

PUBLIC HEARING:

SHELL GAS STATION

Site Plan

375 Main Street

Section 2, Block 11, Lot 6-6

Consideration of approving site plan resolution

Walter Gorman, PE

Ms. Desimone read the public notice for the record. She noted that thirty-five out of forty-six cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. Mr. Goldman of 12 Agnew Farm Road was present.

Mr. Douglas Mandart was present on behalf of the applicant. He explained that the applicant was seeking approval for a 280-gallon above ground oil tank in order to replace an underground tank that had been leaking. The applicant also requires a wetlands permit because the work area was within 100' of a town-regulated stream. He said that Evans Associates inspected the area and determined there would be no impact to the wetlands. Mr. Mandart said that the tank would be a standard size tank and placed on 3" concrete pads.

Mr. Mandart presented the plans to the Board and the neighbor. He indicated the locations of the main building, the location of the tank and the town-regulated stream. He explained that the stream is protected by a fence and a grass area.

Dr. Matusow asked if the plans depicted the demarcation of town-regulated wetland buffer. Mr. Mandart indicated a circle representing 100' from the work area. Dr. Matusow said that was not normally how it was done. There was some discussion about the wetland buffer line, and Dr. Matusow said he would like it to be more specific. He said there was a possibility the Board would like the tank moved to keep it away from the water and sewer lines. Mr. Mandart said he would amend the plans to show the buffer line.

Mr. Goldman asked if there was a reason why the tank had to be aboveground as opposed to underground. Mr. Mandart explained that aboveground tanks were more environmentally friendly; they could check the tanks for leaks more easily. Chairman Michelman pointed out that it was a preference of New York State. Mr. Goldman asked if there would be any screening of the tank. Mr. Mandart said that it was possible, but the location would not be visible. Chairman Michelman agreed and pointed out that the

location of the tank was in the back of the station and couldn't be seen from the front or either side. Chairman Michelman added that they had walked the site and considered a possible alternative location, and there didn't seem to be another area as shielded as the currently proposed location. Dr. Matusow didn't necessarily agree with that statement.

Mr. Delano asked if there was a previously approved site plan on file and Mr. Kaufman said there was not. Mr. Delano pointed out that this plan would then become the official site plan if it were approved. Mr. Kaufman agreed. Mr. Delano said that he might have some issues with that. The resolution is worded in a way that concerns him. He asked if there was a way to give the applicant the wetlands permit without approving this plan as the official site plan. He pointed out that this property had been before the board for a different application several years ago, but that applicant opted to withdraw the application rather than correct the problems on the site. Mr. Kaufman understood the issue, but said that as far as he knew, there were no current violations on the site; therefore, whatever was there was essentially an existing non-conforming. He supposed the site plan could be limited to just the change for the oil tank.

Dr. Matusow pointed out that the conservation board reported back to the board that they found the fences around the property do not conform to the property line. He said that was an issue for this board to consider if they were going to approve a site plan. He thought it was important to address this issue.

Mr. Delano pointed out that the map itself was of questionable quality. It was compiled from several different sources. Additionally, the resolution talked about obtaining a license agreement. He also noted that the plan shows the site is on public water supply, but it also shows the continued existence of a well in the backyard. He wanted to know if the well was still there, and whether it was still viable and if so, why; this could be a violation of the public water supply regulations.

Chairman Michelman said that Mr. Delano's points were well taken, however the question the board needed to answer was the replacement to provide heat to this building. Mr. Kaufman suggested they ask the Town Attorney. Ms. Black agreed that if the board could hurry this along it would be beneficial to the applicant because the cold weather was upon us, and the applicant needed heat. Mr. Baroni said that it has always a problem with this site that the applicant comes to the board with piecemeal applications. He said that the board has never had the opportunity to get this site up to date with the other gas stations in town. Chairman Michelman said she recognized this, but wanted to know if there was anything that could be done immediately because the old oil tank had been removed and the new oil tank is inoperative and there was no heat.

Mr. Baroni asked if there was some way to give them some sort of temporary approval to allow them to put the tank in, but still require them to come back to the board for site plan approval. Chairman Michelman said that would be fine with the board. He suggested a site plan approval that requires them to continue processing an application for the approval of a complete site plan.

