

**TOWN OF NORTH CASTLE**

PLANNING BOARD MEETING

15 Bedford Road

Armonk, New York 10504

March 31, 2008

7:00 p.m.

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PLANNING BOARD MEMBERS PRESENT: Peg Michelman, Chairman  
John Delano  
Gene Matusow  
Jane Black  
Steve Sauro

ALSO PRESENT: Adam Kaufman  
Town Planner

Kristen Holt, Town Counsel (acting)  
Stephens, Baroni, Reilly & Lewis, LLP

Anthony Kunny  
Kellard Engineering & Consulting, P.C.  
Consulting Town Engineers

Valerie Desimone  
Planning Board Secretary

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The meeting was called to order at 7:00 p.m.

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**APPROVAL OF MINUTES:**

*February 25, 2008*

Mr. Delano made a motion to approve the minutes from the February 25<sup>th</sup> meeting, as amended. The motion was seconded by Dr. Matusow and unanimously approved, with the exception of Mr. Sauro, who abstained.

*March 10, 2008*

Ms. Black made a motion to approve the minutes from the March 10<sup>th</sup> meeting, as amended. The motion was seconded by Dr. Matusow and unanimously approved, with the exception of Mr. Sauro, who abstained.

**PUBLIC HEARING & NEIGHBOR NOTIFICATION**

**GODNER / DUTOIT  
Special Use Permit  
Section 1, Block 4, Lot 87  
70 Whippoorwill Road  
Arborscape, Inc.**

**Discussion  
Consideration of approving resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 16 out of 21 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present. There were none. The Chairman acknowledged receipt of a letter from Mr. and Mrs. Chernoff, the neighbors at 68 Whippoorwill Road, that indicated that they were in favor of the application. She explained that this letter was given to her right before the meeting.

Mr. Stephan Carlson of Arborscape was present on behalf of the applicants. He explained that the property consisted of 1.5 acres and had a recently renovated home on it. There is a combination of mature and newly planted shrubs and trees. The applicants were seeking permission to install a pool in the rear of the property, approximately 30-40 ft away from the house. There is an existing terrace, which they propose to extend.

Mr. Carlson noted that the applicant has worked with the Board, and considered the members' recommendations for alternative locations. In the applicant's opinion, none of the alternatives were feasible, so they were seeking approval of their original design (that located the pool right behind the house). Mr. Carlson stated that this location was appropriate because it was nicely hidden, away from the property lines, and shouldn't have any impact on the neighbors.

Mr. Carlson also explained that they have proposed an extensive landscape plan to help mitigate the site. They are planting approximately twenty trees and a variety of shrubs. In addition to the proposed planting, they had recently planted approximately 60 trees and the pool should fit in seamlessly.

Chairman Michelman asked if the professionals or Board members had any issues. Mr. Kunny said that he had no issues. Mr. Kaufman stated he had no issues, and explained that he had prepared a resolution. He pointed out that, if the Board decided to adopt that resolution, one change needed to be made. Chairman Michelman recognized this, and asked for comments from the Board.

Mr. Delano pointed out that the resolution neglected to mention anything about the steep slopes on the property. He believed that a portion of the pool and some of the landscape plantings are on steep slopes. Mr. Kaufman said that if the steep slopes are more than 25%, the Board would need to issue a permit. Mr. Delano said that the slopes exceed 25%. Mr. Kaufman explained that the Board could issue that permit simultaneously.

Mr. Delano explained other corrections in the resolution (a "whereas" clause references a prior plan; a "now therefore" clause does not include the drawing, or anything that references the pool; there was information missing that was on the site plan; the

stormwater infiltration plans were not shown in the set; the mitigation proposed on steep slopes). Mr. Delano asked if the NY DEC promulgated these regulations, and whether stormwater mitigation was precluded on steep slopes. If there were any, they should be mentioned. He noted that the last "whereas" clause says that the site plan does not depict any disturbance to any town regulated steep slopes, and he disagreed; he believed that there is more than 2,000 sq. ft on the steep slopes. Mr. Delano noted that the resolution references "Chapter 101" of the Town Code. This needed to be resolved, because there is no longer a Chapter 101 in the code.

Mr. Carlson agreed that they were in close proximity to the steep slopes, but he couldn't tell how close they were, or whether they were actually infringing on them, but he would check. One of the earlier submissions depicted the infiltration chambers along the steep slope, but after conversations with the Town Engineer, the applicant has eliminated that. The last discussion between the engineers resulted in the applicant agreeing to extend the chambers on the property by two so they have been moved on the front right hand corner of the property.

Mr. Kaufman explained that the list of drawings on page one is a comprehensive list of all drawings the Board has reviewed. The 3<sup>rd</sup> page lists the documents that will be signed by the Board. The reason why some of the other information was not included on these plans was that they had been superceded. Mr. Delano just wanted to make sure that all of the information got carried over to this sheet.

Mr. Kaufman explained that the Board had a couple of options: they could determine that the 2,000 sq. ft. is acceptable and issue that permit, and incorporate it into the resolution. Chairman Michelman asked if there were any issues with that. Dr. Matusow thought that they could not do that because it was not listed in the public notice. Mr. Kaufman explained that steep slope permits do not require public notice. Chairman Michelman asked Mr. Kunny if he had any issues with the steep slope. Mr. Kunny said that they were minor, if any. There was some additional information that would need to be resolved in the final engineering plans.

Mr. Delano noted that plan 3 of 4 depicts the slopes that are 25% and over. He explained the plan, and why a steep slope permit was required. Chairman Michelman asked what the Board could do. Mr. Kaufman explained that they could grant the permit, layout a condition in the resolution to quantify the amount of steep slope disturbance, or they could take a more detailed review of the steep slopes and determine whether or not to issue the permit. Mr. Delano did not think the applicant had anywhere else to place the pool.

Chairman Michelman said that the Board needed to address the steep slope issue, and asked if the Board felt it was minor, or if they wanted to see more details. Mr. Carlson pointed out that the applicant has followed the erosion and sediment control and stabilization on the slope in accordance with the Board's requests.

Ms. Black stated that the board looked at five different alternatives for this pool, and there did not seem to be a better place. Mr. Delano pointed out that four out of five "alternatives" were not legal, so they could not really be considered alternatives.

Ms. Black said that she could consider the steep slope issue as a condition in the resolution.

Dr. Matusow said that he was not going to deal with the steep slope issue, because he has had other concerns from the beginning, which he felt would prevent him from voting for approval. He explained that from the beginning, he has had an issue with the trees. He has reviewed the record / history of the property, and it is clear that the previous Planning Board intended to protect a particular band of trees. A reading transcript from when the house was expanded, revealed that the prior owner and his engineer were asked specific questions about the impact the application would have on those trees. Dr. Matusow said that the minutes reveal that the engineer said there was no problem; the trees could be saved. Therefore, the Board drew the clearing and grading limit line to protect those trees.

Dr. Matusow pointed out that the pool was not part of the first proposal. He said that trees are more important than the applicant seems to think, and the prior Board wanted to save them. He was not convinced that all of the alternatives have been considered. He thought that alternatives one, two and three all had possibilities, if certain adjustments were made. Dr. Matusow felt that the alternatives that have not been presented were those that included changing the size and shape of the pool, along with changing the location to see if the trees could be saved. If the applicant would consider a free form pool of a smaller size and alternative one, the pool might fit and the trees might be saved. If the applicant insists that the only thing they will accept is a rectangular pool of this size and in this location, then Dr. Matusow said he could not support this application. He noted that he does not necessarily object to the pool, just this pool as proposed. He added that steep slopes may not be a "make or break issue," for him, but the trees, and the impact the pool would have on the trees that were meant to be protected, is.

Mr. Carlson explained that this issue had been raised at the first meeting. He explained that as the Board saw on the site and the tree survey, although many of the trees are in good health, their quality is questionable. Some were decaying, and some of the Norway spruce and they have been "limbed up" and it could be argued they are questionable. He said that he knew they were "pigeonholed" into the discussion because the Town Code requires the protection of trees, but these trees are not the healthiest trees on the property. In response to the comment about the prior minutes, Mr. Carlson pointed out that there is nothing on the record that indicates the trees must stay, and / or that they could never be removed. Mr. Kaufman agreed, and said that was why the discussion was taking place.

