

PUBLIC HEARING & NEIGHBOR NOTIFICATION:

SZCESNIAK

Site Plan

Section 1, Block 4, Lot 10-512

35 Evergreen Row

Fred Rucker, AIA

Discussion

Consideration of site plan resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 23 out of 25 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. There were no neighbors present.

Mr. Fred Rucker was present on behalf of the applicant. He explained the application proposed a 1,904 sq. ft. addition. He indicated the existing house, and the location of the new extension. The new extension would house a family room, playroom, and an office. He noted that the house would look like one story, but there would be two. Mr. Rucker explained that the basement would be a walkout. He presented an architectural rendering to the Board, and explained that, with the exception of the landscaping plan, they have the ARB approval.

Mr. Rucker presented a 3D rendering of what the house currently looks like, and what it would look like after the renovation. He explained that they would not be encroaching on any neighbors. Mr. Rucker also indicated the location of the pond on the side of the lot.

Chairman Michelman asked if any of the Board members or professionals had any issues. Mr. Kunny had none. Mr. Kaufman explained that his conditions were contained in the resolution, and noted that he had no issues with those conditions. Chairman Michelman explained that the resolution itself contained an error with respect to the address: the resolution lists the address as #38 Evergreen Row, but the actual address is #35. This would be revised. Mr. Rucker agreed with the change. Chairman Michelman asked if Mr. Rucker has reviewed the resolution. Mr. Rucker said that he had, and had no issues.

Chairman Michelman noted that Mr. Rucker was supposed to bring the Board the mitigation plan before they would vote on the resolution. Mr. Rucker said that he did not recall that this was a requirement. Mr. Kaufman confirmed that the Board wanted to see the mitigation plan prior to voting on the resolution. Mr. Rucker explained that he would provide the plan to Mr. Kaufman within the next few days. Chairman Michelman asked whether the Board wanted to move forward with the resolution without having seen the plan.

Mr. Delano thought it would be appropriate if some of the conditions in the resolution call for grading to be shown on the plan. The Board is asking for an indication of 25% slopes, but he thought the corner of the house is higher than that. Therefore, they may need to include language for a slope permit. He noted that some items in the resolution (i.e.

3,4,6,7, and 12) are somewhat interrelated and relate to drainage, grading and steep slopes. If those items are completed, that would tell the Board if they have a steep slope issue. They would then know how much wetland buffer they were disturbing, and that, he thought, was the logic in trying to get mitigation plan before they voted on the resolution. Other than those issues, he had no problem. Mr. Delano noted that he did not think this would be a lot of work, but that it would lead to the next step that would give the Board a shorter resolution.

Dr. Matusow stated that the minutes of the prior meeting clearly indicates that the Board wanted the mitigation plan prior to voting on the resolution, and he agreed with the Chairman.

Chairman Michelman explained that, though she was sorry to do it, the Board would have to adjourn the vote on the resolution until the mitigation plan was submitted and reviewed. Dr. Matusow asked if they would leave the public hearing open. Chairman Michelman said that they would.

Dr. Matusow moved to adjourn the public hearing until the next available agenda. The motion was seconded by Ms. Black and unanimously approved.

PUBLIC HEARING:

STOP & SHOP

Amended Site Plan

Section 8, Block 3, Lot 21.A

670 North Broadway

Laurence Wagner, P.E. – Wagner Engineers

Consideration of site plan resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 47 out of 59 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.

Ms. Noelle Chrisally, Esq. was present on behalf of the applicant. Chairman Michelman explained that number one on page three of the resolution contained a typographical error, which would be revised (“guarantees” was spelled incorrectly) Ms. Chrisally had a question about that. She explained that Stop & Shop is intending to install cart corrals and therefore, she was wondering what type of guarantee would be required because they were installed right on top of existing parking spaces. Mr. Kaufman explained that the applicant would need to guarantee that the corrals would be removed, if the spaces were needed. Ms. Chrisally asked if bonding would be required, and the Board said that it would not be. Ms. Chrisally asked if a written statement explaining that the corrals would be removed would suffice. Mr. Kaufman said that it would.

There were no issues from Mr. Kaufman or Mr. Kunny. Chairman Michelman asked if there were any other issues or questions with the resolution.

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

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

CONTINUING BUSINESS:

SULLIVAN

Subdivision

24 Glendale Avenue

Section 2, Block 13, Lot 17-18

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

Discussion

Chairman Michelman asked if there were any neighbors present for the application. She noted that this was not a public hearing, but wanted to make sure that the public knew that there was an error with the publication, and therefore, the public hearing would be adjourned. There was no one present for the application.

Mr. Naderman was present on behalf of the applicant. He explained that he had hoped to be in a position to go through some of the corrections that had been made since the last meeting so that he could ask for a resolution to be prepared for consideration at the public hearing.

Mr. Naderman explained that one of the more notable corrections was in response to the Board asking them to bring the 1st floor elevation down. This had been done, so that now there are only approximately three risers. This softens the grading throughout. Mr. Naderman explained that he has also tracked information from the Water and Sewer Department relating to where the existing service is for this residence, and have a new service for the other. There were other corrections regarding the well positions and wells, and the continuity between what trees were to be removed and which ones would stay. He explained that the landscape plan had been revised to indicate that the southern fence was going to be removed and replaced, and that the property next door because its vacant, that fence would be removed. Those were the major items.

Mr. Delano asked Mr. Naderman to explain the varying separation requirements on the stormwater infiltration practice and a water supply; namely, the distance required by the Health Department. Mr. Naderman explained that they use state requirements. If the infiltration system is from the catch basin, parking lots or driveways, then the separation distance has to be 100'. If it is from roof runoff or patios, then it has to be 50'. In this instance, the catch basin is not a catch basin until the driveway-proper, so there is a 50' required distance. Mr. Delano asked what was going to be required on the other lot. Mr. Naderman explained that it would be the same: it was just roof runoff, so 50' would be required.

Chairman Michelman asked if there were any other issues. Mr. Kaufman explained that there were some technical issues on plat map, but he was sure the applicant could address those issues. Mr. Naderman agreed. Mr. Kunny noted that there was a minor construction plans and notes on the subdivision itself. Mr. Naderman said that would not be a problem.