Dr. Matusow asked the components of the building that would require heating through the winter. Mr. Mandart said there was an office, a small convenience store and a three-bay garage. Dr. Matusow said that it didn't seem to him that this was in order for planning board approval. He didn't see why the areas couldn't be heated with portable heaters to get through the winter. He said these were viable alternatives, even though they might not be the applicant's most favored alternatives. He pointed out that this might give the applicant the motivation to resolve the outstanding issues and properly proceed with site plan approval. Mr. Mandart agreed that there were alternatives, but the main issue was heat for the garage. He said that it is very difficult to heat that space during the winter without a substantial heating system due to cars coming in and out frequently. The electric heaters would be very expensive, and they were not permitted to have any kind of gas heaters around fuel storage areas.

Ms. Black asked if it was possible for the board to approve only the location of the oil tank and require the applicant to come back. Mr. Baroni said that if the board put a lever on it that requires the applicant to come back within a certain number of months, or else the approval on the oil tank would expire, that could be a possibility.

Mr. Mandart said this would present a problem for his client because the applicant, Shell, is not the owner of the property, and the owner of the property was not interested in doing all of this work at this time. Dr. Matusow said that was the applicant's problem and not the board's; it was something the applicant needed to work out.

Mr. Delano thought that if the tenant loses the approval to occupy the site, there might be something in the contract that would allow them to have some remedy. Mr. Mandart said that Shell was looking to get out of the retail business anyway.

Mr. Baroni said that the board should give the applicant the opportunity to work out these issues. Mr. Kaufman said that the board should give the applicant an idea of what the board was looking for in terms of site plan approval. He said that his memos focused only on the tank; he didn't make comments about the sidewalk or curb cuts, or anything relating to the physical design of the site.

Mr. Delano said that they would need an actual survey and topography, and then sit down with Mr. Kaufman to bring the site up to date. The board and Mr. Kaufman all agreed that they would like to see this site improve. Mr. Kaufman asked if the board wanted to tie the tank approval to overall site plan approval. The board said that they would.

Dr. Matusow repeated that he wanted the issues of the wetland buffer and the fence resolved. He thought there might be an opportunity to move the tank out of the buffer. Mr. Delano thought the key was to get the applicant to come back to the board within 6 months with an accurate plan and an application. Dr. Matusow thought that this was the best time to get the site up to date because the applicant was before the board for an approval.

Dr. Matusow added that Mr. Coyne had suggested in an earlier meeting that if the tank would be located where it is currently proposed if it should be protected by bollards of some kind. The applicant had said that wasn't necessary because there would not be any vehicular traffic there, but Dr. Matusow thinks that there should be some kind of protection there because there was some vehicular traffic there. Mr. Mandart said that if there was traffic in that area, he agreed there should be something to protect the tank.

Dr. Matusow said that he would not approve the resolution as is. He would like the applicant to make the changes he suggested. He also did not think the board had the information the board normally required to approve a site plan.

The board agreed that they should work on only approving the tank and making sure the approval requires them to come back for overall site plan approval. Dr. Matusow said that he wanted to make sure whatever approval the board gave the applicant for the tank would ensure that they return, because the tank was the only leverage the board had.

Ms. Black pointed out that the tank was operating currently, and the only thing a temporary approval would do would be to allow the applicant to place the concrete pads underneath. Dr. Matusow agreed and pointed out that this was something that the applicant or the owner simply went ahead and installed without permission from the board. He thought the reason for that was because they were aware of the problems they would face. He agreed that the board should try and find a way that would enable them to operate through the winter and then require them to come back, or the building department could pursue them for violations. Ms. Black asked how the board could do this.

Mr. Baroni said that the board could condition to the approval and grant a limited approval for the installation of the tank that would expire in several months time unless the applicant returned to the planning board with an application for a full site plan approval and they diligently process that application to conclusion. Mr. Kaufman wanted to know what would happen if the applicant didn't come back for the site plan approval. Mr. Baroni said that if they didn't come back to the board, the condition wouldn't be satisfied and the approval would expire, and they'd be in violation and issued a summons.

Mr. Kaufman asked if the board wanted to see a revised resolution before they voted. The board said they would and they would like to have Mr. Baroni review it as well. Mr. Delano asked if this was going to be a site plan approval. Mr. Kaufman said that he would term it a limited site plan approval. Mr. Delano wanted to ensure that the resolution contained the requisite language from §213-35.

Chairman Michelman asked if the board should keep the public hearing open, and Mr. Kaufman recommended they did. She asked if any neighbors wanted to speak. None did.

