

PUBLIC HEARING & NEIGHBOR NOTIFICATION:

DIPAULO

Site Plan

Section 2, Block 5F, Lot 15

Tim Allen, PE – Bibbo Associates

16 Greenway Road

Discussion

Consideration of approving site plan resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 20 out of 30 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. Mr. John Fava of 50 Byram Ridge Road and Dina Schilsky of 56 Byram Ridge Road were present.

Mr. Tim Allen was present on behalf of the applicant. He explained that the applicant was proposing to construct a house on a 1.167 acre lot in a one-acre zone. The home that existed on the lot previously has already been torn down. The site plan proposes a house to replace the old residence along with a pool and a driveway. The new driveway will come in from the proximity of the old driveway.

Mr. Allen explained that after the site walk, the Board had an issue about the pool site in the rear of the property and requested that the applicant increase the landscaping in the back and rear where there were gaps. Mr. Allen explained they have done this. Additionally, the pool was moved off the rear property line as requested previously. Another issue that was discussed was the configuration of the driveway, and whether the new driveway should come off of the existing driveway, as currently proposed or whether they would leave it as is. Mr. Allen explained that the applicant is indifferent, and will do whatever the Board prefers.

Chairman Michelman invited the neighbors to step up to look at the plans and ask questions. Ms. Schilsky reviewed the plan and said that she was fine with it. Mr. Fava also reviewed the plan and said that he had no objection to the house itself, however he did have some concerns. He asked if the Board received the letter he wrote a couple of weeks before. The Board said they had. Mr. Fava explained that he was concerned about the view around the curve. There are trees and an old wall that are in the right-of-way, which blocks the view. He felt that they should be removed by the Town or the owner of the property and that the trees should be replanted elsewhere. Mr. Fava added that the remaining trees are leaning toward the power lines and he would recommend taking them out. Mr. Fava noted that the applicant was proposing planting Norway spruces on the site, however they are shown adjacent to the right-of-way, only 5' away. He pointed out that these trees will spread up to 18' and that will cause problem with visibility around the curve. Mr. Fava explained that many people walk in the area, some with baby carriages, and this would be very dangerous.

Chairman Michelman asked Mr. Allen if he has spoken to the Highway Department. Mr. Allen said he did not believe so. Mr. Kaufman said that he would have that conversation

with the Highway Department and would speak to the Town Engineer as well about relocating trees out of the line of sight. He explained that the necessary items will be made conditions of the resolution, but if it is the Highway Department's responsibility, that Department will have to address the issue. Mr. Allen said that it is fair to say the applicant would work with the Highway Department on this issue.

Dr. Matusow stated that some of Mr. Fava's comments concern new plantings on the applicant's property. He felt that the Board needs to hear how the applicant will deal with that, and noted that they may need to be conditions in the resolution. Mr. Allen said that he would move the plantings if they had to.

Mr. Kaufman suggested modifying or expanding condition number seven to include the removal and replanting of vegetation. The Board said that was acceptable.

Chairman Michelman asked if there were any other neighbors for the application. There were not. She asked if there were any other issues from the Board or the professionals. Mr. Kunny explained that he'd had concerns about the site distance, but this was discussed and he was sure they will be adequately addressed. Mr. Kaufman had no issues.

Mr. Allen explained that most of the comments in the resolution were addressed in the applicant's prior submissions. Although the applicant had no objections to the resolution, the first whereas on page 2 refers to the old square footage and should be corrected. Mr. Kaufman asked if the plans had changed. Mr. Allen said that they had not changed the square footage but there had been a discussion about the garage, and the plans were updated as a result.

Mr. Allen said that he still needed guidance from the Board about the driveway, and whether they wanted it as proposed, or as suggested by Mr. Kaufman. He explained that Mr. Kaufman's suggestion does save some vegetation, but brings the driveway closer to the intersection. Dr. Matusow asked if the old driveway would have the adequate sight line. Mr. Allen said that it did. Chairman Michelman asked Mr. Kaufman which option the Board should require. Mr. Kaufman recommended the option that saved the trees. The Board agreed and felt that this option was also more attractive. Mr. Allen accepted this.

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

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

20 BEDFORD ROAD
Site Plan
Section 2, Block 14, Lot 13
Mike Fareri
Discussion
Consideration of approving resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 11

out of 13 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. There were none.

Mr. Joseph Crocco, the applicant's architect was present for the application. He explained that the applicant was proposing a residential addition to the rear of an existing dwelling in the historic district. They would be adding 1,672 sq. ft. to the existing 2,907 sq. ft. building. The driveway and the curb cut will remain as is and they plan to restore the existing garage.

Mr. Crocco stated that they have addressed all of the comments from the recent memos of the Town Engineer and the Town Planner. The project has been to the ARB and the Historic Board, and has received approvals from both Boards. Complete landscaping plans have been prepared and submitted.

Chairman Michelman asked if there were any issues from the Board or the professionals. Mr. Kunny explained that the applicant has provided percolation and deep test holes, but still needed to submit the design calculations and erosion sediment controls. He recognized that these were conditions in the resolution. Mr. Kaufman said that everything was in order with respect to this application, and he prepared a resolution for the Board. He had no other comments.

Chairman Michelman asked if Mr. Crocco had reviewed the resolution. Mr. Crocco said that he had, and was satisfied. There were no other comments from the Board.

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

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

CONTINUING BUSINESS:

MUCKELL

**Preliminary Subdivision
Section 5, Block 19, Lot 1
3 Morningside Place
Susan Fasnacht, PE
Consideration of approving site plan resolution**

No one was present for this application. Mr. Kaufman explained that there was nothing to preclude the Board from acting on the resolution, as it was not a public hearing. Mr. Adelman pointed out that there was nothing in the resolution should be a surprise to the applicant. Mr. Kaufman agreed.

Chairman Michelman noted that there was a correction on the last "whereas" clause on page two: the words "and closed" should be removed. She asked if there were any other issues. Mr. Kunny requested that condition number two prior to signing of the plat be amended to require the applicant to provide a cost estimate. Mr. Kaufman agreed.

There were no issues or comments from Mr. Kaufman; all his concerns are contained

within the resolution. The next step is for the applicant to address the comments in the resolution, and submit a final subdivision plat. There were no issues from the Board.