Chairman Michelman asked if the Board would be willing to have a resolution prepared for consideration at the public hearing. The Board was comfortable with this. Mr. Kaufman said that he would prepare a resolution, but the public hearing would need to be rescheduled.

Mr. Naderman acknowledged this was Mr. Adelman's last meeting, thanked him for his work through the years, and wished him good luck.

DiPAOLO
Site Plan
Section 2, Block 5F, Lot 15
Tim Allen, P.E. – Bibbo Associates
16 Greenway Road

Mr. Ed Delaney was present on behalf of the applicant. He explained that he was before the Board for a technical revision to a prior resolution for a numerical mistake. Mr. Kaufman explained that the resolution referenced the originally submitted worksheets submitted by the applicant. The public hearing notice included the correct number. So, the resolution needed to be amended to reflect the correct number. Additionally, because of the new number, the Planning Board would need to issue a special use permit for the amount of floor area. The original worksheet listed 4,500 sq. ft. house, which did not include the garage and the porch. Once that was added, it increased to 5,800 sq. ft., which was above the basic, and therefore requires a special use permit.

Chairman Michelman asked if those were the only changes, and Mr. Kaufman said that they were. Mr. Delano asked if a public hearing notice would be required again. Mr. Kaufman wanted to confirm this with Mr. Baroni, but felt that it was not necessary because the public hearing notice had the right number.

Chairman Michelman asked Mr. Baroni if there was an error on the calculation worksheet, but the public notice had the correct square footage, and the amended resolution incorporated the missing square footage, would the Board have to have a new public hearing. Mr. Baroni said that one would not be needed, and that the Board could make that amendment.

Mr. Kaufman explained that the new resolution would supercede the previously adopted resolution. Ms. Black moved to approve the resolution that would supercede the last resolution. The motion was seconded by Mr. Adelman and unanimously approved.

TOLZ/NAGLE

Lot Line Change

Section 2, Block 5C, Lot 5C (Tolz)

Section 2, Block 5C, Lot 4 (Nagle)

104 & 92 Byram Ridge Road

Consideration of extension of time for preliminary subdivision resolution

Mr. Tolz was present for his application. He explained that he did not have much to present to the Board, and that he was simply looking for an extension of time. Mr. Kaufman explained that he had prepared a resolution that would extend the approval for 6 months. Chairman Michelman asked if everything would be completed by that time. Mr. Tolz hoped that it would be, but noted that he still needed to go to the Health Department.

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

Mr. Tolz asked when he would receive the signed preliminary plat because that was what he needed to bring to the Health Department. Mr. Kaufman explained that he would have to satisfy the conditions in the resolution listed in the section entitled 'prior to the signing of a preliminary plat,' and then meet with the Town Planner and the Town Engineer. Once the Building and Engineering Department had signed off, the applicant would receive the preliminary plat.

GIFFORD LAKE ESTATES LOT #2

Site Plan

Section 1, Block 09, Lot 13-11

14 Gifford Lake

Schedule Public Hearing Date

Tim Allen, P.E. – Bibbo Associates

Discussion

Mr. Delaney was present on behalf of the applicant. He stated that he believed the issue of lot size versus building coverage had been addressed by the Town. Mr. Baroni explained that he had had several conversations with the applicant's attorney, Charlie Martabano, and Mr. Kaufman. He noted that the last time the application was before the Board, they had talked about the implied inconsistencies between the resolution, the plat and the construction drawings. He believed that he and Mr. Kaufman were of the position, that rather than having a new public hearing to try and amend the subdivision resolution to conform to anything, the applicant has requested is a new special permit that the Board may or may not approve of because the Board may or may not believe that what was intended was control of the coverage on the entire lot, and not just the size of the principal dwelling. He explained that the Board could go forward and cure any inconsistency simply by exercising its discretion to issue a special use permit.

If the Board believed your intention for the lots in Rolling Hills was to control coverage, and not just size of the dwellings, then the Board does not have to grant the special permit that is being requested. Mr. Kaufman noted for clarification, that they were not

just talking about coverage, but building coverage.

Mr. Delaney asked if they could schedule a public hearing. Mr. Baroni explained that a public hearing would be required for a special use permit, but if it was not what the Board intended, the Board does not have to grant a special use permit, and the applicant will have to present a plan that conforms to the Board's understanding.

Chairman Michelman asked for comments. She noted that the Board seemed to agree at the last meeting that despite the language on the plat and resolution, they were not just talking about the dwelling size, but the building coverage. She stated that, unless someone felt strongly that they did not want to move forward, it is a risk that is in the applicant's hands, depending how the Board ultimately determines their intention.

Mr. Delaney asked the Board's current feeling on the issue. Chairman Michelman said that her feelings had not changed. Ms. Black stated that she did not feel she could comment because she was not on the Board at that time.

Dr. Matusow asked the amount of building coverage proposed by the applicant. The applicant said that he thought he would only be limited on the footprint of the dwelling, not the total building coverage. He said that he did not consider the garage as part of the dwelling coverage. He thought he would be able to get 4,206 sq. ft. for dwellings on lots 1-3 and 6,250 sq. ft. on lots 4 and 5. He said that when he purchased it from Mr. Martabano, Mr. Martabano had spoken to Mr. Baroni about this issue. Mr. Baroni clarified that he had not had any conversation with Mr. Martabano prior to this issue arising. The applicant said that Mr. Martabano was going to have a conversation with Mr. Baroni on the wording. Mr. Baroni explained that since this new application had arisen, he'd had conversations, but nothing prior. He advised the applicant that there might only be three Board members that could vote on the issue, and if that was the case, he would need all three to vote yes.

The applicant stated that he wanted a public hearing.

