

**NORTH CASTLE PLANNING BOARD MEETING  
15 BEDFORD ROAD – COURT ROOM  
7:00 P.M.  
Thursday – May 31, 2018**

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PLANNING BOARD MEMBERS PRESENT: Christopher Carthy, Chairman  
Steve Sauro  
Jim Jensen

Absent: 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:  
Jane Black – Co Chairman

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

**APPROVAL OF MINUTES:**

**April 23, 2018**

Mr. Sauro made a motion to approve the April 23, 2018 minutes. Mr. Jensen second the motion and it was approved with three ayes. Mr. Pollack and Mr. Hirschmann were not present for the vote.

**PUBLIC HEARING:**

**RAQUETTE LAKE CAMP [18-008]**

**11 Maple Avenue**

**108.01-6-38**

**Change of use site plan**

**Kory Salomone, Esq. the Law Office of Kory Salomone, P.C.**

**Discussion**

**Consideration of resolution of approval**

The Applicant is proposing to change the use of the property from an existing residence to a business office.

Present for this application was Kory Salomone and Mr. Kramer.

Mr. Sauro 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. Kaufman stated that the applicant is proposing a change of use from a residence to an office. The board concluded that one of the parking spaces due to maneuverability be eliminated and the applicant had to receive ZBA approvals. Before the board this evening is a site plan with an expanded parking lot that would allow the conversion of that parking space. A resolution has been prepared for the board's consideration.

Mr. Jensen inquired about the status of the picket fence on site. Mr. Kaufman stated that the fence was removed and the fence was not shown on the site plan. Mr. Salomone stated that he spoke with his client and the fence hindered the site lines when exiting the site. It was noted that cars park on both sides of Maple Avenue in that location. The board felt the fence had a quaint look and would like the exact same fence duplicated and put back on site - same style – with scallop top, color, height and material that was there previously as noted on google maps.

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

Mr. Sauro made a motion to approve the negative declaration. It was second by Mr. Jensen and approved with three ayes. Mr. Pollack and Mr. Hirschmann were not present for the vote.

Mr. Carthy made a motion to approve the resolution as amended regarding the fence as noted above. Mr. Sauro second the motion and it was approved with three ayes. Mr. Pollack and Mr. Hirschmann were not present for the vote.

**NEW AND CONTINUING BUSINESS:**

**PANETTA [18-018]**

**7 McDougal Drive**

**122.16-03-29**

**Richard Panetta, owner**

**Referral from Town Board**

**Discussion**

The Applicant was not present for this application.

The Applicant is requesting an unconditional removal of an existing deed restriction over a portion of the 7 McDougal Drive parcel.

Mr. Kaufman stated that this was a referral from the Town Board. He reviewed the submitted material, completed some research and prepared a memo based on his findings. Included with his memo was a map which showed the applicant's lot as well as the lots in question along with the neighbor's lots which were all color coded.

Mr. Kaufman reviewed his memo at this time. Lots 12, 13 and 14 of the Broadway Heights Subdivision (1929) were sold in 1969 by the Town of North Castle to two adjacent property owners with the condition that "no dwelling house may be constructed or maintained" on Lots 12, 13 and 14.

In 1999, the Town of North Castle released the above condition on Lot 14 (Pesce - 9 McDougal Drive) so that a new house could be constructed on a portion of Lot 14. However, as part of the release, the Town required that no dwelling shall violate any set back or other zoning regulations of the Town of North Castle building code. In addition, the Town also required that no more than one (1) dwelling shall be erected upon the entire parcel constituting 9 McDougal Drive.

Mr. Kaufman stated that Mr. Panetta is asking for the unconditional removal of the deed restriction. However, Mr. Kaufman noted that it may make more sense to treat the situation the same way that the town treated the Pesca Lot #14 in 1999. He noted that the Town Board will have to decide what to do.

Mr. Kaufman stated that while doing his investigation of this matter and going through the building department file he found that the existing Panetta lot contains a portion of a deck built upon a portion of the currently restricted Lot 12. Lot 12 is one of the deed restricted lots that says you can't have a "dwelling house" on that lot. He noted that if the town board takes the same action as they did for the neighbor, then there would not be any issue with keeping the deck in its current location.

Mr. Kaufman stated that in the communications that Mr. Panetta sent after his memo was posted he implied that what Mr. Kaufman was referring to was that the building permit was not applied for or the setbacks were not met. Mr. Kaufman confirmed that the records showed that a building permit was taken out and the setbacks were met, but because the deck is part of the house and the deck extends two feet onto Lot 12, that

due to the present deed restriction, that portion of the house is not permitted on lot 12.

Mr. Kaufman continued and stated that if the Town Board follows his suggestion which is to eliminate the existing deed restriction and replace it with the same requirements the Town Board previously placed on the neighboring property ("No dwelling shall violate any set back or other zoning regulation of the Town of North Castle building code and that the Town require that no more than one (1) dwelling shall be erected upon the entire parcel constituting 7 McDougal Drive.") the issue regarding the deck would be eliminated and the deck can remain.