Dr. Matusow moved to adjourn the public hearing. The motion was seconded by Mr. Delano and unanimously approved.

RABIL

Special Use Permit

17 Meadow Hill Place

Section 2, Block 2, Lot 3.D-1

Arnold Wile, Architect

Consideration of approving special use permit resolution

Ms. Desimone read the public notice for the record. She noted that six out of seven cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present. Mr. Walter Derrish of 3 Carolyn Place was present.

Mr. Arnold Wile and Mr. John Egner were present on behalf of the applicant. Mr. Wile presented the plan to the neighbors. He explained that the applicant was proposing a second floor addition of a bedroom and also some construction under an existing roof. The neighbors were invited to view the plans. The second floor would be added above the existing floor; they would not be increasing the footprint.

Mr. Derrish said that he was not so concerned with the addition, but rather the lighting on the outbuildings and around the house and the noise from the pool. Chairman Michelman asked if he was referring to the holiday lights or permanent lights. Mr. Derrish said they were permanent lights. The Board said that they went out to the site during the day, so they didn't notice any problem. Chairman Michelman asked if these lights interfered with any neighboring properties. Mr. Derrish said that they did. The Board asked if there would be any lights on the new roof, and Mr. Wile said there would be no exterior lights associated with this renovation. Mr. Baroni asked why the additional structures were not on the plan. Mr. Kaufman explained that was because they were playhouses and less than 64 sq. ft.

Dr. Matusow wanted to know if the site had the necessary variances because the lot was less than 2 acres in a 2-acre zone. Mr. Kaufman said that this was an existing building lot, and the house is there. Dr. Matusow said that just because the house was there doesn't mean that the house should have been approved there. How does the board know that this is an existing building lot. Mr. Kaufman said that because the house is there. Dr. Matusow didn't think the board should be approving something on a lot that should require a variance. Mr. Baroni said that the history of the site should be reflected in the resolution as a whereas clause.

Chairman Michelman asked the board how they wanted to deal with the lighting issue. Dr. Matusow thought that although the neighbor had a complaint, he didn't think it was a planning board issue. Chairman Michelman said that it could be, because the board was approving a site plan, and this was part of the site. She didn't see why this would be any different than the prior applicant. Dr. Matusow said that it was because this applicant didn't have any violation; the light was an annoyance. The other site was possibly in violation and in fact, didn't even have a valid site plan.

Mr. Sauro said he did not believe that this aggravated the light problem so he was ok with moving forward as is. Ms. Black asked who was responsible for addressing concerns about lighting. Mr. Kaufman said that if it relates to the welfare of the neighborhood, it falls under the site plan review. Someone asked if there was a separate ordinance relating to lighting. The board said there was not. Mr. Delano thought that someone wanting to install lighting would need a building permit relating to electrical. Mr. Delano asked what the building department was guided by when granting that permit. Dr. Matusow said that this was an interesting discussion, but it had no bearing on this particular application because this applicant was not proposing any lighting.

Chairman Michelman asked Mr. Coyne if he had any issues. Mr. Coyne said that his only concern was the health department's confirmation that the applicant was not increasing the bedroom count, which has been received.

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

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

GANN

Site Plan, Special Use, Tree Removal, Wetlands Permit

18 Jackson Road

Section 1, Block 5, Lot 13.C

Pete Gregory, PE Keane Coppelman Engineers, PC

Consideration of approving special use permit resolution

Ms. Desimone read the public notice for the record. She noted that seventeen out of twenty-four cards were returned and that two envelopes had been returned. She also noted that all paperwork was in order. Chairman Michelman asked if there were any neighbors present. Mr. Neil Goldman of 22 Jackson Road and Mr. Larry Nokes of 19 Jackson Road were present.

Mr. Peter Gregory was present for the application along with the applicant himself. The Applicant is seeking approval to tear down an existing one-story dwelling and construct a new five-bedroom home. The property is approximately 2.858 acres, in the R2A district. There is a wetland area, which extends along the front portion of the property and the house is located in between two existing residences on the east and west.

Mr. Gregory said that the majority of the construction would take place outside of the regulated area, with the exception of repair / maintenance work over the existing driveway. A new driveway will be constructed and go up the left side of the property leading to a garage. There will also be a pool, a cabana and a terrace.