Mr. Delano pointed out that the Board spent a lot of time on this project at the subdivision stage. He felt that it was the Board's intention to control building coverage. He pointed out that the plans all had the garages situated in the house. The Board had a concern about stormwater runoff and management on the project, and this might require reconsideration of the stormwater management system. Mr. Delano thought the stormwater disturbance was over five acres, so it was a Stormwater Pollution Prevention Plan. He did not think there was any extra in the system, at least with respect to the peak mitigation. Mr. Delaney explained that they seem to be of the magnitude that they could handle little glitches, but that he could not answer that definitively at that moment.

Mr. Baroni opined that he did not think the Board envisioned a five-car garage. The Board agreed. Mr. Delano pointed out that if someone was here asking for a permit to put up a pool house, it might be perceived differently. The applicant explained that he was proposing it as both. Mr. Delaney asked how this affected going to a public hearing and asked if the Board wanted to resolve this issue first. The Board felt it was probably best to do that, because the applicant would be taking a great risk if they did not.

Mr. Delano advised that one member was leaving after this meeting, and one other member had not been a part of the Board when the prior plat was approved, so that left the applicant with only three members. The applicant thought that the Board had asked for larger sized homes, whether or not they would be built, and that was why they put larger homes, limiting that to the dwellings. Mr. Delano stated that the Board had been looking to nail it down. Chairman Michelman pointed out that was why there were different sizes on all the lots. She noted that this was a difficult and sensitive piece of property, and the Board had worked hard to protect the neighbors, and the land and everything else.

The applicant pointed out that he was under the maximum building coverage. Dr. Matusow said that was not the issue. Mr. Delaney said that perhaps it would be best to remove this application. Dr. Matusow said that this would be risky for several reasons, including the fact that they have not heard from the neighbors yet.

Chairman Michelman thought that the applicant had been very successful on lot one, staying within the 4,206 sq. ft. She said that it was an attractive house, with a pool and was a good use of the property.

The applicant asked if the Board would look more favorably at this application if he came back with only a pool house, and no garage. The Board asked where the garage would be located. The applicant indicated the location, and explained that there is already a three-car garage. The Board asked how large the pool house would be, and the applicant said that he was not sure; it is currently proposed at 24x20. Chairman Michelman noted that it seemed there would be a lot less impervious surface and she would consider it as a better option.

MADONNA
Preliminary Subdivision
130 Old Mount Kisco Road
Section 2, Block 2, Lot 9.A
Joe Riina, P.E.
Discussion

Mr. Joseph Riina was present on behalf of the applicant. He explained that the last time the application was before the Board, they presented a similar plan. The major issue at that time was lot one; it had a lengthy driveway with a lot of disturbance and was closer to the southern lot line. The applicant has revised the location based upon several conversations with the Town Engineer's office. Mr. Riina explained that lot two has essentially stayed the same. The house on lot one had been relocated, which eliminated approximately 300 feet of driveway and pulls it back approximately 50-60 feet from the property line.

Mr. Riina told the Board that they are now also proposing a conservation easement on the southern and western sides of lot one to provide a buffer for the adjacent properties. Because of this, the applicant is looking for some leniency on the net lot areas. The minimum gross lot area of one acre for lot two, but because of the steep slope reductions, they have just over 3/4 acre. On lot one, there are over 2 acres gross and

1.6 acres net. Mr. Kaufman asked if this was in a one-acre district, and Mr. Riina said that it was. Mr. Kaufman explained that because of that, the Board is not permitted to approve anything less than one acre. Mr. Riina thought that Mr. Kaufman had indicated this would be acceptable because this was a conservation subdivision. Mr. Kaufman said that was only if the Board approved this as a conservation subdivision. Mr. Riina said that the applicant would seek a waiver. Mr. Kaufman explained that there was no waiver, a conservation subdivision would be approved if the Board felt that was appropriate.

Ms. Black asked if the way the plans were drawn met the definition of a conservation subdivision. Mr. Kaufman stated that, typically, when they talk about a conservation subdivision, they referred to a parcel. Here they were talking about an easement; he was not sure if the code required an open space parcel is required, although he thought that it was. He explained that if it was required, then this would not qualify. Mr. Adelman thought that the whole idea of clustering was to create that.

Chairman Michelman noted that by moving the driveway back, retaining walls of almost 7' high would be required. Mr. Riina acknowledged this, and said that in prior applications they had proposed a series of tiered walls on either side of the driveway. The walls could be lowered, but they would require tiering, which they do have room for. Ms. Black said that she liked the idea of tiering and having vegetated areas between. Chairman Michelman stated that, in her mind, this was the first real application the Board had received; all the others were discussions of a concept plan. Mr. Riina agreed.

Mr. Riina said that he modified the proposed private road based upon the Town Engineer's comments, which caused the road to lengthen. Therefore, he revised the private road to come across the property, and now lot two would get frontage off of the private road; lot one would get frontage off of Old Mt. Kisco Road.

Mr. Riina asked if having an open space parcel was something they could do. Mr. Kaufman said that they might be, but he needed to check the language of the code. He read the language from the Town Code dealing with an open space parcel and noted that it sounded more like a parcel was required, not just an easement. Mr. Baroni pointed out that it did mention an easement and it does talk about preservation. He thought that this had been drafted before the Town really got into conservation. He thought that the Board might be able to make the determination that the easement would accomplish the same thing. He did not know what a parcel near the road would offer, and felt that it would offer nothing. The easement being offered in the back would, however.

Mr. Adelman pointed out that Whipoorwill Hills is a conservation subdivision, and the owners do not own parts of the common areas. He thought the law was a little older.

Dr. Matusow asked where the common area of open space would be on this plan. Mr. Riina said that there would not be one. Dr. Matusow said that he liked the concept of conservation subdivisions, but he did not think this application would fall into that category. Mr. Kaufman said that traditionally, an open space parcel that would be preserved; however, in the past, there have been instances where the Planning Board has requested areas to be preserved and protected – specifically rear yards facing Old

Mt. Kisco Road and this plan shows a conservation easement over those areas. Dr. Matusow acknowledged this, but felt that there might be a better way to make this an acceptable, approvable subdivision. He said that it was not a beautiful subdivision and that calling it a conservation subdivision might be a misnomer.

