

**TOWN OF NORTH CASTLE
PLANNING BOARD MEETING
15 Bedford Road
Armonk, New York 10504
September 22, 2008
7:00 p.m.**

PLANNING BOARD MEMBERS PRESENT:

Peg Michelman, Chairman
John Delano
Gene Matusow
Jane Black
Steve Sauro

ALSO PRESENT:

Adam Kaufman
Town Planner

Roland A. Baroni, Jr., Town Counsel
Stephens, Baroni, Reilly & Lewis, LLP

Tony Kunny
Kellard Sessions Consulting, P.C.
Consulting Town Engineers

Valerie Desimone
Planning Board Secretary

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

PUBLIC HEARING:

**GOLDSTEIN / ADLER
Special Use
Section 2, Block 02, Lot 23.N
26 Annadale Street
MacMillan Architects
Discussion
Consideration of approving site plan resolution**

Chairman Michelman explained that the notification was missing one neighbor, which makes the notification defective. Therefore, this would not be a valid public hearing, although the Board would be willing to hear those neighbors present.

Doug MacMillan was present on behalf of the applicant. The Board asked if he wanted to proceed tonight, or wait until the official public hearing. Carl Kling, a neighbor on other side of the applicant, said he was either for or against the proposal depending on where the well will be. Mr. MacMillan said that he would like to proceed tonight and hear the neighbors' comments and concerns to work to resolve the issues before the renoticed public hearing.

Chairman Michelman asked the neighbors to identify themselves for the record. Ms. Lorraine Serrao, of 23 Orchard Drive; Mr. Carl Kling, lives at Coscov, but owns 15 and 17 Orchard Drive; and Leith Colton of 28 Annadale Street were present.

Mr. MacMillan indicated the location of the street, the existing house, and where the addition would be. The house will appear the same from the front with the exception of updating the façade. The applicant is also proposing a two-car garage. They will be moving a retaining wall back and the addition will create living space on first floor. Mr. MacMillan said that the house is currently, and will remain a three-bedroom home.

Mr. MacMillan explained that the applicant needs a special permit because they are between the minimum and maximum. The porch and a portion of the garage count in the calculation, and they have updated the calculations to include those figures. The applicant has shown the hammerhead as requested by the Town Engineer; however, the applicant does not believe they really need it. Mr. MacMillan said that he has updated the calculations accordingly, but the applicant would be happy to leave it as is. Mr. MacMillan explained that there is an existing well in the driveway area, and the applicant would continue to use that well. They have also included a fence or some type of landscaping along one side of the property to provide screening.

Mr. Kling asked the location of the septic field and Mr. MacMillan indicated the location in the front yard. He added that there will be no increase in the bedroom count and they have been through the process with the Health Department and the Building Department and there were no issues.

Ms. Serrao, 23 Orchard Drive, asked if the driveway would be cleared. She explained that she lives directly next to the applicant and she believes a driveway is being cleared. The applicant said that was impossible because they are not clearing anything, and this neighbor is not in proximity to this applicant's driveway. The neighbor said she was confused because she got a notice. Mr. MacMillan explained that she received the notice because she was within the radius required by the Town Code.

Ms. Colton said she was concerned with the buffer between her property and the applicant's as well as the size of the house on this lot. She understood that it is within code, but she was still concerned. Mr. Kaufman explained that the proposal is the maximum that could be permitted on the lot and Chairman Michelman agreed that it was large. The gross land coverage is below the maximum by 34 sq. ft. and the FAR is below the maximum by 2 sq. ft. Chairman Michelman stated that the neighbor's concerns were valid. Ms. Colton said that she is more concerned with the size of the house than the screening.

Mr. MacMillan explained that the square footage includes 514 sq. ft. of garage and 24 sq. ft. of the porch, which has to be included in the calculations. In reality, the applicant will have a 2,600 sq. ft. house, and it is not that large when you consider that approximately 538 sq. ft. has to be

included in the calculations due to the code requirements. Chairman Michelman accepted what Mr. MacMillan was saying, but "the criteria are what they are."

Mr. Delano asked Mr. MacMillan to explain the landscaping plan and the elevation for the property. Mr. MacMillan presented the landscaping plan and explained that there would be extensive screening along the side. The applicant is also willing to do a stone wall with a fence on top or additional screening if the neighbor preferred. He believed that installing a fence might not be the best option, but he would speak with the neighbor. Mr. MacMillan also presented the side elevations.

Chairman Michelman asked about the height and how it would be viewed. Mr. MacMillan indicated the end of the current house. The applicant said that the neighbor on the left is lower in terms of topography. Chairman Michelman believed that the house would have a larger look from that perspective. Mr. MacMillan said that was somewhat true, but they would be willing to work with the neighbor to screen.

Mr. Delano asked if the applicant was proposing landscaping on top of the wall. Mr. MacMillan said they were, and it would probably consist of some small trees and other plantings. Ms. Black recalled that the driveway was very close. The applicant explained that her driveway is on the other side of her house and believed that Ms. Black was referring to a patio. Mr. Delano pointed out that there is already some visibility issue. Mr. MacMillan explained that the applicant's driveway is approximately 30' to edge of neighbors' pavement.

Mr. Kling said that he was concerned about the fill making his property unprofitable. Mr. MacMillan said that the applicant was not proposing any fill; and other than near the garage, they were not changing the topography. They were only possibly going to take some material off site and perhaps Mr. Kling was mistakenly referring to the stockpile location.