The applicant has received approval from the county health department for a new septic system on the southwestern portion of the property. There will also be a new well drilled in the rear of the property. There is a stormwater infiltration system that has been designed to accommodate the runoff from the new dwelling, the driveway and the pool area. Additionally, it will be capable of handling the draw down for the pool. The existing well and septic will be abandoned in accordance with the law.

Mr. Gregory explained that the gross land coverage does exceed the basic permitted, so they require a special permit. He said that the floor area ration is less than the basic, so he didn't believe that a permit was needed for that.

He noted that a professional landscaping plan has been prepared. It addresses screening on the northeast side of the house between the proposed disturbance and the residence. There is landscaping proposed around the foundation and in the rear of the house.

Dr. Matusow asked about the utilities. Mr. Gregory said that currently, the utilities are overhead from Round House Road. They had considered bringing it underground from the pole on Jackson Road to the house. They were awaiting a response from ConEd.

Chairman Michelman asked if the applicant had been to the ARB, and Mr. Gregory said they had, and that they had received approval with the condition of adding more trees near the cabana. He said that he submitted a revised planting plan, but had not heard back from the ARB.

Chairman Michelman asked if the neighbors had any questions. Mr. Goldman asked the applicant to indicate his house and the landscaping nearby. Mr. Gregory did so. There was some discussion about this plan.

Someone asked the dimension of the pool house and Mr. Gregory said it was approximately 15x20 and would not be any heating. It has a bathroom and a storage room.

Someone noted that the driveway is in poor condition that has been patched over and he was not sure that it would accommodate the construction traffic without some substantial improvements. The applicant explained that for the construction work, they would install a gravel pad. They would repair the bottom first, and then they plan to repair the entire driveway. Someone asked if the driveway would be expanded and the board said it would not.

There were no issues from Mr. Kaufman. Dr. Matusow moved to close the public hearing. The motion was seconded by Ms. Black and unanimously approved.

Dr. Matusow moved to approve the resolution as amended. The motion was seconded by Ms. Black and unanimously approved.

MILLER

Special Use

Section 1, Block 11, Lot 11 – 9

7 Ashfields Lane

Barry Naderman, PE Naderman Land Planning & Engineering

Consideration of approving special use permit resolution

Ms. Desimone read the public notice for the record. She noted that nine out of ten cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present. There were none.

Mr. Barry Naderman was present for the application. The board said that it was not necessary for him to give a presentation since no neighbors were present. Chairman Michelman asked if Mr. Coyne had any issues. Mr. Coyne said there were none, but the applicant needed to forward the health department approval. Mr. Kaufman had no issues.

Chairman Michelman asked if Mr. Naderman had read the resolution. He said that he had, and had no issues.

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

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

PRISCO

Special Use Permit

Section 2, Block 5, Lot 14-15

9 Quaker Meeting House Road

Rob Sherwood, RLA Robert Sherwood Landscape Architect LLC

Consideration of approving special use permit resolution

Ms. Desimone read the public notice for the record. She noted that ten out of twelve cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present. Mr. Jeff Liebman of 10 Quaker Meeting House Road was present. He said that he had previously submitted a letter to the board. The board acknowledged receipt. Mr. Kaufman explained that they had received confirmation from the town wetlands consultant that there were no town regulated wetlands or buffers on

the subject property and that the area where the problem is occurring is seasonal and as a result of the topography.

Mr. Liebman said that he was surprised at that conclusion given the way the code reads about vernal pools. This is an annual event and is several thousand square feet at its peak, that lasts for weeks. He said that this has been expanding, and at its maximum, it is within 40' of his property line. He said that one problem has been the unapproved, wonton destruction of habitat. He thought that this was the cause of the problem.

Mr. Leibman said he didn't exactly know where the pool was going to be, but with a pool and decking in what he believed to be a "nondisturbed zone" of a wetland he was concerned. He wanted to know if there would be a replacement of permeable soil because without it, the ponding will increase and cause it to shift closer to his property. Chairman Michelman stated that this had been a concern of the board as well, and that was why they sent their wetlands consultant back to the site to look at it.

Mr. Robert Sherwood was present on behalf of the applicant. He explained that the applicant's consultant also went back to review the site and do a wetland delineation, and no wetlands were found. He said that there is a depression in the rear yard. He indicated that location, as well as the original clearing and grading limit line and the pool. He said that they were not changing the hydrology in the rear; there would only be very minor grading.