Mr. Delano said that for conservation subdivisions, he would expect to see buildings clustered on smaller lots, with conservation around the perimeter. This comes in off an easement. Mr. Kaufman said that he had the same issue. Mr. Delano did not like the issues regarding the emergency services relating to the horizontal and vertical alignment. There is a narrow driveway with no flat shoulder, no guide-rail and a 14% slope, falling off a wall, which is 9' high in the middle. He said that he had a lot of concerns about the access arrangement. He knew that there was one decent flat spot on the lot, but he did not know if there would be enough room to cluster two homes that would work. Mr. Riina noted that because of the size of that area, there is not enough room. Mr. Delano asked if the applicant was proposing to bring in sewer lines to the property. Mr. Riina said that they would, along with private wells.

Mr. Riina explained that with respect to the easement, the owner had a conversation with the owner of the adjacent property, and from what they could tell, this was an easement based upon a verbal agreement. There was shared access off of Old Mt. Kisco Road. The house was moved back and a driveway was created, along with the access easement. Mr. Riina explained that they have another meeting scheduled with the neighbor. Mr. Riina stated that the applicant would need an easement from the neighbor to permit this. Mr. Kaufman did not think that would be sufficient. The applicant had a public road and a private road, connected via an easement. Mr. Kaufman said that if the applicant was going to access the lots via an easement, that would be acceptable, but the applicant is proposing a private road that is accessed via an easement, which was strange. He did not see how the applicant would be able to get the frontage. Mr. Riina asked if a lot line change would suffice. Mr. Kaufman said that the private road right of way should connect to the public street.

Mr. Baroni asked if this property was in the sewer district. Mr. Kaufman told him that it was not. Mr. Roland said that this was a significant issue; he did not know if this area was within the area that was considered when developing the district. He suggested Mr. Kunny having a conversation with Mr. Kellard, because this could be a significant issue. Mr. Kunny said he would check. Mr. Riina thought the Town had plans to extend sewer up to Old Mt. Kisco Road. No one was sure of this answer. Dr. Matusow said that it was his recollection when the district was created, that the residents on Old Mt. Kisco Road were quite vocal about being left alone.

Chairman Michelman noted that these were issues that needed to be addressed. Mr. Kaufman asked if it was the consensus of the Board that it was not appropriate to apply the conservation subdivision to this layout. Ms. Black stated that the current layout did not appear to meet the requirements for a conservation subdivision. Mr. Adelman pointed out that this was a question that could be deferred because if the applicant would have to have a septic system, they would run out of useable land. Dr. Matusow agreed that this was a critical point.

Mr. Kaufman advised the applicant to deal with that issue. He explained that the first thing the Board needed to do was to declare intent to be lead agency. The applicant should talk to the Water and Sewer Department as well as the Fire Department. Mr. Kaufman pointed out that this design would not comply with the code unless the conservation subdivision is applied to it. If the answer is no, then the applicant would have to develop another plan. Therefore, the Board might want to wait to circulate their intent to act as lead agency, so that there is a plan that conforms with the code.

Mr. Baroni suggested that the applicant first determine whether they would be able to connect to the sewer system, because if that was not an option, there was no sense in beginning the SEQRA review. Mr. Kaufman asked Mr. Baroni if this should be referred to the Town Board first, and Mr. Baroni said that they should, because it was a threshold issue. The Planning Board said they would refer the matter.

Mr. Riina explained that although it was not a common parcel, the site was designed with a conservation subdivision in mind; they did not just arbitrarily pick an area. Chairman Michelman said that the Board understood, but at this point, it was not pertinent. She explained that the Board would need to consider this, but not until the major issues were resolved. Mr. Riina asked if the Board referred the application, or if it was something he would have to do. Mr. Kaufman said that he would send the letter, but the applicant should reach out as well.

LUPPINO

Amended Site Plan

Section 2, Block 17, Lot 5.J01

6 Hadley Road

Cami Fareri Lupino

Discussion

Mr. Alan Pilch was present for the application, along with the applicant Cami Lupino. Mr. Pilch explained that this was before the Board a couple of months ago, and the application was referred to the Conservation Board. He explained that this was an amended application for a wetlands permit.

The application proposes the installation of four catch basins in the right-of-way of Hadley Road, which would collect runoff, which is presently discharged into the low area of the road. He indicated the location of Hadley Road on the plans. Mr. Pilch explained that it would discharge to the stream, which runs through the Luppino property. The installation of curbing on Hadley Road would remove some of the drainage issues for residents on the road by keeping the drainage within the paved area of the street, and discharging with the subsurface pipe into the stream.

Additionally, the applicant was proposing a 'wetland enhancement and stormwater treatment area.' This is a low area that would be graded within the wetland buffer of the property. It diverts the runoff and flows from the stream into the treatment area, which would be planted with native vegetation. This would offer the opportunity for treatment and could rejoin the stream and continue along its course. In addition to these two pieces of mitigation, there are other mitigation measures being proposed, including the planting of screening adjacent to the wetland area, and some more along the stream

side.

Mr. Pilch explained that the Conservation Board had made some comments, and ultimately granted approval with comments. Chairman Michelman asked about the Conservation Board's comments; some of them were a little more aggressive than the applicant originally planned. Mr. Pilch pointed out that a majority of the Conservation Board recognized that there would be a public benefit to what was being proposed (benefit to the entire neighborhood, plus the benefit to the wetlands system itself), provided a greater benefit. Chairman Michelman said that was perfectly clear.

Mr. Kaufman asked if the applicant was going to submit plans that addressed all of the Conservation Board's comments. Ms. Lupino said that they would. Ms. Desimone explained that these plans had been submitted the Friday before the meeting. Chairman Michelman asked if the plans that were before the Board were the new plans or if there was another set, with more detail. Mr. Pilch explained that the plans before the Board were the ones that were submitted on Friday, but they did not include the Conservation Board's comments. Some of the language would need to be worked out (i.e. the language for the conservation easement, and the language for the drainage); this would be discussed this issue with the Board and the Town Attorney.

