

**NORTH CASTLE PLANNING BOARD MEETING**  
15 BEDFORD ROAD – COURT ROOM  
7:00 P.M.  
July 8, 2019

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PLANNING BOARD MEMBERS: Christopher Carthy, Chairman  
Steve Sauro  
Michael Pollack  
Jim Jensen  
Lawrence Ruisi

Also Present: Adam R. Kaufman, AICP  
Director of Planning

Joe Cermele, PE  
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:  
Andy Block - Absent

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**APPROVAL OF MINUTES:**

**June 24, 2019**

Mr. Carthy asked for a motion to approve the June 24, 2019 Planning Board minutes, Mr. Pollack made a motion to approve, it was second by Mr. Sauro and approved with five ayes.

**NEW AND CONTINUING BUSINESS:**

**5 & 7 THORNEWOOD ROAD [19-024]**

**5 & 7 ThorneWood Road**

**101.02-4-24 & 101.02-4-22**

**Lot Line Change**

**Charlie Martabano, Esq.**

**Discussion**

Proposed lot line change of 3,883 square feet resulting from portions of an existing pathway and driveway serving 5 ThorneWood Road that encroaches onto 7 ThorneWood Road. The subdivision would shift the existing common lot line between the properties so that the existing path and driveway remains entirely on 5 ThorneWood Road.

Mr. Martabano explained the application as noted above and stated no new building lot would be created. This comes before the board to settle claims of adverse possession. A written agreement had been done between the property owners and this is now finalizing the written agreement. He also noted that the Planning Board had the ability to waive the public hearing for a lot line change and requested the board do so because 7 ThorneWood is about to go into contract of sale and his clients would like to resolve this matter as soon as possible.

In response to comments from Mr. Carthy regarding why not expand it an additional 5 feet to make the setbacks code compliant at 5 ThorneWood Road. Mr. Martabano stated that was not the agreement that the neighbors came to regarding this matter and there is a closing on this lot in the beginning of August. He also noted that if the applicant were to add an additional 5 feet along the entire property line that would increase the square footage significantly and that would then be larger than a 10% exchange of land which would then turn this lot line change into a subdivision application. Mr. Martabano also noted that a zoning variance was previously approved on the same lot line and with the newly proposed lot line it would make it more compliant than it is today. The board discussed if the reasons provided were a good enough argument to not require the applicant to make both lots code compliant with the side yard setbacks. The board agreed to keep the lot line change as proposed as they did not want to be onerous on the property owners and did not want to do anything to impact the closing of the lot.

Mr. Martabano stated that he submitted earlier today comments from the North Lake Association which addressed the dock issues for the lot. Mr. Martabano was informed he should follow up with Rob Melillo, Building Inspector regarding if and when building permits for the docks are necessary. Mr. Martabano noted that 5 ThorneWood has had a dock for five decades.

In response to Mr. Carthy's comment regarding if there is a point where something is so old, it has been there that long and we have no record of it, how do we confirm or deny if a building permit was ever issued for the dock or if it was part of the original CO. Mr.

Baroni stated that he has lived on North Lake most of his life and did not think that permits were regularly issued back in that era. If you were to look in the files of the sites that were not torn down or rebuilt around the lake you would find none of them have a permit for the dock. It was not intentional, it was not thought about back then, it was not a ratable. Mr. Martabano noted the owner at 5 Thornewood Road has lived there for over 50 years and he personally was on that dock when he was a young kid.

The board also discussed the comment in Mr. Kaufman's memo regarding the merging of lots 22 and 23, the board agreed the lots should be merged and Mr. Martabano will follow up with his client and the Assessor regarding this matter.

Mr. Martabano stated that with the pending sale he would like the board to consider a resolution at the next meeting. The board was agreeable to this request and this matter was placed on the July 29, 2019 Planning Board agenda. The board also agreed that a public hearing was not necessary for this application.

**MISTIS PROPERTIESS Inc. [19-004]**

**176 Virginia Road**

**122.16-1-3**

**Site Plan**

**Stephen Berte, Fusion Engineering PC**

**Discussion**

Proposed construction of 2 metal prefab buildings (totaling approximately 5,000 square feet) which will be primarily used as parking bays for trucks, including one wash bay.

Present for this applicant was Stephen Berte and Paul Berte, Fusion Engineering.

