

**TOWN OF NORTH CASTLE  
PLANNING BOARD MEETING  
15 Bedford Road  
Armonk, New York 10504  
April 27, 2009  
7:00 p.m.**

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

**ALSO PRESENT:** Adam Kaufman  
Town Planner

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

Ryan Coyne, P.E.  
Kellard Sessions 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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**PUBLIC HEARING:**

**GERSTER ELECTRIC  
Site Plan  
Section 3, Block 8, Lot 12.C01  
785 North Broadway  
Rudolph Petruccelli, PE - Petruccelli Engineering  
Discussion  
Consideration of site plan resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 39 out of 43 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for this application. There were none.



RUDOLPH C. PETRUCCELLI, P.E.  
*Principal*

October 22, 2008

Peg Michelman, Chairperson  
North Castle Planning Board  
17 Bedford Road  
Armonk, NY 10504

RECEIVED

OCT 30 2008

TOWN OF NORTH CASTLE  
PLANNING BOARD


RE: Gerster Electric Co.  
785 North Broadway (Route 22)  
North White Plains, New York  
Gerster Site Plan

Dear Ms. Michelman and Members of the Board:

Please be advised that we submitted a letter together with a set of plans to Ken Franco, Permit Agent, NYSDOT, Saw Mill River Road and Dana Road, Valhalla, NY regarding the above site plan on August 25, 2008 to ascertain if a permit was required from them for the work proposed. After many weeks of discussion with Mr. Franco and his superiors, it was determined that since the work does not encroach on the state right-of-way, no permit is required and as such, no application will be entertained by them since it does not involve the NYSDOT. They will not give me a letter to that effect, therefore, we are requesting that Your Honorable Board finalize this application so that we can commence construction.

Very Truly Yours,

PETRUCCELLI ENGINEERING

  
Rudolph C. Petrucelli, P.E., F.NSPE  
Principal

cc: W. Gerster, Owner  
B. DeLaCruz, Attorney

Mr. Rudy Petruccelli was present on behalf of the applicant. He explained that they were last before the Board approximately one year ago, and they worked on addressing the outstanding items that were listed in the draft resolution that was not approved of by the board last year. The plan now has addressed each of those requirements. They have shown the required detail of the retaining wall, specifics regarding the curb cut and the apron. The applicant has also given the detail of the paving blocks in the parking area. The applicant will not be able to relocate the stop sign on MacDougal due to state laws. Mr. Petruccelli added that they would place plants in pots in front of the building.

There were no issues from Mr. Kaufman or Mr. Ryan. Dr. Matusow suggested the Board add a whereas clause to reference the letter from Mr. Petruccelli dated October 22, 2008. The Board agreed.

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

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

## **CONTE**

### **Special Use, Tree removal**

#### **Section 2, Block 3, Lot 2-18**

#### **3 Terrace Circle**

**Barry Naderman, PE - Naderman Land Planning and Engineering, P.C.**

#### **Discussion**

#### **Consideration of special use permit resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 15 out of 20 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for this application. There were none.

Mr. Barry Naderman was present on behalf of the applicant. He said he had reviewed the resolution and did not have any issues.

Chairman Michelman asked if the tennis court was part of the plan. Mr. Naderman said that the tennis court was not a part of this project, and it would be removed from the plan. He recognized this was a condition of the resolution.

There were no other issues. Mr. Delano moved to close the public hearing. The motion was seconded by Ms. Black and unanimously approved.

Mr. Delano noted a typo on page 3 in the 7<sup>th</sup> whereas clause and Mr. Kaufman corrected it.

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

**GODNER**

**Special Use Permit Application**

**Section 2, Block 1F, Lot 2.A**

**11 Whippoorwill Crossing**

**David Graham - David Graham Architects**

**Discussion**

**Consideration of special use permit resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 9 out of 10 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for this application. Mr. Hal Simonetti (12 Whippoorwill Crossing), Mr. Doug Millett (1 The Knoll) and Mr. and Mrs. Kaufman (2 The Knoll) were present.