Ms. Black asked if, aside from these items, the applicant had addressed all the Conservation Board's comments. Mr. Kaufman said that the biggest issue was comment one: the original plan did not contemplate curbing for 1,000 feet. Mr. Pilch explained that the original plans did have that information, but the details would be submitted to the Board.

Chairman Michelman asked if there were any issues from the Board or the professionals. Mr. Kunny explained that he had not yet seen the plan. Mr. Delano felt that the Board should wait and let the plans get through the system, and submit a set to the Conservation Board, to make sure that Board approved of the plans.

Mr. Kaufman asked if this Board wanted to go ahead with the public hearing at this point, or wait until they saw the new plans. Mr. Delano thought it would be best to wait until the Town Planner and Town Engineer review the plans. Mr. Kaufman said that he Board could have the public hearing and receive the professional's comments, and continue the public hearing if they had to. Mr. Kaufman asked if the Board thought there would be significant issues. Mr. Delano said he did not know; he was not anticipating any problems, and if there were no glaring errors, then the Board would be more comfortable with proceeding to public hearing.

Ms. Luppino stated that it was her understanding that as long as the Conservation Board's comments were addressed properly, there would be no problems. She added that subsequent to the Conservation Board's meeting, she had met with the Highway Department, the Building Inspector and the Town Engineers. In her opinion, it was generally understood that the Highway Department would be happy to consider it a public improvement.

The Board explained that they had not yet received any indication from the Conservation Board. Chairman Michelman explained that once they received those comments, and

everyone had reviewed the new plans, she did not foresee a problem. She did not think the Board should hold a public hearing until then. Ms. Lupino felt that it seemed that the changes were more notations as opposed to real, substantive changes. Chairman Michelman said that she did not know if this was the case, because she had not seen them. Mr. Kaufman agreed. He felt that the first condition was the real issue, which has to do with the modification of the plan. The rest of the comments were not significant changes. Mr. Adelman said that it sounded like there was no risk with scheduling a public hearing.

Ms. Lupino said that the only language that needed to go on the plan was that they needed to replace the pipe in the rear. She would need to defer to Mr. Baroni for the language on the conservation easement. Mr. Baroni explained that the issue on conservation easement to permit the intrusion and the grading that is going to go on within it; or do you rebond the conservation easement, taking that area to be disturbed, out of the conservation easement. It is the applicant's preference. He noted that the Board did not have to decide tonight, but that was the issue.

Ms. Lupino believed that the conservation board would prefer to see language changed to include the low lying sedimentation area, as opposed to the boundary change. She added that she asked the Highway Department about the utility easement, and they seemed to prefer having some language indicating that the Town has the right to discharge at the street, versus being granted an easement, because the Highway Department did not want to have to maintain that.

Mr. Baroni said that his concern with doing it the way the Conservation Board has apparently recommended, is that it is poor precedent to have a conservation easement, and then allow work to be done within it. It seems more prudent to take the area to be disturbed out of the easement area, and preserve the area that will not be disturbed. Chairman Michelman said that made sense to her. Mr. Baroni suggested that Mr. Fava might have a different reason, and the Board should speak with him. Mr. Pilch speculated as to why Mr. Fava would want this; presently it is an open area between trees, and it would end up a vegetated area.

Chairman Michelman explained that there were a couple pieces that still needed to be finalized. Ms. Lupino agreed, but stated that there would be no changes to the plans as a result of this.

Mr. Kaufman clarified the curbing issue: the applicant was not planning to construct it, and the Town would do it as a capital project. Ms. Lupino said that she would be installing the manholes, the pipes and every thing to connect the catch basins to one another. She explained that Mr. Kunny had been at the meeting. Mr. Kunny explained that the Highway Department had indicated that they would not install the curbing if they would be responsible for the installing the catch basins and the storm piping. Mr. Kaufman said that he would speak to the Highway Department to obtain official documentation on the issue.

Chairman Michelman asked if the revisions would alter the plans substantially. Mr. Kaufman doubted that they would. Chairman Michelman asked if this meant the Board could hold the public hearing. Mr. Kaufman said that the Board could schedule the public

hearing.

Dr. Matusow noted that when Chairman Michelman asked the applicant's opinion of the Conservation Board's recommendations, Mr. Pilch's answer was that "everyone has their own opinion." He asked if the applicant would be willing to incorporate those into the plans. Mr. Pilch said that they were absolutely willing to do so. Dr. Matusow noted that offsite improvements were being proposed, and asked if the engineering had been done, and whether the Town Engineer and Highway Department had seen it. Mr. Pilch explained that the engineering has been done. The system is designed to handle a 25 year storm, but he would resubmit the information.

Mr. Kunny said he was not sure if the Highway Department had seen it, but it could be forwarded. Dr. Matusow asked if the Board would have the cost estimates for the offsite improvements before they went to a public hearing. Mr. Kunny explained that would be required as part of the requirements so that it could be bonded. Ms. Lupino asked if there would be enough time before the public hearing. Mr. Kunny said that they should be simple calculations for the applicant's professionals, so they would probably be submitted.

Dr. Matusow asked if the applicant would submit the cost to the Town for the curbing in time for the public hearing. Mr. Kunny said that they probably would.

Mr. Kaufman asked if the Board wanted to see the revised plans with the additional information before the public hearing. Dr. Matusow said that he would like to see the revisions before the public hearing, but that it did not seem like the rest of the Board agreed. Chairman Michelman said that if it was in their packets with the comments it should satisfy the Board. Dr. Matusow agreed.

Mr. Kaufman explained that his issue was that he did not have any indication from the Highway Department indicating that they would be prepared to complete a portion of this project. Mr. Adelman pointed out that the Board received the verbal confirmation from Mr. Kunny, so the Board could just request the Highway Department put it in writing. Chairman Michelman pointed out that the Board could always continue the public hearing.

The Board agreed to schedule the public hearing; in the worst-case scenario, the Board would have to continue the public hearing.

