

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 P.M.
November 25, 2019**

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:
Jane Black

PUBLIC HEARING:

**MISTIS PROPERTIES INC. [19-004]
176 Virginia Road
122.16-1-3
Site Plan
Stephen Berte, Fusion Engineering PC
Discussion
Consideration of resolution of approval**

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. Applicant has also indicated that light vehicle maintenance and repair would occur on the site.

Mr. Sauro made a motion to reopen the public hearing. Mr. Pollack second the motion and it was approved with five ayes. No noticed neighbors were present for this application.

Present for this application was Steve Berte.

Mr. Berte stated that he has received ARB approval and noted that the color of the building was approved by the ARB and the wood stockade fence at the front of the site matches what was put in front of the Miller house just down the street. He stated there were some engineering issues still to be addressed and he will do that. He also inquired about the knox box prior to the issuance of a CO - in response to that comment Mr. Kaufman stated that condition was placed there according to the code.

Mr. Carthy asked the board if they were concerned about approving a resolution with so many outstanding conditions to be addressed prior to signing the site plans. Mr. Jensen expressed his concerns regarding the amount of conditions to be complied with. The board and professionals discussed the matter and the details regarding the outstanding conditions and if the board wanted to opine that any items specifically should be further reviewed by the board members. The board discussed the water meter and how closely the usage would be monitored. The professionals noted that some comments in their memos were noted more than once and still not addressed, that was why they were now conditions in the resolution of approval. Mr. Berte stated that his last submission did address these conditions to a point.

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

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

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

82 ROUND HILL ROAD [19-016]
82 Round Hill Road
102.03-1-40
Site Plan
Ralph Alfonzetti, PE Alfonzetti Engineering
Discussion
Consideration of resolution of approval

The existing lot is highly constrained by Town-regulated wetland and wetland buffer areas. A Wetland permit for over 13,000 square feet of disturbance is necessary for proposed work performed in the 100' Town-regulated wetland buffer.

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 the Conservation Board is warranted.

Mr. Carthy recused himself from this application.

Mr. Pollack read the affidavit of publication for the record. Mrs. Desimone stated that all paperwork was in order for this application. Noticed neighbors Martin Marmor from 1 Gifford Lake Drive and Margaret Curry Gregg from 21 Mead Road were both present.

Present for this application was the owner Thomas Fidzluklewicz and his professionals - Ralph Alfonzetti and Stephen Lopez .

Mr. Alfonzetti stated that this is a vacant 2.3-acre lot. The applicant is proposing a four-bedroom house with septic and well. The septic and well proposed are located in the state and local wetland buffer on site, the house was not proposed in the wetland or wetland buffer. Mr. Alfonzetti stated he has been before the Conservation Board twice and they have submitted a letter to the Planning Board for their input. There have been a couple of site walks.

In response to comments from Mr. Sauro, Mr. Alfonzetti summarized the Conservation Board memo. He also noted that the landscaping plans were enhanced and offered Mr. Lopez to go over the details with the board if they wanted him to. Mr. Alfonzetti also referred to the request from the Conservation Board about the five-year maintenance plan. The board supported the Conservation Board's recommendation regarding the maintenance plan. Comments were welcomed from the noticed neighbors at this time.

Mr. Marmor stated that presently the water from this lot flows underground through a pipe onto his property. He is concerned about the increased amount of water that will come onto his property as a result of this application, he asked how will the proposed mitigation impact his lot. Mr. Alfonzetti stated that 90% of the water will be captured to an infiltration system on site and the remaining 10% will go to the rear of the site, it will not go to the pipe which goes across the street. Mr. Marmour expressed his concerns with the stream running more as a result of this application and how it will impact his wetland area. He noted that everyone should be aware that certain times of the year it is more like a pond and other times it is damp, he wanted the board to be aware that ultimately the water runs into the Gifford Lake which then runs into the Mianus River.

Mr. Cermele confirmed what Mr. Alfonzetti stated and noted the only part of the lot that can't be captured is the water from the driveway apron and that will run into the road.

