

Mr. Kaufman pointed out that no construction was involved with this application. Chairman Michelman agreed and said that this was an application to legalize an apartment that had been in use for some time.

Ms. Johnson asked about the parking for the apartment. She recognized that the Board went to the site to evaluate this issue, however the applicant did not have the large RV parked there at that time. She wanted to know how that would impact parking for any tenants. Mr. Kaufman noted that there was not an RV there at the time, and that the Board had been concerned with whether there was sufficient parking.

Mr. Capone explained that the RV takes up one space of the three that are available. Mr. Capone said that if parking becomes an issue, he is legally allowed to park the RV on the yard in the back of his house.

Ms. Johnson asked if they would be permitted to rent rooms out. Mr. Kaufman said that they would not be able to; they were not getting a permit for a boarding house. Ms. Johnson pointed out that when there is an illegal apartment in Town, the Town is losing taxes; the Town should consider collecting taxes from the beginning. Chairman Michelman said that she understood her point, but these questions are basically unanswerable. Mr. Capone said that when his original plans were approved in 1989, he always had approved space that he had been paying taxes on. Mr. Adelman felt that Ms. Johnson had a good point, and the Town should consider it for the future.

Chairman Michelman asked if there were any other issues. There were none from the Board, or the professionals. Chairman Michelman asked if Mr. Capone had read the resolution. He said that he had and had no problems. Ms. Brown still wondered about the parking. Mr. Kaufman asked if the Board was comfortable with the parking of the RV on the driveway, or if they wanted to require that it could not be on the driveway. Dr. Matusow did not think this was something the Board needed to get into and the Board agreed.

Chairman Michelman asked for a motion to close the public hearing. Mr. Delano made a motion to close the public hearing. The motion was seconded by Mr. Matusow and unanimously approved.

Chairman Michelman asked for to approve the resolution. Ms. Black moved to approve the resolution. The motion was seconded by Mr. Adelman and unanimously approved.

ALPS SAUNA & SPA

Site Plan

Section 2, Block 16, Lot 18A

130 Business Park Drive

William O'Neill, AIA

Discussion

Chairman Michelman read the public notice for the record. Chairman Michelman asked if there were any neighbors present for the application. There were none.

Mr. O'Neill was present on behalf of the applicant. Chairman Michelman asked if Mr. O'Neill had read the resolution. He said that he had and that he was completely happy.

There were no issues from the Board or the professionals.

Mr. Delano moved to close the public hearing. The motion was seconded by Ms. Black and unanimously approved.

Mr. Adelman moved to approve the resolution. The motion was seconded by Mr. Delano and unanimously approved.

Mr. Kaufman pointed out that they were adding an additional "whereas clause" to explain where the day spa is defined in the code. Mr. O'Neill said that he had no problems with that; the Board approved the resolution as amended.

PUBLIC HEARING & NEIGHBOR NOTIFICATION

STOBSKY

Amended Site Plan, Special use FAR & Gross Land Coverage

Section 2, Block 17, Lot 4J01

20 Sterling Road South

Adam & Jonie Stobsky

Discussion

Chairman Michelman explained that this was a continuation of a prior public hearing. She asked if there were any neighbors present. There were none. Ms. Desimone explained that she did not have the opportunity to send the courtesy copy of the agenda out to the neighbors.

Peter Gregory was present on behalf of the applicants, along with the applicants themselves. Mr. Gregory explained what had been submitted by the applicants at the last meeting. The last submission showed the Stobsky plan, and this time, they submitted the Mack plan, which was superimposed with a layer of what is proposed by the Stobskys.

Mr. Gregory explained that the Macks had a driveway entering in the center of the property to the center courtyard in front of the house. The applicant wanted to use the existing curb cut to provide sufficient length of drive to lower the elevation of the house, and work better with the grade on each side of the house.

The driveway passes in front to a courtyard, which is within the building setback, but is what was recommended to the Macks. It continues to the northern side of the house where the garage is located. The Mack plan showed the approved pool parallel with the rear of the house just beyond the terrace. The Stobskys are showing a terrace with the pool perpendicular to it, extending a little further out to the center. This plan also shows the primary and alternate expansion in the back for the Macks. We also show the septic as proposed by the Stobskys. The applicants shifted everything forward toward Sterling

Road, and in doing so, they were able to increase the area of disturbance almost to 50' off the rear property line.

Mr. Gregory explained that they also studied the site to see if they could provide another driveway location. He found that they would not be able to bring it to the center like the Macks had proposed because they need the additional length to lower the grade. The applicant also looked at bringing the driveway on the northern property and crossing across the front, into the garage on the southern side. From grading that would work, but this would require the removal of four or five more trees. Additionally, the trees in the right of way on Sterling Road would limit the applicant. Although it could physically be done, it would require more disturbance.

Mr. Gregory stated that they would provide a 30' backup area for cars outside of the garage with approximately a 5' wide area for additional screening. An additional buffer on the rear of the property line is also proposed.

Chairman Michelman felt that this plan was helpful to understand the proposals. She asked about the cabanas. Mr. Gregory explained that the applicants are proposing two cabanas with 12x12 footprints. Mrs. Stobsky said the first cabana is open on three sides, with a fireplace on the one wall. The other cabana will contain a bathroom and a changing area. Chairman Michelman asked if there would be any refrigeration or cooking facilities. Mr. Gregory said there would not be; only a shower and lockers, and changing facilities. Mrs. Stobsky added that she would make sure the Board received copies of those plans.

Chairman Michelman asked if the applicants have been to the ARB. Mrs. Stobsky said they had not. Mr. Stobsky added that if everything went favorably at this meeting, they planned to apply to the ARB tomorrow morning. Chairman Michelman explained that without the input from the ARB, there is no way this Board could have a resolution. Mr. Stobsky acknowledged this.