Dr. Matusow stated that, in the prior minutes, Mr. Simonetti asked the applicant's engineer: "You said you want to protect as much as possible of the stand of spruce in the back; does that mean it is in danger? Mr. Naderman's response was no, no it's going to be fine." Dr. Matusow said he understood that was not part of the resolution but there was an indication that the trees would be protected. He added that he did walk the site, and although he missed the first meeting, he did see the property and the trees, and liked the trees.

Mr. Carlson agreed with Dr. Matusow that one of the worst things that could happen is removing all the good trees, but this is not the case on this property. The applicant's

representatives counted 65 mature trees throughout the property. In addition to the 40 saplings, there were the plantings by Mr. Ahern of more than 30-40 trees. The applicant is also proposing a great deal of mitigation to compensate for those larger trees, because the applicant values them as well. As for the alternatives, the applicant is stuck in one area. Chairman Michelman stated that the Board and the applicant have been down this road. Mr. Carlson said that he just wanted to be clear that the applicant has exhausted all the options.

Chairman Michelman stated that the applicant has exhausted all options that accommodated the applicant's specific desires, and has not considered any other sizes or shapes of the pool as suggested by Dr. Matusow. The initial plan submitted to the Board by the prior owner did not contain any design for any recreational amenities. The Board has found that they have been "pigeonholed" by prior applications when new owners and new applications, with new thoughts and new requests seek additional approvals. She noted that this Board has been "burned" many times before, so now, new applications are required to show where any recreational facilities may go because it impacts a great number of things. This prevents the Board from being pigeonholed. The clearing and grading limit lines were set by the Board at the time for a good reason. No Board member is happy with having an application like this, where, within two years of approving a very large house with no amenities, they are faced with taking out a number of trees for a pool. She said that the Board realized that there were not many options: some would place the pool in the septic field, or too close to neighbor. However, the applicant accommodated the Boards' requests for alternatives, but gave them nothing. If the applicant changed the shape, there might be a chance to see a less damaging plan.

Mr. Carlson explained that this house has a formal element to it, so a free form pool wouldn't work. Even if the applicant would introduce one in a certain area, they would still need a tree removal permit. He noted that the south side of the lot was brought up for discussion, but the neighbor was concerned about the impact that would have on her property. There is a huge rock cliff there, so rock removal would be an issue. The current location was the most logical place to put it.

Mr. Carlson added that he took some offense to the comment that the applicant has "given nothing;" they have reduced the impervious surface by approximately 1,053 sq. ft. Chairman Michelman said that this was not done as a result of the Board's request. Mr. Carlson said that it was done as a concession on the part of the applicant. Mr. Carlson said that the applicant would consider by reducing it by two feet on either side, but that would not reduce the disturbance to the steep slopes by much, and would not change the required tree removal.

Chairman Michelman noted that there is a change on page 3 of 8 of the resolution: the second and third whereas should be March 31<sup>st</sup>, not March 11<sup>th</sup>. This must be amended. She asked how the Board should handle the steep slope issue. Mr. Kaufman said that the Board could add whereas clause indicating that the applicant needs a steep slope permit, but the Board would have to issue that. They could also add a condition in the resolution requiring the applicant to quantify the amount of disturbance. Mr. Kaufman noted that they should also include another clause as Mr. Delano had suggested "whereas the planning board has determined that the impacts within the CEA are minimal" or something to that effect. The Board agreed that was sufficient.

Chairman Michelman asked if there were any other comments or questions. There were none. She asked if the applicant had reviewed the resolution. Mr. Carlson said that he had, and was in agreement with the amendments.

Chairman Michelman asked for a motion to approve the resolution as amended. No member made the motion. Chairman Michelman asked what happened next. Mr. Kaufman listed the choices again. Dr. Matusow said he would like the applicant to come back with a revised plan. He said he did not think the Board had to deny this applicant a pool, just as proposed. He'd prefer the applicant reconsider and come back with something else for the Board to consider.

Ms. Black said that she was not sure if the alternatives would save the trees, and wondered what would happen in that situation. Dr. Matusow pointed out that a 'no build' alternative is still an option; "sometimes things just can't happen" and "not every property can have a pool. If they can't, they can't." He noted that he did not think this was at that point yet. He thinks it might be possible unless the applicant is not willing to consider the alternatives.

Chairman Michelman asked if there was anything else, aside from Dr. Matusow's specific alternatives (i.e. shape and size). She noted that the applicant has already gone through an exercise of offering alternatives and she did not want to go through everything all over again. Chairman Michelman said that there were not many alternatives; they had to try to find a location with a potentially smaller pool, whether it is free form and smaller, or a smaller rectangular formal pool. She did not want to tell the applicant to start all over again at this point. Dr. Matusow said that, as he saw it, alternatives one, two and three were viable possibilities if the applicant made some changes. He said that if rock removal was the only issue, he did not consider that much of an issue.

Chairman Michelman said that she did not know if rock was the issue, but knew that they had been down this path and it was not fair to ask the applicant to do this all over again, unless the Board is sure there is a way. Dr. Matusow said that he could only get as specific as he has stated.

Ms. Black asked if Mr. Carlson had alternatives one, two and three with him. He did, and he presented them for the Board. Dr. Matusow talked to Mr. Carlson and explained his thinking. Mr. Carlson noted that Dr. Matusow's suggestion would still be in the clearing and grading limit line. Dr. Matusow recognized this, but wanted to save the trees. Dr. Matusow explained his thoughts for another alternative on another draft. Mr. Carlson pointed out that there was "a beautiful oak" in that location, with a large canopy that would be lost. Dr. Matusow thought that losing one oak over six spruces would be better. Mr. Carlson disagreed. He added that they have been to the Board several times, modified the plans multiple plans, conducted site walks and studies, and he felt that this was a little late to ask the applicant to go back to the design stage.

Mr. Delano asked what was the principal objection was to alternative one; he recalled that it was the rock. He pointed out that this would be legal with respect to the side lot setbacks, and it was located well behind the house. Mr. Delano said that he had less sympathy for the neighbor who sought a variance to move their house closer to the applicant's property line. Mr. Carlson said that they had met with the neighbor and

between pushing the pool closer to the neighboring house and the disruption of the neighborhood, blasting is not preferable. Dr. Matusow thought the house was actually further away, and on a different plane than Mr. Carlson indicated. Mr. Carlson said that Dr. Matusow was incorrect. There was an inaudible conversation over an aerial photo and a neighborhood drawing between Mr. Carlson, Dr. Matusow and Mr. Delano.

Mr. Delano pointed out that alternative one provided a better chance for the trees to be saved, and would have less of an impact on the steep slopes and clearing and grading limit line. Dr. Matusow said that he understood the frustration, but thought that there were some real alternatives that might satisfy everyone's concerns.

Mr. Delano said that it was up to the applicant to decide whether he wanted to consider this alternative, or some other viable options, or whether the applicant wanted the Board to vote.

Mr. Carlson asked if this was the general consensus of the Board. The Board said it was, and pointed out that they couldn't even get someone to make a motion. Ms. Black pointed out that two members of the Board were not members during the Ahern application.

Mr. Carlson was not happy with this situation and wished the Board had this conversation several months ago. He believed that the applicant wouldn't have to be before the Board if this was moved into the "small area of opportunities," the applicant probably wouldn't be before the Board. Mr. Kaufman said that was not true, because they would still need a permit because they were between the basic and the maximum. Dr. Matusow explained that he Board was not trying to find a way to say no, they were trying to find a way to say yes.

Dr. Matusow moved to continue the public hearing. The motion was seconded by Ms. Black and unanimously approved.

## **PUBLIC HEARING**

### **SULLIVAN**

#### **Subdivision**

#### **24 Glendale Avenue**

#### **Section 2, Block 13, Lot 17-18**

#### **Barry Naderman, P.E. – Naderman Land Planning & Engineering, PC**

#### **Discussion**

#### **Consideration of approving resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 23 out of 28 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present, and there were none.