Mr. Lopez reviewed the landscaping around the house and plants for mitigation on site.

Ms. Margaret Curry Gregg reviewed the history of the area and stated that her parents lived in the area for 65 years and her dad was very active in town. She expressed her frustration about our rural community being nibbled away with zoning changes.

In response to comments from Mr. Sauro, Mr. Kaufman stated that the zoning was not changed on this lot, this lot was created years ago and never developed. The lot is being developed under the current zoning and no variances have been requested for this lot. A wetland permit is required for this application. A recommendation was provided by the Conservation Board and that is one of the matters the board is discussing this evening regarding whether to grant approval on the permit or not. Mr. Pollack noted this building lot was created years ago and was a building lot back then

and is still a building lot today.

The board welcomed Conservation Board Chairman Jane Black and thanked her and all the members of the Conservation Board for all of the hard work and time on this application.

Ms. Black stated that the Conservation Board spent a very long time on this application and had lengthy discussions with the professionals and the applicant working on the mitigation plan and minimizing the impacts. By minimizing the impacts and improving the mitigation plan, they felt very successful with the outcome. We all discussed the intrusion of the high quality and low quality wetlands. The plantings proposed will actually improve the wetland. There was a lot of discussion that if this lot were considered today for subdivision the board would not be in favor of this application. The mitigation plan does not increase runoff anywhere on site. It was noted that the infiltrators will take care of the runoff and the extensive plantings will enhance the wetland and should absorb some additional water.

Mr. Donald Gregg, 21 Mead Road. Inquired about the difference of the high vs. the low quality wetland. Ms. Black stated that the low quality wetland was very small, seasonal and largely road runoff. The high quality wetland is a pond that is in the NYSDEC wetland and a regulated wetland and contributes in a positive way to our aquifers and water courses. The applicant has complied with the town code regarding mitigation.

Mr. Sauro stated that because of the sensitivity of the lot, there are many eyes on this project. He thanked Ms. Black and all the work and time put in on this application by the Conservation Board, Kellard Sessions and the applicant.

Mr. Sauro asked if any member of the public had any further comments regarding this application. No more comments were made.

Mr. Pollack made a motion to close the public hearing. Mr. Ruisi second the motion and it was approved with four ayes. Mr. Carthy recused himself.

Mr. Sauro made a motion to approve the resolution of approval. Mr. Pollack second the motion and it was approved with four ayes. Mr. Carthy recused himself.

CONTINUING BUSINESS:

**OAMIC INGREDIENTS [17-016]
6 Labriola Court
Section 107.04-2-19
Amended Site Plan
Sign Design, Nick Contrata
Discussion**

Site plan approval to construct a freestanding double sided 8-foot-tall post and panel sign.

Mr. Contrata described the sign as stated above.

Mr. Carthy discussed the comments from the Director of Planning's memo regarding the style of the sign, a monument sign, post sign and sign on the building. Mr. Contrata stated he was putting up a sign that was similar to a sign already in that location, he noted it is more visible as you come around the bend.

The board discussed the comments from the Director of Planning's memo regarding the size of the sign being too big and too high. The sign was proposed within the front yard setback of the road. It was noted that the code only permits 10 square feet. The applicant was also informed that they needed to go before the ARB. The applicant stated they would address the comment in the memo and return to the board at a later date. Mr. Kaufman noted that the sign requirements can be found in section 355-16-F of the Town Code. Mr. Contrata reminded the board that they were doing this sign that was like and kind on the existing sign on site.

The board inquired if this site was open and operational. Mr. Contrata was not sure of that answer and the property owner was not present. The applicant will address the comments in the memo and return to another meeting.

HARRIS [19-017]
9 Sterling Road North
108.02-1-58
Site Plan
Dan Holt, Holt Engineering & Consulting, PC
Discussion

Proposed new pool and patio located in the Town-regulated wetland buffer. This property was recently referred for Planning Board site plan approval by the RPRC.