Chairman Michelman asked about the concern for the hammerhead, and the applicant's desire to leave it out. Mr. MacMillan explained that the engineer did include the hammerhead because the Board had requested it, but he would prefer to leave it as is because it makes the coverage higher. Dr. Matusow asked the backup area to the fence and Mr. MacMillan said that it was approximately 29'. Dr. Matusow thought that was sufficient, and there was no need for a hammerhead. The rest of the Board agreed and thought it would be better to keep the gross land coverage lower.

Ms. Colton asked what a hammerhead was, and Mr. Kunny explained that it was a backup area to pull out of the garage. Ms. Colton asked if one was required or not and Mr. Delano explained that it had been recommended, but there appears to be adequate space, so the Board would not require it. Ms. Colton said that visually, it would be beneficial to her to omit the hammerhead.

Dr. Matusow noticed on the plan that the applicant was proposing to remove the existing concrete walkway and change it to gravel and asked the reason for the change. Mr. MacMillan said that the applicant prefers the look of it, and would help in terms of coverage. Mr. Kaufman corrected him, and explained that the use of gravel would not reduce the land coverage. Dr. Matusow noted that if the land coverage calculations did not include the walkway, then everything would have to be adjusted and would probably push the applicant over the maximum. He thought that if the applicant had to reevaluate it anyway, he thought the concrete

walk would be better because it is easier to take care of a concrete walk as opposed to a gravel walk in the winter. Mr. MacMillan was not sure if the walk was included in the calculations but would check on it.

Ms. Black said that aside from working out a screening plan that was amenable to the neighbors, she had no issues. Mr. Sauro thought it would be better for the applicant to work it out with the neighbor before proposing it to the Board. Mr. Delano stated that once that was worked out, the applicant should include it on the plans and present it to the Board at the public hearing.

Chairman Michelman noted that the proposed resolution contained a lot of conditions, and they should be worked out before the Board gets to the final resolution. The applicant had been directed to resolve them previously, and that had not been done.

The applicant said that this has been a long process for them and they would like to get started as soon as they could. She asked if, assuming they satisfied those conditions, figured out the coverage on the walkway, and worked out the screening with the neighbor, if they would be able to be approved. The Board said they would be in the position to approve the resolution.

Ms. Desimone noted that the submission deadline for the next agenda was that day. Chairman Michelman asked if there were any other issues. Mr. Kunny said that the applicant still needed to work out the drainage and the issue with the cultech drain. Mr. MacMillan said the applicant's engineer didn't see any issues, and would be in touch with the Town Engineer.

20 BEDFORD ROAD

Site Plan

20 Bedford Road

Section 2, Block 14, Lot 13

Rebecca Rivera – Joseph Crocco Architects, P.C

Discussion

Chairman Michelman explained that the notification was missing one neighbor, which made the notification defective. However, a letter was received from this neighbor indicating that they did receive notice of the meeting. Mr. Baroni said that was acceptable.

Mr. Nathan Hoyt, the warden of St. Stephens, 30 Bedford Road was present. There were no other neighbors present.

Chairman Michelman read the public notice for the record. Ms. Desimone noted that all paperwork was in order.

Ms. Rebecca Rivera was present on behalf of the applicant, along with the applicant, Mr. Michael Farerri. Mr. Farerri gave the Board some history. The property is located directly across from town hall in the historic district. He purchased the property in December 2006 and because this is in the historic district he started the process with the landmarks preservation committee to see if they would be in favor of making a text change to the present zoning.

The property consists of 19,528 sq. ft. and is bordered by the church, two smaller homes, and office space. Under the present zoning condition, in addition to the existing dwelling, the code

permits the applicant to use the space as a professional business office with the rear being used as residential. He explained that was how he had proceeded until the code was revised.

He explained that this was his 7th visit to this Board; they have been to the ARB twice; the Town Board three times and landmarks preservation committee three times. The Town approved the text change, which permits the applicant to use the addition in the rear for professional office. He has received the certificate of appropriateness from the landmarks preservation committee. He presented a photo to the Board of the building as it exists today.

Under the floor area ratio, they are permitted to have 4,895 sq. ft. of building and the applicant is proposing a building pretty close to that limitation. Mr. Farerri explained that he received the Building Permit to construct the addition in the rear. He added that he had to work backwards in the design process; they had to design the building thinking they would be able to use it as professional office space, and then design the parking and then the house. He said that he has received four different permits from the Building Department because of the deteriorating condition of the building and he was seeking site plan approval at this time.

Under the present code, they need 1 space for every 250 sq. ft. or 4 per every 1,000 sq. ft. If the addition were used as office, the applicant would need 16 spaces. Mr. Farerri presented the floor plan to the Board, both as it previously existed, and the proposed floor plans. The existing structure has a basement, and he plans to extend the basement in the addition. They will be adding two new window wells. He also presented the second floor plan and the attic floor plan for the addition. Mr. Farerri explained that nothing in the code that dictates attic space of 7' 6" counts as FAR for commercial buildings, but Mr. Fon wanted to include it and he has no problem with that.

Mr. Farerri presented the architectural renderings to the Board. A porch has been added to the new entrance, which was needed for the handicap entrance. He explained that porches have to be counted in the FAR even for commercial buildings, which they have done. If he removed the porch he would be able to deduct 97 sq. ft. from the total square footage, but that would not be practical. He presented elevations of building from St. Stephen's side as well as cross sections to the Board. The basement is 8', the first floor is 9' with 1' of construction and the second floor is 8'. They haven't designed the mechanicals yet. He talked about the roof elevations, and explained that he used the worst case scenario. He indicated the current finished grade and the proposed finished grade and noted that only approximately 2' of the basement will be above grade.