Mr. Barry Naderman was present on behalf of the applicant, along with the applicant himself. Mr. Naderman explained that the applicant was seeking subdivision approval for a parcel of approximately 1/3-acre. The property would be subdivided into two pieces, one of 7,400 sq. ft. and one of 7,500 sq. ft. Both lots would be served by municipal

sewers and individual wells. Mr. Naderman presented a configuration of houses and garages the applicant was hoping to build.

Mr. Naderman explained that he has read the resolution, and had no problems with it, except for the condition number five that indicates that the existing house has to be removed prior to filing the final plat. Mr. Naderman stated that they had submitted the applications for individual site plans because they thought it worked well together, but the applicant is being asked to tear down the house without really having an approval. Mr. Kaufman stated that the applicant would have the final subdivision approval. The applicant would not be allowed to create the lots and have a house on the property that did not conform. Mr. Naderman suggested something recorded against the property that indicated no building permit could be issued until the house is down, or that lots can't be sold individually until the house is down. Mr. Naderman pointed out that from the time we tear the house down, file plat and go through the site plan approval process, etc. that would be many months.

Mr. Delano suggested the Board approve a preliminary plat indicating that the principal structure is to be razed, which could be extended every six months, and then find a way to entertain individual site development applications. This would get the project moving, and then have a final plat on the condition of removing the house. Mr. Naderman said that they could be in a situation where the final resolution isn't signed, but [inaudible]. Mr. Naderman clarified, that the mechanism would be that the subdivision would be in order, and if the applicant pursues the site plan approval for the individual lots that could reach the point where the only thing left to do is tear the house down and file the plat. Mr. Kaufman said that the Board could adopt the preliminary subdivision plat and then the next step for the applicant, instead of filing for a final subdivision, would be to file the final site plan next. The site plans would not be acted upon until the final subdivision is resolved. Mr. Naderman said that was acceptable.

Mr. Delano explained that would need to be revised in the resolution, and that is dealt with on page four, number 12. Additionally, the references to Chapter 101 needed to be revised. Chairman Michelman added that there was a minor typo on page five, number two: "and in a form acceptable" there is an extra "and". Mr. Kunny asked if this condition was even warranted, because there is no bond required. The Board agreed to take it out entirely.

Chairman Michelman asked if there were any other issues or comments. There were none. Mr. Delano moved to close public hearing. The motion was seconded by Dr. Matusow and unanimously approved.

Mr. Delano moved to adopt the resolution for preliminary subdivision plat, and tree removal, as amended. The motion was seconded by Ms. Black and unanimously approved

Mr. Naderman asked if the Board would officially issue a negative declaration. Mr. Kaufman explained that this was done as part of resolution.

**CONTINUING BUSINESS**

**FURIO**

**Site Plan**

**Section 1, Block 9, Lot 13-1**

**113 Round Hill Road**

**Chris Yaroscak – Legacy Development**

**Consideration of approving extension of time resolution**

Ms. Desimone explained that the applicant had been informed that they did not need to be present for this application. Chairman Michelman noted that this appeared to be a very legitimate request for an extension: the applicant was on assignment in England and unable to proceed.

Dr. Matusow moved to approve the extension for one year. The motion was seconded by Ms. Black and unanimously approved.

**GERSETER**

**Site Plan**

**Section 3, Block 8, Lot 12.C01**

**785 North Broadway**

**Discussion**

**Rudolph Petrucelli, P.E. – Petrucelli Engineering**

Mr. Rudy Petrucelli was present on behalf of the applicant. He explained that, the last time the application was before the Board, they did not have parking on the plan where it presently exists.

Chairman Michelman was going to remind the public that this was a continued public hearing. Mr. Kaufman explained that this was not the case; no notice was ever sent.

Mr. Petrucelli explained that the applicant would still like to have the parking in that area because of the apartment, but the Board was concerned with backing up into the street. The site has been redesigned so that there is a backup area for those spaces. He has reviewed Mr. Kunny's comment about the sight distance, but there is a stop sign there, and he did not see the need for this because everyone needed to make that full stop.

With respect to the planting details, all of the plants will be in pots. There is no extra pavement required for the entrance to the building. They are proposing paving blocks with open joints, so that drainage could permeate. There is no change in drainage, except that the applicant would be taking out asphalt and installing pavers.

Chairman Michelman stated that this was an interesting proposal that addressed the Board's issues. She asked if Mr. Kunny had any issues with the application. Mr. Kunny said that his office's concern was the safety of the cars leaving the site. Mr. Petrucelli had addressed some of these concerns, but Mr. Kunny recommended that the application be referred to the Highway Department and determine whether the stop sign would provide adequate sight distance. Dr. Matusow agreed, but thought the Board should impart to the Highway Department that this was a significant improvement over

what currently exists, and that if this is the best that could happen, it is very good. The Board agreed that this was a better solution.

Mr. Petrucelli said that Mr. Kunny had suggested that the applicant design a retaining wall. He explained that the rock seems to be stable in that area, so they have depicted the walls as alternatives, because if they being digging and find that the rock is not stable the applicant would present plans to the Building Department for retaining walls. The Board was comfortable with this.

Chairman Michelman said that number six on page two should be eliminated. Mr. Kaufman suggested the Board discuss condition number seven (the parking onsite overnight and during the day). Mr. Petrucelli believed he had responded to this. Mr. Kaufman noted that it should be described on the site plan, so that there is no issue with code enforcement.

Mr. Kaufman asked if there would be vans parked on the site during the day. Mr. Petrucelli said that there would not be; they would be out on the road. The Board agreed that indicating the description on the plans would suffice.

The Board stated that it would schedule a public hearing, and have resolution prepared for the same time. The Board would also send a letter to the Highway Department.

**STOBSKY**  
**Amended Site Plan, Special Use FAR & Gross Land Coverage**  
**Section 2, Block 17, Lot4J01**  
**20 Sterling Road South**  
**Adam & Jonie Stobsky**  
**Discussion**

Mr. James Sanok, of Sanok Design Group was present on behalf of the applicants. Mr. and Mrs. Stobsky were also present. Mr. Sanok explained that his office generated a new landscape plan in keeping with the previous plans. There would be pear trees in the front of the property, they have redesigned the perennial beds and would maintain screening between the neighboring properties. They would have a wood privacy fence between the applicant and the side neighbor, and it has been developed with plantings at the base of the new wood fence. There would be a series of plantings in the rear, which also provides screening. This consists of hemlock trees, cherry trees, as well as some native planting with forsythia, hydrangeas and hostas and other ornamental trees.

Chairman Michelman asked if the applicants and the representative had reviewed Mr. Kaufman's memo. Mr. Sanok said that he had and that he had revised the plan, which he presented to the Board, and explained that it was slightly different than the plan that the Board members had recently received. Mr. Sanok said that this plan addressed Mr. Kaufman's comments and added some trees. They modified the fence detail to follow the local code and included more planting in the rear. He presented the Board with the new plan. Mr. Kaufman agreed that it sounded like the applicants had covered most of his comments, but the buffer between the applicant's property and the Alper property had not been discussed. Mr. Kaufman said that he would like the applicant to reduce the backup area to 25' in order to increase the buffer.

Mr. Sanok believed that Mr. Kaufman wanted the applicant to reduce the driveway and backup area to 25'. Mr. Kaufman agreed. Mr. Sanok said that the car would be hindered if the backup area was reduced that much. He noted that this would result in a very tight turnaround and would be hindered by reducing the drive and increasing the buffer. Therefore, the applicant has proposed a 6' fence with shrubbery in front of it, on the Stobsky side. Dr. Matusow asked the width of the actual buffer. Mr. Sanok said that 5'.

Ms. Black explained that the Board was concerned that this was not a large enough buffer. Mr. Sanok said that even if the buffer were increased to 10' wide, the neighbor would still be looking at the fence and was not sure what more this accomplished. Chairman Michelman said that it accomplishes a plan in line with the 10' buffer that is a consistent demand that the Board has made in the past. In the early resolution, this was a condition, which had not been addressed. She stated that the issue remains unaddressed.