Chairman Michelman asked if the Board was to assume that the applicants agree with the resolution. Mr. Kaufman explained that there should not be anything objectionable to the applicant; however, the applicant would ultimately have to sign the resolution, thereby approving of it. Therefore, there is nothing to prevent the applicant from coming back if they have a specific objection. Mr. Delano asked if there was anything to prevent the applicant from doing the 2:1 mitigation as required by the resolution. Mr. Kaufman said that they should be able to, as grasses would be an option. However, if it proves to be impossible, the Board has the ability to waiver a bit.

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

DORFMAN

Amended Site Plan

Section 2, Block 04, Lot 1-16

55 Sarles Street

Discussion

Arborscape

Consideration of approving Amended Site Plan Resolution

No one was present for this application. The Board addressed this application at the end of the meeting. Chairman Michelman asked if there was a reason why the applicant was not present. Mr. Kaufman said that he was not aware of one, however this was a simple application amending the driveway. The Board agreed.

Chairman Michelman asked if there were any issues. Neither Mr. Kunny nor Mr. Kaufman had any issues. Dr. Mautsow stated that he walked the site on his own, and asked if the space behind the house was going to require a retaining wall. Mr. Kaufman said that a small retaining wall would be required. Dr. Matusow thought it would require a permit. Mr. Kaufman and Mr. Kunny said that it would not because it was not going to be higher than 4'. Dr. Matusow thought it would be higher. Mr. Kunny said that he would review the plans again. Mr. Kaufman pointed out that the applicant will be cutting and filling, and then erecting the wall, so it will not be higher than 4'.

Chairman Michelman explained for the record that the application was to correct an error in the pitch of the driveway.

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

STOBSKY

Amended Site Plan, Special Use FAR & Gross Land Coverage

Section 2, Block 17, Lot 4J01

20 Sterling Road South

Adam & Jonie Stobsky

Consideration of approving site plan resolution

Mr. Stobsky was present for the application, along with his architect, Walter Piantino.

Chairman Michelman explained to the applicant that an issue was presented to the Board that presents a problem and precludes them from voting on the resolution. She said that she does not want to review the entire presentation or go into all of the underlying details about the problem. She stated that the problem was basically this: the Board received a letter from an attorney representing the applicant's prior landscape architect, indicating that the most recent landscaping plan submitted to the Board was not authorized by the signatory of the company who is purported to have signed the plan. Therefore, the Board would not be able to approve the resolution. To resolve the problem, the applicant needs to submit a new site plan stamped by whomever actually produced that site plan. At that point, the Board will compare it to the old plan, and go from there.

Mr. Stobsky asked to say something. Chairman Michelman said that he could make a brief statement. She explained that the Board had been prepared to move forward, and she did not want to know the reason why this happened. She pointed out that it may not help the Board and could wind up hurting the applicant.

Mr. Stobsky explained that he'd had a problem with his prior landscape architect. He claimed that Mr. Pouder had quoted a price of \$5,000.00 for the approved plan. After the last meeting where the Board requested additional revisions, and according to Mr. Stobsky, Mr. Pouder sent another bill for \$5,000 and said that without payment, he would not do the additional work.

Chairman Michelman said that this was not the issue. The situation described by Mr. Stobsky was between him and his landscape architect, and was no concern of the Board. The Board was given a plan that purported to be stamped and prepared by the landscape architect, and the letter from the attorney states that the plan had been unlawfully modified, and had not been approved by the landscape architect that stamped the plan. Chairman Michelman reiterated that the "why" and "how" is not this Board's issue. In order for the applicant to get a resolution approved, they would need to submit a new plan stamped by the person who drafted the plan, and who is qualified to do so.

Mr. Stobsky said that the plan before the Board is the plan they intend to use. There were only three changes made to the prior plan. Chairman Michelman explained that it could have been a minimal change and it would not matter. Mr. Stobsky claimed that the plan he submitted is the plan he paid for. They added a small line to indicate a fence, and because of the FAR, the applicant eliminated a small path of stepping-stones. The third change was the renaming of a plant, which was allegedly misnamed by the landscaping architect. Mr. Stobsky said the plan will not change, it was just a matter of these small changes. Chairman Michelman said the changes made to a stamped plan is the problem.

Mr. Stobsky asked if he was going to have to hire another landscape architect, just to have to come back with the same plan. Mr. Kaufman pointed out that the revised plan should not be the same one before the Board, due to the conditions in the resolution (i.e. the detail for the proposed fence, natural vegetation from the septic line to the rear lot line to satisfaction of board, etc.). Mr. Stobsky asked if this meant they had to actually plant, or whether they just had to allow natural vegetation to grow there. Chairman

Michelman explained that the Board was looking for more natural vegetation. Mr. Kaufman pointed out that they also wanted the applicant to provide for the plantings on the Alpert property. Mr. Stobksy explained that this issue had been addressed by the ARB, but he is not legally able to plant anything on the neighbor's property. He said that they were thinking of giving the neighbors a coupon of some sort to permit the neighbor to purchase one or two trees. Mr. Kaufman explained that unless the neighbor agrees, they would not be able to do anything. Mr. Stobsky said that they would be willing to do it, if the Town would take responsibility. Mr. Kaufman said that they could not, and asked the Board if they were taking that condition out of the resolution. The Board said it should be removed.

Mr. Kaufman pointed out that the Board had considered alternatives if it was determined that those trees could not be planted. Specifically, the Board talked about increasing the buffer between the Alpert property and the Stobsky property and decreasing the driveway and backup area to 25'. Mr. Stobksy said that the ARB had been satisfied that they were respecting the neighbor's concern about screening. Mr. Stobksy added that there is plenty of room on the Alpert property to plant. Mr. Kaufman explained that since the applicant has not secured an easement, the Board does not know for sure that the trees would be planted. Therefore, the Board was directing the applicant to increase the buffer. Mr. Stobsky said that the ARB had been happy with giving the neighbor the option to plant the trees. Mr. Kaufman said that the Board was past that point. Chairman Michelman agreed, and pointed out that the ARB was merely advisory to this Board.

