

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 P.M.
April 29, 2019**

PLANNING BOARD MEMBERS:

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

Also Present:

Adam R. Kaufman, AICP
Director of Planning

Joseph M. Cermele, PE CFM
Kellard Sessions Consulting

Valerie B. Desimone
Planning Board Secretary
Recording Secretary

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

Conservation Board Representative:
Zenaida Bongaarts

APPROVAL OF MINUTES:

April 8, 2019

Mr. Sauro made a motion to approve the minutes, Mr. Hirschmann second the motion and it was approved with four ayes, Mr. Pollack was not present for the vote.

PUBLIC HEARING:

**GORDON [19-003]
257 East Middle Patent Road
88.04-1-13
Site Plan
Patrick M. Croke, AIA
Discussion
Consideration of resolution of approval**

Present for this application was the applicant's professionals Patrick Croke, architect for the project and his engineer, Alan Pilch, ALP Engineering.

Application for 114 acre lot in the R-4A Zoning District with an existing single family residence, detached garage, small lakeside cabin and swimming pool.

The Applicant is proposing the following:

- New 847 square foot pool house with an additional 566 square feet of covered terraces adjacent to the existing swimming pool
- New tennis court with adjacent small cabana with a small covered terrace.
- New septic system to serve the pool house
- New well to provide domestic water to the main house and the pool house.

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

Mr. Croke presented the application as noted above. He stated that he has received Conservation Board, Architectural Review Board and Zoning Board of appeals approval for this application. Mr. Pilch reviewed the grading, stormwater runoff, proposed rain garden and septic system. He stated the well application has been forwarded to the Health Department.

No comments from the audience were made at this time.

All questions by the board were answered to their satisfaction.

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

Mr. Sauro made a motion to approve the resolution as is. Mr. Hirschmann second the motion and it was approved with four ayes. Mr. Pollack was not present for the vote.

NEW AND CONTINUING BUSINESS:

170 BEDFORD ROAD [19-014]

162 Bedford Road

108.03-1-42

Concept Plan Discussion

Michael Fareri

Applicant requested the application be adjourned this evening.

SIR JOHN'S REZONING [19-002]

3 Emmalon Avenue

122.12-4-55

John Magnotta

Referral from Town Board – zoning

Discussion

Present for this application was the applicant and property owner John Magnotta and his professionals, Elliott Senior – project engineer and co-counsel Tom D'Agastino and Allan Focarile as well as his Realtor Paul Jordy.

A referral from the Town Board regarding rezoning a portion of the existing R-2F (Residential Two Family) Zoning District on Emmalon Avenue to the CB Zoning District adjacent to the Sir John's Plaza shopping center. The applicant has indicated that the rezoned land would be utilized for additional off-street parking for the plaza and would attract a new restaurant, or other tenants which require additional off-street parking as compared to retail, personal service and office uses.

The Town Board noted that "in making this referral - the Town Board has concern that the actual need under the Zoning Code for the requested parking be adequately demonstrated."

The Planning Board will need to determine whether the requested proposal is consistent with the Comprehensive Plan.

1. The new Comprehensive Plan includes the following:

Protect the Vitality of Existing Retail Areas. To ensure that retail in North Castle remains healthy and competitive, the existing retail areas should not be expanded, and should instead be enhanced through transportation improvements, landscaping and other beautification and targeted infill housing as appropriate. This is particularly true along Route 22 in North White Plains, where the current condition of the roadway and certain properties is contributing to long-term vacancies and a generally weak retail.

Mr. D'Agastino presented a brief update of since the last meeting.

Mr. D'Agastino stated that Mr. Magnotta is seeking to re-zone an existing residential two family lot and portion of an adjacent residential two family lot to commercial business zoning and merge them with an existing commercial business lot. The rezoned property would be used for additional off street parking in order to meet the parking requirements contained in the Town code for the existing and proposed businesses. He would like the board to consider this and make a referral back to the Town Board.

Mr. D'Agostino continued, with Regard to Parking Requirements, there are currently not enough spaces to meet the parking requirements per the Town Code. We were surprised to find that out. The original site plan contained 100 parking spaces for the businesses located on the entire commercial business property which includes Sir John's Plaza, Sir John's Restaurant and the North Broadway Deli and Market buildings. In preparing a new site plan for the proposed re-zoning mentioned above it was

determined that 118 spaces were actually needed for the existing businesses, not 100 resulting in a shortage of 18 spaces. There are also 2 new businesses that have signed letters of intent to lease commercial space in the plaza and the North Broadway Deli and Market has signed a letter of intent to expand its commercial space from 800 to 1600 square feet. The new businesses and the Deli expansion will require 28 new spaces bringing the total number of spaces needed to meet the Town Code requirements to 46. This is a shortage of close to 50% of the actually available parking and I would say adequately demonstrates the need for the requested parking.