Chairman Michelman asked if Mr. Schroeder had any issues. Mr. Schroeder said that all his issues had been satisfied. He said that he still believed that if the pool was rotated and the septic pulled up, there could be a larger buffer in the rear. He recognized that was not how the applicant wanted to proceed.

Mr. Kaufman explained that he still had basically the same comments from his last memo. It compares the two plans and continues to recommend that there be some buffer in the rear to continue the corridor. Other than that, he had no comments.

Chairman Michelman felt the layered plans were useful. The house size seems to be relatively comparable. She felt that one of the most recent letters made more sense; and if the Board had focused on this a little sooner, things could have been resolved more quickly. She agreed with Mr. Kaufman that it would be advantageous to take some of the rear area and keep it as rustic / woodsy as possible once they determine they have all the lawn that they need.

Ms. Black also liked the plan with the overlay. She too felt the Stobsky house was comparable to the Mack house. Ms. Black said that the applicant's argument for having

the driveway in the north was very compelling. She found the 4.5' buffer inadequate and pointed out that the Board usually requires more. In the interest of maintaining woodland in the rear, she would like to see more landscaping there.

Mr. Gregory explained that they did consider a buffer in the rear. There are some fairly large evergreen trees that provide a substantial amount of screening, and the applicants are proposing deer resistant materials to fill in the gaps at the lower levels. He believed that this could be accomplished in a 4.5' area. Mr. Gregory added that the applicants are willing to put up a fence. Ms. Black asked if the house was right up against the setback line on the other side, and whether or not it could be moved. Mr. Gregory said that it was 3" off the setback line. He pointed out that there is a row of 30-40' tall hemlocks. Chairman Michelman agreed with Ms. Black that this was very minimal.

Chairman Michelman said that the gross land coverage calculations concerned her. The applicants just barely meet the requirements, and there are some things that concern the Board. For example the pool has a very small area around it and there can be no mistakes with the construction. She advised the applicant that the Board would be watching this closely.

Mr. Gregory said that he would graphically represent on a sketch how it correlates to a worksheet. Mr. Delano said that when the final survey is done the Board would want a final "as built" so that they can ensure the coverage is accurate.

Dr. Matusow felt the Board and the applicants were moving in the right direction and that they should have started at this point initially. With respect to his position, Dr. Matusow explained that he had given the Board and the applicant a memo on this. Dr. Matusow agreed with Mr. Kaufman, Mr. Schroeder, Chairman Michelman and Ms. Black that the Board should try and increase the planting area. With respect to the buffer the Board usually requests a 10' buffer and the applicants are offering a 4.5' buffer with 30' backup for the cars. He recalled that the Board has recently stated that they would accept a 25' back up area, and he felt this Board should allow that in this situation to allow for an increase in the buffer. Dr. Matusow also agreed with Mr. Schroeder that there could be an additional area in the back for new vegetation by rotating the pool and changing the septic location. He pointed out that this Board has been concerned with maintaining the forestation in the area. As far as the size, he felt that it was considerably larger than the neighbors' homes, but if there were adequate screening, it would not be an issue.

Mr. Stobsky asked the Board for the opportunity to have Mr. Pouder show that the 5' is adequate and then work with that going forward. He did not think they would need the 10' to do a superior job of screening. He too added that he would be willing to erect a fence.

Ms. Black said that there looks to be at least 80' behind the expansion area where there could be a naturalized area. Mr. Pouder said that there was approximately 200 feet in the back of the house to the property line there. The shaded areas represent the limit of the trenches. There is some regrading that extends slightly further, which brings the disturbance area about 50' from the property line. The shaded areas are the trenches.

Dr. Matusow believed Mr. Schroeder was correct when he said that if the pool were rotated 90 degrees, the applicant would gain twenty feet. Mr. Pouder said that was correct. Mr. Stobsky agreed, but felt that the pool closer to the house would be a safety issue. Dr. Matusow said that he was not talking about moving the center of the pool, just changing the alignment; this would pickup about 20.' Mr. Stobsky felt that since there was approximately 200' from the back of the house to the property line, this would be sufficient. Dr. Matusow said the Board was trying to increase this amount because the Board has been concerned with that area of trees since the beginning.

Chairman Michelman explained that these were all considerations for the applicant to consider for the resubmission. She noted that Mr. Kaufman had pointed out that at the periphery of the septic system, there are two large trees that he hoped the applicant would save. Mrs. Stobsky explained that tree #32 is a 16" split maple. She took that off the Mack plan and no longer saw that tree on the site. Mr. Kaufman said that perhaps that was one of the trees that had been removed. Mr. Kaufman said he'd review the tree inventory. Chairman Michelman asked about tree #34. Mrs. Stobsky believed this was a larger tree. Chairman Michelman asked if it could be saved. Mr. Delano recalled that one of the trees Mr. Kaufman wanted to save would not survive due to the filling required. He did not recall which tree number it was, but did not think it would survive. The applicant said that they would look and try to save #34.

Mr. Delano pointed out that the area near the end of the proposed septic would require additional fill. The ultimate end of the regrading under the current plan is probably not as dramatic as what was presented under the Mack plan. The possibility for the 50-60' buffer is what the Board would have had under the Mack plan. He suggested the applicant increase the buffer in the rear, which would satisfy some concerns of the other members of the Board.

Chairman Michelman said that the Board would wait for the ARB and the resubmissions. Dr. Matusow reminded the applicant that the ARB is only advisory to this Board and while the ARB might like the plan, this Board is the approving authority.