Mr. Adelman asked if they could require a revised landscape plan to be signed and sealed by a licensed landscape architect as a condition to a resolution. Mr. Baroni said that, technically, the Board could do that; however under the circumstances, the Board would be wise to have a plan in their possession before any vote takes place. Mr. Kaufman agreed, saying that he was concerned because the Board would have a completely new plan before them.

Chairman Michelman and Ms. Black said that they would not be comfortable without seeing the plan first. Mr. Stobsky asked if something be written if he assured the Board that the plan would not change. He said that he bought the plan and he does not intend to change it. Chairman Michelman repeated that the Board wanted the plan first, and wanted it to be reviewed by the professionals.

Dr. Matusow asked the Board whether, in his absence over the last few months, they ended the discussion of the gross land coverage. He wondered specifically if it had been stated that the Board is comfortable with the coverage. Chairman Michelman stated that "comfortable" is probably not the correct word, but the Board did move toward resolution. She did not think that this was ideal for everyone on the Board, because it is pushing the envelope; however, the Board did accept it for what it was.

Mr. Stobsky asked if there was any way that this could be scheduled for the next meeting. Chairman Michelman said that a plan would have to be submitted before the applicable deadline. Mr. Stobksy said the deadline for the next meeting was that day and pointed out that the Board made an exception for him at the last meeting. Chairman Michelman recognized this, and said that they would not do it again.

Mr. Stobsky asked if the Board could waive his appearance at the next meeting.

Chairman Michelman said that although the Board could technically waive the appearance, she agreed with Mr. Kaufman that because the Board was going to have a new plan and a new resolution to consider, the applicant should come.

Mr. Stobsky asked if there was any other issue he would have to address. Mr. Kaufman explained that Mr. Stobsky should review the draft resolution because they contained all of the issues thus far.

POLVARA

Site Plan

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

40 Green Valley Road

Joseph Riina, PE – Site Design Consultants

Discussion

Mr. Joseph Rinna was present on behalf of the applicant. He explained that since the last appearance before this Board, the applicant went to the Conservation Board. At the time, they had three driveway alternatives: to keep the existing driveway where it is and regrading it to meet the Code; a driveway perpendicular to Green Valley Road, and the third alternative, which was currently before the Board. Mr. Rinna explained that the Conservation Board preferred the third alternative, currently before the Board. It takes all the disturbances as much as possible out of the wetland buffer. The Conservation Board did have some recommendations that are reflected in plan. The prior plan had a smaller court, which has been increased to provide better maneuverability. However, the applicant now proposes to use gravel as opposed to asphalt. Additionally, the applicant has added an additional parking area / pull off area. This provides additional parking to the house. That area will also be gravel as opposed to a paved surface.

Mr. Rinna explained that he had addressed the other concerns that the Town Engineer had regarding the drainage. They have added basins and two banks of cultech units for infiltration. One comment the Conservation Board had was that in order to install the roofing in one area, several trees would have to be removed. The Conservation Board also recommended that a number of dead / dying trees and underbrush be cleaned up / removed. The applicant is willing to do that and they have added a note on the plan to clean up the site. Mr. Rinna said that he was not sure if that note would be adequate.

Mr. Rinna told the Board that he had recently resubmitted plans to the Health Department for the septic system. He had received a comment letter with minor clarification items, but overall, he believed he was on the right path.

Mr. Rinna explained that the applicant had revised the pool layout from a rectangular shape to free form. The location was selected on the site in conjunction with the Conservation Board. There is a 40' oak on site, and this avoids the tree. This does extend into the wetland buffer of the adjoining property, but everyone seems to agree (including Kellard-Sessions) that the wetland area is not really a functional wetland, and that it should not be a concern. The runoff will not enter the wetland in any way. Mr. Rinna stated that the Conservation Board preferred saving the tree even though it went into the buffer area. He presented the plan and explained that the disturbance at the driveway used to be more of an arc, but they have cut the corner to avoid the property

line and added a turnaround. At this point, the applicant would like the Board to schedule a public hearing.

Chairman Michelman said that the biggest area of conflict she saw was the recommendation by the Conservation Board that the Board choose alternative #3, as opposed to keeping the existing driveway, which although is quite steep, it is already in the buffer. She did not understand the rationale for choosing alternative #3, when it appears that a great deal more site would be disturbed with much more impervious surfaces. She said that she did not understand the rationale and asked Mr. Fava for clarification.

Mr. Fava said that at the time, the view was that the removal of the driveway, because it was immediately adjacent to the stream, was more important than the relocation of the driveway. The location is rocky, but there were some dead trees where the applicant proposed to put the driveway. When the Conservation Board saw that, they thought it was a decent location. It was mainly because of the location of the stream and the desire to take it out of the buffer.

Chairman Michelman said that was an acceptable explanation. She asked about the additional impervious surface. Mr. Fava said that the Conservation Board did not review the plans with that in mind; they only looked at the location of the drywells, and they were in a location that would ruin many good trees. The main thing in the rear was trying to save the large oak, because it is the only decent tree on the site. The adjacent wetland is just a tiny area.

Chairman Michelman said that the Board appreciated that concern. She said that she had a hard time balancing the increased impervious surfaces versus [did not complete sentence]. The question is what damage has been done to the stream by the existing driveway over all these years. She thought perhaps it could be improved upon without any harm. She noted that Mr. Kaufman prefers using the original driveway, and maybe the Board needed to probe what lesser damage would be done versus the alternatives.

Mr. Kaufman explained that it was a combination of using the existing driveway as it is versus the site disturbance (including the tree removal and additional impervious surfaces). He said that he did not know how much additional impervious surface it would add but he doubted it was much. Mr. Rinna agreed that there may be an increase, though not much. He noted that the use of gravel would reduce the amount of impervious surface. There is a great amount of disturbance, and it would have to be cut approximately 6-8' in order to bring driveway to code.

Mr. Kaufman explained that the only way his suggestion would make sense is to keep driveway as is, and not do any improvements. This would need to be discussed with the Town Engineer. If it was not acceptable, then the Board would have to consider another alternative. Mr. Rinna said that he heard similar concerns about the driveway from the Conservation Board (that it is steep). If the applicant is required to keep it in its current location, they want to improve it. The primary reason for relocating the driveway is to gain a garage space, which they do not have currently. Chairman Michelman said that could be redesigned. Mr. Rinna said that in order to access the house, there is a steep drop to the garage level and to make the entrance work, they would have to bring the driveway into the proposed septic area.