Mr. David Graham was present on behalf of the applicant. He explained that the applicant was seeking approval to add a dining room and a porch and a couple of small bay windows on the first floor. On the second floor they were planning to relocate a bedroom and the master bedroom suite and extend the structure 8' to the rear. In doing the addition on the left side, the applicant would be coming a little less than 2' closer to the setback line.

Chairman Michelman asked if the neighbors had questions. Don Mitchell of 26 Nicholls Road said he was the neighbor with the most land against the back of this property and that he never got noticed for this application. It was determined that he was not present for this application.

Mr. Millett was curious about whether anyone on behalf of the applicant was taking pictures of the neighborhood. The applicant said that he had been taking pictures. Mr. Millett said that this had alarmed his wife and would have appreciated some notice if they would be taking pictures of houses in the neighborhood. The applicant apologized for the cause of concern.

Mr. Kaufman (neighbor) said that he was probably the most affected property and wanted to restate his and his wife's serious concerns as contained in his letter. He said that the proposed expansion and lot coverage greatly affects him as the applicant's house is very close to his. This is a very narrow and deep lot. The addition would be moved toward him, and there are no mature trees to provide buffer. There will be windows facing his property which are not there now. Mr. Kaufman (neighbor) felt that they needed a landscaping plan enforced by the town that includes mature trees and not just small trees that would take 20 years to mature. He did not think that a special permit should be granted when it would cause such an impact to a neighbor when there are alternatives available.

Chairman Michelman pointed out that the Board had asked for a landscaping plan but had not yet seen anything. She said the Board needed to have an idea of how the neighbors would be protected. Mr. Graham did bring several photos of this side of the property as it exists and presented them to the Board. Chairman Michelman said that the Board was aware of the existing conditions and they wanted to know how they would protect the neighbor.

Mr. Graham said that the larger windows would be on the side that will look more out into the street. There is only one small window that looks out the side toward Mr. Kaufman's property. He explained the layout of the site on an aerial photo. Right now, there was landscaping

associated with the pool. Mr. Godner noted that he had added 50 or so trees, but unfortunately some have been eaten by the deer. Mr. Graham said the applicant did not have any objection to adding to that landscaping, but wanted to know what the Board wants

Mr. Godner said that with respect to Mr. Kaufman's comment, both he and the Kaufman's could see into each others windows and what he was proposing would not make things any worse. He said that he would like to have more plantings between his and Mr. Kaufman's home.

Mr. Adam Kaufman said he thought this had been resolved at the first Planning Board meeting. This issue was looked at in the field, and the only real issue was that there be increased screening, and that is where they still were. Mr. Graham said that they had talked about adding 6-8' pines in a certain area. Chairman Michelman agreed but said that this issue had been raised at the last meeting. The Board needs to see a plan and that had been the only issue since day one. Mr. Godner said he didn't realize a plan was needed, but assured the Board the applicant would do the planting. Chairman Michelman appreciated that but said the Board still needed to see the plan.

Ms. Black noted that the Board has often required larger trees, and she did not think that 6-8' trees were sufficient in this situation. Mr. Godner stated that the Kaufman's (neighbors) recently did their own planting and they didn't plant trees that large. He felt that if they wanted to screen their views so badly, they could have done so then. Chairman Michelman pointed out that this was not the Kaufman's plan. At the site walk, the need for screening for this neighbor was discussed. The plan is good, but the issue for this Board has always been screening for the Kaufman's and the Board's desire was to see a plan.

Mr. Godner wanted to know how this could be resolved and Chairman Michelman said that they needed to submit a plan that would need approval from the Board. Mr. Godner wanted to ensure whatever he submitted would be sufficient. Chairman Michelman suggested having the applicant's professionals sit down with the Town Planner and discuss the planting plan.

Mr. Simonetti asked if the anticipated construction was going to interfere with the landscaping in a certain area. Mr. Graham said it would not and that they were not taking any trees out at all. Mr. Simonetti wanted to know whether the septic would have to be changed and Mr. Graham said that they have met with the Board of Health and they are still doing the tests. Mr. Simonetti asked if the current septic is sufficient and Mr. Graham said that the applicant would be updating the system. Mr. Simonetti asked the location of the septic and Mr. Graham indicated.