ARMONK PROFESSIONAL CENTER
Amended Site Plan
Section 2, Block 11, Lot 7-1
355 Main Street
Peter Garville – Garville Constructors, LTD
Discussion of Engineers Report

Mr. Dan Hollis was present, and he introduced the applicant's new team of professionals. Ms. Debra Calisle, Dr. Bonnie Schnitta (acoustical expert), Michael Murray (professional engineer) and Peter Garville (the contractor) put together to respond to Mr. Kaufman's memo. The applicant is prepared to answer any of the Board's questions, and was requesting the application be scheduled for a public hearing as well as a referral to the ARB.

Mr. Hollis explained that the plan emanated from a contractor's decision, which was improper because there was no further review and approval by the Board. Although that

part was inappropriate, the determination of the efficiency of the capacity of the system was not. Mr. Kaufman's memo makes reference to the operational possibilities for the on-ground units, Mr. Murray would address why the applicant needed the rooftop units. The issue of aesthetics would be addressed as well. Under the code, the rooftop units may not be altered or amended unless the performance standards are complied with. Mr. Hollis recognized that Mr. Kaufman's memo talks about ambient nighttime noise, and the applicant feels that this is a vague term. The applicant feels that they could fall within the performance standards, which will bring the Board a level of comfort to approve units as installed.

Chairman Michelman explained that the Board carefully reviewed all the written material sent to them, which came to no conclusion at all. Each professional had different points of view. She said that the Board needed to hear the new team's opinion on how to address the error on a long term basis and prove to the Board that the issues that were originally put into the approval, which is still on the books, was done for real reasons.

Mr. Murray addressed the issue of why the applicant's feel the units need to be on the roof operationally. Chairman Michelman said that the Board did not need to know why they work there, just why they have to be there.

Mr. Murray, P.E. said that he designed the building originally and he knew that nothing was supposed to go on the roof. This was done because the applicant expected five tenants on the first floor and up to five on the second floor. The applicant would have five electrical and five gas meters on each floor. When the building started there were two large tenants; one on each floor. The A/C units were installed with the furnaces on the second floor, and the condensing units were put on grade level. Mr. Murray said it was unusual for buildings to be designed this way. Since it was requested not to have roof top units he designed it this way. Because the long distance and the elevation difference, he was told what size pipes would be needed and how far he could go. When the system was constructed, the three units were replaced with units from another company, and he was assured that they were similar to the prior company's (Trane) system. Once completed, they found they were experiencing problems with the second floor units. The oil was not carried properly back to the compressor, and the compressor started to burn up. The second company (York) came to the site several times, and their experts determined, after months of trying to solve the problem, was that the only way they would work was if they were moved closer to the units, which was on the roof.

Mr. Murray continued on by saying that the decision was made on the site because something had to be done. There was a suggestion that the system be changed to central chillers and chill water systems. If this would happen, then the applicant would not have the future possibility to split up the tenants. Additionally, a central chiller requires one large service, and the applicant does not have that. The house load is not big enough to handle the large required chiller. The chillers are inefficient, will use more energy and they are more noisy. A 50-ton chiller is high 80s-90s decibel level; much higher than the condenser units on the roof. Currently, the roof units meet the noise requirements at the property line.

Mr. Adelman said that if he understood correctly, the original design was faulty. This made him wonder what else was faulty; would the building collapse in a year? He said that he had never heard that a design would not work from the designer himself.

Mr. Kaufman said that was the main situation; there was a design flaw and the designing engineer essentially confirmed that the original design was doomed to fail. The Board is now faced with trying to solve this problem. Mr. Kaufman said that the Board should look at the chillers and their impacts, and compare them to those of the roof units. Mr. Adelman felt that the applicant would have cause to file a suit against one of the A/C companies.

Dr. Matusow asked why was the decision made to move from Trane to York. Mr. Murray said he was assured they would work the same. Dr. Matusow recognized this, but still wanted to know *what* prompted the change. Mr. Murray said that they always have to list at least two or three manufacturers to get the correct price from the suppliers. Dr. Matusow noted that the plan was for Trane units, which was abandoned for cheaper York units.

Dr. Matusow asked if the Trane units, designed by Trane, and attached with Trane systems would have worked. Mr. Murray said that he was told that it would, but now he has doubts. Mr. Adelman asked if Mr. Murray had experience designing this type of office system. Mr. Murray said that he'd designed many office buildings, but this system is not normally used for office buildings because they are usually able to use rooftops. He added that this was the first time in 30 years that he used a split system.

Chairman Michelman asked why this particular system was for small tenants, and what the difference was between five small tenants and two large tenants. Mr. Murray said that if there were two tenants for the building, he could limit it to two units; they designed everything for up to five units for each floor.

Ms. Black asked if the original Trane unit was designed to accommodate several separate tenants. Mr. Murray said that was correct. Mr. Hollis pointed out that when the change was made the contractor at the time did not engineer the change; there were no shop drawings and that is where the plans went further off track.

Mr. Hollis said that the objection to the roof units is more an aesthetic question - not a question of function. Chairman Michelman said that it was kind of both - if the building wasn't designed to have those units on the roof the Board does not know if the building will function. Mr. Hollis said that he would provide the Board with engineering data to demonstrate that the building can handle the units on the roof.

Mr. Hollis said that, the concerns of the Board from a planning function, aside from health safety and welfare are the aesthetics and the noise level. The code says that if he had come in *de novo*, and done properly, and a determination was made that the units on the ground didn't work and they sought permission to have the A/C units on the roof, the applicant would go through the same standards of evaluation required by 213-48. that is whether they meet the performance standards at both the daytime and the nighttime level at the boundary of the property, and the applicant can demonstrate that they do.

Dr. Matusow pointed out that Mr. Hollis proposed a hypothetical situation; if this applicant had not been able to put the units on the ground as approved, there is a very real possibility that the applicant would not have gotten approval for the building in the location he did. The building might not be fine where it is if those units had to go on the roof from the beginning.