Mr. Kunny said that he had not been to the site yet, and he has not seen its steepness. He did note that recently there was an application where the Board kept the original, steep driveway and it would have been better to regrade it to meet the Town Code. In this case, he would probably recommend the driveway be redone to meet Code.

Mr. Rinna explained that removing the driveway would simply require peeling the asphalt off and putting some topsoil and seed down. It would not require deep excavations.

Ms. Black asked how advantages the no mow zone would be. Mr. Fava thought it would be very advantageous along the stream. He added that the Conservation Board was presented with several versions of the driveway. The thinking was that it would be best to stay away from the stream, but the trees are not good trees, and none could be saved with the amount of construction, especially if there will be blasting. Chairman Michelman asked if the applicant anticipated blasting. Mr. Rinna said that they probably would not blast. The rock outcroppings are not located near the proposed driveway. The previous driveway plan had brought it close to an outcropping, and the Conservation Board's concerns prompted us to pull that away. Mr. Fava stated that the other plan had cultech drains on the slope and he doubted that would be a good location.

Mr. Kaufman asked if the Board was leaning toward the driveway location in alternative #3. Ms. Black said that everyone was taken aback at how steep the existing driveway was, and based upon Mr. Kunny's comments, she did not think it was wise to keep it as is. She added that regrading the driveway would cause more harm to the stream and therefore, moving the driveway seems to be best alternative. Mr. Adelman agreed. Chairman Michelman said that this appears to be the lesser of the evils.

Chairman Michelman asked if there were any other issues besides the driveway. Mr. Kaufman explained that this was the major issue. In terms of mitigation, he suggested the applicant consider placing a conservation easement over the mitigation area. Mr. Rinna asked if he was referring to the proposed no mow zone, and Mr. Kaufman said he was. Mr. Rinna asked the difference between the two. Mr. Kaufman explained that an easement is a formal legal document that would be annexed to the deed. Mr. Rinna said that he would talk about it with the owner.

Mr. Fava pointed out that there is an easement in on the Rolling Hills site that would abut this area, and this would tie into that.

Mr. Delano asked if the Board had received house plans yet. Mr. Kaufman said that they had not, but they would be required next. Mr. Delano agreed, now that the applicant knows which direction to head in he would be able to draft the house plans.

Mr. Kaufman asked if the applicant had been to the ARB. Mr. Rinna said that he was not sure. Mr. Kaufman said that if they had not, they should go as soon as possible. This Board would not approve the resolution until they have a recommendation from ARB. He added that the Board would need the plans before a public hearing could be scheduled.

Mr. Rinna asked if another work session was needed prior to the public hearing. Chairman Michelman said that the Board would need to review the plans, and get professionals' comments. Mr. Rinna said that now that they know where they were

headed, they could start preparing the plans as well as the landscaping plan.

Mr. Delano advised that the Board would want the stormwater infiltration information and slope information, so the applicant should start reviewing that soon, so that it is incorporated into the landscaping plan. Mr. Rinna said that he would try to relocate, but it is pretty much where it needs to be.

Mr. Fava pointed out that the Conservation Board's comments were the preliminary comments, not their final. Mr. Kaufman said that the Board would need the final comments from the Conservation Board.

**ARMONK SQUARE (formerly known as Pembroke Square and Heritage Square)
Site Plan**

Section 2, Block 14, Lots 3, 8, 9

Main Street, Maple Avenue, Bedford Road

Mark Miller, Esq. – Veneziano & Associates

Discussion

Consideration of approving resolution

Mr. Miller was present on behalf of the applicant. He explained that this application was before the Board to discuss the revised resolution. First, however, he wanted to note for the record that three well-respected local businessmen hold the majority controlling interest in this company. They live in Armonk and raise their families here, so they are committed to honoring all their obligations to the community.

Mr. Miller stated that he only had one revision / minor comment to the revised resolution.

Chairman Michelman asked if the Board had to discuss a letter they had received. Mr. Baroni said that the Board should receive it into the record, and address one particular comment. Chairman Michelman explained that the Board had received a letter from a neighboring property owner that afternoon, which raised issues that have been previously addressed. However, one issue in the letter is an issue that remains outstanding. She explained that there is a connection between Coco Bolo and Armonk Square from Maple Avenue and asked Mr. Miller to address this issue clearly, for the record.

Mr. Miller explained that for several years, there have been a number of issues between Coco Bolo and Armonk Square having to do with easement rights and their rights to use the applicant's property to get to Maple Avenue, Bedford Road and Main Street. The result was a stipulation that was so-ordered by a court. 37 Maple Avenue (Coco Bolo) agreed to give up any rights to exit to Main Street. This was important to the applicant because they intended that to be pedestrian only. The applicant agreed to give 37 Maple an easement for access through the Armonk Square site for their delivery trucks (up to 30' box trucks) and to allow those trucks to get to Bedford Road from the south, or up to Maple Avenue.

Mr. Miller said that the concern was how to provide that connection without the loss of any parking on the 37 Maple Avenue site. There are five spaces at the rear of 37 Maple. The stipulation provides (and the applicant agreed) to provide access so that 37 Maple would not lose any spaces. Mr. Miller explained that this did not necessarily mean that

all of these spaces would be located on the Coco Bolo property but they would still have five spaces. Mr. Miller submitted a sketch to the Board that shows the way the truck access runs and there are two spaces (numbered 1 and 2) that are available at the rear of the building. The third space (numbered five) is to the extreme southwest corner of the property. The applicant provided two spaces immediately adjacent to 37 Maple Avenue near the dumpster (numbered 3 and 4).

Mr. Miller pointed out that the sketch was not the official exhibit to the so-ordered stipulation, but should give the Board an idea. He explained that the yellow line on the sketch is the route that would be taken by a box truck. Space #4 is entirely on the Armonk Square property. Space #5 is located partially on both properties, and the applicant has agreed to dedicate those spaces. Mr. Miller added that those two spaces are not included in the 118-space count.