Present for this application was Dan Holt.

Mr. Holt reviewed some background information on this lot to bring the board up to date. He noted this lot was similar to what the board discussed earlier this evening regarding 82 Round Hill Road. He noted the house was built back in the 1950's and the health department has no records on this lot. He noted the septic system was over 60 years old and while getting approvals for the pool and patio they would also like to get approval for the septic expansion area so once this system does fail, the property owner is prepared for it. He noted there is also a lot of roadway drainage on this site. Beth Evans Associates has delineated the wetlands. The wetlands are invasive and there is a lot of roadway drainage – most of the property is drainage. The applicant has spent a lot of money and needs a variance for the pool and patio. He noted the bedroom count remains the same. There are many setbacks for the house to the pool to the septic and to the well. Originally this application went before the RPRC to replace the patio and while that was going on other work was done that was not part of the RPRC approval. The wall was built over six feet tall and without any approvals which triggered us to

come before the Planning Board. The professionals were not sure if any violations were issued or not. A CO was not issued due to the wall

Mr. Ruisi summarized the primary issues the board has to consider - the pool location, amount of additional ground cover and wetland mitigation.

Mr. Kaufman stated that Mr. Holt mentioned earlier that this application was similar to the 82 Round Hill Road application discussed earlier this evening. He did not agree with Mr. Holt; he sees these two lots differently. The 82 Round Hill Road lot was a very heavily constrained lot and the applicant needed to get some level of development in the wetland buffer to get some economic return. This application is a recreational amenity in the wetland buffer and those are different and the Conservation Board and Planning Board are going to have to weigh those differences. The least impactful location of the new septic system may be where the pool is proposed. By allowing the pool, you are permitting the septic system much closer to the wetland. The proposed pool location does not meet the setbacks. If you look at all those competing issues, it is a balancing act and it makes it become a difficult project to support, in his opinion.

The board continued discussing the different issues with this application. The board will walk the site and asked that the pool, septic and wetlands be flagged for the site. Mr. Holt will let Mrs. Desimone know when the site is staked and ready for a site walk and will work on addressing the comments from the professional's memos and will resubmit.

TEDESCO [19-042]

1460 Old Orchard

Section 123.01-1-151

Site Plan

Dan Holt, Holt Engineering & Consulting, PC

Discussion

Proposed new house on an existing vacant lot in the Tedesco Subdivision. This Planning Board retained site plan jurisdiction over development within the Tedesco Subdivision.

Present for this application was the applicant Frank Tedesco and his professional Dan Holt.

Mr. Holt presented the application as noted above and stated he has received a variance to get the lot which has minimal contiguous buildable area. The Planning Board did retain site plan approval and the house proposed is very similar to what the Planning Board reviewed at the time of the subdivision.

Mr. Michael Burden abutting property owner from Harrison/Armonk NY summarized the application through the various boards during subdivision and how it got to this point. He requested screening along the properties edge. He opined that the house was larger and different in shape than what was formerly shown as 1,000 square feet and today's plans were shown as 5,000 square feet. He felt it was misrepresented. Mr.

Kaufman stated that the elevation was 1,000 not the size of the house.

Mr. Pollack reviewed the FAR and GLC worksheets and confirmed with the Director of Planning that the proposed square footage was within the code guidelines and according the ZBA approval, Mr. Kaufman agreed and said it was all according to the code.

Mr. Holt stated that he would like to do the plantings outside the wetland and wetland buffer area in order to prevent a wetland permit. He reviewed the 12 trees his client had promised to the neighbor that he has a good relationship with and an additional 7 trees along the wetland buffer. He noted that this is a neighborhood and houses can't disappear or be invisible.

Mr. Pollack inquired if there were any restrictions set regarding no rear access. Mr. Kaufman did not recall that but would look into that. Mr. Holt reviewed where the walk out basement was located and that would lead to the best location for some outdoor space and this was how it was designed, his client is going to live here in this house.