For calculation purposes, the applicant will have 587 sq. ft. of finished basement that will be used for office space and that is the reason for the two window wells. The balance of the basement (approximately 644 sq. ft.) will be for the mechanicals. Chairman Michelman asked if this was also included in the calculations and Mr. Farerri said that it was.

Mr. Farerri explained that the first and second floor will both be 1,623 sq. ft. and they would be using 70 sq. ft. of the attic and have included the 97 sq. ft. of the porch. If this was all added up, they have 4,000 sq. ft. of office space, and if they require 4 spaces per every 1,000 this site requires 16 spaces and that is what the applicant proposed. He explained that the existing two-car garage will remain and that is counted in our total number of spaces.

Mr. Farerri explained that he has been working with the Town Engineer, and with one minor exception, the Town Engineer is satisfied. Mr. Kunny agreed. Mr. Farerri stated that he has seen the memo from Mr. Kaufman, and they have addressed some of those comments. He added that he would provide Mr. Kaufman with the exact calculations relating to the measurements from the interior of the exterior walls. They have prepared a lighting plan that proposes lighting similar to that used on the west side of Main Street, which adheres to the code.

With respect to Mr. Kaufman's concern about the two new window wells, the applicant would like to add them because they will be in the finished portion of the basement, and they would like to get natural light. Mr. Farerri explained that he was not going to impact the existing vegetation and Mr. Kaufman said that the Board could handle by requiring the applicant to replace any vegetation that dies. Mr. Farerri noted that the trees have been there for some time, and they are healthy hemlocks. Mr. Kaufman stated that healthy hemlocks are rare.

Mr. Farerri explained that the site will need to have a sign out front but they do not yet know what that sign would look like, or how many tenants it would contain. He stated that they are permitted 5 ½' of signage, but he thought that was too big. Mr. Kaufman had recommended that the Board not approve any sign as part of this plan and that they wait to see what type of tenant moves in before getting approvals and Mr. Farerri agreed with that suggestion.

Mr. Farerri said that Mr. Kaufman was also concerned about where the garbage container would be located. He indicated what he thought to be an appropriate place to construct an enclosed structure and the Board agreed.

Mr. Farerri said that he had received the letter from Kellard-Sessions relating to the applicant's driveway. He recognized that everyone had been concerned about the width of the driveway and the impact it would have on the historical district. They had presented several options keeping in mind that they need to have 20' under the code. The existing driveway is 12' and the applicant will keep that paved area. They will also need to have two 4' sections on either side of that. He said that he personally liked the idea of the cobblestone apron on either side, with a cobblestone entrance. There was also the suggestion to put the grasscrete on either side, similar to what Mariani has. Mr. Farerri said that he would prefer the cobblestone. The Town Engineer has asked what the applicant will be using and the LPC has no preference as long as only 12' will be paved.

Mr. Farerri said that he would provide a landscaping plan, but wanted to wait until the site plan was acceptable to the Board. He assured the Board that it would be aesthetically pleasing and noted that he does not skimp on his landscaping. He hoped that the Board would have resolution prepared for the next meeting with an approval; that would allow him to get a building permit within a couple of weeks and pour the foundation before the inclement weather starts.

Chairman Michelman asked if the neighbors had any issues. Mr. Hoyt said he had a couple. He said that the church is anxious for this project to move along and noted that they appreciate the work the applicant has done in terms of stabilizing the structure and moving it forward. There has been a lot of positive movement so far. He asked if the zoning text change was approved and the Board said that it was. Mr. Hoyt said that the church's major concern has to do with the fact that this is a residential district, and a part of the historic district, which the church was very involved with the process from the beginning. They are concerned about maintaining the area

as a residential area. He had no major issues with the general character of the addition or the nature of the building; however, the major concern was the addition of the parking, which abuts the residences for the church. There is some buffer on the church side, but he wanted to know what the applicant was proposing in terms of a buffer. The church also wanted to know the impact in terms of lights and noise.

Mr. Hoyt added that the church was also concerned with having that much paved area in the rear, and wanted to ensure the drainage would be adequate. Whatever could be done to keep a residential appearance would be good. He recognized that the lighting had to create a safe condition and they were OK with streetlights along Bedford Road and the driveway; however the church was concerned with streetlights in the rear. He thought there might be a more "residential way" of dealing with the lighting in the rear.

Additionally, Mr. Hoyt noted that the changes of the elevations proposed on the inside, changes how the windows would appear, particularly on the second floor. The windows are proposed approximately 1' from the floor, and the church does not want to be looking in at the undersides of desks. In other words, the church does not want to have an awkward unappealing view. He thought this might be solved with screening, but the window wells on the side might present some issues with drainage and screening. He hoped the Board considers all of this.

In response to Mr. Hoyt's concerns, Mr. Fareri indicated the property line and explained it consisted of hemlocks approximately 10 -12' high. The church should have enough screening and the lights probably would not be able to penetrate the hemlocks. The applicant plans to have 12' high residential poles in two locations, but they will need to demonstrate that the light doesn't penetrate neighboring property lines. The light on the corner of the driveway at Bedford Road will go automatically on and off during daylight hours. The ones in the rear would be on motion detectors and would only stay on for 5 or 6 minutes. Additionally, he has created the entrance on the opposite side of the church to minimize disturbance. Mr. Fareri explained that the use of the property had been residential in the 1800s, but with the changes going on in the Town, that is no longer the use here. It wouldn't make sense to have a residence in the rear, and doubted that there would be many people willing to live there knowing that Armonk Square is being developed.