Mr. D'Agastino stated this lot was previously zoned as Commercial Business. It's very important to point out that the lot, referred to as lot 54, that is being proposed for re-zoning was originally zoned as commercial business as were the other two lots, referred to as 55 and 56 that front Emmalon Avenue. These 3 lots were at one-time part of the property that is now Sir John's Plaza and Restaurant. The prior owner decided to separate the 3 parcels and actually built two, 2 family houses. The third lot, number 54 was carved out of the original commercial business property and is landlocked. It has no frontage on a public road and is only accessed through an easement from lots 55 and 56. The reason I feel this is so important is that the property would actually be restored to its prior zoning status as commercial business which is more in line with the location and nature of the property. Mr. Magnotta is the owner of all three of the properties.

Mr. D'Agostino stated that in regards to the Town's new Comprehensive Plan. The Plan stresses "the importance of protecting the vitality of existing retail areas and insuring that retail in North Castle remains healthy and competitive." It goes on to say that existing retail areas should not be expanded and should instead be enhanced through transportation improvements, landscaping and other beautification..." With this application Mr. Magnotta is seeking to follow those recommendations. New additional parking is a transportation improvement that will attract new tenants to existing commercial space as well as benefit existing tenants. It will also assist in decreasing long term vacancies. The proposed restoration of lot 54 to its original commercial business status is the logical and most productive use of the property. Mr. Senor can address comments with the site plan. This concluded Mr. D'Agostino's summary.

Mr. Kaufman stated that Mr. D'Agostino did a very good job of picking up where we left off at the last meeting. He reminded the Planning Board that the Town Board wanted to know if there was demand for the additional parking. Based on the analysis submitted by the applicant it appears that the applicant is 18 % short with the required amount of parking for the existing uses on site and with the committed business as noted by Mr. D'Agostino, all of the 30 parking spaces will be utilized. The Planning Board will also need to be determine the second point - whether the requested proposal is consistent with the Comprehensive Plan.

The board discussed with the applicant the prior uses on site and it was noted that was how the applicant came up with 118 parking spaces and only 100 were provided on site. It was noted the vacant lot would provide an additional 30 parking spaces on site. It was noted that if the site remains as it is today, the applicant will need a variance for 18 parking spaces (18% shortage). Mr. Hirschmann asked for some more details

regarding each use on site and their parking requirements.

Mr. Senor noted the bagel store would like to provide seating for their patrons, four tables with four chairs at each table. That would increase the parking count from 4 to 12. Deli and market would like to expand into the store next to them and put in seats for their patrons. This changes from 8 spaces including the expanding space to 21 parking spaces with the additional seating. The existing bakery would like seating as well. The vacant lot would provide 30 parking spaces. It was noted that $\frac{1}{2}$ of the newly proposed spaces would correct the existing deficit and the remaining would go towards the two business with letters of intent. Mr. Senor also noted that the information presented above were tenants that were in the site and no longer there, these sites are vacant presently. It was noted if different tenants come in, the parking shortage may increase or decrease depending on the use.

Mr. Sauro stated that businesses change, they come and go; succeed, fail or move, we don't know what is coming in, as these changes continue, we want to enhance our business district and not stare at vacant stores, we want to help the applicant attract different tenants we may not have thought of, we need to think outside the box of hair, nails and food stores in a strip mall. We want to help expand the vitality of the North Broadway corridor. If the lot remains residential, it will be a disjointed appendage and if the lot were to be developed, there would be landscaping to screen the other two residences and protect them as if Mr. Magnotta did not own them. He watched the last Planning Board meeting when this was originally discussed. He opined that the need has been demonstrated for the additional parking.

Mr. Carthy stated that the application has changed a lot since the last meeting and felt it fair to say that from there until now that there is a clear demonstration for the need of additional parking and is comfortable with making a recommendation to the Town Board regarding the change of zoning.