NEW BUSINESS:

CALDER CENTER – FORDHAM UNIVERSITY

Referral from Town Board

Section 2, Block 1, Lot 8

31 Whippoorwill Road

Dr. John W. Wehr – Director of the Louis Calder

David Rigney, Esq. – Office of the General Counsel

Mr. David Rigney and Dr. Wehr were present on behalf of the applicant. Mr. Rigney explained that this application was seeking approval to construct residential housing on the lot. The construction would consist of three cabins which would accommodate up to twelve graduate students in the environmental and ecological divisions at the Calder Center.

Chairman Michelman said this was a beautiful location, and noted that great sensitivity went into the plans. Mr. Rigney acknowledged the assistances of Mr. Kunny and Mr. Kaufman. He said that he reviewed the memos prepared by the professionals, and they would be able to address their concerns.

Mr. Rigney explained that they would be willing to respond to any issues or questions from the Board, and to discuss the next steps. Chairman Michelman said that the next step would be to refer the application back to the Town Board for a text amendment to the code. Mr. Rigney asked if a public hearing would be a part of that. Mr. Kaufman believed that the Town Board would hold the public hearing if they received a positive recommendation.

Chairman Michelman thought it was safe to say that the Board was going to make a positive recommendation. Mr. Kaufman explained that this Board's referral would be regarding the change to the town code for the special use permit. The code now talks about having temporary guests and students for up to 6 weeks. Given that there are graduate studies occurring on site for more than 6 weeks, this Board would need to recommend to the Town Board that it would be acceptable to have students there for longer periods of time for scientific research centers. He would anticipate another application for the entire university. Mr. Kaufman explained that this was step one. Dr. Matusow asked if the applicant would be back before the Board again for site plan approval.

Dr. Wehr wanted to understand; he asked if it was the Board's intention to refer to the Town Board. Mr. Baroni explained that the Town Board would have to amend the Code to include specific language before the applicant could apply for a special permit for the purpose; and then the applicant would qualify under the new provision. Dr. Wehr asked to whom they would have to apply, and Mr. Baroni explained it would be to the Town Board. He repeated that the Town Board would change the law, and then the applicant would ask that Board to change the special use permit, and then they would come back to this Board for site plan approval.

Mr. Rigney asked if this would follow sequentially. The Board said that it would. Mr. Kaufman explained that was why he recommended the applicant ask for more students

than what they currently anticipate, so that they would not have to go through this process again. Dr. Wehr said that this had been raised by Supervisor Berman; she had asked if this was the number the applicant anticipates over a short term period. Dr. Wehr explained to her, and to this Board, that this was a higher number than they anticipated in the short term.

Mr. Delano moved to make a positive referral to the Town board for a zoning code text amendment for scientific research centers. The motion was seconded by Ms. Black and unanimously approved.

HIRSCHMAN

Site Plan

Section 1, Block 4, Lot 10-310

3 Hardscrabble Circle

Jeffery Econom, P.E.

Discussion

Mr. Jeff Econom was present on behalf of the applicant. Mr. Econom explained that the plans had been revised to indicate that the applicant was proposing the demolition and reconstruction of the existing house. At the site walk, the Board asked the applicant to show the location of the existing house and some other utilities, which he did.

The applicant received the comments from the professionals, but they were still waiting to hear from the Health Department to determine a majority of the Board's issues / comments regarding the disturbance.

They will remove the existing house, and relocate the existing driveway to provide better sight distance and a proposed three-car garage

Chairman Michelman explained that there had been one issue at the site walk, regarding the removal of the existing mature vegetation. She noted that the applicant seems to like wide-open spaces. There was a feeling by some of the Board members and the Planner that removal of this vegetation would change the character of the entire street, so they would like to save some of them.

Mr. Econom asked if the Board was referring to the trees in the rear. Chairman Michelman explained that they were referring to the front and rear. Mr. Econom explained that some of the vegetation in the front was a hedgerow, and not really considered trees. The willow tree needs to be removed because it would destroy the septic system. The entire front yard will be comprised of the septic system. Chairman Michelman pointed out that this would preclude trees being planted there. He explained that they would have are taking out two trees in the septic area. He indicated the location. There are some pine trees in the front, which are currently in a wet area, and they will not survive. Mr. Econom said that the applicant had no problem replacing those trees, but they do have to be removed because they would not survive. He noted that they were proposing to plant three additional trees, but the applicant had no problem with planting more.

Mr. Econom explained that the maple tree would be removed, and he would like to

transplant the Japanese maple tree. He stated that they had considered the fill and soil replacement in the expansion area. Mr. Econom stated that the Health Department requires that the fill for septic and the expansion area be done at same time. The Health Department is not permitting any more variances for expansion areas. Mr. Adelman asked if that was true. Mr. Econom noted that the Health Department used to allow a variance in the expansion area, but no longer. This avoided the problems that were being passed to subsequent owners and placed the burden on the current property owner, so that there are no problems down the line. Mr. Kunny stated that this should be verified by the Health Department in writing.

Ms. Black asked how many bedrooms the new house would have. Mr. Econom answered her, but there were multiple conversations being held at this time; his answer was inaudible but seemed to be satisfactory.

Mr. Econom explained that they did a soil replacement, so they only needed to confirm the soil was in similar conditions, and the Health Department would allow the applicant to do a replacement. Therefore, there would be no change in the grading. The applicant would take out the bad soil and put in the good soil.

Mr. Delano asked the design basis for the replacement as far as a percolation rate. To settle, or bank run rate. Mr. Econom said that it was a bank run rate, design rate of 16-21. Mr. Delano thought this was inadequate. Mr. Econom said this was what they were told to use. Mr. Delano stated that this was a mediocre percolation rate after this massive soil replacement.

Mr. Kunny asked about the fill replacement; if it is just being replaced, the grades would not change, so he wondered if the county would allow planting in the expansion area until it was needed. He felt that there would be no difference than if it was still natural grade / soil. Mr. Econom said that he would speak to the Health Department on the matter, however, there were only two trees in the area, as well as the hedgerow that would remain. Where the current driveway was, they would do planting so that would be blocked off. There would be no trees removed for the new driveway area; in fact, they would end with more trees than what currently exists on site. He noted that the applicant would not have a problem with planting along the edge.