The board asked Mr. Liebman where the ponding was occurring, and he indicated. He said again that he didn't understand why this was not considered a wetland, especially since he claimed it was designated a wetland on the original survey. Mr. Kaufman explained that the best explanation would be the letter from the town's wetland consultant.

Mr. Delano asked the applicant's consultant if the plan had an Army Corps designated wetland. Someone said that it was left on there from the original subdivision. He said "we all bought subject to this." Mr. Delano said he was not inclined to disagree with Mr. Liebman, because the pictures look severe and there is an Army corps wetland in this area according to their website. He did not know if the Army Corps definition differed from the town's. He said he was not entirely satisfied with what came in from Beth Evans or the town's consultant. Mr. Kaufman said the board should rely on their own expert. Mr. Delano thought maybe they should have another consultant go and view the site.

Dr. Matusow said that the definitions of wetlands and vernal pools are very specific and they do differ from town to town, but this area is very flat except for that depression. He wouldn't call this a wetland problem, but a water problem. He recommended that the board use their own heads and engineer to consider what the water impact would be on the property. If they find out that the construction would not impact it, then the board approves the pool. If the board finds the other way, then it is up to the applicant to demonstrate how they can mitigate that impact.

Ms. Black said that she wanted to hear from the Town Engineer whether the pool would make the situation better or worse or keep it the same. She noted that the applicant was talking about renaturalizing the conservation easement, and she wanted to know how that would impact the wet area. Mr. Sherwood said that the area would not be lawn. As for the drainage issue, this is a very flat site and they would have a series of drywells. They will be renaturalizing the area.

Ms. Black asked if there would be any planting in the wet area and Mr. Sherwood said that there would be. Ms. Black wanted to know how that would impact the area and whether they would survive. Mr. Sherwood said that they are a type of plant that would be able to survive in a wet area. Mr. Liebman wanted to know if they would survive under water for a month. Chairman Michelman said that the resolution would require that if they died, they would have to be replaced.

Dr. Matusow said he would like to hear back from Mr. Coyne about whether anything being proposed would add to the water problem. He noted that it was not the applicant's responsibility to solve the neighbor's water problem, but they were responsible for not making it any worse.

Mr. Delano wanted the applicant to superimpose the currently available delineation of federal wetland PF01E on the drawing. The applicant said that they would. Mr. Liebman wanted to know if the Board was sure that a federal wetland was not something the board needed to consider. Mr. Delano said that he just wanted to know where it was on the site.

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

FARERI

Subdivision

69 Round Hill Road

Section 1, Block 9, Lot 4-2

Susan Fasnacht, PE

Consideration of approving preliminary subdivision resolution

Ms. Desimone read the public notice for the record. She noted that all paperwork was in order. Chairman Michelman asked if there were any neighbors present. The following neighbors were present:

JC and Mui Yao - 67 Banksville Road;
Norman Adler - 79 Banksville Road
Laura Gelsomino - 66 Round Hill Road
Judson Cooper - 61 Banksville Road
Stephen and Betsy White - 57 Banksville Road
Marty Marmor - 1 Gifford Lake Drive

Mr. Steve DeLaurentis was present on behalf of the applicant. He explained that the applicant was proposing a three-lot subdivision on approximately 11 acres. Originally the applicant proposed a 4-lot subdivision, but through the review process, they revised the plan to a three-lot subdivision. He said that there would be a conservation area in the rear of the property of more than 2 ½ acres.

Mr. Marmor asked the applicant to identify his house in relation to the three lots. Mr. DeLaurentis did so. Mr. DeLaurentis answered additional questions of Mr. Marmor to his satisfaction. Chairman Michelman pointed out that the only thing the board was considering was a preliminary subdivision approval; it must still come back for a final subdivision approval and then all the sites must come back to the board for individual site plan approval. Mr. Kaufman said that was not necessarily true; they could be reviewed by the residential project review committee if it meets certain requirements. Mr. Kaufman explained that if the houses were to be constructed with the same footprint and land coverage as currently proposed, they would have to come back here for approval.

Mr. Cooper asked what would be required for final subdivision approval. Mr. Kaufman explained that the board would have to approve the preliminary subdivision plan; once that is granted, there are certain conditions that have to be met for final subdivision approval. Once the final plat is approved, it has to be filed with the County and that establishes the building lots. Once they are building lots, a building permit is required for

construction on those lots. Mr. Cooper wanted to know if the applicant would be permitted to put a house right on the property line, and the board said he could not.