Mr. Hollis said that if he had come before the Board originally, and they met every criteria for the construction of the building, other than an aesthetic concern for the units of the room, and they could demonstrate that units on the roof fell within the performance standards, there is a possibility it would have been approved. Chairman Michelman said that the Board was getting off track.

Dr. Schnitta, of SoundSense, explained that she had been in business since 1981 and had a PhD in signal processing and a background in math and mechanical engineering. She said her work focuses on mathematically modifying signals and noise. She is certified to take readings, and is able to simulate sound in unknown situations. She has worked for DOD, O&R, etc. She explained that she went to the site to take her reading, and she went to the boundary line first. She stood right at the fence, which separates the property and the neighbors. She climbed a hill and went through the bushes. She explained that she was forward of the trees that separate the fence and the apartments behind. She felt that it was important to be honest about what was happening at the boundary line. She said that she made sure that every single unit was on. She said that at the time, the reading was not that high and it was a very windy day. She returned to the site, later at night and also on another non-windy day. She ran two tests; with all the units were running, and when the lower units were not. When only the upper units were on, it met code. She explained that this does not mean that there would not be a disturbance at 2 a.m., when the background noise is lower. It was when the ground units were on as well that it was one db over code. Some people do not consider that as being perceivable, but it is a violation of the code. If she was brought in at the beginning and asked where to put the units, she probably would have put them on the roof. No matter where they are located, it would be a disturbance to someone. Because the property slopes up, the sound could bounce off the hillside and go forward, or channeled up the hillside toward the neighbors.

One of her specialties is designing things the way customers want it to look. She explained that she could design a barrier that brings the noise level way below background and it would be an absorber. This means that sound would not strike it and then go back out. There are other methodologies, but she thought this was a better solution. She explained that her company gives guarantees, so she knows she could solve this problem. She said she would design it the way the Board wants, and an independent person could evaluate her work.

Mr. Adelman said that he thought the sound travels further in humid weather. Dr. Schnitta agreed, and pointed out this was true when it was cold. Mr. Adelman asked if she tested during similar conditions. She said that she did, right after a rainstorm, and in the cold. Mr. Adelman said that he was not convinced that putting it on the roof would be better to prevent the sound from going to the neighbors than if they were on the ground. Dr. Schnitta said that it was like a megaphone effect. Some sound will hit and bounce

and some will get funneled straight up (depending on the wind / humidity and temp). If noise was high, and people low, it would be an easier problem to correct.

Mr. Adelman believed that the predominant winds come from the north. That would tend to direct the noise away from the neighbors. Dr. Schnitta asked him to explain which way north was in relation to the site. Mr. Adelman did so. He also noted that in front of the building is another building owned by the same owner as the offending building. It is a commercial building and there are not many people to disturb and was not convinced that it was better on the roof.

Dr. Schnitta said that she felt that in a community like Armonk, it is not fair to subject anyone to noise. The Board agreed, but felt that was the problem with this building. Dr. Schnitta does feel noise pollution is a pollution. So, when she looked at it, she knew she would be able to make it a quiet environment for everyone and feel good about it. She pointed out that if they were on the ground, they would need to apply for a variance for certain fences. Whereas, on the roof she could solve the problem, and not need any variances. In one of her simulations, she had "relocated" the roof units on the ground near the others, and it required a 12' fence. Ms. Black asked how she could make a roof screen more attractive. Dr. Schnitta said that she uses a Velcro type fabric, or green screen. Green screen is a 3d object that is stuffed with material and is suitable for growing materials. It can be used on planters or edging. All that would be seen is a beautiful trellis. Mr. Adelman asked if this interfered with the air exchange for the A/C units. Dr. Schnitta said that it would not. Ms. Black asked how the planting would be maintained. Dr. Schnitta explained that this is what the greenscreen is for.

Dr. Matusow asked if the applicant could sink the units below the ground level. Dr. Schnitta said that sometimes it is possible, but during times of heavy rainfall, problems arise. This was more of the old way of doing it. Dr. Matusow felt that it could be solved with properly engineered drainage. Dr. Schnitta disagreed.

Chairman Michelman said that she was still concerned with the people on top. Dr. Schnitta said she was too, but would submit information on the product line.

Mr. Hollis said that this has been dealt with adequately in other jurisdictions. The five units on the ground create as much noise as the 9 on the roof and they could fall well within the standards with these proposals. He said that they needed to come before Board at a public hearing to demonstrate how they could do this.

Chairman Michelman said that they were not ready for a public hearing. Mr. Kaufman said that when the Board is comfortable with the proposed solutions, then that would be the time for the public hearing.

Chairman Michelman asked if Mr. Schroeder had any comments. He said that the information was interesting, but he was not an expert in sound or HVAC however, he was concerned with the safety / structure of the building and whether it could accommodate the units on the roof. The Board agreed and wanted confirmation.

Chairman Michelman asked if the Board wanted another point of view on the sound issue. Mr. Kaufman said that it could not hurt to have an independent person verify

because none of the Board members are experts. Mr. Adelman said he would support that. Dr. Matusow pointed out that the Board did hire an independent expert to review this, whose report contains only declaratory sentences, which are very short. The expert recommended that the units on the roof be removed and a chiller be installed. Chairman Michelman pointed out that they were talking about sound. Dr. Matusow felt the Board had to deal with the fact that someone the Town hired made a recommendation. Chairman Michelman pointed out that this recommendation was challenged. Mr. Hollis said that there was also a lack of consistency. Chairman Michelman agreed that there was no positive decision on either side.

Chairman Michelman did not know whether there are options that might solve the same issues. Mr. Kaufman said that there are options. The engineer retained by the Town suggested the chillers, and the Board needs to consider this and determine whether that is preferable to keeping the units on the roof if they could be adequately mitigated. Chairman Michelman asked what the noise element of that would be versus what already exists. Ms. Black felt that a chart comparing the noise levels, and photos of what the greenscreen would look like on this roof would be helpful.

