

**NORTH CASTLE PLANNING BOARD MEETING  
15 BEDFORD ROAD – COURT ROOM  
7:00 P.M.  
Monday – May 14, 2018**

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PLANNING BOARD MEMBERS PRESENT:

Christopher Carthy, Chairman  
Steve Sauro  
Jim Jensen  
Michael Pollack  
Gideon Hirschmann

ALSO PRESENT:

Adam R. Kaufman, AICP  
Director of Planning

Joseph M Cermele, PE CFM  
Consulting Town Engineer  
Kellard Sessions Consulting, PC

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

Valerie B. Desimone  
Planning Board Secretary  
Recording Secretary

Conservation Board Representative:  
Ellen Gatens Block

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

**APPROVAL OF MINUTES:**

**March 26, 2018**

Mr. Sauro made a motion to approve the March 26, 2018 minutes. Mr. Pollack second the motion and it was approved with five ayes.

Mr. Carthy thanked Mrs. Block for attending the meeting this evening on behalf of her husband Andrew Block, Conservation Board representative.

**PRESENTATION:**

**MIANUS RIVER GORGE**

**Herbaceous Plants**

**Rod Christie, Executive Director Mianus River Gorge, Inc.**

Present for this application was Mr. Rod Christie, executive Director of the Mianus River Gorge (MRG), Inc.

Mr. Christie stated that they have a new program called the Wild Plant Salvage program. He has also presented this program to the Bedford and Pound Ridge Planning Boards which were both well received and are presently working on implementing the program. Mr. Christie was hoping the Planning Board would recommend the program to applicants. He summarized the program as noted below.

Many of the herbaceous plant species, wildflowers, in our area are declining due to deer activity or habitat changes associated with development. Mianus River Gorge (MRG) and its partners are actively seeking native herbaceous plants, seeds and rhizomes to be used for restoration of forested habitats in the area. MRG staff (MRG is fully insured) are willing to come and remove the plant material at a convenient time to the landowner so that it may be used for restoration on other sites rather than be destroyed. The removal process is quick and at the same time MRG will also relocate reptiles and other animal species that might also be destroyed during the development process. This is a great opportunity for the Town of North Castle to direct applicants to save potentially rare or locally extirpated species and have them relocated by MRG professionals to other safe locations. MRG will come and gather the material only in those areas where it is to be destroyed and MRG will temporally house any plants in our restoration garden at MRG. We also will remove and house any animals until a safe new location for them can be identified if one is not available on site. MRG will work with other partner land trusts, garden clubs and local preserves to find new homes for these plants, some of which may also be grown at MRG as source material for seed and rhizomes which MRG is currently using for forest restoration on a number of local projects. No plant material will be sold and all plants will only be relocated on sites that are deemed important areas for ecological restoration. We hope the North Castle Planning Board will consider this proposal and allow MRG to work with the Planning Board to save these important plant resources for the benefit of all of the residents of North Castle.

In response to Mr. Kaufman's comment, Mr. Christie stated that this program would be used anywhere town wide, not only in the northern area of town.

Mr. Hirschmann stated that this is a great idea but should be done with the willingness of the property owner, not the requirement of the board. Mr. Christie stated that when speaking with the other towns, they agreed it is difficult to require an applicant to do that but if we could recommend they do it and it is brought up at the proper time so the applicant has the opportunity to decide if they want to do it or not. If it is never brought up, it will never happen. Mr. Hirschmann suggested we put a form in with our application packet to let an applicant know about the program and if interested contact

whomever. Mr. Christie suggested that if the Planning Board and the Conservation Board both inform the applicant that this program exists and we would really like for you to consider participating in this really great program, that way we get two opportunities to touch on this subject and for those that think this is a great program and say why not? All the better. Mr. Hirschmann stated it should be left as a recommendation, it should be brought to the surface so people know about it and that's it.

Mr. Baroni inquired if there was any tax benefit, if they were a species in decline, it may be worth something. Mr. Christie stated that a lot of these wildflowers would not be found in a nursery and not sure of the value. Mr. Jensen stated that we should find out the price of what a flatbed costs with installation.

Mr. Jensen stated that this sounds similar to the soil conservation and soil preservation that are in place and this sounds like an extension of that. This will have value for the MRG and will be put to value for the town as well.

Mr. Sauro stated that as long as it is not too onerous on the applicant and it is suggested or recommended, he is absolutely in favor of it. He also noted that some builders may be under a time constraint and we don't want to hold up a builder. Mr. Christie stated he understands that point and that is why if the applicants can be informed in the beginning of the process then they could plan accordingly.