Mr. Carthy made a motion to positively refer this application to Town Board. Mr. Hirschmann second the motion. Mr. Jensen asked to discuss the compatibility with the Town Comprehensive plan some more. Mr. Hirschmann noted this was left off regarding the semantic differences between Mr. Kaufman and Mr. Baroni. Mr. Baroni stated that semantics should not hold up the applicant, the next time the Town Comprehensive Plan is amended we can adjust the language if everyone agrees it should be updated. The lot was zoned CB and then rezoned to residential and common sense would say rezoning back to CB would not be expanding the retail. They will update the language in the Town Comprehensive Plan. It was also noted that when an applicant goes before the ZBA, one of the questions that is asked by the board is can you purchase property in order not to require a variance, this also supports the need for the additional parking. Mr. Jensen's comments were answered to his satisfaction.

Mr. Carthy made a motion to make a positive recommendation to the Town Board

regarding the zoning. Mr. Hirschmann second the motion and it was approved with four ayes. Mr. Pollack was not present for the vote.

SIR JOHN'S [19-008]

909 North Broadway

122.12-4-52

John Magnotta

Amended site plan – overnight parking

Discussion

Proposed overnight parking use of five spaces at the rear of the Sir John's Plaza building.

Present for this application was John Magnotta and his professional Elliot Senior.

Mr. Senior stated that if the rezoning application is approved and built, then this application can get approved at the same time for overnight parking. The board and professionals agreed to table this item until the zoning change application has been resolved.

Mr. Loberman complimented the board's due diligence and careful examination of these applications.

Mr. Focarile confirmed that this application was adjourned until the zoning application was completed. Mr. Kaufman stated that the overnight parking cannot continue until overnight parking has been approved by the Planning Board. Mr. Focarile stated that he understands that his client cannot park vehicles overnight until an approval is granted.

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.

Consideration of field change

The applicant previously received site plan approval on September 4, 2018 and part of that approval included the installation of turf stone parking area. After getting several quotes, the applicant has now determined that is not feasible and would like to change the turf stone parking to blue stone chip parking lot.

Present for this application was the applicant's attorney, Kory Salomone.

Mr. Salomone described the application as noted above. He noted the center portion of the lot would be paved and the side areas would have blue stone chip.

In response to comments from Mr. Carthy. Mr. Cermele stated that he had no particular comments on this application given the size, the number of parking spaces and its use. The code the way it is written is that any nonresidential parking lots are to be curbed and paved. The Planning Board can waive this. The comments in his memo are relatively easy and can be easily addressed. The board needs to determine if something other than blacktop is appropriate. If the impervious surface is increased stormwater mitigation has to be done. The plan before the board with the center piece paved and blue chip on the side shows a decrease in impervious surface. The existing stormwater runoff is controlled on site with drains on site.

In response to comments from Mr. Carthy, Mr. Kaufman stated that he would rather have this paved than gravel. This is in the heart of down town.

In response to comments from the board. It was noted that the lot is .11 acres and the building is on it and then with the paving on the lot you are left with approximately 15,000 sq. ft. Mr. Salomone also noted that landscaping is proposed and the white scalloped fence will be installed along the two foot curbed island that can be planted on as well. Mr. Hirschmann stated that a little gravel is a softer look, Mr. Salomone agreed that was what his client was going for.

Mr. Baroni inquired how would you plow blue stone. Mr. Alfonzetti stated that his client will freshen up and tamp down the driveway each spring. The board was also concerned if snow blowing were to take place over the blue stone that could be a safety issue. Mr. Jensen stated that the last time the applicant was before the board he wanted a softer look and that is why we agreed to turf stone parking. Mr. Alfonzetti stated that the contractors brought up that when you plow turf stone you rip up the grass and are left with mud. Mr. Alfonzetti also stated that his client does not like the look of asphalt and this is camp office and wants a more rustic look. Mr. Salomone reminded the board that this is a tudor house not an office building. Mr. Hirschmann stated he has seen the fine blue chip on residential homes but not in a commercial district. Mr. Salomone noted that three cars come to this location on a daily basis, this does not have the traffic like a store would and people are in and out all day. Mr. Jensen stated that with plowing there will be bluestone with plowing on Maple avenue and if we do this for one lot, will other lots on Maple want to do this and if blue stone is pushed onto Maple Avenue how will that be addressed.

Mr. Jensen suggested porous pavers. Mr. Cermele stated that there are other decorative pavers that are pervious and not turf stone, It sounds like it is a matter of aesthetics or cost. There are alternatives to gravel or pavement.