Mr. S. Berte stated that there are some outstanding comments from the engineer's memo and in his opinion are not site plan issues and will be taken care of in the design process and are mostly details. He has spoken with Sal Misiti from the water department and have received his comments and addressed his comments and sent him the revised plans back. He can adjust the inverts to address the engineer's comments. The outstanding issues are mostly technical right now and he would like the board to schedule a public hearing for the next meeting so he can get comments from the public on this application.

Mr. Carthy stated that there are still a lot of issues to be resolved between the two professional's memos and did not feel this application was ready for a public hearing at this time.

Mr. Kaufman also referenced some points in his memo for the board to discuss regarding the future sidewalk and what mechanisms are put in place to ensure that is constructed. It would be easier for the town and the applicant to build that portion of the sidewalk now. Mr. Kaufman stated that he has some comments on the landscaping and the types of trees to be proposed. The design of the warehouse has changed, the earlier versions had windows and current version has eliminated those windows. These

are relatively tall structures and he recommended that the applicant proceed to the ARB and get some feedback on the design. Given that this is close to the County Park and Washington's Headquarters, he suggested that the board consider some enhanced design to the building and landscaping for the site. He recognizes that this is still an industrial property but there is a happy medium to be met. He also had some comments on the landscaping the minimum amount required according to the code. In response to comments, Mr. S. Berte stated that there is no sign proposed for the site. Mr. Kaufman stated that the applicant stated earlier they had addressed the water and sewer issues with another submission to the Water Department and are waiting on their response.

Discussions took place regarding the truck wash on site and if this was a permitted use and the concerns about usage that Mr. Misiti, Water and Sewer Superintendent expressed in his email. Mr. S. Berte stated that 115 washes per week was not a correct number and will be updated. Mr. Kaufman stated that there is a use in the industrial district which essentially says that any use that customarily incident to the permitted use is permitted. The board can discuss if this proposed use meets that criteria. Mr. Cermele stated that the applicant is proposing a water separator which goes into the sanitary sewer and its size will be based on the amount of washes per week whether it is 5 or 100 washes.

Mr. Pollack stated that this application is still evolving and some features of this project are sensitive for a variety of reasons and are still being worked on and opined that it was premature to schedule a public hearing at this at this time.

Mr. P. Berte reminded the board of this location and how it is across from Byram Concrete as well as being next to Washington's headquarters. This site slopes back up towards the residential district which is up top. He also stated how helpful it would be to have the public comments before crossing the I's and dotting the T's on the site design. He also stated that this is an as of right application that is zoning compliant, the proposed wall is remaining the same and his client will be washing and storing trucks on site.

In response to comment from Mr. Ruisi, Mr. P. Berte stated his client has over 90 trucks for this entire operation and that less than 15 trucks would be stored on this site. Mr. Ruisi wanted to know how many trucks would be going in and out of the site on a daily basis and how many of those trucks would be washed and what the impacts to the traffic would be in that area. He inquired if there were any other locations that the trucks would be washed. Mr. P. Berte stated not in the vicinity. Mr. Jensen stated that the site is tight and the applicant is working through the issues and is this location capable of washing all of those trucks and that will create more congestion along Virginia Road and he questions if that is an incidental use. You would like to keep your vehicles clean but this is more like a fleet washing station. Mr. P. Berte did not agree felt that was not an accurate description, this is not a truck washing facility. Mr. Pollack inquired how would you monitor that. Mr. Berte state that the water bill would reflect that. His client is only trying to use the site which he has an as of right too.

The board reminded the applicant that there was a residential area located 30-40 feet

above this site and wanted to know if only the trucks that were stored on site would be washed on site or would the entire fleet of 90 trucks be rotated in and out to be washed. The board was concerned about monitoring how many trucks were coming in and out of the site after the approval. They were also concerned about the impacts of this use to the neighborhood (beeping noises during back up) and queuing of trucks on Virginia Road waiting to enter this small tight site. Mr. P. Berte stated this client has been in business for years and the trucks presently are being washed.

The board requested the property owner to attend the next meeting so they would get a clear understanding of the uses and activities proposed for the site and what is customarily incidental to the site. Mr. P. Berte stated that his client would store trucks, do light maintenance to support the trucks on site and wash the trucks. The board was concerned with the definition of light maintenance and how much noise that would entail i.e.: air compressor. It was noted that the uses were permitted on site but had different parking requirements if auto repair is done on site as well vs. storage of materials in a warehouse, it is all based on the use.