Chairman Michelman asked if the applicant knew what the truck traffic would be in terms of deliveries. Mr. Miller said that he did not know.

Chairman Michelman said that she appreciates the support of the local businessmen but the plans submitted to the Board still show Antares is the owner at a Connecticut address. Mr. Miller explained that this was still the official address, but these three local men hold the overwhelming controlling interest. Chairman Michelman said that she could accept that, however the perception is different. She wanted to know how they could emphasize that the majority interest is local. She said that she understood business, but she also understood public reactions. Chairman Michelman said that she believed the owners would complete this project, but felt there were issues that remained for the Board. She wanted the applicant to emphasize that this is a limited liability company that is independent of Antares. Mr. Miller explained that Antares Armonk Square, LLC is a separate entity. Chairman Michelman asked why the applicant didn't just put the plans in this name.

Mr. Baroni explained that the owner is Antares Armonk Square. Mr. Miller said that was one owner, but there are three others now. Mr. Baroni said that all four names could be on the plans. Mr. Miller said that the tax bills go to an address in Scarsdale where one of the members has his office. The applicant would be happy to conform the plans to reflect that address. He asked if that would be a condition of resolution. Mr. Kaufman said that it could and he would make that revision.

Mr. Delano explained that because there are more owners, the first and third whereas clauses would need to be revised. He pointed out that there would be more instances throughout. Mr. Kaufman said he would revise this.

Chairman Michelman asked if there were any other issues. Mr. Adelman said that his concerns have been addressed in the resolution. Mr. Kunny said that he had a very minor correction on page 17, it starts with #2, and would need to be renumbered. Ms. Black pointed out that the subsequent numbers would all need to be renumbered.

Mr. Kaufman added that condition 6 on page 20 needed to be addressed. There are two options. He explained that the intent of the entire condition is to ensure that no portion of the building, specifically the retail portion, would be occupied, prior to the residential units being ready for rental. The applicant saw a draft of this condition, which dealt only

with the MIUs. However, there was a subsequent change in the draft after a discussion with the Chairman as to whether it should be modified so that it was not just limited to the MIUs, but all of the apartments. Therefore, this would require all of the apartments to be ready for rental before C.O.s are issued. Mr. Miller asked if this meant that before a C.O. could be issued for anything on the first floor for any building, all the apartments would have to be ready. Mr. Kaufman said that was correct, however in this case, the building would get the C.O. not a particular unit.

Chairman Michelman said that she and Mr. Kaufman spent a long time wrestling with this issue. She was concerned about making the C.O.s work, and said that, to be blunt, she did not want to see a Cider Mill situation, where the property was half occupied but the other half was still being built. She said that the applicant has stated that they do not want to segment the project, and the Board agreed that it would not be beneficial. However, if it should not be segmented one way, it should not be segmented the other way. There are certain limitations that C.O.s would require, but she did not want to see the project come up in pieces. She asked how to resolve this.

Mr. Miller agreed that the applicant does not intend to stage this project, and plans to erect everything simultaneously. That being said, it is likely that one building will be slightly more complete before others (i.e. if the applicant has a tenant for one building, they might focus more on that one). They had planned to have one building completed with all of the units, as opposed to holding up a potential tenant while they wait for the other buildings to be completed. Mr. Miller asked for a moment to speak with the clients.

During this time, Mr. Kaufman asked if the Board had any questions / concerns about this new development. At this time multiple conversations were had among different members of the Board.

Mr. Miller repeated that the plan was to deliver a shell with a Temporary Certificate of Occupancy for the commercial tenants, which would enable them to come in and get whatever approvals they want. Therefore, if the limitation the Board wants to impose relates to a C.O. for the downstairs space, the applicant would agree. However, the tenants would need to come in and be able to start the work with a T.C.O., which they would like to be able to get for one building before all of them are completed. Otherwise it is a catch 22. Chairman Michelman understood this, but wanted to know how it would be resolved.

Mr. Kaufman suggested the condition reading "all apartments in every building shall be fully fitted and ready for sale / rental to the satisfaction of the building inspector, prior to the issuance of any T.C.O." Mr. Miller said that if the apartments had to be ready in any one building, this would pose a problem for the applicant, and therefore could not agree to that. Chairman Michelman noted that there are 3 of the 5 that have MIUs, that would have had to be ready at once under the initial draft; changing it to all apartments would mean that all five buildings have to be done at once.

Mr. Baroni asked if it was practical that the Board would want to wait to have tenants until the downstairs was fitted out. Mr. Kaufman asked if the applicant would be satisfied if it was changed to a permanent C.O. Mr. Miller said that this cuts the other way too. If they don't have commercial tenants, but they do have residential tenants, they would like the tenants to be able to move in. Mr. Baroni pointed out that the tenants would have to

suffer through the construction downstairs. Mr. Miller said that that would only be interior work. He suggested that before any permanent C.O. is issued, (which the downstairs tenants would get for themselves), the applicant would have to get the C.O.'s for the apartments. Mr. Kaufman said that was what he had initially considered.

Mr. Zaretsky, one of the members of the corporate applicant, stated that if his wife could live through a renovation, he did not think it was unreasonable for tenants to have a slight inconvenience for work downstairs. He pointed out that they would have to perform construction in accordance with the Town's laws.

Mr. Kaufman said that he did not want this to turn into a timing issue about when the apartments are occupied. Chairman Michelman understood this, but needed to hear this again. Mr. Miller stated that the applicant wanted to be able to give a T.C.O. for the downstairs tenants, which would enable them to come to the Board and get their own approvals. The applicant would like to require C.O.s for the apartments prior to the C.O.s for the downstairs. Therefore, the C.O.s for the upstairs would be in hand, but no permanent C.O would exist for the downstairs at that point.

Mr. Adelman said that he was not so concerned with the construction inconvenience for the tenants upstairs; there will likely be some disturbance regardless. However under the scenario just discussed, that could delay the construction of the one-bedroom apartments. Mr. Zaretsky said that if he understood correctly, the Board was not looking to put a limitation on this, which would be better for the applicant. He added that the rental market is much stronger now that the residential sales are down. That is why the applicant chose to have rentals as opposed to condos. The applicant will always have the ability to convert to condos if the market changes.