The applicant was advised to meet with Mr. Adam Kaufman regarding the planting plan.

Mr. Delano noted that there is a substantial increase in the height of the house on the building plan and they needed to confirm that the ceiling height is within code. Additionally, the applicant had to submit a plan that shows the adjacent houses. Mr. Delano also pointed out that there was a discrepancy on the driveway pavement that could change the gross land coverage.

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

**CHARNEY**

**Special Use Permit**

**12 Palmer Place**

**Sec 2, Block 16, Lot 17A-6**

**Robert Schweitzer, RLA - Lasting Impressions Landscape Architecture**

**Discussion**

**Consideration of special use permit resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 15 out of 16 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for this application. Mr. Don Mitchell of 26 Nicholls Road was present.

Mr. Robert Schweitzer was present on behalf of the applicant. He indicated the existing house and the existing deck and explained that the deck will be removed. The applicant plans to install an elevated masonry deck with masonry support arches underneath. It will look much nicer than what currently exists. He presented an elevation for the neighbor. He explained they would create a courtyard on the site as well. There are a number of drainage problems currently on the site, and the applicant's plan will improve that through a system that ultimately leads to a rain garden.

In the back, you will go down a flight of steps to a patio. From the patio steps it will go down to basement grade level to an extended lawn terrace. From there there will be a series of terraced steps. He indicated the property line which is approximately 100 feet from Mr. Mitchell's property.

Mr. Mitchell noted that this was an environmentally sensitive site and indicated the watercourse and buffer. The applicant would be providing between 15-20' of "giveback" in the rear. They will also permanently create a no mow zone, which is like an extended buffer. He indicated the area on the plan.

Mr. Mitchell said that there was a wall near the property line that used to be near a swale. When "they built this" it was filled in and now he gets the water. He said it has been terrible. Mr. Schweitzer asked the location of Mr. Mitchell's property and Mr. Mitchell indicated.

Mr. Mitchell expressed concern over a curtain drain. Mr. Schweitzer presented the site plan and explained the water flow. Mr. Schweitzer said that he hasn't seen a curtain drain but it would not be uncommon for there to be one. Mr. Schweitzer pointed out that the applicant was not touching the septic area and would not have any thing to do with the curtain drain if one does exist.

Mr. Delano asked if they were referring to the area where the applicant would be removing all the barberry and Mr. Mitchell said yes. Mr. Delano suggested this would provide an opportunity to recreate the original drainage plan.

Ms. Black asked when the house was originally built and Mr. Schweitzer said it was built approximately 14 years ago. Mr. Schweitzer continued to explain the plan to Mr. Mitchell and

discuss Mr. Mitchell's concerns.

Chairman Michelman said the best thing to do to try and resolve this was to have the Town Engineer go and see the site. Perhaps since the barberry is being removed, the applicant could replace the swale. Mr. Kaufman said that if the Board was contemplating adopting the resolution they could consider adding a condition to the resolution that says that if the Town Engineer determines the plan need to be revised, that it be done.

Chairman Michelman asked if there were any other issues. Mr. Schweitzer noted that on one of the earlier drawings a drainage system had been located in a different area, which required the 12" swamp maple to be removed. Then the town said they'd like the drain relocated but there is a 30" tulip tree in that location that should be considered. The relocation would compromise the roots of both those trees. He thought that the original plan would be better because it would call for the removal of just the maple and save the tulip, rather than threatening both trees. The Board said the applicant should work with Mr. Coyne and Mr. Kaufman on this. Mr. Kaufman thought the system should be revised to save the tulip tree. That would be incorporated into the resolution.