In response to comments from the board, Mr. Cermele stated that he needs to know how much material will be removed off site and how many truck loads will be necessary to remove the material.

Mr. Baroni stated that if it is the same 12 trucks every week that would be fine but if it is a different set of 12 trucks every week the board needs to understand that.

In response to Mr. P. Berte comment the board summarized the following questions to be answered:

How many trucks are in the fleet?

How many trucks will be stored at this site?

Will the same trucks be stored on this site week after week, month after month?

Where are the other locations of the rest of the fleet and where are they presently washed and presently maintained for those other locations?

Will general maintenance done on site be for only the trucks stored on site or for the whole fleet?

Will the truck wash on site be used for only the trucks on site or for the entire fleet?

The board would like input from the ARB regarding the updated plans which have removed the windows on the building?

What is the volume of water usage proposed and noise of the maintenance work going to be?

Will there be any Queuing on Virginia Road to enter the site?

Will the mechanic be full time or how many hours a week will one or more work on site?

How many times a day will the trucks go in and out of the site on a daily and on a weekly basis.

Mr. Carthy inquired what is the impact if 13 trucks exit the site daily and a different set of 13 trucks come onto the site at the end of the day except for the amount of water used in the wash bay and the amount of noise with the maintenance of the trucks. Mr. Jensen noted that this is a tight site and the queuing of the vehicles waiting to get on or off this site while trucks are backing in would be an issue. Mr. Baroni also noted that

trucks could potentially be coming and going out of the site all day long.

Mr. P. Berte stated that he keeps hearing this is a tight site and the site has been designed with sufficient turning movement for trucks and he has minimized the proposed amount of buildings based on that. Mr. Cermele noted some spots where some cars are parked would be tight for a truck to maneuver if the cars on site were not moved.

The board wants to confirm the level of intensity proposed for the site and if the uses are ancillary and exactly what the uses will be on site. The board will need to mitigate the impacts of the ancillary uses. The board would also like to know if the mechanic is full time and if he was, that would be a good indication of the use proposed on site.

Continued discussion took place and the board questioned - if all the questions were answered as noted above, how would they validate the authenticity of that information. Mr. Baroni stated if the owner says it and then it is violated, the Building Inspector would issue a violation and it would be addressed in court. Mr. Berte stated that his client is not paid for additional mileage and has calculated all of his routes and that is why he has so many different locations.

In response to Mr. Pollack's comments, Mr. Kaufman stated that the applicant has to receive ARB approval for the design of the building and landscaping on site as well as resolving whether to build the sidewalk now or land bank it. A brief discussion was had regarding the land banked sidewalk and how a land banked parking agreement works and how a land banked sidewalk agreement would work and if this were done it would show up in a title report prior to the new owners taking title to the site. The property is encumbered with this obligation at some future date.

In response to comments regarding whether a sidewalk was going to be installed in front of Washington's Headquarters, the Director of Planning will follow up with Westchester County and let the board know if a sidewalk is proposed or not. It was mentioned that if Westchester County was not proposing one in front of Washington's Headquarters then why make the applicant build a sidewalk in front of his lot.

The board agreed that they would like to move this application forward as precisely and expeditiously as possible but the intensity of the site needs to be known. The applicant was also reminded that a 10' wide landscaping buffer needs to be installed at the rear of the site or it could be a fence. The applicant noted a fence was proposed on top of the wall.

Mr. S. Berte stated that a 90 truck fleet was an estimate and he will get an exact number from his client and he will reach out to his client and ask him to be available at the next meeting.

**NICODEMUS [19-023]**

**28 Banksville Road**

**108.02-2-11**

**Special Use Permit**

**Peter J. Gregory, PE Keane Coppelman Gregory Engineers, PC**

**Discussion of site walk**

Proposed new 800 square foot detached garage, located within a Town-regulated wetland buffer, on an existing developed single family residential lot.

The RPRC asked for additional information prior to making a determination regarding the proposed application. The Applicant subsequently submitted an application to the Planning Board.

Mr. Gregory and the builder Chris Ferrara were present for this application.