Chairman Michelman said that the point is for the applicant to do the best he could. She explained that the Board was also concerned with the character of the neighborhood and although the design wouldn't change the character, but the use might. The Board will pay particular attention to the landscaping in the rear of the property when the applicant submits that plan.

Mr. Fareri explained that the building is permitted to have the windows 1' above the floor as long as they are safety windows. Because of the low height of the existing ceilings, the windows would have to be in the proposed location. He said he doubted that anyone would put a desk in front of the window. Mr. Hoyt suggested frosted glass or something similar and Mr. Fareri said he did not have a problem with that. Chairman Michelman said that the project was not at that level of detail yet; the present issue was screening, and the Board will look at it closely.

Mr. Delano asked if Mr. Kaufman approved of Mr. Fareri's interpretation regarding parking. Mr. Kaufman said that, in concept, he was, but he would need to see the chart and the calculations. Mr. Kaufman added that the only issue they haven't covered was traffic. Mr. Fareri said he did

not mind contributing to see what type of improvements may or may not need to be done at the intersection of Maple Avenue and Bedford Road and Route 22 and Bedford Road. However, he did not think that the 16 additional spaces would impact those intersections. He was not sure how to handle this issue and he was not sure how much he was willing to contribute. Mr. Kaufman explained that the Board was looking to get a comment from the traffic consultant regarding how much, if any, this applicant should contribute. Mr. Fareri said he would need to know the figures first. Mr. Kaufman recommended referring this to the traffic consultant, with the explanation that the Board needed the input as soon as possible.

Mr. Fareri asked the Board to close the public hearing and have a resolution prepared for next meeting. Mr. Delano did not think the traffic issue would be significant and Mr. Kaufman agreed. Mr. Delano did not think the Board needed to refer this to the traffic consultant. He did think the Board needed to finalize the side of the driveway and do a landscaping plan. He felt that the Board should leave the public hearing open and have the applicant come back with those details, and have a resolution prepared for the same night. Mr. Fareri asked that these be conditions of the Building Permit but the Board was not in favor of that. He said he was concerned with getting building started before winter. The Board directed the applicant to present the details at the next meeting and a resolution for the same night. Mr. Fareri said that he would like to be on the October 6th meeting. Ms. Desimone explained that the Board would have to approve a late submission.

Dr. Matusow said that he would like to see this project approved. The driveway issue needed to be resolved. He said that he looked at the street, and none of the driveways on the street are more than 10' wide, and they all go straight back to a garage; lining a macadam drive will not maintain the streetscape. He said that he believed that the grasscrete would be better here, although he did agree that cobblestone in many cases are attractive; however because no other driveway has cobblestone it would make this one very distinct. He would like the 12' macadam drive, with grasscrete on either side. Chairman Michelman recalled that this had already been discussed at a prior meeting and it had been determined that the grasscrete was more appropriate. Mr. Fareri explained that in the Master Plan, most of the curbing in downtown Armonk and every apron was cobblestone. Chairman Michelman said that the Board already had this discussion and the grasscrete was preferred with no apron. Mr. Fareri had no problem with that.

Chairman Michelman said that, in terms of timing, it would not matter whether the Board kept the public hearing open or not. She asked if the Board wanted to add this to the agenda for October 6th. Dr. Matusow asked what still needed to be submitted, and Mr. Kaufman explained the applicant needed to submit the details of the FAR calculations, and the landscaping and lighting plans.

Chairman Michelman explained that the October 6th agenda was pretty full. Dr. Matusow noted that if the applicant was not getting on that agenda, it would make no difference whether the public hearing was kept open or not. Mr. Fareri asked if the resolution could be prepared for the same night, so that on October 27th, the Board could adopt the resolution, and he could move forward. The Board decided to have a resolution for the 27th. Mr. Delano moved to close the public hearing. The motion was seconded by Ms. Black and unanimously approved.

The Board decided not to send this to the traffic consultant; Mr. Kaufman will prepare a draft resolution and send it to the Board as well as applicant.

OTHER BUSINESS:

20 BANKSVILLE AVENUE

Referral from Town Board

Section 1, Block 12, Lot 7D

20 Banksville Avenue

Joe Crocco – Joseph Crocco Architects, P.C.

Discussion

Mr. Daniel Hollis was present on behalf of the applicant. Mr. Hollis explained that he was retained by the applicant on Friday and he only received the comments from Mr. Kaufman dated September 15th. A number of issues were raised in that memo, and he realized they would need to bring additional people into the team. The applicant just retained Beth Evans to determine the possible existence of wetlands on the property and the applicant will have to retain an engineer.

Mr. Hollis stated that, rather than hear comments on a plan that will likely change, he would like this meeting to just be a discussion. He has read the petition and the grievances from the neighbors and he has read the prior memos. However, in order to be comprehensive, the applicant's team would need to review the comments in more detail. He would like to defer the discussion on the referral to the Town Board.

Chairman Michelman said that the location of the property and its relationship to the neighboring residential areas is of major concern to the Board. Mr. Hollis recognized this, but pointed out that this proposal is for a special use permit in a GB zone, which exists as a matter of right as long as the applicant meets the requirements of the special use permit

Mr. Delano asked if the reference to the fueling station was an underground storage tank and Mr. Hollis said that it was not; it was above ground. Mr. Delano referenced one of the neighbors at 7 Roundhouse Road and Mr. Hollis said that neighbor was not one of this applicant's neighbors. One neighbor stated that there were neighbors present, from both NY and CT. Chairman Michelman said that she would hear from one representative of the group and reminded them that this was not a public hearing, and so she could not hear from each one of them.