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

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

### **CONTINUING BUSINESS:**

#### **LOWREY**

**Referral from Town Board**

**Section 1, Block 12, Lot 8**

**7 Round House Road**

**Mark Miller, Esq. - Veneziano & Associates**

**Discussion ..**

Chairman Michelman noted that the following neighbors were present for this application:

- Brian & Diane Dyer                      1 Hobby Lane
- Robert & Sara Doto                      2 Hobby Lane
- Steven Gage                                4 Round House Court
- Mark D. Lazarus                          7 Round House Court
- Aimee & Matt Marcus                    2 Hobby Farm Drive
- David Jacobs                              69 Round House Court
- Eric Birnbaum                            1 Round House Court
- Edward Saggle                            13 Hobby Farm Drive
- Steve O'Connor                         5 Round House Court
- Aaron Saperstein                        2 Round House Court
- Bill Stanley                                45 Jackson Road

- Jerry March 43 Round House Road
- Richard Abramowitz 22 Green Valley Road
- Deborah Lazarus 7 Round House Court
- Nancy Birnbaum 1 Round House Court
- Denise O'Connor 5 Round House Court
- Paul Jacobs 1 Hobby Farm Drive
- Debbie & Roberto Dohmen 6 Zygmont Lane, Greenwich CT
- Jeff Brown 56 Bedford Banksville Road
- Jackie Vitacco 14 Hobby Farm Drive
- [illegible] 14 Hobby Farm Drive
- [illegible] Brimberg 6 Banksville Road
- Jane Farquhar 38 Banksville Avenue (in favor of application)
- Liv Marker 40 Banksville Avenue (in favor of application)
- Louis & Sophia [illegible] 45 The \_\_\_\_\_ [illegible]
- \_\_\_\_\_ Ann Lipyak 14 Banksville Road, Greenwich CT
- Richard Ferguson 17 Hobby Farm Drive
- Mr. & Mrs. Silpe 5 Hobby Farm Drive
- \_\_\_\_\_ Lewis [illegible] 3 Hobby Farm Drive
- Raphael F. Leone 3 Hobby Farm Drive
- Marietta J. Leone 3 Hobby Farm Drive

Chairman Michelman recognized that these neighbors were present, but reminded them that this was not a public hearing.

Mr. Mark Miller was present on behalf of the applicant along with Bob Roth Anthony Nester, and Mr. and Mrs. Lowrey. He explained that at the last meeting, the Board raised a number of issues. The applicant has submitted responses to the Board, which they believe were full and comprehensive.

Mr. Miller explained that they have made two real physical changes to the proposal based upon the last meeting. There was potentially an interpretation issue regarding the corner of the building being within 25' of the property line so they have shifted the building to the south, so that is no longer an issue and the entire building is out of the setback. Additionally, they have changed the driveway entrance based upon the concerns and comments at the last meeting. They have agreed to restrict it to right turns out and left turns in. Rather than relying just on signage, the applicant has actually configured the driveway so that this has to happen.

Mr. Miller said that they have also made a number of other changes that are not necessarily visible on a plan (i.e. septic and drainage). He said the applicant was hoping this Board would make a recommendation to the Town Board so they could move ahead with the special permit process.

Chairman Michelman said that the applicant's submittal was quite complete and "full of creative writing". She recognized that the applicant would like the referral back to the Town Board and said that the Board would like to do that if they could come to a consensus.

Mr. Kaufman explained that the applicant was seeking a special use permit from the Town Board, who referred it to this Board. The Planning Board has been evaluating the special use permit requirements so that they can make a recommendation back to the Town Board. If the Town Board does approve the special use permit, then the application will come back here for site plan approval. There are two issues for this Board, the special use permit issues and the site plan issues and this Board has been reviewing them concurrently.

Chairman Michelman asked Mr. Coyne for his comments. Mr. Coyne said that the most notable change on the plan was the driveway access with the right turn out and left turn in. He said he had some other site plan comments that he was sure the applicant would be able to address, however none of his comments would functionally change the site plan. He thought that the right turn out left turn in only would work and that it would eliminate the sight line issue.