Mr. Hollis said that the applicant would be back to address the Board's concerns. He asked if the Board was going to retain an acoustical engineer. Mr. Delano did not think the Board had much of a choice. The applicant is looking for amended site plan approval, which is no small request. He thought the Board should hire its own expert. This application involves the structural integrity, acoustical issues and aesthetics. Mr. Hollis felt that the acoustical was tied to the aesthetic. He added that he wanted to make sure what the applicant was proposing for the aesthetic / acoustic mitigation was acceptable to this Board before going to the ARB. The Board understood this.

WYMAN

Preliminary Subdivision

Section 2, Block 1, Lot 7

93 Whipoorwill Road

Barry Naderman, PE – Naderman Land Planning & Engineering, P.C.

Consideration of approving preliminary subdivision resolution

Mr. Barry Naderman was present on behalf of the applicant. Mr. Naderman explained that the preliminary subdivision resolution had been pending for some time, and that it had been taken off the agenda so that the attorney could straighten out some issues with the Town attorney. Mr. Naderman believed there was a revised resolution, dealing mainly with the bonding and maintenance of the private roadway. This is not going to be a road dedicated to the Town. He believed the revised resolution was acceptable with the exception of one word: on page 9 item 6, the word "will" should be inserted. Mr. Kaufman said that it was there. Mr. Kaufman pointed out that there were two more revisions and made note of them.

Mr. Adelman moved to approve the resolution. The motion was seconded by Mr. Delano and unanimously approved.

SAMPERE

Amended Site Plan

Section 2, Block 4, Lot 1-11

55 Hammond Ridge Road

Frank Giuliano, RLA

Consideration of approving resolution

Mr. Frank Giuliano was present on behalf of the applicant. He explained that he had reviewed the resolution and had no problems with it. He noted that items 1-7 are all basically engineering comments, and the applicant has retained an engineer, and started working on those items. Chairman Michelman agreed that they were mostly engineering.

Ms. Black moved to approve the resolution. The motion was seconded by Mr. Adelman and unanimously approved.

LUPPINO

Amended Site Plan

Section 2, Block 17, Lot 5.J01

6 Hadley Road

Cami Fareri Lupino

Discussion

Cami Lupino was present for her application. She explained that since the last time before the board she met several times with many of the Town Engineers and Planners and the Conservation Board to revisit the application. Even though the pool location has basically stayed the same, this is basically a new application. Chairman Michelman said that the Board recognized this was a new plan, and it would be viewed as such.

Mr. Alan Pilch and Ms. Beth Evans were also present. Mr. Pilch explained the changes to the plans. The main difference is that there is a wetland enhancement and stormwater treatment area being proposed, primarily in the wetland buffer. It would involve some grading in the buffer, but no tree removal. The idea is that the runoff in the watercourse, (indicated water flow direction permits flow to enter treatment area, which is planted with native plantings, to provide biological treatment and stagnation to afford treatment of runoff before it continues on its course.

Additionally, they addressed some of the local drainage issues on Hadley Road. Mr. Pilch presented an aerial and indicated the Lupino lot. He explained that runoff from the street (approximately .56 acres) is conveyed to the front yard. The applicant proposes to put in a couple of catch basins at the low point to collect the runoff, and bring it through the Lupino property and discharge into the property where it would be conveyed into the treatment area.

There are mitigation areas shown on the plan as well and they have modified the erosion control plan in accordance with the new design.

Beth Evans explained that they were looking to mitigate on a more regional and less site-specific basis. She said that they heard the Planning and Conservation Board's concerns about putting the pool in the buffer. There are not many alternatives however, they tried to develop something to improve existing and future conditions. There is currently flooding that occurs at the low point on Hadley Road. They had the idea to pick up the drainage in deep sub-catch basins, which could be cleaned by the Highway Department, and convey runoff through the property and discharge it to the stream. This would be treated before it goes to wetland. The applicant is hopeful that both Boards would view this as a net gain.

Chairman Michelman asked if the improvement would impact the flow or anything from the pool, or if it would improve the property itself. Ms. Evans said that it would accommodate the runoff from the house and the pool. It is comprehensive in its mitigation.

Mr. Kaufman explained that he tried to work with the applicant to find a solution to an existing problem. He felt this was a good compromise in that the applicant will be able to get the pool installed and improvement to the site. This may be acceptable to the Board. If this was an undisturbed land, and asking to go above the basic amount of land coverage and install this within 20' of a water course, the Board would probably not approve this. However this is a good compromise.

Chairman Michelman explained that one of the first things that needed to be done was to present this new plan to the Conservation Board. She said the Planning Board could not rely on previous recommendations. Ms. Evans agreed and said that this would be submitted at the January meeting. Chairman Michelman said that this Board would make the referral.

Chairman Michelman advised the applicant that a letter from Dr. Matusow would be in the minutes. She explained that a copy would be provided, but would not be read into the record.

Mr. Kaufman asked if there was a general consensus that the Board wanted to explore this plan. There was. Ms. Black said that she would like to see the Conservation Board's comments.

CHEN
Site Plan
19 Denim Place
Section 6, Block 5, Lot 15 A
Julian Chen, PE
Discussion

Mr. Chen was present for the application. He presented a 3d model to the Board and thanked Mr. Kaufman for his helpful discussion. It clarified many points for him.

Mr. Chen explained that at the last meeting, there was a question regarding the building height calculations. The average elevation of the grading is 134.2' which is 6.7' higher

than the elevation of the basement. Mr. Kaufman explained this was what the Board uses for the height calculations. Mr. Chen said that you calculate the total height from a certain point and up 10' for the basement, 10' for the first floor, 9' for second floor and 5' for the attic. They add up to 34' so it is still within the limit of 38'.