Ms. Black asked if there were plans to plant any more trees along the neighbors' property line and in the rear. Mr. Econom said that they could. He explained that typically, light uses / residential projects were not screened. The Board explained that this Board requires such screening. The applicant said that he had no problem planting as many trees as the Board would like.

Mr. Delano asked if the applicant planned to eliminate all the pine trees. Mr. Econom said that they were, and that the trees were in bad shape, and in a watery area. Mr. Delano explained that several of the trees seemed to be in good condition, and at least six out of the eight trees would be classified as significant trees under the Town Code. It would be beneficial to receive input from the Conservation Board. These trees had been listed in "good condition" and with some modification, there is a chance some could be saved. He felt that this may be prudent. The large pines are characteristic of the neighborhood, not just this street. The planting of a few shrubs and trees behind the

neighbor's garage, would not really have the same affect. Mr. Delano pointed out that the site plan was hard to read. He thought that the plan indicated a patio area, but did not see any indication as to how it would be accessed from the building. Mr. Econom explained that it would be accessed from the main patio. Mr. Delano asked if there were two fire-places on the plan, and Mr. Econom said that there were.

Mr. Delano said that, in his mind, the patio could not exist. There seems to be enough room to move the house; there is a 30' driveway. If this is really the size of the septic system the applicant would have, it needs to be shifted to the right to give enough separation between it and the water line because 10' is required. Also the fields are too close to the driveway, so they would need to be shifted. If the applicant has to shift the driveway, then the house could be moved as well, and the 30' backup area still would not impinge upon the pines on the side of the driveway, and would give more room for the trees on the left side of the property. He suggested the applicant have those trees evaluated; see how the plan could be revised to save the trees. The applicant has represented that both trees are in good shape, but the only ones listed as "fair" on the plans are the smaller diameter trees.

Dr Matusow agreed with Mr. Delano. He also had serious concerns about the pine trees in the back. They have taken a hundred years to grow like that, and they have had a permanent effect on the neighbor on that side. No matter what the applicant planted, it would take another 50 years to grow to any substantial size. He suggested the applicant look seriously at Mr. Delano's suggestion to move the house to the right. He would go even further; this was only a one-acre lot with a house of more than 6,000 sq. ft. house with a pool. If the pool goes in the proposed location, two or three trees would have to come out. Additionally, there would be an impetus to remove other trees in the future to get the pool out of the shade. He did not know whether or not the pool could be moved to another area, but if it can't perhaps it should be abandoned all together. If the applicant wants this size house on this lot, it has to fit, and right now it doesn't. All the front area is required for the septic, and the rear is encumbered by the large pine trees. Dr. Matusow said that currently, he had a negative feeling on this plan, but he thought it could be fixed by shifting the house over, moving the pool, and saving additional trees.

The applicant understood about conserving trees, and he agreed that should be done. However, he did not think trees should be allowed to dictate the lot. The roots from the trees are all over the yard, and they have spread out all over the yard. He agreed to have his own expert, or an expert of the Town's, come and evaluate the trees. Mr. Delano asked if this was an appropriate application to refer to the Conservation Board, despite the absence of wetlands. Mr. Kaufman thought it could be referred; their input would be beneficial. The Board agreed.

The applicant asked if there was anything else the Board wanted. Mr. Kaufman explained that trees were the major issue, but the Conservation Board would walk the site and report back to this Board.

93 ROUND HILL ROAD

Site Plan

Section 1, Block 9, Lot 14.A01

93 Round Hill Road

Chris Murphy – CSM Management, LLC

Michael F. Stein, P.C.

Discussion

Mr. Michael Stein was present on behalf of the applicant. He explained that after the site walk, he had submitted revised plans based upon Mr. Kaufman and Mr. Kunny's memos. The driveway enters the sight straighter, and eliminates some of the impervious surfaces. This would provide better sight distance. These were one of the more major revisions.

Chairman Michelman explained that one of the issues discussed at the site walk was the removal of the existing mature vegetation, and this changed the character of the entire street. She wanted this to be considered.

Mr. Stein noted that copies of the landscape plan were submitted which included the Board's comments. He showed the Board the plan, and explained that there is screening away from the existing house and they would include more screening.

Mr. Kaufman confirmed that the number of bedrooms would not change. Mr. Stein agreed the number would not change; there were four bedrooms now, and it will remain four bedrooms.

Dr. Matusow asked the applicant to explain the circular driveway because he had not been at earlier meetings where this was discussed. Mr. Stein explained that they had been required to eliminate a portion of the driveway under the original subdivision, but this had never been accomplished. That was part of the applicant's intent now. That portion does not serve any purpose. For clarification, Dr. Matusow asked if this was serviced by a separate driveway, and the other piece had no function and therefore, it was the applicant's intention to remove that portion. Mr. Stein explained that the intent is to coordinate with the neighbor to remove that area, and replace it with landscaping. Dr. Matusow asked if the applicant had been in contact with that neighbor. Mr. Stein said that the applicant said that he had been working towards that, but he was not sure of the correct process. The applicant thought that he was. The other map states that this was supposed to be removed in the subdivision. Mr. Stein explained that by moving it to other side gives it a more formal appearance.

Dr. Matusow asked if anyone was living there now. Mr. Stein said that no one was living there. Ms. Black asked who used the existing garage, and Mr. Stein said that the applicant did. Ms. Black noted that it appears to belong to the other house. Mr. Stein agreed with her.

Chairman Michelman asked if the applicant was planning to maintain the other garage. Mr. Stein said that he was. Chairman Michelman wanted to know why two, two-car garages would remain. Mr. Stein explained that they would use one for the regular cars and the others their "weekend cars, or wherever else they wanted." This would prevent

the cars from being parked in the driveway, which would look less attractive. Ms. Black asked if it would be sided to match the rest of the house and Mr. Stein said that it would.

Chairman Michelman asked if there were any issues. Mr. Kunny said that he didn't have issues, but for clarification, the Board should get something from the neighbors indicating that they consent to removing the driveway.

Chairman Michelman asked what the next step was. Mr. Kaufman explained that it needed to be referred to the Conservation Board, even though the applicant is only removing asphalt within the buffer. He doubted that there would be a problem with issuing the permit. Once the Board heard back, he would recommend moving toward a public hearing and a resolution.