Mr. Gregory stated that while out on the site walk if the garage were located next to the house, it would have to be located behind the existing shed and if placed there the septic system would have to be relocated as well as the relocating the existing landscaping. His client has decided that he does not want to move in this direction with this application. If the garage were placed at the rear of the site that would require an additional 200 feet of driveway and would push his client over the maximum GLC and to the ZBA for a variance. His client would like to keep the garage in front of the property. He reviewed the wetlands and wetland buffer in the area.

Mr. Pollack noted while out at the site that water collects at the front of the lot close to the road. Mr. Cermele stated that Westchester County Mapping show a waterbody in that location. Mr. Kaufman stated that if you look at the soil survey it is wetland soils covered by soil. Mr. Cermele stated that it looks like it was filled in sometime in the past, Mr. Kaufman agreed.

Mr. Cermele inquired if any tests were conducted for the proposed garage location. Mr. Gregory stated he has not done any tests and will have a slab on grade and the structure on top. He will look into the matter. Mr. Gregory stated he will push the garage as far forward as possible and nestle it behind the rock outcropping. No trees are proposed to be removed at this time.

Mr. Sauro suggested that the pavers be left in their present location and to locate the garage further up the hill just behind the house. It was noted that would leave the proposed garage 20' from the present septic system.

Mr. Sauro stated he appreciates the cost impacts of moving the septic, shed and landscaping with building the barn closer to the residence but noted he did not feel it was appropriate to build in a wetland or wetland buffer as a result of that.

Mr. Pollack stated he would like some more specific details regarding the amount of impervious surface, variances, GLC if the garage were placed in the rear of the site vs. the front of the lot near the road. After continued discussion the board agreed based on

reasons discussed that moving the garage to the rear of the site was not a good alternative.

Mr. Chris Ferrara stated that his client said he will not remove the shed and recently installed landscaping near the house. He noted the structure was no more than 15' high and the wetlands were flagged in October, 2018. Mr. Jensen inquired if the garage were built within the wetland buffer in front of the site, will that jeopardize the wetlands. Mr. Cermele stated that he needs a grading plan to verify that. In response to Mr. Jensen's comment, Mr. Kaufman noted that accessory structures in the front yard are generally not a planning practice, they are usually located in the rear or to the side of the lot, it is not your first choice on site.

Mr. Sauro inquired about the use of the barn since it was not too accessible to the principal structure.

The board was interested in the Conservation Board's comments regarding this application.

**150 BEDFORD ROAD [19-021]**  
**150 Bedford Road**  
**108.03-1-40**  
**Site Plan**  
**Sid Schlomann, AIA – SI Design Group**  
**Discussion of site walk**

Conversion of the first floor veterinary office to professional office, proposed 571 square foot second story office addition and the removal of the existing second floor apartment and conversion of that area to professional office space.

There was no one present for this application. The professional was contacted after the meeting and he noted that his client was going to alter his application and return to the RPRC and would not be returning to the Planning Board.

**CVS [12-008]**

**450 Main Street**

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

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

**Discussion regarding Bond Release of Utility Pole Relocation**

The originally approved site plan required the relocation of an existing utility pole immediately adjacent to the Maple Avenue entrance to the site. Alternatively, an amended site plan was approved proposing the realignment of the existing drive and construction of associated sidewalk and stormwater improvements. The realignment was sufficient to permit the utility pole to remain in its original location. At this time, the owner has satisfactorily completed the improvements associated with the driveway realignment.

Mr. Pollack made a motion to positively recommend to the Town Board the release of the utility pole bond for the CVS property at 450 Main Street. Mr. Sauro second the motion and it was approved with five ayes.

**GDC EQUITIES, LLC [18-032]**

**873 North Broadway**

**122.12-4-27**

**Site Plan**

**Rich Williams, PE Insite Engineering Surveying & Landscape Architecture, P.C.**

**Consideration of Amended Resolution of Approval**

Proposed establishment of an industrial/commercial dry cleaning facility.

Present for this application was Steve Tobia and Fred Mastroianni.

Mr. Mastroianni stated that they are not able to get Westchester County sign off until the site is up and fully running, he would like the condition regarding Westchester County sign off moved to prior to the issuance of a CO. Westchester County comes out to the site and tests everything before they sign off. He also noted the DEC registration was filed as well. Mr. Cermele and Mr. Kaufman were alright with this request noting that they have no comments on rules and regulations of Westchester County.