In response to Mr. Sauro's comment regarding species thinning out and becoming more and more endangered. Mr. Christie stated that there has been lots of decline and with the combination of the deer population which eats everything and invasive species taking over in various places there has been a huge decline over the years. Things are disappearing and we are doing our best to restore the wildflowers to where they were before. Mr. Sauro stated that this is a great idea and hopes it flourishes. Mr. Pollack opined that this sounds like a win/win and supports it.

In response to Mr. Carthy's comment, Mr. Christie stated that he knows right away if there is anything he can save and use, he was just out at a site last week and did not find anything.

Mr. Carthy thanked Mr. Christie for informative newsletter provided by the MRG.

Mr. Hirschmann stated that he will reach out the next time he is going to build. He did not want this to hold up his application or slow down the process.

Mr. Pollack inquired if an action were to take place this evening. Mr. Carthy stated no this was something for the board to keep in mind moving forward with applications. Mr. Jensen inquired if there was a way to broadly communicate it. Mr. Kaufman noted it can be uploaded to the towns website and noted at the meeting with the applicants. The board members suggested that this information be added to the application packets.

**PUBLIC HEARING:**

**NOWLIN [18-013]**

**723 BEDFORD ROAD**

**95.01-1-8**

**Referral from RPRC**

**James O'Reilly, Bedford Pool Service, Inc.**

**Discussion**

**Consideration of resolution of approval**

This project was referred to the Planning Board by the RPRC. Application for site plan approval to construct a new pool and patio at the rear of the house. In addition, the Applicant is seeking Planning Board approval to amend the previously approved Clearing and Grading Limit Line depicted on the Tyler subdivision.

Mr. Teo Siquenza was present on behalf of James O'Reilly who was in the ER this evening. The Board wished Mr. O'Reilly a speedy recovery.

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. Kaufman summarized the application as noted above. He stated that the CGLL were very tight around the house and when the review was done for the RPRC it was noted at the time that parts of the patio, septic and infrastructure were outside the existing clearing and grading limit line and only the Planning Board can amend those lines. The board needs to approve of the pool location and amend the lines as noted above. What the applicant is proposing is appropriate and the resolution is fairly straight forward.

The board was familiar with the application and had no further comments at this time.

Mr. Carthy made a motion to close the public hearing. It was second by Mr. Sauro and approved with five ayes.

Mr. Carthy made a motion to approve the resolution and it was second by Mr. Sauro and it was approved with five ayes.

**TEDESCO [15-121]**

**1462 Old Orchard Street**

**123.01-1-1 & 15**

**2 Lot Subdivision**

**Nathaniel J. Holt, Holt Engineering & Consulting**

**Discussion**

**Consideration of resolution of approval**

Application for preliminary subdivision approval of a two lot residential subdivision in the R-1A Zoning District. The site is currently a 1.7-acre single family lot and a 1.05 acre abandoned right-of-way parcel. The Planning Board referred the applicant to the Zoning Board of appeals with a negative recommendation for the following variances.

Present for this application was Mrs. Connie Tedesco, Frank Tedesco and their professional Dan Holt.

Mr. Jensen read the affidavit of publication for the record. Mrs. Desimone stated all paperwork was in order for this application. The following noticed neighbors were present: Mike Burden – 46 Stonewall Circle (abuts the rear of the applicant's lot); Arthur Davidson – 1448 Old Orchard Street (lot abuts rear of the site); Louise Monticello – 1442 Old Orchard Street; Patricio Fontanella – 1454 Old Orchard Street (property next to the applicant) and Mrs. Connie Tedesco and Frank Tedesco.

Mr. Holt explained the application as noted above and stated that the existing house will remain at 1.06 acres and the balance will go towards the vacant lot. Mr. Holt reviewed the different alternatives considered throughout the application for the site which included building a road vs. sharing a common driveway. He then reviewed the variances received for the site. He noted no wetland permit was necessary and he would be able to connect to the sewer and well. He noted nothing will be disturbed in the lower lot.

Mr. Carthy welcomed the neighbors to come up and ask questions or provide comments or concerns at this time.