Mr. Steve O'Connor, 5 Roundhouse Court thought the Board would benefit if they could hear from each one of them briefly because it would help the applicant address the issues. He understood the consultants have been retained, but the neighbors are of the opinion that there are wetlands on the property. He said he was concerned with the environmental concerns because there has been a flagrant disregard for environmental issues. The aerial attached to Mr. Kaufman's memo depicts trees that are no longer there. Additionally, there is the skunk cabbage bloom there, which is indicative of wetlands. Mr. O'Connor said that if he had to retain his own expert at his expense, he would. There are wetlands on the property, and what has occurred within the buffer on the property has to be remedied by the replacement of mature trees. Everything he's read indicates that the time to make a determination about whether wetlands exist is in the spring.

Mrs. O'Connor appreciated the Board's indulgence in letting them speak. She explained they have grievances, and they are detailed in the letter to the Board. Chairman Michelman

acknowledged receipt of that letter. Mrs. O'Connor hoped that the Board found that they were bound by it. There is no way this applicant can satisfy the requirements under the town code, nor under the comprehensive plan. She pointed out that there were approximately 20 residents present, and she wanted to make sure that the Board had the petition. They did.

Mr. Frank Leone, 3 Hobby Farm Drive, said that he has frequently heard tractors moving around early in the morning, "but that was not his point." He said he's retained his own counsel and they are prepared to go to any lengths to have this blocked under whatever laws exist.

Mrs. O'Connor asked when the Board would be in the position to make a recommendation to the Town Board and Chairman Michelman said that it would take some time; this was only the first discussion of several.

One neighbor did not identify himself asked if there was something they could do to prevent any further activity. Mr. Kaufman said there shouldn't be any activity. Mr. Hollis said that there hasn't been anything done on the property since the stop work order was issued in February. All the neighbors present disagreed with this and spoke out all at once. Mr. Hollis said he would deal with the objections as this moved forward. Dr. Matusow pointed out that this Board was not an enforcement agency, but if the neighbors see something happening, they should call the Building Department to report it.

Mr. Baroni suggested that the Board have Mr. Kaufman send a letter back to the Town Board that this will be a somewhat retracted process, because there is a clause in the code that says if the Board didn't comment within 45 days, the Town Board takes the position that this Board had no opinion. Mr. Hollis said that the applicant had no objection to this letter being sent.

The Conservation Board representative noted that this was a critical environmental area and wanted to know if this would be referred to the Conservation Board. Mr. Kaufman said that if the application required a wetland permit, then it would be referred to the Conservation Board.

Mr. Baroni asked if the Town Board was lead agency and Mr. Kaufman said that it was.

LASHINS

Site Plan

Section 2, Block 1J, Lot 6B

1 Hidden Oak Road

Rich Williams, P.E. – Bibbo Associates

Consideration of approving extension of time resolution

Mr. Eric Lashins was present for his application. Chairman Michelman asked if there were any issues with the time extension. There were none. Dr. Matusow moved to approve the time extension. The motion was seconded by Ms. Black and unanimously approved.

80 BUSINESS PARK – GENERATOR

Site Plan

80 Business Park Drive

Section 2, Block 16, Lot 11.B10

Eric Lashins

Discussion

Chairman Michelman asked if there were any issues and there were none.

Dr. Matusow moved to have the public hearing scheduled with a resolution at the same time. The motion was seconded by Ms. Black and unanimously approved.

GIFFORD LAKE ESTATES LOT #2

Site Plan

Section 1, Block 09, Lot 13-11

14 Gifford Lake

Tim Allen, P.E. – Bibbo Associates

Consideration of approving site plan resolution

Mr. Tim Allen and Mr. Kent Theussan were present for the application. Mr. Theussan explained that he reviewed the resolution and had a question on item #8 and requested going to the maximum height on the pool house for aesthetic reasons. Mr. Kaufman said that the Board has the ability to do that, but it would require a special permit, with a new public hearing. Mr. Theussan said that the plans have always shown the roof at this height, and the Board has the ability to go up to 22' with the permission of the planning board. Mr. Baroni explained that the permission comes in the form of a public hearing and a special permit. Mr. Kaufman noted that the public notice did not contain this height. Mr. Theussan said he only submitted one set of plans, and he never showed the roof height at 15'. Mr. Baroni said that because it was not part of the public notice and public hearing, the Board could not approve it.

Mr. Delano said that the Board could approve the application at 15' and then the applicant could come back for a special permit. Mr. Kaufman said that the applicant could revise the plan by taking off the garage and keeping only the house, and then the applicant could come back for the permit for the height of the garage. Mr. Kaufman doubted the Board would have any substantive issue with approving the detached garage and the Board agreed.

Mr. Kaufman said that item #8 would be revised to read that the plan would be revised to remove the detached garage; that gives the applicant the ability to move forward on the house and driveway. The applicant requested that they move forward with the garage at 15'. Mr. Kaufman said that they could, but then the applicant would have to submit a plan that shows the garage at 15'. In that case, #8 would be left as is. He added that the other option was for the Board not to adopt the resolution, and to schedule a new public hearing including the new height. The applicant did not want to do that.

Chairman Michelman said that there are a number of substantial conditions, and she was not pleased with that. Mr. Allen said that many have been addressed already. Chairman Michelman asked why there were so many conditions if they have been addressed. Mr. Allen explained

that the applicant has gone back to the Conservation Board, and they added the first 7 conditions, only last week. Mr. Kaufman agreed with that, and noted that the #s 9, 10 and 11 are traditional conditions. Mr. Allen said that the site plan has been revised to depict 40'. Mr. Kunny explained that they still needed to revise the plan so that it scales properly.