Mr. Carthy stated that he wanted to discuss this further because he did not really feel the look of gravel in the center of down town would be appropriate. Continued discussion took place regarding this field change.

In response to Mr. Sauro's comment, Mr. Kaufman stated that his biggest concern regarding the gravel is people walking safely on it. Today only three people are coming and going out of the site but in the future that may not be the case and for people that are unfamiliar with the site, gravel is not the sturdiest material. He was also concerned

about the gravel going onto Main Street and the maintenance of it.

Continued discussions took place. Mr. Cermele confirmed with the board that if the applicant came back with porous pavers that are turf stone that he would not have to return to the board. The board and professionals agreed.

Mr. Carthy made a motion to approve the field change with either asphalt or commensurate (porous pavers) with the original plan. Mr. Hirschmann second the motion and it was approved with four ayes. Mr. Pollack was not present for the vote.

DIEPIETRO [19-015]

137 Bedford Banksville Road

108.01-6-38

Amended site plan

Joseph C. Riina, PE Site Design Consultants

Discussion

The Applicant previously received approval for the construction of a three bedroom, 4,972 square foot home on this lot. The Applicant is seeking a site plan amendment to rotate the house and provide access via a new driveway from Gina Lane (over a newly proposed easement) as compared to the previously approved access over the Mianus River via a driveway on Bedford Banksville Road.

Previously, 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 Conservation Board was warranted.

Present for this application was the owner/applicant Jack DiPietro and his professional Joe Riina.

Mr. Riina described the application as noted above. He noted his client purchased the lot on Gina Lane and will create an easement through the Gina Lane lot to access his lot on 137 Bedford Banksville Road. This will result in the original driveway no longer having to cross the stream and a reduction in disturbance. This will also raise the house 12' higher for this access and the house will be rotated. The septic will be in the same location. If approved a full engineering review will be done.

Mr. Kaufman liked the new plan and the new access. He would like to see a matrix of information from the old plan to the new plan. A public hearing will be necessary due to amending the wetland permit.

The board was in favor of this application and decided a site walk was not necessary. Mr. Riina will prepare the engineering plans and material requested by Mr. Kaufman and resubmit to the board.

ONE LABRIOLA COURT [19-012]

1 Labriola Court

107.04-2-23

Amended Site Plan

Dennis Noskin, Dennis Noskin Architects

Discussion

Proposed outdoor storage of two trailers in the rear parking lot of 1 Labriola Court that contain building materials for construction used by one of the tenants.

Present for this application was Dennis Noskin.

Mr. Noskin noted his client recently received a violation for the two trailers which have been on site for 10 years. He familiarized the board with the present uses on site. He stated that the tenant has his construction office business on site and stores his scaffolding on site inside the trailers. The applicant thought loose scaffolding on site would look horrible.

Mr. Kaufman stated that this property was located in the RELIP (Research Electric Light Industrial Park) zoning district and this is not a permitted use in that district. He noted that there was a catch all accessory use in the code and read that section of the code from RELIP district to the board at this time. "any accessory buildings or uses customarily incident to a permitted use." Potentially the board would have to make that determination. Mr. Kaufman stated that his concern about doing that is that in other industrial districts it specially calls out the outdoor storage of material as a permitted use. The code is written that everything is prohibited unless it is permitted in the list.

The board continued discussion of this matter regarding whether outside storage is a permitted use in the RELIP zoning district.

Mr. Baroni stated that the Building Inspector can provide his interpretation of the code, and if the applicant does not agree he can appeal the decision with the Zoning Board of appeals. Mr. Kaufman stated if it is determined to be a permitted use, we can deal with that on the site plan.

The board agreed to send a letter to the Building Inspector for a Zoning Interpretation whether storage use is permitted in RELIP Zoning District.

OVERNIGHT COMMERCIAL PARKING

In response to Mr. Carthy's comment regarding overnight parking. Mr. Kaufman stated that no one has an as of right overnight parking. You must get site plan approval for overnight parking. Mr. Carthy inquired if the code should be amended to include overnight parking - Mr. Kaufman stated not necessarily. Mr. Sauro stated that we have to look at each case because of the aesthetics and where will the vehicle be parked and will it be seen. Mr. Hirschmann suggested one location in town for overnight parking. There are a lot of people with business vehicles and need a solution.

Mr. Carthy made a motion to adjourn the meeting. Mr. Sauro second the motion and it was approved with four ayes. Mr. Pollack was not present for the vote. Meeting adjourned at 8:49 p.m.