Mr. Burden stated that the wetlands should not be used as an excuse not to plant trees, the wetlands were used as an excuse in order to get the variances needed to build the house and now the wetlands are being used for not planting on the property line, you can't use the wetlands to get your house and then not do plantings, it does not work in both circumstances. The screening should be for the house, not for the wetlands. If the screening can't be done, reduce the size of the house.

In response to comments, Mr. Holt reviewed his landscaping plan at this time. Mr. Carthy asked the board if they wanted to go back out to the site one more time. The board continued discussing the application and the size of the house vs. the footprint of the house.

In response to comments, Mr. Kaufman stated that he needs the tree survey done according to the code which gives the tree number, species, size, health condition and removal status of the tree. Typically presented in a chart form attached to the plan. The applicant can then add the trees to be planted. Mr. Carthy suggested the board go back out to the site. Mr. Jensen agreed and Mr. Ruisi stated he has not been out to the site. Mr. Holt will let Mrs. Desimone know when the site is ready for a site walk.

**SIR JOHN'S PLAZA SITE PLAN [19-008]
909 North Broadway
122.12-4-52
Additional Parking
Gabriel Senor PC
Thomas D'Agostino, Esq.
Discussion**

Proposed Construction of new 48 space off-street parking area with appurtenant retaining walls. In addition, the Applicant is proposing overnight parking of five spaces

at the rear of the Sir John's Plaza building.

Present for this application was the owner John Magnotta and his attorney Tom D'Agostino and co-counsel Alan Focarile; the Engineer - Elliott Senor - Gabrielle Senor PC.

Mr. D'Agostino reviewed the application as noted above. He noted that there was a number of items in the memo to be addressed. In response to comments, Mr. Carthy asked the professionals and board if there was something specific in their memos they would like to discuss with the applicant. Mr. Jensen inquired about the FP Clark report and if it reviewed entry to the site. Mr. Kaufman said that it did not because there was a traffic signal at the entrance to the site. Mr. Elliott reviewed the circulation on site and comments from the FP Clark Memo and where the three point turns would take place on site. In response to comments from the board Mr. Cermele stated that it was not desirable to have three dead ends in a parking lot, Mr. Sauro agreed. Mr. Senor noted that the parking lot will be full in the evenings with the restaurant and the spaces from the other stores will be available at that time. He noted there will be times when it is totally full but not that often.

In response to comments from the board. Mr. Senor reviewed the uses and the amount of parking spaces on site. It was also noted that if the FP Clark memo were enacted and the three dead ends were eliminated the applicant would be short in their parking count and need to go to the ZBA for a variance. Continued discussions took place regarding the size of the parking spaces an isles and the FP Clark Memo. Mr. Cermele reviewed the width and length requirements for parking spaces, isles etc. for a parking lot for the board's reference and made some recommendations to maximize the amount of parking spaces on site.

Mr. Ruisi inquired if there were any changes in the tenant commitments. Mr. D'Agostino stated they still have some clients interested but want to be open right now at this time of year.

Mr. Elliott asked for input from the board regarding lighting on site. He noted a photometric plan was submitted. He noted that building mounted lighting was proposed in an effort to avoid light density and avoid looking like a typical shopping center. He noted that no light poles were proposed on site. Mr. Kaufman and Mr. Sauro opined that light poles should be placed in the common lot especially with a parking lot this large.

Mr. Kaufman suggested to soften the walls by planting trees at the bottom of the wall. Mr. D'Agostino suggested shrubs and vines growing up the wall. Mr. Carthy stated that the vines and ivy would take too long to grow up the wall. Mr. Kaufman noted that trees were not shown on the plan by the wall.

Discussions took place regarding the two islands proposed on site and according to the code there has to be 10% landscaping on the site and where that landscaping was proposed on site. Mr. Kaufman noted when the applicant submits the exhibit it will be reviewed.