With respect to condition #12, there is a huge stonewall protecting it. Dr. Matusow interrupted him and explained that the point was that all of these minor conditions should have been addressed. Chairman Michelman said that the Board makes an effort to make the resolutions and conditions as concise as possible. Mr. Theussan stated that if trees already depicted as being saved, then he has to save them. Mr. Kaufman explained that the Board wanted to see the detail how the applicant plans to save them.

Mr. Allen said that with respect to #14, the applicant has provided a full drain detail on the plan. Mr. Kunny stated that he was asking if it was going to be a separate pool drain to empty the pool. Mr. Allen said no, and Mr. Kunny said that should be depicted on the plan.

Chairman Michelman asked if the applicant was saying that there are still conditions that needed to be met and Mr. Allen said that there were, but they were minor. Chairman Michelman said that was the point; if they were minor they should have been addressed. Mr. Delano noted that, aside from the new conditions, the standard conditions and the ones that have been addressed, there are about twelve conditions, that aren't insurmountable. Chairman Michelman said that she was not saying they were.

Mr. Delano asked what would happen when the Board approved the tree removal and then the owner of the house decides they don't want to have the solar panels. Mr. Theussan explained that the plans will depict the location of the panels. Mr. Kaufman said that the Board could add that the roof plans will contain the panels as a condition. The Board and the applicant agreed.

The Conservation Board representative asked the applicant to specify which white oaks will be removed. Mr. Theussan said that has been done, and was presented at the last Conservation Board meeting.

Mr. Kunny requested that the Board add "to the satisfaction of the town planner" as well as the engineer to comment #21. The Board agreed.

Chairman Michelman asked if the Board needed a revised set of plans showing the 15' roof and Mr. Kaufman said they did, and that was condition #8. Chairman Michelman asked if that could be done without the plans. Mr. Kaufman said he was comfortable with that. Ms. Black was as well.

Ms. Black moved to approve the resolution as amended. The motion was seconded by Dr. Matusow and unanimously approved. Chairman Michelman noted her reluctance to vote in favor of the application.

The applicant will prepare a new application for the garage.

TUZZO

Special Use Permit

5 Stony Brook Way

Section 2 Block 2, Lot 22-8

Brad DeMotte, P.A. – DeMotte Architects

Discussion

Mr. Brad DeMotte was present for the application, along with applicant. Mr. DeMotte explained the applicant was seeking a special use permit for exceeding the FAR and the gross land coverage. The property is 4.5 acres in a one-acre zone. There is an existing house, which Mr. DeMotte indicated, along with the location of the wetland pockets, the existing pool and the existing septic system. The applicant is proposing a two-story structure of 15x18' with a small terrace and a covered deck. They are also proposing a slight extension of 4' to the rear of the existing deck and to enlarge the existing terrace to approximately 10' beyond the deck.

The applicant's proposal will make them barely above the basic allowable for FAR and gross land coverage. The basic FAR is 8,710 and the application would make them 393 sq. ft. above the basic. The basic gross land coverage is 14,282 sq. ft., and the application would make them only 546 sq. ft. above the basic. Mr. DeMotte explained that the addition is minimal and there will be minimal disturbance and little site work. The Property is very well screened and this is a very straightforward project with no impact.

Chairman Michelman asked if the application had been reviewed by the ARB. Mr. DeMotte said that it had, and the applicant had received their approval. Chairman Michelman asked him to forward a copy of the approval to the Board, and Mr. DeMotte said that he would.

Mr. Kaufman said that he had no issues with the application. There are wetlands in the back and typically the Board would send this to the Town wetlands consultant to verify. Mr. Delano asked if Mr. Kaufman would also refer to the county and Mr. Kaufman said that he would. Mr. DeMotte added that the application has also received approval from Health Department verifying the bedroom count.

The public hearing would be scheduled for both the FAR and the gross land coverage and resolution will be prepared for the same night.

PERFECT ENDINGS BAKERY

Special Use Permit

Section 2, Block 13, Lot 6

470 Main Street

Referral from the Town Board

M. Briggs, Larry Kendal

Discussion

Mr. Kaufman explained that the Board had asked the applicant for additional information regarding the seating, and this was for the referral back to the Town Board on the seating. He said that he has reviewed the submission and he had no issues with it; he recommended that the Board recommend the approval to the Town Board.

There were no issues from the Board. Dr. Matusow moved to refer this to the Town Board with a positive recommendation. The motion was seconded by Mr. Delano and unanimously approved.

BERGER

Site Plan

29 Carolyn Place

Section 2, Block 2, Lot 3.D-11

Peter Kurth, AIA

Mark Miller, Esq. – Veneziano & Associates

Discussion

Mr. Kory Salamone was present on behalf of the applicant along with Mr. Manuel of Peter Kurth's office. The public hearing had been closed at the last meeting. Chairman Michelman said that the only remaining issue was to include a comment on the plan that the third bay on the east to be limited to storage rather than a vehicle. Mr. Salamone said that was acceptable to the applicant.

Chairman Michelman asked if there were any other issues. Mr. Kunny said that there were still some issues regarding the drainage design, but they were not major. Mr. Kaufman asked if the applicant noticed the comment about including the gazebo in the gross land coverage calculations. Mr. Salamone said that they had, and previously, the total was 9,276 and with that addition, it was 9,360 total. Mr. Salamone submitted the calculations to the Board and Mr. Kaufman said that he would verify the numbers.