Mr. Cooper asked about other possible structures that could be built on the lots, and asked about the existing house. Mr. DeLaurentis said that it was preexisting nonconforming, so it was grandfathered. Mr. Kaufman explained that the other structures that could be built that could house people would be servants' quarters, but not another single family home.

Chairman Michelman explained, for the benefit of the neighbors, that Lot 1 is 2.9 acres, Lot 2 is 4.6 acres, and Lot 3 is 3.7 acres. One neighbor asked if a particular building could become separate servants' quarters. The board said no. Multiple conversations were had at this time. Dr. Matusow asked if the board had received assurance that the oversized lot could not be further subdivided, and Mr. Kaufman said no; there was no deed restriction in that regard. He added that if it were to be further subdivided, the applicant would need to come back and come up with a way to create frontage, which would be the plan with the four-lot subdivision. He said that, as presented, it could not be further subdivided because the applicant does not have the requisite frontage.

Mr. Adler said that he lived across the pond and felt that this was going to be a very large house, and that this was going to look like a big apartment house. He would like to see the grade brought down and the foundations covered. Mr. Kaufman recognized this point, and stated that the Board has done this on prior applications. He recommended that if the board was contemplating adopting the preliminary approval, they include a whereas clause in there addressing these issues and that when any plan is approved, that it be mitigated. Chairman Michelman thought this was more of a site plan issue, although she recognized the neighbor's concern.

Mr. DeLaurentis pointed out that right now, the plan was only conceptual and showed only that these particular houses could fit on these lots within the code. Mr. Delano pointed out that the house would also be subject to the height requirements. There was some discussion about the conservation easement and its location.

Chairman Michelman asked if Mr. Coyne had any issues. He said that his issues were covered in the resolution. He added that the applicant met with him about easements that will be required for subdivision approval.

Mr. John Fava, the Conservation Board representative, stated that Gifford Lake (which is over ten acres) is a community lake parcel. There is a metes and bounds description around the entire site, and there is also a conservation easement for the entire lake.

Someone (who did not identify himself) asked when this happened. Mr. Fava said he was not sure, but it happened some time ago. The other speaker said that the residents had riparian rights on the lake, and the association ultimately took it over, but there was no conservation easement at that time. Mr. Fava said that the ownership of the lake and the easement are on the maps. Mr. Delano pointed out that the ownership of the lake was not at issue here.

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

Chairman Michelman asked if the applicant had reviewed the resolution. Mr. DeLaurentis said that he had, and that he had some comments. He was confused about the first sentence on page 4 of 9, in the second to last paragraph. The board explained it to his satisfaction. Additionally, he had a question about the road widening easement; he wanted to know if that meant the right of way, and Mr. Kaufman said that was correct.

Mr. DeLaurentis asked for direction from the board regarding the comment requiring a conservation easement agreement in the form of a contract. He said they were still not sure who the beneficiary of that easement would be, whether it is the Town of North Castle or the Open Space Committee or another entity. Mr. Baroni explained that the form of the document would still have to be approved by his office. Mr. Kaufman suggested contacting the Westchester Land Trust, because that entity is in the best position to handle these types of grants; the second choice should be the Town of North Castle.

Mr. DeLaurentis asked about the comment regarding the 20,000-gallon tank. He said that when they first started discussing the tank, they were under the impression that they were required, under law, to install it. That was why it was on the plan. Since then, the applicant discovered that it was not required by the law; if so, the applicant does not think it is reasonable for the board to burden the applicant with the installation of that tank. The applicant feels that if the fire department wants a tank, the town should be required to install it.

Chairman Michelman pointed out that this discussion has been ongoing, and she recalled that the fire department had asked for a 30,000-gallon tank, which is in keeping

with what the board has required on similar subdivisions. In light of concerns that a tank that size was too big, the board agreed to reduce the size to 20,000 gallons based upon the applicant's meeting with the fire department and their representation that everyone was satisfied with a 20,000-gallon tank. Mr. DeLaurentis agreed, but that was until they discovered law didn't require it. Chairman Michelman said that it was a requirement of the fire department based upon their safety concerns for the development.

Dr. Matusow suggested that the board not vote on the resolution if this was such a concern for the applicant to give the board the chance to speak with the fire department and the town attorney. Mr. DeLaurentis wanted to know if the board was willing to take a straw poll to see if the board was willing to approve the resolution without that condition. Chairman Michelman said that the board didn't take straw polls.