Mr. Adelman said that the Board was trying to avoid an unseemly delay in getting the residences built regardless of how they are marketed. Mr. Miller said that he thought that was what they were doing. If the applicant wants the commercial space rented, they would need to have a T.C.O, and the tenant would want to get in quickly to get the C.O. Therefore, Mr. Miller suggested that before any downstairs tenant could get a permanent C.O., all of the upstairs residences would have to have their permanent C.O.s. Mr. Adelman did not think that addressed his concerns, because he wants to avoid a situation where the commercial market weakens, and the applicant decides to delay construction of a building with residential units. Mr. Miller said that the applicant wanted everything rented out. If they are prevented from getting a permanent C.O. for any commercial space until they have C.O.s for residential spaces, the competing factors drive the applicant to finish the residential spaces quickly.

Mr. Baroni pointed out that downstairs tenants would be able to move in under a T.C.O. Mr. Kaufman agreed. Mr. Baroni said that the Building Inspector may not issue a C.O. for some time. Mr. Zaretsky said that it was the intent to get the buildings up at the same time, and to do so as quickly as possible. They are anxious to get started on the project and get it completed. The sooner they get the approval, the sooner we can start bringing income in, regardless of whether it is residential or commercial.

Chairman Michelman agreed that this issue of commercial or residential was irrelevant. She felt that condition number 6 only addressed the apartments, and she said that she does not care if it is temporary or permanent, but she does not want a building to get any

certificate unless 99.4% is ready for approval. It may not be rented or filled, but the Town cannot be subjected to segmenting the C.O.s for these five buildings. The applicant wants to build it as a whole, and the Board wants to approve it as a whole. The Board wanted assurances that the applicant would not focus on two buildings while the remaining buildings are pushed to the side. She said that she understood that people in the apartments will have to deal with a little construction, but she does not want them to have to deal with it for years. Until she is assured that this will not be segmented in occupancy, she would not be able to vote yes; otherwise, she could.

Mr. Kaufman said that there are two main issues: the Board wants to ensure that the apartments get built, and occupied, and not have a situation where the first floor is occupied, and nothing happening with the apartments. The second issue is that all of the buildings get built. He suggested that they be separated as conditions. Chairman Michelman said that she saw both issues as one condition.

Mr. Kaufman wanted the Board to hear him out. The first condition would read "all apartments in the building shall be fully fitted, etc. prior to any C.O. being issued for that building." The second condition would read "no permanent C.O. for any building would be issued until at least a building permit has been issued for all of the buildings." Mr. Kaufman said that the Board might need to specify how much of the building they want to be completed.

Mr. Zaretsky said that he understood the Board's concerns, but there are certain things they will not be able to control. There is a possibility that some minor issue would delay approval, and 90% of the project is built but they would not be able to rent any spaces, because they are waiting on a minor detail. His understanding of the Board's concern is that the project is finished; that someone walking in would see a half finished building and people living in another building. He suggested that they focus on the box of the building, while we are working on the insides. In the meantime, the project itself, looks like a finished project. He said that he did not want to see anything half finished either and that he fully understands the concerns of the Board. However, the Board could not tie the applicant's hands over something they could not control.

With respect to the first condition proposed by Mr. Kaufman ("no C.O. for any building until apartments are ready) Mr. Miller stated that this would limit the ability to get a T.C.O to enable the downstairs tenants to begin work. Mr. Kaufman asked where their conditions differed. Mr. Miller explained that he wanted to be able to get a T.C.O for a particular space, but not a permanent C.O., being sensitive to the issue that the tenant could move in with a T.C.O. Mr. Kaufman said that this would not address the Town's concerns over how the space could be occupied with a T.C.O. Mr. Baroni suggested the condition read "no building could be occupied without a T.C.O. for the entire building" as opposed to having a T.C.O for a particular space. That way, everything has to be ready for occupancy.

Dr. Matusow said that was acceptable, but said that it did not address the concern that all the buildings be erected at once. He said that the Board wants language on paper that would require the applicant to erect all buildings at the same time.

Mr. Baroni stated that the condition could read "no T.C.O. could be issued for any structure until all exterior elements are completed for all the buildings." This would

include all exterior finishes, roofing, windows, etc. The Board said that would work. Mr. Miller said that would be acceptable, with the exception of minor things like painting a window trim.

Mr. Kaufman asked if the apartment issue had been satisfactorily addressed. The Board thought so. Mr. Kaufman said that they could make it explicit in the resolution so that the Building Inspector would be aware of the condition.

Mr. Kaufman clarified the language for assuring all the buildings are built: "no T.C.O. would be issued for any building until ..." Mr. Kaufman asked if they wanted to add "reasonably complete to the satisfaction of building inspector." The Board agreed.

The other issue is the apartments. Mr. Kaufman suggested keeping the original language in the resolution. Everyone agreed. The Board asked if Mr. Baroni was comfortable with this language. He said that he was.

Mr. Miller said he had no other issues, as this was the one concern he'd had with the resolution. There were no other comments from the Board.

Mr. Adelman moved to approve the resolution as amended. The motion was seconded by Dr. Matusow, and unanimously approved.

The applicants thanked the Board for everyone's hard work.

NEW BUSINESS:

MUHART

Special use Permit

Section 1, Block 5, Lot 15-21

7 Hobby Farm Drive

Discussion

John Kalin, PE

Mr. Kalin was present on behalf of the applicant. Chairman Michelman apologized for the Board missing the site walk due to the snowstorm on Friday. Mr. Kaufman stated that not having walked the site put the Board at a disadvantage. The Board agreed, and said that it would have to be rescheduled.

Chairman Michelman said that the applicant was seeking to build a sport court. She said that she was assuming the base of the court would not be sand. Mr. Kalin explained that it would not be; the base will be concrete with a plastic tile on top. It would be constructed over the existing volleyball court, and partially on the lawn. Mr. Kalin pointed out that the lawn is partially in the wetland buffer. The wetlands have been delineated at the edge of the pond. At one point, the pond had been used as a detention basin for the subdivision. The homeowner has extended the lawn very close to the edge of the pond. They would like to see the sand volleyball court converted to a sport court, and would seek comments from the Board so that they could move forward.