Mr. Carthy asked for some clarification regarding the board's role in this matter. Mr. Kaufman stated that the Town Board referred this to the Planning Board. Mr. Kaufman has prepared his staff report to the Planning Board and if the board agrees with the research he has prepared in this report, the board can direct him to forward this report to the Town Board.

Mr. Carthy inquired why the language was put there in the first place, he thought it was redundant, don't all lots have to adhere to the setbacks according to the code just like all the other lots have to conform unless they get a variance. Mr. Baroni stated that he thought the intent was remove the ability of the Applicant to obtain a variance. Mr. Carthy thought that language should be clarified. Mr. Baroni stated that he was hesitant to add language that the other property owner did not have.

Mr. Baroni inquired what the applicant would gain if restrictions were released altogether. He questioned whether the Applicant has enough property for additional lots. Mr. Kaufman stated yes, Mr. Panetta applied for a subdivision back in 2004 which was not completed at the time. In fact, he noted that the plan that was included in the report was prepared at the time the applicant previously submitted his subdivision application.

Mr. Baroni stated that, historically, when the Town sold odd pieces of land, the town always did so at a very reduced price, because they did not want it to be a windfall for a property owner to then be able to subdivide and sell off the lot and the area become saturated with more houses. Mr. Kaufman stated that when doing his review, he thought he recalled that all three lots were sold for \$700.00. Mr. Carthy summarized Mr. Baroni's comment and stated that the Town would sell property and add stipulations. Mr. Baroni agreed and stated it would sell at a reduced price because of the stipulations.

Mr. Baroni stated that if you are not going to allow a second home on the property and that restriction is clear than what is the difference with the variance language, why is that important. Mr. Carthy inquired if the applicant could come back before the board with the lot the way it is now for a subdivision. Mr. Kaufman stated with the way the lot is now, a subdivision could take place. The current deed restriction applies to lots 12 & 13. Mr. Kaufman stated if the same language were used for lots 12 & 13 that was also used for lot 14 then the applicant would not be able to subdivide.

At Mr. Cathy's request, Mr. Kaufman read the restriction for lot 14:

"No dwelling shall violate any set back or other zoning regulation of the Town of North Castle building code and that the Town require that no more than one (1) dwelling shall be erected upon the entire parcel."

Mr. Baroni stated that the applicant may wish to perfect his subdivision now without changing the restrictions, because if he changes the restrictions now, the parcel would not be able to be subdivided. Mr. Kaufman noted that part of the deck is on restricted lot 12 and that would have to be addressed. Mr. Baroni stated he was not sure if the applicant understood all of his options regarding the differences of having the restrictions or not. If the restrictions are released on lots 12 & 13, the new restrictions will prevent a subdivision. In response to Mr. Baroni's comment, Mr. Kaufman stated the he did not recall exactly when the subdivision request was submitted, (submission was in 2004). Mr. Kaufman stated that Mr. Panetta was requesting an unrestricted lifting of the deed restriction. Mr. Carthy confirmed that Mr. Kaufman's recommendation did not support that request, he supported that the same language that was done on Lot 14 be done on Lots 12 & 13.

Mr. Baroni inquired why the subdivision application was not completed, Mr. Kaufman was not sure. Mr. Baroni suggested that Mr. Kaufman update his letter to the Town Board to include the possibly that the Applicant could potentially subdivide presently but if the same restrictions were imposed on lots 12 & 13 that were imposed on lot 14 he would forfeit that possibility. Mr. Kaufman noted that he will update his memo.

The board gave direction to Mr. Kaufman to forward his memo as amended at the meeting.

#### **11 NEW KING STREET PARKING GARAGE [09-032]**

**11 New King Street**

**119.03-1-1**

**Site Plan**

**Bill Null, Esq. Cudy & Feder**

**Discussion**

The applicant requested this item be removed from the agenda this evening.

#### **HIDDEN OAK SUBDIVISION [14-106]**

**13 Hidden Oak Road**

**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 resolution. Mr. Jensen second the motion and it was approved with three ayes. Mr. Pollack and Mr. Hirschmann were not present for the vote.

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

**6 Labriola Court**

**107.04-2-19**

**Mark Miller - Veneziano & Associates**

**James Ryan, John Meyer Consulting**

**Wetland Mitigation Bond**

Present for this application was Mr. Paul Dumont from John Meyer Consulting.

Mr. Carthy made a motion to make a recommendation to the town board regarding the wetland mitigation bonds which includes site work and wetland mitigation. Mr. Cermele had no further comments. Mr. Sauro second the motion and it was approved with three ayes.

Mr. Sauro made a motion to adjourn the meeting. Mr. Carthy second the motion and it was approved with three ayes. Mr. Pollack and Mr. Hirschmann were not present for the vote. Meeting adjourned at 7:31 p.m.