT KURNIT [17-026]**

**78 Mianus River Road**

**Section 96.01-1-8.1**

**Single Family Concept Plan**

**Jeri Barret, RLA J.D. Barrett & Associates, LLC**

**Discussion**

The Applicant is proposing to amend the previously approved Clearing and Grading Limit Line for Lot 2 of the Scott Subdivision in order to construct a new house in an area previously proposed to remain undisturbed.

Present for this application was the applicant Scott Kurnit and his professionals Jeri Barret and Michael Sirignano, Esq.

Also present for this application was Dan Richman from Zarin & Steinmetz on behalf of the Mianus River Gorge as well as Rod Christie - Executive Director of the Mianus River Gorge; Tim Evan – Chairman of the Mianus River Gorge Preserve; Kerri Kazak – Open Space Committee Chairman and approximately 15 other people from the community regarding this application.

Mr. Barret presented the concept plan to the board and professionals that would amend the previously approved Clearing and Grading Limit Line (C&GLL) established during

the subdivision review of the property. He noted he has received the Town's comments regarding this application. Mr. Barret noted that his client wants to change the proposed development location to take advantage of the tranquil and quiet setting at the rear of the lot. He noted that the proposed C&GLL amendment and environmental permits require a 270' wetland crossing and they are working on reducing that to 100' by installing piers to cross the wetland. Mr. Barret noted that parts of this application are within the Mianus River George Critical Environmental Area (CEA) and stated there are ways to minimize the impacts. He noted that a variance may be needed because the proposed piers are in the setbacks. Mr. Barret noted that he may be able to eliminate the variance but it would still impact the steep slopes. Mr. Sirignano stated that there is nothing in the Scott subdivision file that states the house site cannot be located at the rear of the lot. Mr. Kaufman noted that the previously approved C&GLL specifically defines where development can and cannot take place on site.

Mr. Richman noted that many aspects of this application are missing. He noted that the applicant could build within the clearing and grading limit line and create significantly less impact to the wetlands and steep slopes. He encouraged the board to discourage the applicant regarding the proposed application.

Mr. Hirschmann noted the Open Space Committee submitted a very strongly worded letter in opposition of this application to the Planning Board.

Mr. Carthy inquired how the new house location would affect the CEA. Mr. Kaufman stated when something is proposed within the CEA, this raises a big concern since a CEA is land that has earned special protection under SEQR regulations. He noted that the new location of the house is proposed within parts of the CEA whereas the original house location did not impact the CEA. Mr. Kaufman further stated that the new plan maximizes impacts on the lot and is in conflict with the Town Comprehensive Plan.

The Board discussed the Town's wetland law and how it specifically affects this application. The applicant's professional did not agree with the Director of Planning with respect to this matter. It was suggested that the Applicant review the Town's wetlands law further.

The Applicant requested that the Planning Board immediately approve a wetlands permit so that the Applicant could drill borings for the proposed wetland bridge crossing that is needed to access the proposed new house location. The applicant was instructed to submit an application for a wetland permit to do the testing in the wetlands.

Mr. Richman suggested the applicant submit the required updated wetland delineation prior to the wetland permit for the borings is issued.

Mr. Kaufman clarified a few points for the board from the Town Code. Specifically, with respect to a wetland permit denial, he read the follow from the code "There is a viable alternative to the proposed activity's placement in or encroachment upon the wetland or wetland buffer area."

Mr. Kaufman also noted that the Board must consider the cumulative impacts of this

concept plan; the impact to the wetlands, the impact to the CEA, the additional disturbance to the site and the additional impervious surface regarding this new house location.

Mr. Kurnit noted that he understands people don't want this application because it borders three sides of the Mianus River Gorge. He stated that if this was an application anywhere else in town, the board would consider the wetland permit. Mr. Hirschmann stated that he did not agree with Mr. Kurnit and that it does not make sense to cross the river to build when you have a place to build without crossing the river. The board considers the law, comments from our other board's and other experts. Based on what Mr. Kaufman read from the code regarding wetlands, he did not think he would approve a wetland permit for the borings.

Mr. Carthy noted that based on Mr. Kaufman's summary of cumulative impacts, he did not think he would approve a wetland permit. Mr. Jensen and Mr. Pollack agreed.

Mr. Kurnit was surprised the board did not want to see the outcome of the test borings before making a decision; he said "you just want to take this to court". Mr. Carthy stated that was not his intention and that he was trying to do as much as possible to keep this debate as open as possible and not box anyone into that position. He agreed with Mr. Hirschman's comments that there is a site you can build on without invading the wetland further. He noted the impacts to the CEA raise a red flag as well. Mr. Kurnit asked the board if he should return to his six lot plan which presented two houses on this lot. Mr. Carthy noted that application was not before the board this evening and would not opine on that.

Mr. Carthy stated that based on comments from the Planning Board and the memos from the Town's professionals and committees he did not feel the application would move forward and a wetland permit for test borings would not be approved but would review all the information prior to making a final decision.

Mr. Sirignano stated his client has the right to submit a wetland permit and will submit an application for a wetland permit for the borings. Mr. Kurnit stated he may also submit an application to subdivide this lot.

After the conclusion of the discussion, Ann Todd Osborne introduced herself to the board and noted her father was the prior owner. She informed the board that there were springs that feed the wetlands.



**CVS [12-008]**

**450 Main Street**

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

**Janet Giris, Esq. Delbello Donnellan Weingarten Wise & Wiederkehr LLP**

**Discussion of Temporary CO Extension**

Mr. Carthy made a motion to approve a six month extension. Mr. Hirschmann second the motion and it was approved with four ayes. Mr. Sauro was not present for the vote.

**DOONEY WOODWORKS LLC [16-035]**

**30 Bedford Banksville Road**

**102.04 -2-65**

**Amended Site Plan**

**Peter Dooney, property owner**

**Discussion**

**Consideration of extension of time site plan resolution**

Mr. Hirschmann made a motion to approve the extension of time resolution. Mr. Jensen second the motion and it was approved with four ayes. Mr. Sauro was not present for the vote.

**USHERENKO [16-016]**

**9 Winkler Farm Road**

**95.01-2-77**

**Site Plan**

**Pete Gregory, PE Keane Coppelman Gregory Engineers, PC**

**Update - Discussion of Field Change**

A letter was received and put into the file from the neighbor - Mr. Schoenfeld - stating that he was alright with the field changed proposed.

Mr. Hirschmann made a motion to approve the field change. Mr. Jensen second the motion and it was approved with four ayes. Mr. Sauro was not present for the vote.

Mr. Sauro asked for a motion to adjourn the meeting. Mr. Hirschmann made a motion to adjourn. It was second Mr. Jensen and approved with three ayes. Mr. Carthy and Mr. Pollack were not present for the vote.

Meeting adjourned at 9:47 p.m.