Mr. Kaufman said that the driveway could be reconfigured so the car could be maneuvered. Mr. Sanok said that would result in the reduction of the house. Mr. Kaufman said that he was talking about extending the driveway back further. Mr. Sanok said that regardless, a hammerhead would probably have parked guest cars, and hinder turnaround. Mr. Kaufman said that he hoped guests would park in the courtyard. However, the reason the Board wants an expanded buffer, is that 5' could get plants, but it would be smaller. The 10' would enable the planting of trees that would grow to a substantially larger size.

Dr. Matusow noted that a 10' width would be difficult to accomplish. With this plan, he did not see how 10' could be accomplished, but they should be able to get 7', which should be enough. He said that he was not "impressed" with the fence and he would be comfortable if that was removed. In order to get 7', the applicant would have to reduce the backup area to 25', which the applicant said it would not be enough. He asked the Board to recall the Berger application, because as a result of the ZBA recommendation, the Board was forced to reconsider the Town Engineer's recommendation and the Board's professionals convinced them that 25' provided more than enough room to maneuver cars, and the Town changed the standard. If it worked for Berger, it would work for Stobsky. A 25' backup area is going to have to be sufficient, or the Board would not get anything near what they would normally require, and even then it would not be enough. The buffer between the applicant's home and the Alpert property must be addressed.

Mr. Stobsky stated that the Town Engineers have said that 30' is what they recommend. Mr. Stobsky felt that a 6' fence with boxwoods (which is what the Board was "going to get," and they "are going to grow the way they are going to grow"), is sufficient, especially in addition to the screening that exists on the Alpert property. The fence would go below screening that is there already. Madison Stobsky (the applicant's daughter) presented a picture of the existing screening to the Board. Chairman Michelman said it was nice.

Ms. Black recalled that the Town Engineer stated that while 30' was preferable, if it compromised landscaping, 25' would suffice. Mr. Stobsky stated that the boxwoods

would not grow the way pine trees would grow. Chairman Michelman said that, perhaps the Board should require that.

Chairman Michelman noted that the February 2008 resolution had been drafted and required the plans to be revised to depict the garage backup area 25' deep with an expanded backup area to the east to the satisfaction of the Town Engineer. This was required after much discussion to try and protect the neighbor. This condition will have to be met to move this along.

Mr. Stobsky said the Board was only talking about 5' and asked why this issue came up for the first time in February. Chairman Michelman said that it didn't, and that the applicant seems to suffer from selective hearing. She explained that it is a condition in the resolution, which she had talked to him about when they met on the first resolution. She had suggested the applicant read and review that resolution carefully and understand them because they need to be met before the Board could approve.

Mrs. Stobsky asked how long the 10' buffer had been a requirement of the Board. The Board indicated that it had been for some time. Mrs. Stobsky pointed out that the Mack plan only had a 6' buffer on the side of the driveway. She said that they had agreed to make the driveway 30', and then there was another application being discussed with a 25' driveway, but that applicant explained that he had a small Porsche, and that he would have no problem with maneuverability. The Stobsky's increased their proposed 28' area to 30' in accordance with the Engineer's request, and now they were fighting for the applicant to put it back the way it was. She said that she had a 14' SUV, and 25' is not going to work.

Chairman Michelman said that the Board wants to see this project built, but there seems to be some kind of block at every meeting. The issue at hand is getting a resolution that can satisfy the Board. There are still some screening issues, and the Board's requests may not meet all of the applicant's desires. The Board has a concern, and other applications have no bearing on this. The Board is trying to get the applicant to a resolution, but the Board wants a slightly broader buffer area; the neighbor deserves this consideration and it is a condition that will need to be met. Mrs. Stobsky said that she wanted to compromise, but a 25' backup area is a ridiculous request, and not at all like the other properties. Chairman Michelman said that she did not care about the other properties; the Board wanted a slightly wider buffer for the Alpert property.

Mrs. Stobsky asked if the Board would be willing to split the difference and allow 27' or 28' instead. Chairman Michelman explained that the Board needed to review the new plans. Mr. Kaufman noted that it seems like the other issues have been addressed, but he needed to look at them. Mr. Stobsky asked if the Board would put a condition in the resolution. Chairman Michelman explained that there already is one.

Ms. Black asked if the applicant was proposing more planting in the rear. Mr. Sanok explained that they have added more. Mr. Delano asked if the applicant received Board of Health approval. Mr. Sanok said that they had. Mr. Delano wanted to make sure the septic plan coordinated with the planting plan. Chairman Michelman asked to see a copy of that approval.

Ms. Desimone asked the Board if they would require the applicant to formally submit the plans and a letter explaining the changes, or if the distribution to the Board at the meeting would suffice. The Board explained that they would keep the plans, and Mr. Sanok could drop off any additional required sets the next day.

Mr. Delano said he wanted to review the septic plan, and that he had other questions on the current plan, but he thought that were surmountable.

Mr. Kaufman said that he would plan to have resolution at the next meeting. Mr. Stobsky asked why they needed to wait until the next meeting. Mr. Kaufman explained that neither the Board nor the professionals have had time to review the new plans. Mr. Stobsky pointed out that his landscaping plans have always been very aggressive and if Mr. Kaufman would look at the types of vegetation proposed, he would see. Mr. Kaufman said that was what he'd like to do: review the new plans. Mr. Stobsky said that nothing changed. Mr. Kaufman explained that he was going by the applicant's representative's (Mr. Sanok) statements – that changes have been made to the plans, and therefore, the Board needed to review the plans.

Dr. Matusow asked what would happen if the revised plans only result in a 5' buffer. Mr. Kaufman said that this was an issue that should be resolved right away. Dr. Matusow asked what would happen because it was clear that the applicant would not be able to achieve a 10' buffer. Mr. Kaufman asked if the Board wanted to leave it as a "minimum of 25". Dr. Matusow agreed it could not be less than that. Mr. Kaufman said that the Board could allow some of the driveway to be expanded into the rear yard.

Mr. Kunny explained that a 25' backup area is the barest minimum; it is not a convenient amount of space given the size of today's cars. Extending the area to the rear could help, but tires would be crossing over pavement into shrubbery to get into the garage. Mr. Kaufman pointed out that it would be possible with two moves. Mr. Kunny agreed that it could work, but that it would take some maneuvering.

Dr. Matusow no matter what you do, there is only a limited amount of space. If 5' was acceptable to the Board, then they should say that. Chairman Michelman said that if there has been some change, it could help rather than hinder, and that would be useful. Dr. Matusow agreed, but felt the Board should figure out what the number is.

Ms. Black said that if there is a 30' backup area, they would be left with a 2 or 3' buffer. Mrs. Stobsky said that they would have a 5' buffer. Mr. Sanok asked why the width of the bed was an issue, and thought it should be a question of the height of the plants. He noted that the applicants would be willing to modify the plant materials that would reach a sufficient height.

Mr. Saurow asked if the applicant meant staggering the plantings. Mr. Sanok said he was but asked if they did that, why they should bother with the fence. Dr. Matusow and Chairman Michelman were not in favor of the fence. Mr. Sanok asked if that could be a condition in the resolution.

Dr. Matusow said that there is 35' that could only be divided in so many ways. Mr. Stobsky explained that there is already screening in the area, and he would need to come in below that. Chairman Michelman said that the Board would need thick

screening and a 6' fence would not do much. Mr. Sanok felt that the juniper should accomplish that. Chairman Michelman pointed out that the applicant would be looking at the plantings while the neighbor would be looking at the fence.

Dr. Matusow noted that if the Board approved a 27' backup area, the Board would achieve an 8' buffer for the neighbor, which should suffice. He would recommend removing the fence. Ms. Black said that sounded reasonable. Mr. Stobsky suggested a double row of plantings should provide sufficient screening and allow for 28'.

Mrs. Stobsky asked if she could have an extra foot on the backup area if she agreed to plant the higher junipers. The Board wanted the 27' backup and an 8' buffer, and the removal of the fence. Chairman Michelman said that the Board has compromised by permitting a smaller buffer than they wanted. They would not argue over an extra foot.