Mr. Kaufman agreed, but pointed out that the Board was talking about two different things. He explained that building height is calculated by the average grade, which Mr. Chen calculated, to the mid-point of the roof. The other calculation is the maximum exterior wall height. There you take absolute lowest grade to the mid-point of the roof. Mr. Kaufman said that the plans submitted show 40', and he was not sure where this comes from. Mr. Chen said that it is 34' and he calculated carefully. Mr. Kaufman said that he just needed to change it on the plan. Mr. Kaufman said that Mr. Chen had to make sure the zoning summary reflected the information they went over. Mr. Chen said that most of the basement is underground.

Mr. Chen added that because there are two lots, he made the application to the assessor's office. He presented a letter from assessor's office to combine the lots. Mr. Kaufman agreed that this was not an issue any more. However, he did need to deed restrict the lot so that it could not be further subdivided. Mr. Chen said that this has already been recorded in the county clerk's office.

Mr. Chen told the Board that the ARB has approved the plan. Mr. Kaufman said that the only issue left for the Board is the construction sequencing. Chairman Michelman added that they were still missing the letter from the fire department. Mr. Chen submitted a letter to the Board. In response to the question about the construction-sequencing plan, Mr. Chen presented a large, color-coded plan. He explained that for the most part, he would not need anything other than the lot itself. However, during the time when they are having the modular units brought in, they would need to use the street. Mr. Chen said that he had spoken to the neighbor who has agreed to let him use the street for one full day. The neighbor was present, and she agreed she would.

Mr. Kaufman said that Mr. Chen still had to provide sequencing regarding the preparation of the site itself. He needed to demonstrate that the neighbors would have access to their property and where the workers would park. Mr. Chen said one portion of the property is vacant, so they could park there. Mr. Kaufman said that was acceptable, but Mr. Chen still needed to demonstrate it and submit it to the Board in writing. Mr. Chen said he'd ask the modular company to do this. Mr. Kaufman said the engineer could be helpful too.

Chairman Michelman said that these were the two remaining issues: the construction sequencing plan and the letter from the fire department. Chairman Michelman said that the Board has sent a second request for the letter, but has not yet received it. She said that the Board would like to have it by January. If the applicant could get the sequencing plan on file, then this could be scheduled for the January 7th or 28th. Ms. Desimone said that if the applicant could get his material by the 17th, he could be scheduled.

Mr. Chen said there was another issue of the drywell raised by Mr. Schroeder. It was left over from the old plan. He believed this was a simple problem; there must be records. Mr. Schroeder said that they have not done any test holes there. Mr. Chen said that a

mini-excavator would be on the site in a few days to dig holes. The report would be done shortly.

NEW BUSINESS:

POLVARA

Site Plan

Section 1, Block 9, Lot 20-2-12

40 Green Valley Road

Joseph Trivelli

Discussion

Mr. Joe Trivelli present on behalf of the applicant. He explained that they were looking to modify the existing home, add a pool and a patio and to relocate and modify the existing driveway.

The home is a two-story contemporary structure, and the applicant wants to do an addition on either end. He indicated the locations of the additions. One of the additions would cantilever over the surrounding grade. The third floor would be living space with a patio underneath. The proposed deck and pool would be there as well. They would relocate the existing driveway by pulling it out of wetland area and buffer, and reconstructing it on the south side. The existing house has three bedrooms and the applicant is proposing to add a fourth. He explained that he just made an application to the Health Department and they have done the testing for the septic. Mr. Trivelli said that he would submit that information.

Mr. Trivelli explained that they were proposing mitigation efforts as well. The two additions to the house have a combined total of 1,700 sq. ft. of impervious area in the buffer. The existing driveway they are proposing to remove totals almost 4,200 sq. ft. would be replaced with native plantings. Additionally, the applicant was proposing to stabilize / enhance a portion of the stream and the owner would agree to a no mow zone.

There were concerns about building the driveway as proposed. They wanted to do it so that it could be removed from the buffer and wetland area. Mr. Trivelli said that the adjoining property has a driveway in a similar location. This house sits higher than the neighbor's. Rough grading was done and this would require significant cuts, anywhere from 2' at the road, up to 9' closer to the house. This would result in a significant ravine to get the driveway there. Additionally, some of the disturbance would be within the wetland limits.

Chairman Michelman said that issue was the major issue at the site walk. She noticed that the applicant had not mentioned the disturbance that the new driveway would create, and the number of trees that would have to be removed. She believed that it would be approximately 40 trees. Mr. Trivelli said that for the driveway itself it was approximately 20 trees. Chairman Michelman pointed out that there were a couple of significant trees as well. Mr. Trivelli explained that to modify the existing drive they would still have a number of trees removed.

Chairman Michelman questioned the necessity for the greater disturbance and additional impervious surface. Mr. Kaufman said that an addition does not require a nonconforming driveway to be modified to meet Town Codes.

Mr. Trivelli said that the owner is not happy with the existing driveway as he has trouble getting up the driveway in bad weather. The owner would like to modify the driveway in some way. Additionally, the existing drive would need to be modified anyway because of the proposed septic system. The turning radius was awkward; it is only about 10'. They do not have latitude to do something with the existing driveway because of the existing septic.

Mr. Kaufman stated that this is a difficult site. There is no requirement there be two indoor parking spaces so the Board should consider outdoor parking. There is an existing house and driveway, so the Board needs to determine how can the Board accommodate some additions without impacting the site too much; or whether the Board should stick with the original site approvals. The issue with the driveway, garage and septic are all connected, and this site might only be appropriate for three bedrooms.

Ms. Black noticed that the proposed pool location has rock outcrops nearby. Mr. Trivelli said that they would like to have a pool there in a free form pool with nontraditional patios. They want to do something that works with the grade and incorporates the surrounding pool; the applicant is open to suggestions in that regard.