Mr. Burden stated that he recently became aware of this application a few weeks prior to the ZBA public hearing as he did not see the signs posted on the lot because he does not typically drive on Old Orchard Street. He stated he did his research and watched the Planning Board meetings and became aware of the negative recommendation from the Planning Board to the Zoning Board. He stated that the variances that were approved by the Zoning Board were astronomical in size. He opined that he and his Stone Circle neighbors were optimistic about the ZBA meeting and were surprised that consideration was given to the abutting neighbor but no thought was given about the abutting lots on stonewall circle. He also noted that the Tedesco's neighbors said at the ZBA meeting that they don't like the stonewall circle development. He expressed his frustration because at the time he purchased his lot he asked his attorney if any of the surrounding lots could be further subdivided and his attorney said there were no other lots that could be further subdivided. He noted he and his neighbors could see at the ZBA meeting which way the board was going to vote and were surprised the Zoning

Board went against the Planning Board's recommendation. He noted that presently there was a winters view between the lots and was concerned that the proposed house will be the minimum required setback off his backyard. He did not see much of an issue in the summer but in the winter we will see in each other's windows and will be a significant issue. He would prefer the house not be built but when the board follows the approval of the ZBA he requested anything and everything with as much screening as possible across the property line. He would rather look at trees in 10 years instead of a house.

Mrs. Fontenella stated that she attended the ZBA meetings and is present this evening as well because the Tedesco's have gone through a series of well thought out and proper planning procedures to be able to build this house on that piece of property which belongs to them. She opined that everyone is of the opinion in Westchester County that we have so much building going on that if you don't build it is a good thing. She also thinks that if you own a piece of property and have the ability to build a house you should be allowed to build it. Just because you don't want to see another house or another tree taken down probably is not the best reason to turn down the application for someone who has the right to build a home. My home is directly next door to the Tedesco's and she and her husband feel that this house will be visible to them. Houses are not ugly and houses are not detrimental to the landscape. She did not feel that anyone's personal opinions should have a direct bearing on this application. This is a valid application, in her opinion and should be handled as such.

Mr. Burden stated after the ZBA meeting he spoke to three different engineers regarding water on his property and insurances that it would not increase. These engineers were familiar with the area and if they were working with him to go before the board they would but would not take a job in an adversarial position with the town.

Mrs. Block confirmed with the board that no wetland permit would be necessary for this application. Mr. Carthy stated that was correct and Mr. Holt agreed.

Mr. Holt stated that the ZBA vote was 3-2 with one negative vote and one abstention. Some of the members have lived in the area for a long time and used to go hunting in the area as younger men. This was not slam dunk like Mr. Burden was implying. They have gone through a series of plans to get to this point. When the development was done which abuts this lot, a pipe was installed on his client's property and the water was diverted to the Tedesco site which then created a wetland and wetland buffer. His client has stayed out of the wetland and wetland buffer. At the time we did receive a wetland permit from the Conservation Board and since that time the plans has changed and wetland permit is no longer necessary. The Zoning Board was aware of what was going on at the site and was disturbed by that. There were comments at the Zoning Board meeting that there was a 30' foundation put in so that the development could get onto virgin soil while they built up the ground, there was a lot that took place here. His client was hit with the continuous building area because of something the developer did, not the property owners.

Mr. Carthy asked if anyone else would like to speak at this time.

Mr. Jensen noted that there is a big gap between what the applicant has and the code

requires and that is why the Planning Board made the negative recommendation to the ZBA, now that the ZBA approved the variances, what options does that leave the Planning Board now. Mr. Baroni stated that we now have a conforming lot bound by the decision of the ZBA and that is how the board will consider the lot as conforming.

Mr. Pollack noted that the board is only reviewing the subdivision at this time and the landscaping would be considered during RPRC review or if the board retains site plan approval. Mr. Kaufman agreed. The board discussed this matter further. Mr. Hirschmann suggested that the Planning Board retain site plan approval on the new lot, Mr. Carthy agreed. The board continued discussing options with referrals in the future to the ZBA and whether to let the applicant go before the RPRC for site plan approval or whether to retain site plan approval at the Planning Board. The board agreed that they did not want to leave development of this lot in the hands of the RPRC because of all the work the Planning Board had done with this subdivision it wanted to retain site plan approval on this lot.

Mr. Sauro reminded the residents who were present that the board needed to not only consider this applicant but all future owners and future neighbors in this area, they must think long term.

Mr. Holt stated that his client has worked very hard to stay out of the wetland and the wetland buffer and now that because one neighbor complains we need to plant in the wetland buffer that we worked so hard to stay out of, that makes no sense to him. He noted the buffer and the trees will not make the house go away and stated that the other house is 200 feet away, how are we going to hide it? The planting a buffer in the wetland buffer will not make it go away.