Mr. Sauro asked if an 8' buffer was wide enough to stagger the plants and allow them to grow. Mr. Sanok said that it was. Chairman Michelman said that the Board wanted to know exactly what would be planted in the area.

Mrs. Stobsky felt that the driveway was already compromised. Chairman Michelman said that the driveway would not be compromised because of the buffer or the backup area. If it was compromised at all, it was the result of a house that is too big. She noted that the Board has agreed to 27', which is 2' more than what they previously desired. Mrs. Stobsky asked why the Board wouldn't approve 28'. Chairman Michelman said that the Board needed to review the plans first.

Mr. Stobsky wanted the Board to decide on the plantings. Dr. Matusow said that the Board did not normally decide on the types of plants; the screening would have to be of the character that is sufficient to the Town Planner.

Mrs. Stobsky felt that the Board did not understand how small 27' is. Chairman Michelman said that once the Board members reviewed the plans, and found that the depth and the plantings were satisfactory, the planner and engineer would make a decision. Mrs. Stobsky asked if this decision was whether it could be 27' or 28'. Dr. Matusow said he was not talking about a 1' of pavement, but rather 1' of buffer. The buffer has to be there long after these applicants move out of town. The applicant is talking about the size of her car, and this is not going to be the same car as the next owner. She explained that the Board needed to consider that things that would last long into the future. Mr. Stobsky said that the neighbor is looking at his own trees that are 30-40' high. His screening would only complement what is already there.

Mr. Stobsky wanted to know exactly what the Board was proposing. Dr. Matusow said that the board is offering a 27' backup area, with an extended hammerhead area, which would result in an 8' buffer planted with an array of plants that would satisfy the Town Planner. If you accept this and submit the appropriate plans, they could move forward; or the applicant could continue the discussion for several months over one foot.

Mr. Stobsky asked what the alternative was to the 27' buffer. Dr. Matusow said that the applicant could buy another piece of property, or they could reconfigure the house. Chairman Michelman explained that this was what was holding up the applicant. The

Board has told the applicant what is expected; they do not expect the applicant to start over.

Mr. Stobsky asked if 27' would be acceptable to the Board. The Board said that if the plans were adequate then it would be. The applicants grudgingly accepted this.

Mr. Delano noted that the applicant's previous landscape plan, a pool enclosure and deer fence were referenced. It is now labeled as a 6' high privacy fence. He asked if it was all around the property, or just at the edges, and deer fencing around the property. Mr. Stobksy said that it was just deer fencing. Dr. Matusow asked how high this fencing would be. Mr. Stobksy asked how high the Board wanted it. The Board explained that 6' is maximum allowable without having to obtain approval from the ZBA. Dr. Matusow pointed out that 6' is not high enough for deer.

Mr. Delano asked if the applicant was proposing a separate fence around the pool. Mr. Stobsky said that they were. Mr. Delano said that the planting notes on the plan should be checked to make sure they start on the right page. Note #11 indicates that 'no substitutions will be permitted without prior consent of the landscape architect or owner;' Mr. Delano asked that the applicant keep the Town advised of the situation. There is a requirement that a warning advisory that he, as a licensed landscape architect, is required to put on the plan.

Ms. Desimone asked if the new plans show the 27'. The Board explained that they did not, and that the applicant would need to submit revised plans to show that and a resolution was all that was left.

The Stobskys wanted to include these conditions as part of the earlier resolution. The Board explained that they could not, because the resolution would have to be revised based upon the revised plan. Discussion on the 27' backup and 8' buffer would need to be included.

As soon as the new plans come in, they can get the resolution.

**BYRAM RIDGE ROAD SUBDIVISION**  
**Preliminary Subdivision**  
**Byram Ridge Road & Hunter Drive**  
**Section 2, Block 5C, Lot 10**  
**Jim Ryan – RLA Senior Associates**  
**Discussion**

Mr. Jim Ryan was present on behalf of the applicant. Richard Corzone was present as well. Mr. Ryan explained that the property is located at the corner of Byram Ridge Road and Hunter Drive. There was an existing residence on the property, which has been condemned by the Building Department. Approximately 22,000 sq. ft. of impervious area remains on the site. There are wetlands on the property that were mapped by Evans Associates and they are limited to a stream channel that runs on the eastern property line. There are steep slopes on the site, but they are limited to the back area. The applicant plans to leave that area undisturbed, and incorporate it into Lot #5.

There are five lots proposed for the property, and no roadways are proposed for the subdivision. There is over 1,000 ft. of frontage on the property, which would give the applicant the opportunity to limit the impervious area on the property. Each lot within the development would have a private septic and well. Preliminary testing has been done on the property, and the soil conditions are very good. He recognized this was subject to more review by the Health Department as the applicant continues to develop the plan. They envision handling stormwater on site.

With respect to the changes to the plan, they have shifted and rotated "it" to provide access off of Byram Ridge Road for Lot #1 (the corner lot). This is the lesser used of the roadways, and will serve more than one lot. Mr. Ryan explained that this permitted the modification of the septic system. Originally, it had been on the lower end of the property, and based upon comments from the Board, they changed it. There were a significant number of trees to be removed, and in order to maintain the character, they modified that plan. Moving the septic and driveway and allowed the applicant to retain a number of trees

The applicant also reconfigured the driveway on Lot #2 so that they utilize the existing curb cut (originally, the applicant had proposed a new curb cut). Mr. Ryan explained that this modification enabled the applicant to retain additional trees in the front.

Mr. Ryan stated that Lot #3 was essentially unchanged since the last submission, with the exception of some changes to the septic. On Lot #4 they revised the plan so that the curb cut was shifted in an easterly direction. It will be a common driveway, and allowed the applicant to preserve additional trees. The access on Lot #5 was reconfigured as well. They created a common driveway, so there is net reduction in overall impervious area proposed within the wetland buffer.

Mr. Ryan stated that one other major aspect of this plan involves the septic system, both the primary and expansion areas. Mr. Ryan said that the Health Department informed him that they could eliminate the disturbance on the expansion areas to preserve those trees. That resulted in the overall preservation of 61 trees. He further explained that this helped them address some of the impacts on the property and to the neighbors.

By using the existing curb cut on Byram Ridge Road, they reduced the disturbance in the wetland buffer (indicated) by approximately 1.5 acres preserved many trees and reduced the overall disturbance. He indicated areas where disturbance was reduced. Additionally, the prior proposal called for five new curb cuts, and the new plan eliminates two of those.

Mr. Ryan recognized that one of the comments in the memos dealt with sight distances, and he informed the Board he would provide that information. He added that he had reviewed Mr. Kaufman's memo, and would like to move forward with the Conservation Board, and the SEQRA process.

Mr. Ryan pointed out that both Town Engineer and Town Planner's memos dealt with a particular issue, and he requested feedback from the Board. He explained that the Town Engineer had previously requested the applicant consider access off of Hunter Drive. In terms of calculations (septic requirements, well requirements, setbacks etc.), to introduce a new driveway would add a lot of impervious area; a private road would have

to be a minimum of 16' and end in a cul-de-sac. He pointed out that this would add about 1/4 acres more of impervious area, and would not have any overall benefit. Additionally, additional stormwater management would be required, which is currently proposed on the individual lots. Mr. Ryan said that he would like to meet with Town's professionals to explain why they feel this way.

Mr. Kaufman said that since they did have all of that frontage, they could just use common driveways. Mr. Ryan stated that was what they tried to do, and that made sense on Lots 4 and 5. He said they could try, but again, pointed out that to introduce another road will not gain the benefit the Town seemed to hope for (i.e. more preservation).

Mr. Ryan said that he felt the other comments were straightforward and they would like to address them after more input from the Conservation Board. Chairman Michelman said that there was no problem with referring the application to the Conservation Board and that this Board would do that early on. She appreciated how many trees were being saved, but asked how many were being removed. Mr. Ryan told her that 91 trees were being removed, however, this number could be reduced depending on the structures that will end up on the site. He added that if any of the trees were important, the applicant would consider relocating them.