Dr. Matusow asked how the restriction on the 3rd bay was going to be documented and Mr. Kaufman said that it would be on the plan and it could also be included in the resolution. Dr. Matusow said that he liked this application and he thought it was an improvement, but he was not happy with what the ZBA did in terms of the buffer. The ZBA forced the Planning Board to approve something that they shouldn't have. Mr. Kaufman said that he attended that ZBA meeting and that Board felt it was necessary to provide that amount of screening for the neighbor. Dr. Matusow said the ZBA was trying to act as the Planning Board and if they had been to the site, they would have seen there was more than enough screening. The ZBA turned what could have been a useful garage bay into a shed.

Mr. Delano asked about comment #7 and Mr. Kaufman explained that it referenced the iron fence that was being relocated. The Board just needed to make sure that the fence is code compliant; either the applicant has to show the permit or the detail. The applicant said that there was a permit issued in 2005, and he would submit a copy.

There were no other issues. A resolution will be prepared for the next time the applicant is on the agenda.

GANN

**Site Plan, Special Use, Tree Removal, Wetlands Permit
18 Jackson Road**

Section 1, Block 5, Lot 13.C

Peter Gregory, P.E. – Keane Coppelman Engineers, P.C.

Discussion

Mr. Peter Gregory was present for the application, along with Mr. Gann, the applicant. Mr. Gregory explained that currently, there is a driveway off of Jackson Road, and an existing house that is empty. The applicant is seeking approval to demolish the house, and construct a new five-bedroom home. The applicant proposes a new septic system and a new well as well as a pool and cabana. They will have to take down about twelve trees, and were therefore seeking tree removal permit. Mr. Gregory explained that the Board had directed the applicant to see if they could reconfigure the plan to see about reducing the number of trees and they will try to do that.

Mr. Gregory indicated the 100' wetland buffer setback and explained that the applicant was not proposing anything there, but they would like to possibly repair it. This needs to be looked into in more detail and would need to talk to the Town Engineer. Mr. Kaufman asked if the Board wanted to wait to refer to the Conservation Board until the applicant knew what they planned to do. Mr. Gregory thought that it would be better to refer it now so that he could walk the site with them. Mr. Kaufman thought the applicant should wait until they have a plan to show the Conservation Board. Mr. Gregory agreed. Mr. Kaufman explained that once the Board reviewed the revised plan, it would be referred to the Conservation Board.

Mr. Gregory explained that the application exceeds the basic gross land coverage amount by approximately 2,000 sq. ft., but it is below the maximum. They are also below the maximum on the FAR. The applicant has applied to the County Health Department and has received their comments and revised the plans. The applicant is waiting to hear back from them again.

Mr. Kaufman noted that at site walk the Board saw the need for additional screening to the northeast. Mr. Gregory said the applicant was fine with that, but wanted to know whether he needed a separate landscape plan. Mr. Kaufman said that it did not need to be on a separate exhibit. The applicant asked if he needed a landscape architect and the Board did not think that was necessary.

Mr. Delano asked if the applicant got a chance to review the possibility for underground utilities. Mr. Gregory said that they had to look into this more closely; although there is a pole nearby, they are not sure if they would be able tie into that. It would require the applicant to dig up the driveway but perhaps they would be able to tie it into the driveway repair. Mr. Delano said the applicant should not be shy in terms of the driveway repair.

Chairman Michelman asked if the applicant was removing the existing septic system. Mr. Gregory said that they believe that the septic system in front of the house and if that was the case, they would probably drain it, clean it, crush it, and bury it on site; however, they needed to

confirm the location. Chairman Michelman asked Mr. Gregory to indicate the proposed location for the new well.

Mr. Kunny said that he still had questions about the design of the stormwater basins and believed that the construction vehicles would tear up the driveway.

There were no other comments or issues.

KESSLER
Referral from Town Board
14 Middle Patent Road
Section 1, Block 1, Lots 17 & 19
John Slaker, RLA – John P. Slaker Design Group
Discussion

Mr. John Slaker was present for the application along with Mr. Kessler. Mr. Slaker explained that the applicant is proposing to construct a stable of approximately 3,500 sq. ft. to house 10 horses. The applicant went to the Town Board because they will need a special use permit to house more than two horses. The applicant plans to construct the stable behind an old maple tree and they will remove a portion of an old barn.

Mr. Slaker explained that they have done some test pits. There will not be any grooms' quarters but there would be a bathroom and washer dryer. There are some good soils in the back of the property where they would probably put the septic.

Mr. Slaker said he received the memo from Mr. Kaufman regarding the fencing and wetlands. He indicated one fence area and explained that the property line is actually a stonewall. There is an old existing chainlink fence, and in repairing some of the corral fences, they replaced some of that fence. The applicant put it approximately 20' away from stonewall, not realizing there was a 25' requirement. There is double fencing there. Mr. Slaker said that he would speak to the Town's wetlands consultant regarding the wetlands. The fields and pastures are preexisting; they've been there for 100 years. The applicant was not proposing to disturb anything beyond the stables.

Mr. Kessler said that this was all for his private use. He said that he, his wife and daughter all ride and compete. The property is 42 acres that might otherwise have turned into a large subdivision, but there is a conservation easement. Several acres can only have horse fencing around it, and there are 12 acres with the only restriction being that it can't be subdivided.

Chairman Michelman asked about the condition of the old barns. Mr. Slaker explained that the one they plan to remove a portion of was not in good condition at all. He added that none of the barns were on the historic landmarks list. Mr. Kessler said that they had originally designed the plan to salvage the barn, but the builder didn't recommend that.

Mr. Slaker explained that they were working on the site plans, and seeking this Board's referral back to the Town Board with positive recommendation so they could move forward.