Mr. Delano asked if the Town Board had passed legislation requiring sprinklers in residential construction. Mr. Baroni said that they did, but it is subject to approval from the state building department, and that has not been passed yet.

Mr. DeLaurentis said that the applicant had a problem with #18 in the resolution requiring him to submit final construction plans to the satisfaction of the Town Engineer. He thought this was more appropriate for site plan approval. Mr. Kaufman said that this was a condition found in §216 for subdivisions and it was acceptable to be addressed in the preliminary subdivision as opposed to the final subdivision stage.

Mr. DeLaurentis said that he had no problem with item #19, but requested that the payment be made not as a condition of the final plat is submitted, but before the final plat is signed. The applicant would prefer to give the town the check when the final plat is signed and filed. The board had no objection to that.

The applicant requested the board adjourn this application to the next meeting to give both the applicant and the board a chance to work out the details regarding the water tank.

CONTINUING BUSINESS:

170 BEDFORD ROAD

Site Plan

Section 2, Block 13, Lot 27

162 Bedford Road

Rebecca Rivera, Joseph Crocco Architects

Consideration of approving site plan resolution

Chairman Michelman pointed out that this was not a public hearing. She asked if Mr. Coyne or Mr. Kaufman had any issues, and they did not.

Mr. DeLaurentis was present on behalf of the applicant. Chairman Michelman asked if he had reviewed the resolution and he said he had. He requested the board add a sentence to page 4 of the resolution to the effect that the applicant would not be responsible for any other traffic studies, road improvements or intersection improvements with respect to this project. The board agreed to include that language.

Mr. DeLaurentis asked if the applicant could submit the \$10,000 prior to the issuance of the C.O. The board preferred to leave it where it was because they might want to use that money prior to the issuance of the C.O. Mr. DeLaurentis agreed.

Mr. DeLaurentis believed that items 1-3 could be omitted because they do not pertain to this application. Mr. Kaufman said these were standard operating procedure, but if the applicant could convince the building department that it isn't needed, they wouldn't need it. The board pointed out that these conditions say that these should be done to the satisfaction of the building department; it would be up to the building inspector if he wanted to require these things.

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

FUTIA

Lot Line Change

34 Custis Avenue

Section 6, Block 5, Lot 9A

Dennis Lowes, Ralph MacDonld Company

Consideration of approving preliminary subdivision resolution extension of time

Chairman Michelman pointed out that the applicant was requesting a second extension of time until May 9, 2009.

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

VENTORINO

Special Use Permit

Section 2, Block 17, Lot 4C

11 Sterling Road South

Craig A. Studer, ASLA Studer Design Assoc. Inc.

Discussion

Mr. Craig Studer was present on behalf of the applicant. He explained the applicant was seeking a special use permit for the lot coverage. At the last meeting the applicant was proposing 6' high walls, and they have reduced them to 4' and 3 ½'.

Mr. Studer explained that the site wetlands were flagged in approximately 2000. They recently had them reflagged, which changed the buffer lines. He said that the buffer line now bisects the pool location. They have not proposed to alter their prior location of the pool because they are very limited as to where they can put a pool on the site due to the existing wetlands and septic systems.

Chairman Michelman said that the issue for the board was putting a recreational amenity in a buffer. Mr. Studer said that 67% of this lot is rear yard (over 2 acres); a little less than 12½% of the rear yard is the wetland, another 43% of that is the buffer area. When you consider the septic area and the septic reserve area, that only leaves 6% for a possible pool location.

He explained when they resubmitted the application, they included a wetland application and made the required drawing modifications. They are taking all of the stormwater and putting it into the cultech recharges.

Chairman Michelman pointed out that there was also an issue of sight distance. Mr. Studer believed that was more a question of how the applicant was able to achieve the required sight distance, which he explained. He added that he would make sure that number is on the plans for the next submission.

Mr. Delano said there were some glitches in the document provided by Mr. Fayer: it gives credit to a nonexistent human being for the septic system [inaudible]. Additionally, the delineation of a 7' deep C.O., he thought it should be a curtain drain, and he didn't believe the delineation really was as depicted on the plan. Additionally, there is a lighting plan included, and some is proposed in the existing trees; he said someone will have to go through the lighting plan in detail so that it is clear to the board and the public exactly what impact that will have.