Chairman Michelman explained that the Town's professionals were available if, at any point the applicant or applicant's representatives wanted to meet. Mr. Ryan recognized this.

Chairman Michelman asked if the Board should declare intent to be lead agency. Mr. Kaufman said it depended on how comfortable the Board was. He said it would be better if the professionals and the applicant met and discussed the common driveway idea, and then we could say we could move on, but it is worth exploring. He explained the Board had two choices: circulate intent, or wait to explore other options and then circulate.

Mr. Delano asked about the disturbance. Mr. Ryan explained that previously, the proposal called for 4.5 acres of disturbance, which has been reduced to 3.07 acres of disturbance, excluding the expansion area. Mr. Kaufman pointed out that when the Board looks at areas of disturbance, they should consider the expansion areas. He felt they should acknowledge that they would not be disturbed right away, which is relevant and should be taken into consideration, but the fact that the area might have to be utilized in the future also had to be considered.

Mr. Delano noted that both consultants mentioned the availability of a conservation subdivision. He advised the applicant to keep that type of layout in mind when they met with the consultants, keeping in mind that they could do a combined septic system or combined well ownership. This could allow for the development of another plan for the Board to consider. Mr. Delano noted that could permit the reduction in lot size.

Mr. Kaufman explained that, ultimately it would come to this Board. The Board agreed, and thought it should be done before SEQRA.

The Board explained that they would refer the application to the Conservation Board. Mr. Ryan asked if it was his obligation to reach out to the emergency services. Mr. Kaufman

said that he would do that, but would wait until the appropriate time. Mr. Ryan said that the applicant would like the input of emergency services as early as possible, even though this meant they would need to take a second look. Mr. Ryan said that he would like to start addressing these issues early on.

Mr. Kaufman pointed out that, although it probably didn't need to be said, the Board wants to work with the applicant and get the property developed in the right way. The Board agreed.

Mr. Delano said that there were some discrepancies in the names on the plans. Mr. Ryan recognized this, and explained that there had been a change along the way, and it would be revised.

## **WOLFE**

### **Preliminary Subdivision**

#### **Section 1, Block 2, Lot 12**

#### **10 Hickory Kingdom Road**

#### **James DeLalla – DeLalla & Von Ohlsen, LLC**

#### **Discussion**

Mr. DeLalla was present for this application, along with the applicants themselves. He explained that the property consisted of 23 acres on the corner of Hickory Kingdom Road and Bedford Banksville Road. There is an existing house with a driveway, and 13.5 acres of a conservation easement, which protects the lake and much of the northern portion of the property and the wetlands. The applicant has been before the Board off and on for some time. Since then, they conducted multiple studies showing different access points, driveways etc., which the Board has reviewed.

Lot #1 would consist of 14 acres, the existing driveway, the existing house, a pool house and a pool. There would be two new lots created: Lot #2 would be 4.4 acres and Lot #3 is 4.23 acres. The subdivision layout was designed to have a common driveway off of Hickory Kingdom Road. The 'common' portion of the driveway would be very short, and split early, serving Lot #s 2 and 3. He added that there is no encroachment into the buffer areas, and only minor encroachments into the steep slopes (approximately 2,000 ft.).

Mr. DeLalla explained that at the last appearance before the Board, they had been looking at various alternatives. At that time there was a restriction on the property, which precluded any additional homes on the lots for 20 years. Since then, the applicants have worked out a deal which would permit construction. The Board had not wanted to approve something that could not be built for some time, but that issue has been removed.

The applicant is now proposing to extend a conservation easement along Bedford Banksville Road and the wetland area. Basically the entire perimeter would be within the conservation easement, except a small portion. The easement would ultimately consist of almost 15 acres.

Chairman Michelman said that the only remaining issue is one they have dealt with before: the issue of two driveways coming off Hickory Kingdom Road. The last time, the

Board and applicant discussed moving the gate and posts back, and continuing the access to their private home, a common driveway of approximately 30-50 feet. She felt that this accomplished everyone's needs.

Mr. DeLalla explained that this is basically an estate parcel, with the main house and existing driveway and the applicant wants to maintain their separate access to this lot. Through the applicant's studies, they have demonstrated there is no health, safety or welfare issues. Chairman Michelman said that she did not think it was a sight line issue, but rather that two parallel driveways is not attractive. Her suggestion would be quite attractive.

Mr. Wolfe said that it is already attractive. He noted that he could have developed seven or eight homes, but he didn't because he wanted to be a good neighbor, but he wanted to maintain his lot as private. He added that he has done everything to maintain the beauty of this lot, including placing additional acreage in the conservation easement. He felt that he had been very patient. The Board would not be gaining anything by preventing the applicant's desires. To ask for one private lot and driveway access on 24 acres, and one common drive for two other lots is not asking a lot. He felt that it was ludicrous for someone like him was put through this, and it makes a mockery of the process. He put his entire savings into purchasing the property, has landscaped the entire road – not just the portion in front of his house, including 40,000 daffodil and tulips bulbs.

Mr. DeLalla said that not much would be eliminated, aside from a minor curb cut, and 20-30' of one driveway to make that connection. It is hard for the applicants to understand how this is an issue. The driveways are approximately 75' apart; there is a lot of frontage and this would not create much disturbance. Additionally, the area is pretty flat, so not much grading would be required.

Mr. Sauro asked the difference in topography in the area between the proposed driveways; perhaps it only looks parallel on the plans. Mr. DeLalla explained that they are fairly close in grade, except there is a ledge in between, and they will have screening there. He repeated that the applicants want to have the other lots separated from their home.

Mr. DeLalla pointed out that this is an applicant who has asked very little. They initially wanted the driveway off of Bedford Banksville Road, which they would still prefer, although they recognize the Board would not approve that. Now they propose it off of a portion of Hickory Kingdom Road, which is not steep and has no problem with sight distance. When you consider the size of the parcel and the donation of land, it seems unduly restrictive to allow only one driveway.

Ms. Black asked what the negative impact would be if they only had one curb cut. Mr. Wolfe said that they originally wanted their access off of Bedford Banksville road, but it was determined the Board did not want one there, so they moved it to Hickory Kingdom Road. He said that one of the reasons they purchased such a large lot was to maintain their privacy. He stated that they had gone out of their way to accommodate the Board, including considering alternatives. He said that this was the best option. Additionally, the Board's suggestion only picks up 30' which seems minimal when one considers how much he's preserved in the conservation easement.

Mrs. Wolfe said that it was she and her husband's dream to keep their lot entirely separate from the other lots. They never imagined they would be restricted in this manner on a lot this size. Mr. Wolfe said he never would have agreed to the restrictions he's agreed to if he knew that he would be this restricted in terms of the development.

Mr. Kaufman said that, initially when the Board talked about a single curb cut, the most environmentally friendly alternative was to peel off the driveway much closer. Upon review, this was not found to be appropriate. Now, having the common driveway 10-30' off of the existing, is not a significant issue for him. As long as the first alternative is off of the table, then he does not necessarily have an issue with the second curb cut.

Chairman Michelman asked if Mr. Kunny had any issues with the applicant. Mr. Kunny said that most of his comments would depend upon how the final layout is developed before they could get into the detailed engineering details. There is no reason why the second couldn't be put in because it meets all the code requirements; therefore, it was up to the Board.

Mr. DeLalla recalled that one of the Board's consideration was that they did not know what the road would look like in 20 years but now that was not an issue.

Mr. Wolfe said that he did not intend to have it used against him; he thought it was in good faith. Chairman Michelman said that the Board was not trying to use anything against the applicant, nor were they trying to hurt the applicant. She said that there are still some issues and points of view that have to be discussed and if they can't be agreed upon, they would come to a compromise that works, in some way, for all. The process must be followed.