Mr. Carthy noted that the Planning Board has retained site plan approval on other lots in the past that needed to be paid close attention to, this is not the first time the board had done this.

In response to Mr. Burdens comment, Mr. Carthy explained what retaining site plan approval at the Planning Board level meant. Mrs. Desimone noted the draft

No further comments were had by the board or members of the public at this time.

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

Mr. Carthy asked for a motion to approve the negative declaration. Mr. Hirschmann made a motion to approve. It was second by Mr. Sauro and approved with five ayes.

Mr. Kaufman stated that the resolution will be amended with a note to retain site plan jurisdiction approval on Lot #2 only, Not lot #1. The board agreed for Lot #2 only because lot 1 was already developed. Mr. Kaufman noted the same condition would be added to the final subdivision resolution. Mr. Carthy inquired if we could retain site plan approval on both lots incase of the incredibly unlikely, it is not going to happen but

keeps the Planning Board in control of Lots 1 & 2.

Mr. Holt provided his comments on the resolution at this time. The board discussed the comments and his comments were not incorporated into the final draft of the resolutions.

Mr. Carthy made a motion to approve the preliminary subdivision resolution as amended for the Planning Board to retain site plan approval over Lots #1 & Lot #2. Mr. Pollack second the motion and it was approved with five ayes.

Mr. Carthy made a motion to approve the final subdivision resolution as amended, Mr. Pollack 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 for Change of Use  
Mark Miller - Veneziano & Associates  
James Ryan, John Meyer Consulting  
Discussion**

Present for this application was the applicant Steven Gu and his attorney Mark Miller.

Mr. Miller discussed a couple of the conditions in the resolution that was amended on April 9, 2018. The conditions discussed were regarding the communication from the NYCDEP and the condition regarding communication from the Westchester County Office of Emergency Management Local Emergency Management Committee. The board agreed to move both conditions to prior to the issuance of a CO.

Mr. Sauro made a motion to approve the resolution as amended. It was second by Mr. Hirschmann and approved with five ayes.

**TURET [08-018]  
East Lane, West Lane, Nichols Road  
Final Subdivision, Tree Removal, Steep Slope and Wetlands Permit  
108.03-3-36, 108.03-3-38, 114.01-1-4, 108.03-3-39, 114.01-1-5  
Tim Allen, PE Bibbo Associates  
Subdivision of an existing 8.28-acre lot into four residential building lots.  
Consideration of 3<sup>rd</sup> extension of time for final subdivision approval**

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



**17 CREEMER ROAD**

**17 Creemer Road**

**108.04-2-4.2**

**Lot 1 Site Plan**

**Joseph Daniels**

**Discussion of field change**

Mr. Carthy made a motion to approve the field change regarding the type of trees planted per the landscape plan - arborvitaes were not available for purchase and spruce trees will be planted instead, the same amount of trees will be planted. Mr. Pollack second the motion and it was approved with five ayes.

**19 CREEMER ROAD**

**19 Creemer Road**

**108.04-2-4.1**

**Lot 2 Site Plan**

**Joseph Daniels**

**Discussion of field change**

Mr. Carthy made a motion to approve the field change regarding the type of trees planted per the landscape plan - arborvitaes were not available for purchase and spruce trees will be planted instead, the same amount of trees will be planted. Mr. Pollack second the motion and it was approved with five ayes.

**TOWN COMPREHENSIVE PLAN**

Mr. Jensen stated that the Town Board approved the Comprehensive Plan at the last meeting and there are different goals with that approval and timelines associated with that and he would like to discuss some of these topics with the board during a work session. The board discussed this matter further. The board agreed to wait and get the hard copy of the approved Comprehensive Plan for study and review prior to any work sessions taking place. The work sessions will be scheduled and then once the board has discussed a subject and come up with a recommendation on how to implement the topic it can be presented to the Town Board for their consideration. Mr. Kaufman suggested discussing the tasks and breaking them down by short term, medium term and long term topics. The summary of tasks is located at the back of the book Town Comprehensive Plan. He suggested addressing the short term items first and proceed from there. The board will get this into a format for the Town Board to take an action. A work session will be scheduled with the board; this will take more than one work session to go through all the material. Mr. Kaufman stated that we can put this on the agenda for a work session at the end of an agenda and if the Planning Board meeting runs to long then the board can say we are going to table this item this evening. The board will wait to get the hard copies and proceed from there.

Mr. Pollack made a motion to adjourn the meeting. Mr. Carthy second the motion and it was approved with five ayes. Meeting adjourned at 8:22 p.m.