Chairman Michelman asked if that was something the Board would be able to do. Mr. Baroni said that they could but he was not sure how it would be enforced. Chairman Michelman asked if the Board needed to ensure that there was a 200' sight line. Mr. Baroni said that the Board could limit ingress and egress to avoid sight line issues, but the issue would be enforcement. Mr. Coyne pointed out that there are similar turning regulations all along North Broadway and that this would not be a new consideration for the Board.

Mr. Miller said that the best method of enforcement would be the actual configuration of the driveway. He added that if this was to be included as a condition of approval, failure to abide by it would be in violation of approval, and the applicant would risk losing the special use permit.

Chairman Michelman said that there were still issues that remained a concern for her. She was particularly concerned about the amount of activity that would be crammed into this area and the outdoor activity. She did not think this has been completely addressed. Chairman Michelman said that the issue of all the outdoor activity and that impact on the neighbors has not yet been resolved.

Mr. Miller said he understood the concerns, and that the applicant has provided the Board with all the information they could. He said he could foresee the Board making a recommendation to the Town Board and asking them to take into consideration these particular concerns.

Chairman Michelman asked what would come out of the chimney. Mr. Miller pointed out that this is connected to a wood burning furnace. The applicant is trying to use green energy and the wood would burn cleaner than other wood burning units. He did not know the particulars of the emissions for the wood burning furnace, but said that if it was a concern the applicant could present more info to the Town Board

Ms. Black said the applicant never submitted any information regarding the potential emissions and odors from that furnace. Mr. Miller said that there would probably be some odor but it would only be the smell of burning wood. However, with respect to the actual emissions, the applicant has been attempting to contact the manufacturer to obtain this information and once received he would present it to the Town Board. Ms. Black noted that the size of the burner that would have to heat a garage of this size would be relatively large.

Chairman Michelman asked about the wood splitting. Mr. Miller said that the splitting is done on site and only takes place over 4 hours of the week. The actual sawing is done off site, where the wood is cut to splitting length. Approximately 95% of the wood would be split by hand, and that would take place in outdoor storage area which is on a gravel area. The top of the enclosure is 1 ½ feet below the level of Round House Road. He said there are certain logs that cannot be split by hand and that is when they would use a hydraulic splitter. The motor for the splitter would be equivalent to the sound of a lawn mower. Any waste would be taken to a recycling plant in Chappaqua. In response to a question from the Board, Mr. Miller said that some of the split wood would be sold to the applicant's customers (not on site) and some will be used in the wood burning stove.

Mr. Sauro said he too was concerned about the log splitter because he could foresee employees wanting to take the easier way and simply use the splitter rather than splitting by hand. He asked if Mr. Lowrey would be willing to forego the splitter, but Mr. Lowrey said he would not. Mr. Lowrey said that his employees would actually prefer to split by hand because they can do it quicker. He said that since there are certain logs that could not be split by hand, he would not be able to use them and would have to pay for them to be recycled. Mr. Miller pointed out that the noise would be similar to a lawnmower. Mr. Sauro recognized this but felt that it could become irritating to the neighbors.

Mr. Delano did not think the applicant should have the wood burning furnace. He recognized that it was cleaner, but burning it for 12-18 hrs a day for several months a year might generate too much smoke for the neighborhood. He thought that it might be too intense. Mr. Delano said he did not have a problem with the outdoor storage or the splitting of the wood in the particular area where it is proposed. He said he was also ok with the hydraulic splitter as long as it conforms to the noise ordinance. Mr. Delano thought that the vehicle restriction was a good idea but thought it should be backed up with signage.

Mr. Delano noted that the Town's master plan talked about making street improvements in all districts in the town, but the town never seemed to implement this. He thought that perhaps some accommodation could be made between the Highway Department and the applicant to do something with this stretch of Round House Road. He recognized that this road was very narrow in a certain point.

As far as building goes, Mr. Delano thought it would be nice if it could be shorter. He was not sure of the roof pitch, but he thought it was a 4 on 12. He thought it could be reduced to 3 on 12, which would knock 3' off the height of the roof, and thereby reduce the magnitude of the building. Mr. Delano also thought that would enable the proposal to be adequately screened with an aggressive landscaping then. He questioned the long term viability of the landscaping in the rear. If the building was a little less deep from front to rear, that might be better for the landscaping. He thought that this proposal was like trying to get "ten pounds in a five pound sack."