Ms. Black pointed out that the applicant would have to provide mitigation for the buffer incursion of the pool. Mr. Studer recognized this, and that would be increased in the next submission. He said they plan to get to the 2:1 ratio, but said that the plantings would occur in the buffer. The board was concerned with this.

Ms. Black asked if there was a way to put the pool closer to the house to get out of the buffer. Mr. Studer said that they might be able to do that, but it would affect the grading and probably cause disturbance in the same area.

Dr. Matusow said that he had a problem with that explanation. In October, the board had requested the applicant submit an alternative that kept the pool out of the buffer area. The current plan doesn't comply with that request, and the applicant's report dated November 11th claims there is no alternative location for the pool and terraces. He did not think that was accurate, because it was based upon false premises. First, it only deals with the applicant's view of what he has – he has a lot of space, and assumes a pool can fit. The applicant can't see the effects of the sideyard setback, septic setback or wetlands buffer; one reason he can't is because he or the prior owner obliterated it. The current owner is responsible for the wetland buffer.

Dr. Matusow said that additionally, the report doesn't take into consideration the square footage of the proposed project that doesn't have to be the final square footage of what actually gets built. The applicant may be asking to build more than what the space will allow. Dr. Matusow thought that if the applicant reduced the size overall, they would be able to fit it without as much intrusion to the buffer. He said that the planner always recommends that impervious areas, which are purely recreational, not be placed in a

buffer area. He asked the applicant to resubmit a revised plan that takes this into consideration.

Ms. Black thought that if they rotated the pool they might be able to get the pool out of the buffer.

Mr. Studer said he would discuss these issues with his client.

NEW BUSINESS:

KIRK

Site Plan

Section 1, Block 7, Lot 5B-3

38 Mianus River Road

Peter Gregory, PE

Ken Thompson

Discussion

Mr. Ken Thompson was present on behalf of the applicant. He explained that the applicant was seeking approval for a pool relatively close to the existing structure. It is outside the wetland buffer (indicated). The property is 4.3 acres, but the access to the property is very long and deep. Because of that fact, they are relatively close to the sideyard setbacks on the property. Therefore, they have had to site the pool where it is proposed to be accessible to the house and away from both the wetlands and the setbacks.

Mr. Thompson said that the applicant is aware that the proposed location is a relatively environmentally sensitive location. They have tried to accommodate the runoff from the pool away from this area. The filter they propose would not require any normal backwashing. The pool would be drained down slightly for proper winterization, and are therefore proposing the drywells in a certain location.

Mr. Thompson presented a sketch of the proposed landscaping. Chairman Michelman asked the location of the closest neighbor, and Mr. Thompson indicated and noted that it was far away. No one would have a view of the pool.

Mr. Kaufman thought that the setback the applicant was referring to as a sideyard setback was actually the rear yard setback. The applicant said that Mr. Kaufman was correct.

Chairman Michelman asked if Mr. Coyne had reviewed this plan. Mr. Coyne said that he had, and asked if the proposed location of the infiltration system was lower than the pool and terrace, and Mr. Gregory said that it was. Mr. Coyne asked how much the driveway was being expanded and Mr. Gregory said that they were providing for the ability to make two spaces, so it was approximately 20' x 40 or 45.' Mr. Gregory said that they have performed test holes in that area.

Chairman Michelman asked if there were any other issues. There were none. Mr. Kaufman said that there was a wetland boundary nearby, and suggested the Town's wetland consultant verify the lines. The board said that a public hearing could be scheduled.

FUSCHETTO
Special Use
11 Hobby Farm Drive
Section 1, Block 5, Lot 15-5
Discussion
Walter G. Nestler, Landscape Architect ASLA

Mr. Fuschetto was present for this application, his professional was not present at this time. Mr. Kaufman explained that the board needed to refer this application to the ZBA, but wanted to know if the board was comfortable with this proposal. There had been a question about whether it was appropriate to remove all of the terrace in light of the fact that there are doors that lead to a particular area.

Dr. Matusow thought this was something the ZBA would take into consideration. Mr. Kaufman said generally, no; this board would get the plan in order the way they want to see it approved, and then refer to the ZBA. Chairman Michelman agreed, and said the issue is that the existing gross land coverage is already over the allowable coverage and the new coverage is about the same size, but still in excess of the allowable. She suggested the applicant have his professionals review this aspect and consider whether it was appropriate to have the doors lead to a grassy area.

The applicant said they would submit a revised plan taking this into consideration.

The meeting was adjourned at 10:00 p.m.