Mr. Trivelli said that most people would want a garage; to tell someone they cannot have one is a stretch. That is why the applicant is trying to offer as much as possible in terms of mitigation. Mr. Trivelli said he hoped the Board would consider the mitigation proposals as favorable. He added that the applicant would consider shifting the driveway to mitigate further.

Ms. Black suggested the applicant look at the driveway location to see if they could mitigate the impact on the trees. Mr. Kaufman said that if there was an opportunity for screening between the two properties this would be beneficial. Mr. Kaufman added that the Board should consider both alternatives. Traditionally, with what the applicant is proposing, is what the Board would recommend.

Mr. Polvara said that his intent is to keep this as natural as possible. He agreed with the screening between the two properties and said he would like to add some more. However, some neighbors have said that he could take some out if needed.

With respect to the critical environmental area, the applicant has contacted the county and he did not understand why this property would fall within that area. Mr. Kaufman said that he would show the applicant on the map.

Chairman Michelman suggested Mr. Trivelli meet with Mr. Kaufman and Mr. Schroeder to develop a revised plan and then come back to the Board. She pointed out that all of this is contingent upon Health Department approval.

MADONNA

Concept Plan – Subdivision

130 Old Mount Kisco Road

Section 2, Block 2, Lot 9.A

Joe Riina, P.E.

Discussion

Mr. Trivelli was present on behalf of the applicant. He explained that the site was 3.25 acres with an existing house. The applicant wants to subdivide the property and create two lots. The plan was to remove the existing house. In doing so, they would propose a private road to access the site with a common drive to serve both lots. The site is encumbered quite a bit by steep slopes. The applicant has considered the calculations to determine the net lot areas.

Mr. Trivelli said that a couple of retaining walls would be needed. The applicant is open to modifications and recommendations, but Mr. Trivelli believed this has achieved a balance of where to put the road to minimize steep slope disturbance. He indicated the proposed driveway location. There is quite a bit of ledge as well as an existing path. This seemed to be a logical choice for the driveway, and seemed to work with the grade.

Mr. Trivelli said that he had a preliminary meeting with the Engineer and Planner to discuss the private road. He believed that a traditional cul-de-sac could work, but that the disturbance would be somewhat substantial. Therefore, the applicant is proposing a hammerhead. The site would be served by wells, and they propose to extend sewer system. The owner would like pools on both lots, but they are not shown on the current plans.

Chairman Michelman noted that the first lot was reasonably accessible and was a nice piece of property. The other lot was more difficult. The plan is to knock down the original house, but she wondered if the applicant ever thought about using the original house and the better portion of the site as the two lot subdivision. Mr. Trivelli said that the current house sits right within the hammerhead. Mr. Kaufman pointed out that they could eliminate the private road because each would have frontage on Old Mount Kisco Road. They could use the existing frontage, and just propose a driveway to access the existing house and proposed lot. If that was to happen, the applicant has to figure out how to get to the new lot; either they have to pass in front, or get permission from a neighbor. He asked if this was an option. Mr. Trivelli said that the grades do not support that. Mr. Kaufman asked if the access easement be expanded. Mr. Trivelli said that that option would require a driveway to go through someone's back yard.

Ms. Black asked if there was any other way to get to the back of the property rather than going right along Mt. Kisco Road. Mr. Trivelli said that it is very steep in that area; to come in off Old Mt. Kisco Road with a second driveway would not work. Nor would it be desirable to leave the house and have a driveway come in the front.

Mr. Delano asked if the applicant has considered clustering this subdivision. He had not. Mr. Adelman pointed out that this could save a lot of money. Mr. Delano said that the cluster subdivision would permit the houses to be on the lower part of the property. Mr. Kaufman felt that the cluster subdivision was a good suggestion.

Ms. Black said that the Board felt one of the main difficulties was reaching the rear of the lot. Mr. Trivelli agreed, but felt that the houses above are so high up they would not be severely visually impacted. He added that the neighbors would probably like this because they were offering a public sewer connection. The Board agreed this was a plus.

Mr. Adelman wanted the applicant to consider clustering this subdivision. This would avoid a huge expense of constructing the road, and everything that goes along with it.

Mr. Trivelli asked if it would benefit the applicant to poll the neighbors to see if they were in favor of the current plan. Mr. Kaufman said that it couldn't hurt, but at this concept stage the applicant should consider the cluster and mitigations. He thought that it was safe to say that the Board would not find a 6' wall acceptable. The cluster subdivision is an option to consider, and the Board could determine which is a better option.

Dr. Matusow felt that if the applicant was set on this plan, he should start to present some type of landscaping plan. Dr. Matusow believed that the applicant could probably get this plan approved, and he did not think that this was necessarily a bad application, however that would be a significant concern and would require a significant amount of work on the applicant's part. Dr. Matusow agreed that a cluster subdivision should be considered.

Mr. Trivelli said that a section of the road could be lowered to lessen the height of the wall, but then they would have to cut into the hillside more. Dr. Matusow agreed; this is a difficult site.

CHENG

Site Plan

19 Denim Place

Section 6, Block 5, Lot 15A

Julian Cehn, P.E.

Discussion

Mr. Jim Vanoli presented a drawing of the pond to the Board. He explained that the applicant was planning to restore the pond to its pre-silted condition and to make certain other modifications so that cleaning it in the future would not entail a disturbance of the entire pond. That would be in the form of four bays. He described the lay of the land and how it feeds to the Kensico Reservoir. There is Town storm drainage on the site.

Mr. Vanoli indicated the Chen property and the stream on the site. The reservoir is NYC property (watershed), and he indicated the area that has been silted. Mr. Cheng provided several photos. One photo from 1999 shows the presilted condition, and the others show the pond after heavy storm events.