Mr. Delano noted that there is usually a 10' separation required for the septic but the applicant was only calling for 3½. He personally thought the application could be scaled back a little and fine tuned, and then the applicant could probably make a reasonable argument that this meets the requirements for special use permit. He noted that with the exception of the road issue, the plan could be fine tuned to "reel these things in."

Chairman Michelman thought that if there was a reduction in the scale / magnitude, that would only make the use more intense than it is proposed to be. She questioned whether it would be feasible to move the trucks in and out if it was scaled down. She thought there was a lot on this plan that makes it too tight for the space that is there. Chairman Michelman thought that if it was all brought inside, there wouldn't be any issue.

Mr. Miller said the applicant could continue to look into scaling the project down, and this is something the Planning Board could reference in their recommendation to the Town Board. Mr. Miller said he was not sure if there was enough room inside, but they would look into this further.

Ms. Black said she had concerns about the mass of the building, but perhaps bringing the height down as Mr. Delano suggested would satisfy that. She was also concerned about the street. She thought that having southbound traffic only would be an improvement, but she would like the signage as well. Ms. Black said that she was also concerned with the wood furnace. She did not think it was appropriate in a residential area. Additionally, she was concerned about the wood splitting. She said she did not have a problem with equipment storage inside, but she did with outdoor things. Ms. Black noted that no one had addressed the concerns over the snowplowing operation. She wanted to know how they would be able to enforce a policy of the plows going home with the employees so that there is no disruption in the middle of the night.

Mr. Miller said that the snow plow issue has taken on a life of its own and he really didn't understand why. He pointed out that the town plows run through the night regardless of whether a storm is anticipated or not. Here, the applicant only has four plows and if a storm is anticipated, the plows go with the employees. This is much less of a disturbance than the town plows or any other private plowing company. Mr. Delano said he agreed with the applicant on this point.

Dr. Matusow recognized that this was a complicated application and felt that the Board was talking too much about site planning issues that could be worked out if or when the application comes back to the Planning Board for site plan approval. He did not think the Board should try and fine tune it too much. Dr. Matusow thought they should focus on whether this fits into the special use permit requirements. He said that his issues from the last meeting were answered very specifically. Overall, he has taken a good look at the O'Connor's brief, and he could not say that any one of those issues reaches the level that says the Board should not recommend this to the Town Board. He agreed that they were issues that needed to be addressed, but it shouldn't preclude the recommendation to the Town Board.

Dr. Matusow said that one issue raised in the O'Connor's letter was the concern over precedent. The Board is aware that there are two applications pending in this area. The neighbors seem to be concerned that if the Board makes a positive recommendation for this one, it would establish precedent for the other one. In his opinion, the two applications are very different and the Code specifically says that the granting of the special use permit will not establish precedent for any other application. He wanted to make the neighbors aware of this.

Dr. Matusow said that overall, his questions have been answered sufficiently so that he feels the Board could make a recommendation to the Town Board. He thought this application meets the

special use permit criteria. If the Town Board grants the special use permit, then all of these issues will be back before the Planning Board. Dr. Matusow said he was ready to render a decision on this.

Chairman Michelman thought the Planning Board should raise their concerns in any recommendation to the Town Board, not merely make a positive or negative recommendation. She said that she believed the time has come to send this to the Town Board but this Board still needed to highlight our concerns for their evaluation.

Mr. Kaufman recommended that this Board be as specific as possible in their recommendation to the Town Board and everyone agreed. Dr. Matusow said again that there was a possibility that if this is sent back to the Planning Board, that they could get a working plan out of this.

Mr. Baroni suggested the Board see a draft before they voted on anything and he did not think they should vote that night. Chairman Michelman agreed. She said she understood that improvement has been made, but she still had many questions. She did not feel comfortable with saying that the Board could "do this positively."