The board questioned if the applicant already has permits to do the interior work why is this condition being moved. After continued discussion took place the board was comfortable moving this condition to prior to the issuance of a CO.

Mr. Pollack made a motion to move the Westchester County condition which is presently located prior to the issuance of a building permit to prior to the issuance of a CO. Mr. Sauro second the motion and it was approved with five ayes.

Mr. Mastroianni inquired about the fire monitoring condition in the resolution. He noted

it was a large expense and there are no apartments on the second floor or in the basement of the building and would like this condition amended to reflect that smoke detectors be installed and the fire monitoring system be removed. The applicant wanted to know why this condition was in the resolution. The Director of Planning will review the minutes and memos and provide this information to the board prior to the next meeting. The Board requested input from the NWP Fire Chief be obtained regarding this request prior to making a decision.

The applicant will come back to the next meeting (7/29/19) to further discuss this item.

**SANTOMERO BUILDING [12-005]**

**868 North Broadway**

**122.12-5-63**

**Amended Site Plan Approval**

**Joseph Riina, PE Site Design Consultants**

**P Daniel Hollis, Esq: Shamberg Marwell Hollis Andreyck Laidlaw PC**

**Lou Levy, Lou Levy Construction**

**Consideration of Amended Resolution of approval**

Site plan approval for the completion of the existing building under construction that would result in a new 4,300 square foot retail building and the construction of various retaining walls.

Present for this application was Dan Hollis, Joe Riina and Lou Levy.

Mr. Hollis stated that conditions 4 & 5 under prior to the issuance of a Building Permit regarding NYSDOT permit that no work will be performed within the NYS Right of Way until the NYSDOT permit is in place regarding work in the right of way, bus stop and no left turn entering the site from the south bound lane. His client would like to do some work on the wall at the rear of the site and also noted the sewer line is quite compromised on the abutting town lot, a video was submitted along with the submission from Lou Levy.

Mr. Kaufman was concerned if the NYSDOT did not grant the approvals where this would leave the town and the applicant. The town would be left with a wall in the rear of the site.

Mr. Hollis and Mr. Riina stated that they think there is practically no chance the DOT would not grant approval on those three items. Mr. Hollis continued, the DOT may fine tune it but there is no way the DOT would deny ingress and egress to a site or deny a bus stop or deny a safety measure of a no left turn into the site.

Mr. Kaufman stated that there are conditions tied to the Zoning Board of Appeals approval and we don't want to approve something that contradicts that (relates to no left turn into the site). Mr. Hollis stated multiple times that he could not see the DOT denying approval for access in and out of the site or the bus stop or a no left turn sign

egressing to the site. Mr. Ruisi noted that people all along N. Broadway make left turns while driving south bound on Route 22. Mr. Hollis stated that his client agreed to this important safety issue about no left turn in and out of the site. Mr. Pollack noted that the wall is a safety concern as well. Mr. Hollis stated that his client would like to address the safety issues of the wall and proceed at his own risk.

The board asked the professionals for their input. Mr. Cermele stated that he really could not opine if the DOT would grant these approvals or not. Mr. Kaufman was concerned if the applicant was allowed to do all of the work on site and then did not get the DOT approvals that they would return to the board regarding this matter requesting these prior conditions in the resolution be altered again, after what is proposed this evening, in some capacity.

The board was considering moving condition 1,2,4,5 to prior to the issuance of CO. The applicant was reminded that no work can be done in the right of way and the applicant can work in the building as long as it is not in the right of way. Mr. Hollis stated his client would like the building to look better and make the wall more secure.

Mr. Carthy inquired what if the DOT takes longer than expected and everything else is done except for the DOT items. Could a Temporary CO be issued by the Building Department? Mr. Kaufman expressed his concerns that if all of this work is done it may not agree with the ZBA approval and the applicant would have to return to the Planning Board if any of the conditions in the resolution are not consistent with the approval.

Mr. Ruisi made a motion to approve moving condition 1,2,4,5 from prior to the issuance of a building permit to prior to the issuance of a CO. Mr. Sauro second the motion and it was approved with five ayes.

Mr. Carthy made a motion to adjourn the meeting. Mr. Jensen second the motion and it was approved with five ayes.

Meeting adjourned at 9:01 p.m.