Chairman Michelman recommended the applicant get in touch with his neighbor. Mr. Stein said that he would do this during the week. The applicant asked when the ARB process should happen. Mr. Kaufman explained that if the Board was fairly comfortable with this plan, the applicant could go to the ARB now. The Board said the applicant should go to the ARB soon. Mr. Stein asked about submitting the plans to the Building Department. Mr. Kaufman said that the applicant could submit the plans now, and see if the Building Department would review the plans without the final approval from this Board.

There were no other comments.

DISCUSSION:

CARRY OUT RESTAURANTS

Mr. Kaufman explained that, back in June, he had prepared a follow up to his March memo regarding this issue. The recent revision to the memo contains other off-street parking requirements from other towns that have similar permitted uses. He said that he is very comfortable with the off-street parking, and that being proposed in North Castle is very similar to those of the other towns.

The catalyst for this legislation was Café Norma, but he had been considering it as a deficiency in the code for some time. There is only a restaurant use in the code, and no provisions for a carry out or a café. Mr. Kaufman explained that he was in support of this type of legislation. There is a need because there is a need for this where there is a cross between a deli and a restaurant. These establishments (like Café Norma) would like to have some seats. Dr. Matusow pointed out that Café Norma already has seats inside. Mr. Kaufman said that they did, but they wanted approval for them.

Mr. Kaufman stated that he did not want this to be just about Café Norma. This would probably allow that business to have some seats, but he had not even done the analysis for Café Norma under this formula. He explained that he was not focused on any one business because this is a more global issue.

Dr. Matusow asked if Mr. Kaufman was recommending a number of spaces per seat or a gross floor area ratio. Mr. Kaufman explained that he was proposing something similar to

how restaurants are calculated now, but would result in less spaces; a seating *or* gross floor area calculation. Dr. Matusow asked if this meant he wanted to base it on gross floor area per seating as opposed to number of seats in gross floor area. Mr. Kaufman explained that it was a combination of both, whichever one generates a higher number.

Mr. Kaufman pointed out that if the Board applies this version of the draft, there would be certain conditions. For example, "carry out restaurant" is defined as "a business enterprise primarily engaged in the retail sale of food or beverage products for consumption off the premises, but would also include the incidental sale of consumed food or beverage from a counter type installation for consumption on the premises where patrons usually select their order from a posted menu, and service and cleanup is generally performed by the customer, provided that the area devoted to customer seating represents less than 25% of the gross floor area of the establishment." That limits the area to where seating can occur, to a maximum of 25%, and complies with the New York State building code.

Dr. Matusow asked if there were any other existing businesses in Town that would be affected by this legislation, and if so, how many. Mr. Kaufman said that there would be other businesses, but he was not sure of the number. He explained that the Bagel Emporium might fall into this category, but it might retail. He believed the Building Department had done a study on Main Street and issued violations where establishments were not in compliance. Dr. Matusow asked if this included Café Norma, and Mr. Kaufman explained that it did, and that it has been in court for about a year because the issue has not been resolved.

Mr. Adelman said that since the Board was familiar the layout for Café Norma, how many spaces this would result in for the store. Mr. Kaufman said that he had not done the analysis. Ms. Black asked the parking requirement for restaurants, for comparison purposes. Mr. Kaufman explained that it was one off street space for every seventy-five square feet gross floor area or one for three seats, whichever was greater.

Dr. Matusow pointed out that Councilman Geist questioned how much difference this new criteria would make. Café Norma has been functioning ever since they have been noticed of their violation, and if the code is changed, how would that impact them, other than it being a change on paper. He thought that in this instance, the argument raised by Councilman Geist "has more bite than it did on the issue that he was talking about in there." He said that he had no objection to setting a standard, if Mr. Kaufman thought one needed to be set, but it would not really matter. Ms. Black asked if the Building Department would be required to enforce any regulations set by the Board. Mr. Kaufman said that it would be.

Dr. Matusow said that he was not sure he understood the process and why this would be in court for so long. Mr. Baroni explained that he could not speak with certainty on this particular issue because he was no longer prosecuting the zoning violations in Town. However, he explained that a violation is just a notice issued by the Building Department that is placed in the Building Department's file; it does not mean that it automatically goes to court; it would only go to court if a summons was issued. Dr. Matusow asked if a summons had been issued for Café Norma. Mr. Kaufman said that one had, and that it has been before Judge McGoey since then. Mr. Baroni explained that this has probably

been in court for so long because the court has been told that the Board was considering a code change that would legalize the use.

Mr. Kaufman explained that the Town Board has contemplated a revision to the code, and this Board has not gotten back to them in a year. Dr. Matusow stated that if Mr. Kaufman felt that the code needed to be revised, and this Board agrees, then it should be done, but he wondered if it really mattered. Chairman Michelman stated that the Board would be changing a section of the code that the Town Planner believed was something that was absent from the code.

Ms. Black thought it should be considered in the generic sense. Chairman Michelman agreed, but pointed out that they would soon be presented with real situations. Ms. Black thought she recalled that Café Norma felt the numbers being considered were too restrictive for them. Chairman Michelman believed that the revision would be more restrictive than they would like. Dr. Matusow pointed out that the Town Board would have to have a public hearing, so that would be the time for any interested party to speak. Chairman Michelman agreed. Dr. Matusow felt that in that case, he would not object.

Ms. Black asked where the Board wanted to go with the definition. Chairman Michelman said that the question is whether the Board is comfortable with the definition as drafted. Mr. Kaufman said that he did make a recommendation for a requirement similar to downtown New Rochelle. He thought that was a perfectly appropriate number. That would be a difference of 25 sq. ft. as compared to a restaurant, which he thought was appropriate. Ms. Black asked if that was enough of a difference between a restaurant and Mr. Kaufman thought that it was.

Dr. Matusow moved to refer the application to the Town Board. The motion was seconded by Ms. Black and unanimously approved.

The meeting was adjourned at 9:19 p.m.