Mr. D'Agostino stated that with the islands proposed on site they have to be located where the garbage truck can still access the site and not inhibit snow removal on site. Mr. Focarile revisited the subject of lights on the building vs. poles in the parking lot. He noted the lights on the building are capped and the light is directed down and poles will be offensive to the residents across the street. Mr. Kaufman stated that the lighting in the parking lot is for the patrons of the parking lot and lighting on the buildings alone will not be sufficient.

The professionals will review the plans again to see if some more parking spaces can be located. The Handicapped parking spaces proposed were 3 feet aisles and the ADA requirements are now 8' aisles.

The board also reiterated that in order for someone to rent the overnight parking space. They must be a tenant who is occupying space on site who parks their work related vehicle overnight. The overnight parking space cannot be rented out to someone who does not rent or lease space on site. The board considered requiring a tenant who uses the overnight parking to rent a minimum amount of square feet on site i.e.: 900 square feet. Mr. D'Agostino inquired if that would be a requirement throughout town or would that be just for his client. The board wanted to ensure that overnight parking spaces are not just rented out, that they are for the tenants on sight. Mr. Kaufman noted that this very issue had been this specific problem in the past on this site. Mr. D'Agostino stated that if we are going to go back in history, lets go back 40 years ago when the CO for this building was issued and overnight parking began and has continued ever since that time. Mr. Magnotta should be grandfathered in, this is a preexisting non-conforming use. He has only just started receiving violations within the last year and half. Mr. Carthy stated that the intention of the applicant is for overnight parking spaces as an amenity to the tenants. Mr. D'Agostino was not in favor of a restriction to the site. He will discuss with his client and the board will give it some further consideration.

SIR JOHN'S PLAZA SUBDIVISION [19-032]

913 North Broadway & 2 Emmalon Avenue

122.12-4-56 112.12-4-53

Preliminary Subdivision

Gabriel Senor PC

Thomas D'Agostino, Esq.

Discussion

Proposed subdivision of 2 Emmalon Avenue that results in a transfer of a portion of the existing residential lot to the adjacent commercial property.

Present for this application was the owner John Magnotta and his attorney Tom D'Agostino and co-counsel Alan Focarile; the Engineer - Elliott Senor - Gabrielle Senor PC.

Mr. Elliott reviewed the application as noted above and reminded the board that the zoning was already changed by the Town Board on this lot. He noted the lot does not have the frontage required and that is not changing and this lot was created prior to

2006. The rest of the setbacks are compliant. The board was comfortable scheduling a public hearing at this time.

GENTILE [19-010]
9 Barnard Road
108.03-3-54
Site Plan
Gabriel Senor PC
Discussion

51,406 sq. property located in the R-1A Zoning District.

Planning Board site plan submission that proposes an addition on easterly side and rear of existing house, patio at rear of addition, legalization of the existing wall, fill, grading and tree removal at the front westerly side of property and legalization of the frame shed on the easterly side of the property. In addition, the Applicant is proposing a new septic system (an application is currently in review at the Health Dept.).

This property was recently referred for Planning Board site plan approval by the RPRC.

Present for this application was the owner Mr. Gentile and his professional Elliott Senor - Gabrielle Senor PC.

It was noted that the hard copy revision date and electronic revision date did not concur with this submission.

Mr. Senor stated the applicant brought on site about 400 to 450 yards of fill. He has architectural plans and they will be submitted to the ARB. The engineer has submitted plans to the board of health. Most of it is comments and details from the professional's memos and can be addressed. He continued reviewing the memos and how he will comply with the comments in the memos. In response to comment from the chairman, Mr. Cermele stated you are not allowed this much fill without a permit. Mr. Kaufman stated that is why the applicant is before the Planning Board.

Tom D'Agostino and his wife from 13 Barnard road and Aurora Banaszek from 11 Barnard Road were present and noted that they did not agree with the professional regarding the amount of fill brought on site and noted over the years the three of them witnessed over a 1,000 cubic yards of fill brought in to this site without any permit that he could locate. Mr. D'Agostino expressed his concerns about the contents of the fill that was brought in on site, especially since the applicant was an excavator. He hopes the town will look into that. Mr. Kaufman noted that the Building Inspector will issue the fill permit and a wall over six feet will need site plan approval from the Planning Board.