Dr. Matusow recognized that he had been very vocal about the driveway issue, and still felt that if the applicant could develop a subdivision with one cut, that would be the appropriate thing to do. He did not think that having a common driveway for a short time, would impact the applicant's privacy. However, in the time that has passed the Board has been faced with applicants creating bigger problems than this. Dr. Matusow said that he would no longer make an issue over the curb cut. He has come to believe that the Board needed to be a little more flexible to applicant's desires if the desires would not be deleterious to the Town and he did not think that this would be detrimental. He concluded that although he would ideally prefer one curb cut, it is no longer an issue for him.

Mr. Delano said that the applicant's heart was in the right place, and they just gave away a little too much too soon in the process. Mr. DeLalla said that they tried to approach the property in the right way. Mr. Delano said that he agreed to back off the curb cut issue. He noted that if the applicants were coming in a rush, wanting to do this right away, he might have a different opinion.

Mr. Kaufman explained that here were still some preliminary plat issues remaining, including the requirement for 8" trees or greater within the area of disturbance. Once the Board has that information and the new plat, they would be able to go to a public hearing. Procedurally, everything had been circulated; the Board became lead agency in November 2005.

Mr. DeLalla said that he would address the professionals' comments.

**ANIKSTEIN (formerly Samit)**  
**Amended Site Plan**  
**Section 2, Block 5, Lot 14-6**  
**12 Leisure Farm Drive**  
**Discussion**  
**Nick Pouder – Pouder Design Group**

Mr. Nick Pouder was present for the application, along with the applicant. Mr. Pouder explained that they have revised the plans significantly since the last time the Board saw the plan. The pool that had been perpendicular to the house has been rotated and set back further. Everything in front has stayed the same, the grading has shifted a bit further from the property line and they have reconfigured the terraces to merge better.

Chairman Michelman asked about the screening for the neighbor. Mr. Pouder said that they had to reconfigure the plants because the pool shifted. There had been two pines that were to be removed, but now they will stay. They have used a series of trees to increase the buffer on the edge.

Mr. Kaufman said that the Board should have received a letter from one of the applicant's neighbors, but no Board members had seen it, nor had Mr. Pouder. Mr. Kaufman said that he would distribute it to them, but that it indicated that the neighbor was concerned with the location of the pool, and wanted the Board to consider requiring adequate screening. Mr. Kaufman said that he believed this plan provided adequate screening.

Chairman Michelman asked how far away that neighbor was. Mr. Kaufman said that they were approximately 39'. Ms. Black believed the property sloped upwards, and Mr. Pouder said that it did. He explained that there was a large spruce tree that straddles the line, and the applicant would be filling in the area with more spruces. He added that they would be able to add and shift the plants in the area to further accommodate the Board. Ms. Black noted that as 'the applicant went up, it thinned out a little.' Mr. Kaufman agreed and said that had been the neighbors' concern.

Ms. Black asked about the upper left corner of the property, because it did not depict many plants. Mr. Pouder said that there were some ash, pine and tulip trees there, but felt that the project would not impact that neighbor much. He did not think that there would be a visual difference in terms of what would be changed in the back yard.

Chairman Michelman asked if Mr. Kunny had any issues. Mr. Kunny said that he did not, but that he was waiting for the testing and stormwater designs. Mr. Pouder said that they would be able to do this soon, now that winter was over.

Mr. Kaufman said that the significant issue was the clearing and grading limit line. The applicant has requested expansion beyond that line by almost 8,000 sq. ft. and the applicant has provided additional screening. Mr. Pouder said that he learned from the prior neighbor that they had a permit to clear there. He added that the applicant would be putting 50 trees back, and several hundred shrubs.

Chairman Michelman asked if the Board was ready to move on. Mr. Kaufman said that they were, and that a public hearing could be scheduled.

**823 MOUNT KISCO ROAD**

**Site Plan**

**Section 2, Block 2, Lot 7C**

**Michael Godbee**

**Discussion**

**Consideration of approving extension of time resolution**

Mr. Sahagen was present for this application. He explained that they had been using a builder, but after they received their approvals, the builder increased the building costs by 20%. Since then, they had been looking for other builders and finally found one.

Dr. Matusow asked if this was the property with the little house on the bottom that had been for sale. Mr. Sahagen said that it was but the house is no longer for sale.

Dr. Matusow moved to approve the extension for one year. The motion was seconded by Ms. Black, and unanimously approved.

**NEW BUSINESS**

**AHERN**

**Site Plan**

**Section 1, Block 4, Lot10-409**

**20 Windmill Place**

**Discussion**

**Barry Naderman, P.E. – Naderman Land Planning & Engineering, PC**

Mr. Naderman and Mr. Pouder were present for the application. Mr. Naderman explained that the applicant's property consisted of 1.5 acres, and the applicant is proposing a teardown and a reconstruction. They would need special permits for gross land coverage and the FAR. The Board had conducted the site walk at which they discussed several things, including the trees, which had been the main issue.

Chairman Michelman said that the trees were one issue, but after the site walk, she looked closely at the house itself. She explained that, in her opinion, it was very large, and it appeared that the applicant is building something that looks three or three and a half stories high from various spots. Judging from the neighborhood, this house will stand out a lot.

Mr. Naderman said that he understood her concern, but that the house is in compliance with the code and the total gross floor area is 6,066 sq. ft. and that is because much of the exposed portion around the building is at the first floor level. He pointed out that it does meet the requirements if the basement is not counted.

Chairman Michelman said that she was not concerned about that because the applicant did fall within the basic and the maximum. It is her concern over what the building would look like. She is concerned with the size of this house, in this very quiet area of the community because it looks like more than three stories in some areas.

Mr. Naderman said that the whole front of the house is at the first floor elevation. He added that there was a partial full walkout basement in the rear and the garage is on that side of the house as well. Chairman Michelman pointed out that the garage would be below level. Mr. Naderman said that it was, and that allows the house to stay shorter.

Ms. Black said that the front elevation does not appear that way. Mr. Naderman said that was correct and that there was nothing behind the house; it is a vacant lot and a very steep slope down to the Mianus River. Mr. Naderman presented elevations and renderings for the Board. He explained that the visual impact of the house is broken up so much that at the roof level, it is very modest. It is the other side of the house where the full exposure is seen. Mr. Kaufman pointed out that the Board members were viewing the house in only two dimensions.

Mr. Naderman read the statement from the applicant's architect, which indicated that it was specifically designed to minimize the visual impact. They have attempted to take advantage of the natural topography of the site. Additionally under house parking helps limit footprint and take advantage of the topography, limiting too much grading and filling.

There is a walkout basement in the rear, and the garage elevation works very cleanly with the property. This house is set much further back than the existing house, so the presence on the street will be softened. Chairman Michelman said that this was only true if it were screened. Mr. Naderman agreed, and pointed out that the Board had discussed a cluster of trees on top left corner of the plan. He said that he could move the septic and maintain the trees in that area. There is a large, dying tree below that area that would fall before long. There is an opportunity to do some additional plantings on the front of the property.

Nick Pouder asked Mr. Naderman about grading in that area. Mr. Naderman said that he did not see the benefit of working in that back area, because it would only leave two dying trees. The applicant would rather do supplemental screening. Mr. Naderman pointed out that those two trees did not provide any screening because the canopies were very high. There is probably something better that could be done to soften the house.

Chairman Michelman pointed out that part of Windmills' concept is the tall trees with high canopies, but there is nothing on this property. The applicant is proposing a new house, and 3/4 of trees are being removed; additionally, the septic system would require additional tree removal and now, the applicant wants to remove the trees that provide the canopy, which is a part of the area.

Mr. Pouder showed the Board the tree inventory depicting dead, good and fair trees. He recognized that these designations are subjective. There is a character of Windmill and the canopies provide some of that character but no one knows how long they would live; existing plants will die, and anything new would not survive. The plantation spruce will die and so will many others. The trees they plan to remove are for the driveway and the

septic. Those on the perimeter would remain, and those near the area of the house that has the biggest façade would remain. The applicant and his professionals spent a lot of time hashing out the design for the back area, and have even bent the wall to stay away from the root area. Mr. Pouder explained that the applicant has no objection to saving the plants at the top if they could be saved, and if Mr. Naderman could revise the plans to relocate the infiltrators, but the ash should still be removed. Mr. Pouder said he agreed that if existing house was to remain, there is a sensibility to try and save certain trees. However, the new house will be shifted back, and it makes no sense to keep the driveway there. Mr. Pouder believed this would decrease the driveway grade.