Chairman Michelman stated that it was hard to picture the proposal without having looked at the site. However, it is the Town-regulated buffer that has been covered with

grass. She did not know who had done this, but she said she had a problem with this. Mr. Kalin explained that he had spoken to the applicant about how the lawn reached the buffer, but there was no real answer. However, the applicant is open to talk about permitting it to revert to natural vegetation. Mr. Kalin added that he is also authorized to move it further up, which would take it out of the buffer a little more, but the disturbance would have been more. He did not think they could get out of the buffer entirely, unless they could get a waiver from the Health Department for intruding on the reserve area. Mr. Kalin said that it could probably be moved up about 22'.

Mr. Kaufman explained that the Board would conduct the site walk, and forward the application to the Conservation Board and the Wetlands Consultant. Mr. Delano asked if there was going to be an issue with the fence. Mr. Kaufman asked if it was going to be over 6'. Mr. Kalin said that it would be 10' high. Mr. Kaufman explained that the applicant would need to obtain a variance for that. He asked if the Board wanted him to refer the application to the ZBA. Chairman Michelman asked if the court had to be this size in order to be effective. Mr. Kalin explained that it did. He noted that the previous dimensions were larger but it cannot be reduced much more, and still be able to function.

Dr. Matusow asked what a sport court was. Mr. Kalin explained that it was a multifunctional court with tiles on top of a concrete base. The tiles are made of recycled plastic that interlocks with the next tile. It allows water to flow down to concrete, which is pitched downward, collected and treated. Many sports would be able to be played on this court, including tennis and basketball. In the winter, they could even fill the court with water and when it freezes, it could be used for ice-skating.

Mr. Kalin explained that the court would be fenced in to prevent balls from escaping. Dr. Matusow asked if it would be a chain link fence. Mr. Kalin said that it would be, and that typically black chain link is used, but it could be green if that was what the Board preferred. There is a generous buffer to the left side, and they have made an effort to save the trees.

Chairman Michelman asked if it would impact any of the neighbors. Dr. Matusow said that he walked the site, and felt that where the court is proposed, it would have minimal impact to neighbors, however, it would be open to the road. He thought this would look awful. He also said that he had concerns with putting this type of facility in the buffer area. He would want landscaping that would screen the court from the road. Mr. Kalin explained that they would have a number of opportunities to screen. Dr. Matusow pointed out that this was near the buffer area. Mr. Kalin agreed, but said that the court itself would be further away from the system, and he would like to be a minimum of 20' away.

Ms. Black asked if the fence needed to be 10' high. Bill from Sport Court explained that normally, they put a 10' fence on either end of the court and that is the only 10' fences that are really needed. The majority of the fence could be dropped to 4'. He added that, sometimes customers put up netting to catch a stray ball. If this was an issue for the Board, the applicant could lower the fence down to 4' for the sides parallel to the road (which would eliminate visibility from the road) and have the 10' sides on the ends. They could even leave it open entirely on the sides.

Chairman Michelman said that this should be referred to the Conservation Board, and the Boards should walk the site. Mr. Kalin asked who referred this to the Conservation Board. Mr. Kaufman explained that his was done by the Board, and would be done within the week. Chairman Michelman stated that the Board would try to coordinate its visit with the Conservation Board.

Mr. Kalin asked if it would be beneficial to wait for the Conservation Board's comments prior to addressing any of the buffer issues. Mr. Kaufman said that it would be good to do, if the applicant was willing to do that. Mr. Kalin said that he was.

Mr. Fava noted that it would be helpful to see a cross section from the road to the pond, and the applicant said that they would provide it.

The Board said that they would hold off referring this to the ZBA until after the site walk.

SFARRA

Site Plan

Section 2, Block 17, Lot 1-18

10 Yale Place

Discussion

Marina Libonati, AIA – MSL Architects, PLLC

Pete Gregory, PE Keane – Coppelman Engineers, P.C.

Ms. Marina Libonati was present on behalf of the applicant. She said the applicant is proposing to enlarge the existing 2,100 sq. ft. home existing by approximately 3,500 sq. ft. The house is currently in the existing 100' buffer. The applicant's proposal would add a portion of the house in the area where the deck was, and have a smaller deck up into the same space. They are also adding a new garage toward the end of the existing drive. The applicant would be adding a couple hundred square feet to the driveway, but the new garage would be sitting on the existing driveway, so they would not be adding any additional impervious square footage.

Mr. Kaufman asked how much additional disturbance is proposed that is not already paved. Ms. Libonati said that it was 5,500 sq. ft. The Board said this was not what they meant; they wanted to know how much disturbance they were adding. She was not sure what they were looking for, and asked if they were asking about the portion that does not include the garage. Dr. Matusow said they were. She took a moment to review her notes.

Mr. Kaufman took this time to advise the Board that even though a permit is needed, the applicant is below the basic by almost 2,000 sq. ft. Dr. Matusow said that it sounded like the new disturbance was not much more than the deck had been. Ms. Libonati said that the area of disturbance is approximately 1,300 sq. ft.

Chairman Michelman wanted to know what the space would be used for. Ms. Libonati said that the current house has three bedrooms, a small kitchen and dining area. The applicant is adding the kitchen / dining area to the large portion, and keeping one area as the living room. The applicant is creating three bedrooms upstairs, and using the old bedrooms as a training room / office. Dr. Matusow asked about the total bedroom count and Ms. Libonati said that the existing home has three bedrooms and the plan will not

change that number. Only the size of the rooms would be changed.

Chairman Michelman asked how old the house was. Ms. Libonati explained that the house was built in the late 1950s. Chairman Michelman asked if the septic system had been looked at recently. Ms. Libonati explained that they have been trying to find existing septic information, but have not yet been successful. However, the applicant is working with an engineer to try and verify the system is in working condition and could maintain the residence. Chairman Michelman said that the Board would want to see that information. Mr. Adelman said that should be checked for functionality, because they will essentially have a new home, and they would not want a failing system. Ms. Libonati explained that they are working on the calculations to accommodate additional space, either for expansion or for an upgrade, because they are not sure how old the tank is or if it is up to code. Chairman Michelman said the septic analysis was one of her concerns.