Discussions took place regarding violations and summons. A violation precedes a summons and once a violation is issued they have 10 days to address it. If the violation or summons was adjudicated by the courts, the applicant would not have to go before the Town Board for a waiver to proceed with their application.

The board asked the applicant to come up before the board and update them with the status of their property. Mr. Joseph Gentile stated that he has received multiple violations. Mr. Kaufman stated a meeting was set up with Mr. Gentile and his team of professionals along with himself, the town engineer and building inspector. The Building inspector requested the applicant to come before the planning board and after that meeting we learned that the applicant had an appearance before the judge. Mr. Gentile stated that while before the judge, the judge said that as long as he applies to the Planning Board the violation will be adjourned. Mr. Baroni stated that someone should have informed the applicant that since there is an open violation on the property that he will need a waiver from the Town Board in order to continue with his application with the planning board. Mr. Baroni stated a letter from the applicant should accompany a letter from the Building Inspector to the Town Board. Mr. Kaufman will follow up on this matter.

SUNSHINE BUDDHA [19-020]
736 North Broadway
122.16-3-15
Amended Site Plan
Gabrielle Salman, AIA
Discussion

Site plan approval for the reconfiguration of the North Broadway frontage to include a new deck, portico and sidewalk. Additionally, the Applicant is seeking to legalize the existing second floor apartment.

Present for this application was Gabrielle Salman and her client.

Ms. Salman stated that she has met with the Town Professionals since the last meeting she would like to go back to the parking layout from October, 1993 and presented that plan and noted in Mr. Cermele's memo that the ADA parking spaces were not compliant with today's standards. She started addressing the comments from the engineers' memo. The parking lot would be striped and directional arrows will be installed on site and that they will not do anything on the second and third floor. She noted a chairlift would be installed and her client would like to redo the entryway. Mr. Carthy stated that there are a lot of other issues going on at this site like the apartments. Ms. Salman stated that her client will address that later with the second application. Mr. Kaufman stated that you cannot put blinders on what exists and the one existing apartment will need to be approved by the Planning Board and the parking for the apartment needs to be reflected in the parking count. We need an updated plan showing storage upstairs and a more open concept and no apartment on the third floor. That needs to be updated on the uses tables and off street parking tables on the plans. Ms. Salman stated that she would like the front entrance done and no apartments so her client can open his business.

Mr. Kaufman suggested to the applicant that they meet with the building inspector

regarding access to the apartment.

Mr. Cermele stated that the parking plan from 1992 did not show a parking count for the apartment. The parking plan was already deficient in 1992 and did not show the accessory apartment in the parking count, a variance may be needed for the parking spaces. Ms. Salmon stated that we can decommission the apartments and change the front entrance because her client would like to get his restaurant open. She was instructed to resubmit plans without increasing the uses on site which would then increase the parking count, i.e.: putting lockers upstairs for staff to use or for storage that would increase the parking count. All of the uses have to be explained and broken down per floor. Mr. Cermele stated that the plan from 1992 showed no uses on the second and third floor. Mr. Carthy summarized for the applicant to resubmit the plans with the updated tables and breakdown of all uses on all the floors.

Ms. Salman stated the property owner installed fire sprinklers on all four floors. Mr. Kaufman suggested the applicant review the building department plans and see if they comply with the variance granted at that time. Ms. Salman stated she had looked previously and did not see anything but will look it over again. The owner noted that there were apartments across the street and why couldn't he get his apartments. Mr. Kaufman noted that the applicant across the street received a variance from the ZBA and that was an option for this applicant.

Nora Kanz Manually from 67 Nethermont Avenue stated she lived in the area and would like the chain link fence removed and a white fence put up like the gas station put up next door. She feels it would add a nice element to the neighborhood and the residents would appreciate it.