Mr. Pouder showed the proposed planting plan and explained that it focused primarily on screening the two neighbors they believe were most impacted. He indicated those neighbors' yards. He did not think there would be a problem with providing adequate screening. Ms. Black asked what kind of trees they were proposing. Mr. Pouder said that it would be larger flowering or deciduous trees; something with more of a streetscape style.

Mr. Naderman explained that the square footage of Rosenblum house was not dissimilar to the applicant's proposal; they were not doing anything out of character with the area. Chairman Michelman pointed out that this house is higher, where those houses were lower and nestled.

Mr. Naderman said that they have performed the soil tests, and they tested very well. As a result, the six-bedroom house would have only 504 feet of fields. Ms. Black asked where the sixth bedroom would be. Mr. Ahern explained that there are five bedrooms in the main part of house, and one downstairs for his mother-in-law.

Mr. Naderman said that the applicant and the professionals believe that the proposal is something that is well within the allowable, given the broken roof-lines and stepping of the building; this will help the visual mass. The residence, including the garage, is 80' wide. He explained that one of the main reasons he was able to keep the width down, was because the garage is underneath. Mr. Ahern said that there would also be useable space above the garage on the first floor, whereas if the garage was at grade, there would probably be a bonus room above garage.

Chairman Michelman agreed, but said that it still appeared large. Mr. Delano said that he did not think the drawings do it any justice. He agreed the house was large, but it is not a monster. He said that if this were proposed on the lot next door, he would have a bigger problem

Ms. Black thinks that although the house looks massive from the left and the rear, but not so much from the front. She added that the applicant was locating the house far from street.

Mr. Naderman said that this was a large piece of property and the rear drops off substantially. Therefore, even in the rear where the exposure is larger, the basement would not be seen by anyone. The garage only has a first floor above the garage, which would have the same exposure. The neighbor on the side already has lots of screening, and the applicant is proposing more. On the other side of house, there is a lawn area and a terrace outside of the master bedroom, which is on grade at the first floor

elevation. Mr. Naderman explained that, basically, the only issue was the front, which can be easily screened.

Ms. Black said that it might be helpful to see other views of how the house will appear because these plans do not really give a good idea. The applicant said that they had a color rendering and Mr. Kaufman said that would help the Board. Mr. Naderman said that a bird's eye view would be helpful too; the Board agreed.

Mr. Naderman said that he would revise the plans based upon the comments and would resubmit them for the Board. He added that the pool was designed to take advantage of the rock outcropping, and because of the new town regulations, there is some impact to the steep slopes, so the applicant would like feedback from the Board on this issue. He explained that the pool has a vanishing edge and there is a large 28" tree in the corner, which would not be impacted because they have curved the wall. Chairman Michelman asked how much of a disturbance the applicant proposed to the slopes. Mr. Naderman said it was approximately 400 sq. ft. The Board said this was inconsequential.

## **DEMPSEY / ZHONG**

### **Site Plan**

### **Section 1, Block 5, Lot 30**

### **81 Hickory Kingdom Road**

### **Discussion**

### **Peter Kurth, AIA**

Mr. Peter Kurth was present for the application, along with Mr. Dempsey. Mr. Kurth explained that the applicant wanted to obtain CO for the residence that was completed with a permit that was not conditional upon removing an existing structure on the site. His prior attempt to obtain a CO was denied because the Building Department felt they could not issue one for a property that had two houses. Therefore, the applicant was seeking a special use permit for house that was on the property prior to the construction of the main house. This requires a permit for accessory apartment structure.

At the site walk, the applicant had discussions with the Board about the possibility of demolishing the house. If this Board made that recommendation to the Building Department, they would be able to get a demolition permit, and then they could remove the accessory dwelling. He explained that the process could take a long time, and the applicants want to get their CO, so they'd prefer to demolish. Mr. Kaufman said that this Board did not need to do anything; the applicant could just apply for a demo permit at the Building Department.

Mr. Kurth asked if this meant the applicant could simply withdraw his application and go to the Building Department directly. The Board said he could.

Dr. Matusow explained that the applicant needed to take great care to preserve the well in the area. The applicant recognized this.

**FRISOLI**

**Site Plan**

**6 and 7 Kensico Knoll Place**

**Section 3, Block 7, Lot6-29, Lot 6-26**

**Discussion**

**Joe Eriole, Esq. – Veneziano & Associates**

Mr. Salamone was present on behalf of the applicant. He explained that this application was for the legalization of two existing, two-family homes. They are located in the R2F zone, which permits two family homes, however, the CO is only for a single-family.

Chairman Michelman asked if 6 Kensico Place had a separate entrance that she missed. Mr. Salamone said that it did; there was one in the front and side for each and then one separate entrance on the other level. Mr. Salamone added that no one is residing in any of these homes.

Mr. Delano asked if that was true. Mr. Salamone said that he was. Mr. Delano said that he lived on the street and he had structural concerns. These houses are all capes that went up in the 1950s, some of which have garages, and many of the basements have ceiling heights well below 7'. The ceiling height on the main floor is generally 7.6' and many houses were sold with unfinished second floors. The construction of many of the houses has not been completed. The ceiling heights on the second floor are below 7.6' and in order for the Building Inspector to issue COs ceiling heights would have to comply with NYS Building Code. Applications for waivers, if any would even be permitted, would likely have to be made to the State.

Mr. Delano said that he wanted to see the report from the Building Inspector or the applicant's architect, but preferably both, as to what the ceiling heights are in the houses. If they are not legal, the applicant needs to demolish the illicit construction and get re-CO'ed or go to the State for a waiver. Additionally, they had talked about the illegal driveway / parking spaces, which is a big concern for the single-family homeowner. Tenants don't have the same respect as those who are owners and landlords are not required to occupy these two families. He said that he wanted the entire situation cleared up, including physical inspections and measurements; and he wanted to know if they are compliant.

Ms. Black noted that the basement apartment seemed very small. Mr. Salamone agreed. Mr. Delano pointed out that these are not large homes (2,000 without a basement); this is not a house that should be made into a two-family house.

Mr. Kaufman asked if tandem parking was something that the Board wanted to consider. The Board said that they did not need to talk about parking until they learned about the structures. Mr. Kaufman added that they must also confirm that none of the spaces are less than 800 sq. ft, which is the minimum allowable.

**NATURESCAPES**  
**Referral from the Town Board**  
**Section 2, Block 13, Lot 25**  
**2 MacDonald Avenue**  
**Discussion**  
**Robert Dean**

Mr. Dean was present for the application. Mr. Kaufman said that the code calls for a clean paved area and he asked if the applicant was proposing this. Mr. Dean explained that they were proposing nice quarter inch chipped gravel. If it was paved, it would increase impervious surfaces.

Chairman Michelman asked what the applicant would be displaying on the site. Mr. Dean said that it would be plants, shrubs, etc. Mr. Kaufman said that since the applicant was talking about a landscape display, it might not be necessary to pave. Mr. Delano said he would recommend that they don't require paving, because of the nature of the display. Mr. Dean pointed out that paving would pose a problem with watering.

Mr. Kaufman said that this would require an increase in the off street parking. He asked if there was an issue with eliminating one space near the door. The Board thought they did that. Mr. Kaufman said that the Board needed to make a finding that it is or is not going to cause an impact. The Board said that it would not cause an impact. Mr. Kaufman asked if one space could be removed. Dr. Matusow thought that it could.

Mr. Delano asked what was the problem with the space. Mr. Dean explained that it was right in front of "B" building. The plan could be revised from 25 spaces to 24 spaces. Mr. Kaufman said that this was still above the required number. Mr. Dean said that it was a small area and Mr. Kaufman demonstrated that it would be difficult to open doors and get in and out.

Dr. Matusow moved to make Mr. Kaufman's points known to the Town Board. Mr. Delano seconded the motion and it was unanimously approved.

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The meeting was adjourned at 10:58 p.m.

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