Ms. Black asked if the applicant proposed an entirely new barn and Mr. Slaker said that they did. The portion of the existing barn that would remain would contain the tractor and would be detached from the new barn. He presented a rendering of new barn

Mr. Kaufman said that if there were no issues or planning concerns, then the Board could recommend to the Town Board.

Ms. Black moved to refer with the recommendation to the Town Board on the basis that there were no global planning concerns. The motion was seconded by Mr. Sauro and unanimously approved.

VENTORINO
Site Plan & Special Use Permit
Section 2, Block 17, Lot 4C
11 Sterling Road South
Craig A. Studer, ASLA – Studer Design Assoc., Inc.
Discussion

No one was present for this application.

DISCUSSION:

TIME FRAME FOR INACTIVE APPLICATIONS TO BE CONSIDERED ABANDONED

Mr. Kaufman explained that, as a matter of policy, the Planning Department considers applications that have been dormant for a year “abandoned”. He was looking for guidance from the Board indicating that is an appropriate time period, after which applications would be considered abandoned.

Mr. Delano asked what would happen with the monies paid and Mr. Baroni explained that any fees that were in escrow would be returned, but application fees would not returned. Dr. Matusow asked how long the Town was obligated to keep an application active.

Ms. Black asked if this should be a code revision and Mr. Kaufman said he did not think that it needed to be codified. Dr. Matusow stated that if the applicant came to the Board and asked for extension, they could do that.

Ms. Desimone stated that if an applicant does come back within a year, the Planning Department has not been charging additional fees. If the application is deemed abandoned and they came back, they would be charged new application fees. Chairman Michelman asked how often people came back after a year, and Mr. Kaufman said this happened rarely.

Dr. Matusow said he has noticed approximately six applications in his file that became dormant because the Board required violations to be resolved. He thought that the Board had an obligation in this regard.

Mr. Kaufman said he raised the same issue with the Building Inspector and he said that he would provide the Board with status updates for every application with a violation. Mr. Delano pointed out that the violations would still exist in the Building Department. He added that the Town of Putnam Valley places an item on an agenda if they plan to drop an application. Mr. Kaufman and Mr. Baroni thought that was a good idea and the rest of the Board agreed. Mr. Delano stated that, if or when the Board does that, and there is a violation, the Board could issue a memo to the Building Department. Ms. Desimone asked if public notice would be required for those meetings. Mr. Delano said he was not sure, but at least there could be a notation on the original application. Chairman Michelman agreed that it should be on the application and if that were there, then no one would have to be renotified. The rest of the Board agreed.

Dr. Matusow asked what the Board would do in a situation where the Board was made aware of the fact that there was a violation, but never received a violation. He did not think that this Board was freed of its responsibility. Mr. Kaufman said that it did free the Board because it was within the Building Department's purview. The Building Department is proposing to keep this Board current. Mr. Delano pointed out that concept plans would be in the system. Mr. Kaufman reminded the Board that they were not involved in enforcement or issuing violations – it was not this Board's purview. Chairman Michelman said that the abandonment process should be on the application and the concept plans. Mr. Kaufman stated that there is no abandonment of a concept plan.

Ms. Black stated that even if the concept plan was filed, and a violation was not corrected, it would be the Building Department's job, not this Board. Dr. Matusow agreed, but did not think that this Board could ignore it if they were made formally aware of a violation. He said that all he really wanted to do was to communicate with the Building Department. Mr. Kaufman said that occurred as a matter of course.

Chairman Michelman said that the Board was faced with another issue, namely proceeding with an application that has violations. Mr. Kaufman said that regulating that problem would have to be codified. Mr. Baroni said that there are towns that have statutes that prevent applicants from appearing before a municipal board if there is a violation, absent correction or a waiver; however, this could be cumbersome. If an applicant needs a variance because they are in violation, but they can't go to the ZBA because they are in violation, then they would first have to apply for a waiver. Dr. Matusow asked if it could be written so that it is less cumbersome, and so that the Building Department could issue the waiver. Mr. Baroni said that he had never seen one written that way. Mr. Kaufman asked if it could be limited to just the Planning Board, and not the ZBA. Mr. Baroni said he would think that the ZBA would want similar legislation. Chairman Michelman recognized that it is a dilemma but wanted to bring it up. Mr. Baroni stated that having more involvement with the Building Inspector was not a bad idea and the Board agreed.

Mr. Delano asked if this could be done as a policy change and Mr. Baroni said that it could. The Board asked if they needed to vote on it and Mr. Baroni explained that if the Board was going to vote, it should be a policy statement in writing. The Board agreed.

VICE PLANNING BOARD CHAIR

Chairman Michelman explained that the way the code is written, if the chairman of the Board was absent, then no plans could be signed; therefore, the Board was considering the

appointment of a Vice Planning Board chairman. Mr. Baroni corrected her, and explained that the correct term is "acting chair." He added that the power exists only when the chairman is not present, and it would allow plans to be signed in the absence of the chairman.

Dr. Matusow asked how often that happened. Chairman Michelman said that it was not often, but it does come up, and there is no harm. Dr. Matusow said that the Board always has someone act as chairman during a meeting if the chairman was absent for a meeting. Chairman Michelman pointed out that it did not give that person the power to sign plans.

Ms. Desimone asked how often the Board would need to appoint an acting chair and Mr. Baroni recommended that it be done annually. He suggested the Board do a simple resolution for time between now and end of year, and then do it again in January.

Approval of Minutes

Mr. Delano moved to approve the minutes for September 8, 2008 meeting. The motion was seconded by Dr. Matusow and unanimously approved with exception of Chairman Michelman, who abstained.

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