The property owner stated that he would not mind spending some money on the fence but until he opens it is difficult to consider a fence at this time because the taxes are \$70,000 a year and with a mortgage payment and he is before the board and trying to do the right thing with all of the approvals from the town, it hard.

Mr. Carthy stated that his professional needs to submit the updated plans that eliminate the uses upstairs so he can get his approval to open, resubmit the plans as soon as possible and the board will work on getting your approval expeditiously.

The property owner stated that he has been working on the site for six months by updating the landscaping, painting and doing it all right for the neighborhood.

Mr. Carthy clarified for the owner one more time. What the board is recommending based on your comments this evening is that you resubmit the plans with no uses on the second and third floor, by doing this, the parking count on the plan from 1992 should be sufficient and approval can be granted so you can open timely. If any uses are shown on the second and third floor it will increase your parking count and you will not have enough parking spaces and the board will not be able to grant approval without a variance. He then suggested if they wanted to meet with the Director of Planning and Town Engineer to go over this again that would be fine as well. Mr. Carthy stated at a later time once you are open for business and you want to return to the board for uses

on the second and third floor you can do that while you are open for business.

Mr. Kaufman asked if we could schedule the public hearing for the next meeting, he noted the changes were minimal and wanted to get this applicant to an approval so he could open his business. Mrs. Desimone informed Ms. Salman that the revised plans would have to be submitted by 4:30 p.m. on Wednesday for the December 9, 2019 meeting.

GULF [19-041]
750 North Broadway
122.16-3-14
Amended Site Plan
Lino Sciarretta, Esq. Montalbano, Condon & Frank, P.C.
Discussion

The subject property is an existing legal nonconforming gasoline filling and service station use in the CB Zoning District. The Applicant is seeking to rebrand the station from Exxon to Gulf. Changes to the site include, newly illuminated canopy edge, signage modifications, new aesthetic stonework and new gasoline pumps.

Mr. Sciarretta explained the application as noted above. At the end of October, 2019 they took out the old pumps and put them on the side of the property and they wanted to install new pumps that were not prone to skimming (stealing credit card information). He was not aware that Planning Board approval was necessary for tank replacement as it is not a requirement in other communities he has worked in. He has been before the ARB on November 13, 2019 and received approval for rebranding only. He would like to put the pumps back in so that his client can start selling gasoline again. The comments from the memos of the professionals have nothing to do with the pumps. His client Charlie Clinton is only working with two pumps right now, cash only and is suffering, he would be happy to put up a bond and return to the Planning Board for site plan approval.

Mr. Baroni stated he spoke with the Building Inspector and he had no objection. They agreed upon a \$25,000 guarantee bond that would work to help out the local operator and ensure the applicant will return to the board. It was noted that the language in the code has to be modernized. Mr. Sciarretta stated that in the past a Building permit was only necessary, not site plan approval.

If the applicant does not return they will lose the \$25,000. Bond and there still would be a violation and they would need to go to court and be in violation of their site plan. Mr. Baroni stated that the bond amount can be changed if the board deems appropriate. In response to comments from the board, the new pumps will go in within 24-48 hours and in response to comments regarding this becoming a binding precedent. Mr. Baroni stated the Building Inspector and Director of Planning are working on the amendments to the code regarding refurbishing the pumps going forward since this matter has come up more than once lately with the gas stations. Unless the board sees a total remodel of the gas station, the board will not see pump replacements going forward like we

currently do. All gas stations in North Castle are legal non-conforming use. We always have to watch the clock once the business stops to make sure it reopens in time.

The board further discussed if this would or could become a precedent and how to prevent that moving forward.

Mr. Pollack inquired about sidewalks in front of the site. Mr. Sciarretta stated that his client will look into it but that would take time and they want to get their business open.

Mr. Carthy confirmed that the applicant will return for a full site plan application which will include a sidewalk in front of the site. The board continued discussion regarding this site.