Chairman Michelman said that the Board needed the information on the septic system, and asked what else was needed. Mr. Kaufman said that this application would need to be referred to the Conservation Board and the Wetlands Consultant and the Board would need to conduct a site walk. Chairman Michelman said that they would try to coordinate the site walk with the Conservation Board.

Ms. Libonati asked how this would be referred to the Conservation Board. Mr. Kaufman said that he would refer the application to them, and then the applicant would need to make a formal presentation and supply any information they request. Mr. Kaufman asked if the applicant had any questions on his memo. Ms. Black said asked if there was any plan to mitigate or restore the lawn area. Ms. Libonati said that she was looking into this. She asked what would happen if she could not find the necessary septic information. Mr. Kunny explained that there were companies that will investigate the system and determine what is in the ground. At that point, it would be up to the applicant's engineer to evaluate and probably expose portions of it for inspection.

REAL BUILD LLC
Site Plan
Section 2, Block 11, Lot 3G-9-1
8 Briggs Lane
Discussion
Tim Allen, PE – Bibbo Associates

Mr. Tim Allen was present on behalf of the applicant. He explained that this was an application similar to the Greenway Place application, although this was slightly smaller. This lot had been part of the D'Giacinto subdivision that was approved in the 1990s. There are several lots, all of which are owned by this applicant.

The applicant is proposing a single-family residence with a septic system and a well on the first lot off of Briggs Lane. Mr. Allen explained that the ARB had recommended having more of a frontal entrance, as opposed to the house facing Briggs Lane as depicted in plan to this Board. The applicant does not really have a preference, that if the entrance was more towards the front, you would have to pass by the residence and turn back to the house. Mr. Allen presented a plan showing the ARB's preference.

Mr. Allen recognized that the Town Engineer had issues with the drainage. This was being discussed, and they would meet again. Mr. Allen recognized that this lot, and the other lots in the subdivision must be done in accordance with the IPP verbatim. However, the applicant would work with additional grade, if necessary. Mr. Delano asked if the house size, footprint and bedroom count was in keeping with the prior plan. Mr. Allen said that it was, but there was little stormwater on the original plan, so they will be working with the Town Engineer on this issue. Otherwise it is in line with the IPP.

Mr. Allen explained that they would review the pool site as suggested by Mr. Kaufman. Chairman Michelman said that she did not know if the applicant was proposing a pool but the Board needed to structure the site to accommodate one, or state specifically that the site would not accommodate a pool. Mr. Allen said that there are some options the applicant is considering.

Mr. Adelman recalled that this site has Whippoorwill Hills behind it, and pointed out that that area is steep. He felt the applicant should consider not having a pool there, otherwise, many neighbors might come out in objection. Mr. Allen asked why they would they object. Mr. Adelman said that a pool there would end up being very close to Whippoorwill Hills. Mr. Allen said that this would be reviewed, but the applicant may decide he does not want a pool. He was not sure if the applicant would agree to precluding a pool entirely, but would discuss this with the applicant

The Board agreed to schedule a site walk.

MORAN
Special Use Permit
3 Seymour Place West
Section 2, Block 8, Lot 16F01
Discussion
Robert Colwell Petrucelli, AIA

Ms. Moran was present for her application. She explained that her architect was unable to make the meeting because his car had broken down. She stated that everything had been done, and he would bring it to the Planning Department tomorrow. Ms. Moran said that she wanted to address some issues. With respect to the Engineer's report, the garage is actually 28' deep rather than 30'. It is on the site plan as 28' and the picture has 30'. This will be revised, but she wanted the Board to be aware. Ms. Moran wanted to know if this would affect the comment that "it was a negative on the gross floor area." Mr. Kaufman explained that it was not a negative, only that the proposal was above the basic. This change would not make a great impact.

Ms. Moran asked about the comment regarding the setback for the cabana. The memo states that a 30' setback is required, but when they applied for the shed they were told they only had to be 15' from the setback. Mr. Kaufman explained that for a shed, this was true. He explained that once a shed becomes part of the pool, it is required to be 30' back. If the shed was taken away from the pool, it could be left as a shed at a 15' setback. Ms. Moran thought that they would leave the shed as a shed, separate from the pool.

Ms. Moran explained that when the memos refer to a wetland, it is referring to a small manmade pond on the neighbor's property and from what she understood this would have different implications. Mr. Kaufman said that it would depend. The code talks about the characteristics of what constitutes a wetland. He advised that they hire a professional should determine this, and the Town would send out its consultant to see if he agrees with the applicant's professional. Ms. Moran asked if they should do that now. Mr. Kaufman said that they should.

Dr. Matusow asked who created the pond. Mrs. Moran said that she was not sure only that it was someone long ago who owned the neighbors property. Mr. Kaufman suggested having the consultant view the site quickly to see if he could tell right away whether this would be considered a wetland and if it looked like it would, then they should hire their own professional. Mr. Kunny pointed out that there are two wetlands, one on the neighbors and one on the applicant's site. Mr. Kaufman explained that, in that case, it would not make any difference to have the wetlands consultant walk the site quickly. Dr. Matusow pointed out that the two wetlands did not interact. Chairman Michelman added that this would be referred to the Conservation Board as well.

Mr. Moran said that they moved to the area last year, and they had a lot of water on their lot from the neighbor's lot. After the neighbor worked with some professionals to correct the problem, the Morans did not get any water from the neighbor's property this year. Additionally, the prior owner of the house did not have any issue about the pond when his addition was built.

Chairman Michelman explained that the Board would schedule a site walk, and try to coordinate the walk with the Conservation Board.

Ms. Moran added that they would be willing to make the pool smaller if it would help with the gross land coverage. Dr. Matusow asked the size of the pool, and Ms. Moran explained that it was 18x36. Dr. Matusow stated that that was somewhat smaller than typical pool, and did not think the gross land coverage is an issue. The Board agreed.

Ms. Moran added that although the comment indicates the pool is recreational, to a certain extent, it is also therapeutic. Mr. Moran has some health issues, and his doctors feel it would be helpful for him to have a pool. Chairman Michelman said that she did not think this would be a problem, the Board just needed to consider where it would be located.

The meeting was adjourned at 9:39 p.m.