The idea is to provide an area where the velocities would be less than 2' per second, which allows the sediment to filter out. There are two footbridges. The applicant would like to bring in a bubble, so with the peninsula, the water would be directed in one

direction and the silt would be directed in another and ultimately out. There would be an anti-tracking pad from the end of Mr. Cheng's driveway. There would be a temporary soil stockpile. Prior to the excavation of the four-bay, they would need an anti-tracking pad to clean and stockpile the silt. They would let it dry and remove it from the site. To do that, the applicant provided some sandbags and a temporary pipe to allow the area to be worked upon.

Mr. Vanoli explained that if they would need to pump there is an area into which it could be pumped. He indicated the area. The house is served by public water. Mr. Vanoli indicated the service line and water valve.

Dr. Matusow asked what Mr. Vanoli meant by "bubble." Mr. Vanoli indicated the area on the plan and explained that it would allow the silt would be removed once it builds up without the need to disturb the entire pond again. Mr. Vanoli explained a rubber tire hoe could access the area to avoid heavy construction vehicles.

Mr. Chen believed that a "mini cleaning" would need to be done every two or three years, and he would like permission to do that without having to keep coming to the Board for permission. Mr. Chen pointed out that the problem comes from upstream – not his property. Between 2001 and 2004 all the development upstream caused this problem. He said he had a letter from Conservation Board to support that. Chairman Michelman said that the Board understood that this would need to be maintained.

Mr. Vanoli added that Mr. Fava had requested a planting plan, and that Steve Coleman had prepared one.

Chairman Michelman said that there was no need to go through each issue because the Board recognized the need. She asked if the Board needed to refer this application since the Conservation Board is aware of the situation. Mr. Kaufman said that he would send a formal referral.

Dr. Matusow asked where the DEP stood on this project. Mr. Kaufman asked the applicant to determine this. Mr. Vanoli said that he met with Peggy O'Connor and Doug Schroeder. He said he wanted to submit to the city again now that Ms. O'Connor is gone. There was also a question about lead agency and which comes first. Mr. Vanoli would be prepared to do whatever needed to be done. Dr. Matusow said he would hate to see the applicant have to go through all these environmental processes in the future. Mr. Vanoli agreed. He suggested a maintenance schedule be developed for the permits.

Mr. Adelman asked how they would truck all the silt out. Mr. Vanoli explained there are methods.

Mr. Vanoli asked when the plans would be needed. Mr. Kaufman said that they would and suggested they send the full set right away. Mr. Vanoli pointed out that the DEP would receive the plans without an application. Mr. Kaufman agreed. Mr. Delano pointed out that the DEP does not do much until the lead agency issues a neg dec.

Mr. Kaufman said that when the Board declares intent, they send the documents to the interested parties. Mr. Vanoli said that once that gets going, he would call them.

Mr. Vanoli explained that approximately 1,300 yards would be removed from just the Cheng property.

LOWENSTEIN, SMOKA, CELAJ

Major Wetland Permit – Restoration of Pond

6 Deer Trail – Section 2, Block 1C, Lot 2-5

2 Deer Trail – Section 2, Bloc 1 C, Lot 2-4

17 Whippoorwill Crossing – Section 2, Block 1C, Lot 2-3

Jim Vanoli, P.E.

Discussion

Mr. Vanoli explained that this was a joint application to remove the silt from the bottom 3/4 of the pond. He indicated the three residences. It does not have a natural stream feeding it; it is fed by the storm drain and runoff. This will utilize the same basic approach. They would like to block off and bypass the area. Mr. Vanoli advised that that he did not check the slopes; this is something that would be handled in the field.

The idea was to create a four-bay, but with a slightly different configuration. This would be below the surface either with wire mesh or with stone. The top of the honeycomb would be 1' below the water surface. In the center there is a spillway for high water flow. It creates a broad crested weir over the length of the stone structure. It is proposed to be 10' wide which would allow a rubber-tired hoe to come in and clean out the four-bay and, if needed, also clean out the down side. There would be two 24" pipes and hay bales.

Mr. Vanoli indicated the proposed locations of antitracking pads, dewatering piles and said that he would locate all septic systems on the plans so that they are not disturbed.

He explained that he had not spoken to the contractor yet, that he was just basing all this on experience. He said that he could not go to a contractor for bids until he has reasonably complete plans.

Mr. Vanoli indicated the buffer and explained that there are plantings along the pond. It is not a 10' wide buffer. The property owners do not wish to enhance that planting area, want to keep it as is. Mr. Vanoli pointed out that if the applicants were not undertaking this project, the plantings would remain as is. The applicants feel it is appropriate form for them to request that the planting area remain in current condition.

Mr. Vanoli indicated a cross-section of a wall and explained the location of the water level and the structure. He indicated the notched section. This will create a dam so that the water moves slowly behind it. Approximately 1,400 cubic yards of fill would be removed.

Mr. Vanoli recognized that Mr. Schroeder's memo indicated there may be an error in the calculations. Mr. Vanoli explained that he did those calculations, although there may be an error. He explained that he addressed the method of construction to the best of his ability.

Mr. Adelman moved to declare intent to be lead agency. The motion was seconded by Mr. Delano and unanimously approved.

Mr. Kaufman would refer the application to the Conservation Board.

**ROLLING HILLS MEMO
Referral to Town Board**

Mr. Schroeder explained that this was for the performance bond for lots 1,2,3 for the construction of a common driveway, drainage improvements and the fire tank. He explained that these three lots are being built by one contractor and another contractor is building the other two lots so he had them separated.

Mr. Adelman moved to positively refer this to the Town Board. The motion was seconded by Ms. Black and unanimously approved.

The meeting was adjourned at 10:02 p.m.