Mr. Pollack reiterated the importance that this board will put on the installation of a sidewalk like they have with every other applicant in this area. He also noted that the sidewalk request was also in response to the comprehensive plan. The applicant stated that he understood and is clear on the matter.

Mr. Pollack wanted to be clear and reiterate that other people are not going to come in and say we are a non-conforming use and ask for similar scenarios and not use this against this board in the future. He inquired who would we do that.

Roland Baroni stated you would state on the record that the facts here that are associated with the replacement of the old pumps caused some confusion and in this particular fact situation, the board agreed to the replacement of only the new pumps in advance of the public hearing and are taking a guaranteed bond just in this limited circumstance and it will not pertain to any other application or circumstances. In this instance this also comes with a recommendation from the Building Inspector - which you probably would never see from the Building Inspector.

Mr. Sciarretta stated that as soon as the Building Inspector told us to stop, we stopped, no violation was issued. We tried to reinstall the pumps but technologically wise were not able to do that. He understands precedent but this is a very limited circumstance.

Mr. Baroni stated that an expression of consent was necessary from the members of the board in order for this to be approved. The full board gave its consent with the verbiage from Mr. Baroni as noted above. The public hearing was scheduled for December 9, 2019.

**100 BUSINESS PARK [19-040]
100 Business Park Drive
108.03-1-51
Concept Plan
Paul Sysak, RLA John Meyer Consulting
Discussion**

Amended Site Plan approval to construct a 74,850 square foot warehouse with associated off-street parking and landscaping improvements. The building is proposed to be constructed in the undeveloped southern portion of the site, with the existing building proposed to remain.

The property is approximately 11.3 acres in size and lies within the PLI zoning district. The site is currently developed with a 62,782 square foot office/light industrial building with associated off-street parking.

Present for this application was the engineer Paul Sysak and the architect Kirk Johnson along with the applicants Vito Errico and Anthony Cassola from A & R Real Estate Holdings.

Mr. Sysak described the application as noted above and stated that this lot was located in the in the PLI zoning district. Surveys are being worked on and on site soil testing. He reviewed the existing uses on site and when they were last before the board for outdoor storage. There are three access points and they are proposing two entrance ways. This will be a single use; the applicant is looking to consolidate his other business locations here at 100 Business Park Drive.

Mr. Kirk stated that the warehouse space is at a premium right now. A lot of outdoor storage space will go inside, they need dry storage for their tile and stone product. Loading exists in front of the site and the applicant looks to maximize the landscaping out front of the site and will need a variance for the front yard setback. The building will be made of metal with a slow pitch roof. The applicant would like a parking waiver since the building is for storage purposes.

In response to comments regarding the well at 125 Business Park Drive. Mr. Baroni stated that the town was able to get easements from both neighbors for well access to 125 Business park drive. This proposal will not interfere with the well.

The majority of the product will be stored inside and the product to put the tile down will be stored inside. The board was pleased with the concept plan and its location.

Mr. Sysack stated that this concept on business park drive is a good one and the proposed building is not within the 100-foot buffer. Mr. Carthy thanked the applicant for their time and looks forward to the next submission addressing the comments from the professionals.

SINGER [08-071]

1 Quarter Mile Road

107.04-1- 25

Paul R. Sysak, RLA, ASLA, John Meyer Consulting, PC

Consideration of extension of time resolution

The Applicant is seeking approval for the construction of a new 1,689 square foot addition to the home as well as the reconfiguration of existing driveway.

Present for this application was Paul Sysak.

Mr. Pollack stated that there is no movement shown from this applicant to begin construction and there is no policy to keep these 10-year-old applications going and he has expressed his concerns regarding this matter in the past.

Mr. Sysak stated his client has built 2/3 of the project within the last year and half.

The board asked the applicant to come back to the next meeting and provide the board with an update. Mr. Sysak stated that his client would be happy to come to the next meeting and meet with the board.

Mr. Carthy made a motion to adjourn the meeting, its was second by Mr. Carthy and approved with five ayes. Meeting adjourned at 10:36 p.m.