Ms. Black agreed that some issues have been raised that should be highlighted for the Town Board: the wood burner, the wood splitting and outdoor storage (and traffic?).

Chairman Michelman thought the Board should see a draft of something before they send a recommendation to the Town Board. Mr. Kaufman said that the Board needed to give him more information as to what they would like in that draft.

Mr. Sauro asked if two school busses could pass on this road. Mr. Miller said he did not know for sure. The neighbors spoke out of turn and said that they could not. Mr. Sauro said he was on the road the day before and felt that the sight and visibility is better if you sit higher up. He agreed with the exiting and entering from the south. The other issues would be the snow plowing, sight lines, log splitting, traffic, screening and wood burning. Mr. Sauro said that he tended to agree with Dr. Matusow. He thought that the applicant had a right to run a business on this site and that all the neighbors bought their homes knowing that this was zoned in this way and knowing that something would ultimately be built there. He said that the Planning Board's job was to analyze the impact to the neighborhood and he believed the Board needed to reduce the impacts as much as possible.

At this point, there was much conversation from the members in the audience.

Mr. Kaufman said that if the majority of the Board concurred on the referral issue, then he could use that as his guidance. Dr. Matusow did not see why the Board shouldn't send two opinions if necessary, one expressing both the majority and minority's opinion.

Ms. Black thought that everyone seemed to have expressed that this should go to the Town Board, but at what level. Dr. Matusow said that the Town Board asked for the Planning Board's opinion and they should give it to them. He felt the issue was whether the Planning Board thought that, in general, this could work. Dr. Matusow noted that Chairman Michelman had said she was not sure that it could work, and if she is the minority that opinion should be able to be seen by the Town Board.

Chairman Michelman agreed that they should give two points of view. Mr. Kaufman asked how the Board wanted him to approach this.

Dr. Matusow suggested preparing two draft documents, one for a favorable recommendation and one for an unfavorable recommendation then the Board could review them both and see which members subscribes to which.

Mr. Sauro asked the likelihood of the applicant's trucks coming back and forth during the day. Mr. Lowrey said that if that was to happen, it would only be his truck; the others would be out all day. Mr. Sauro said that was one of my concerns. If this was a different type of use where vehicles were coming back and forth all day, the safety concerns would be higher. Mr. Sauro said that based upon the applicant's answer, this site would not be a beehive of activity. Mr. Sauro asked if the applicant ever left equipment on a job site and Mr. Lowrey said he did occasionally do so for a day or two. Mr. Sauro felt this was a factor to consider as well.

Mr. Kaufman was directed to prepare two separate memos containing the issues. Mr. Kaufman said he thought he knew what the Board was looking for.

Chairman Michelman stated that the two letters from the neighbors will be made part of the record.

## **760 NORTH BROADWAY**

### **Site Plan**

**Section 7, Block 5, Lot 1, 1B & 2**

**758 & 768 North Broadway & 43 Palmer Avenue**

**Kimberly Martelli - Warshauer Mellusi Warshauer Architects, P.C.**

### **Discussion**

Ms. Kimberly Martelli and Mr. Michael Stein were present on behalf of the applicant. Ms. Martelli explained that they were seeking approval for a two story, 10,000 sq. ft. medical use and retail building. She said that they have responded to the comments from the last meeting and made some changes to the plan.

Initially the applicant proposed a one way circulation for the parking lot with a northern entrance and southern exit, leading north bound on North Broadway. Based upon comments and feedback, the applicant revised the plan to bring some handicapped parking closer to the building, and rerouted circulation to enter from the south and exit from the north. Ms. Martelli said that they had initially been concerned with the distance from Palmer Avenue to the exit, but the DOT says they prefer this revision. They have relocated landscaping to create a buffer between the applicant's property and the neighbors'. They have also created a covered entry on the second floor and added decorative plantings.

Ms. Martelli said that they relocated the trash area closer to the building and off the edge near the residential area. The applicant would also like to incorporate a privacy fence in an area where a fence already exists. The applicant has added some bollards and low level lighting and will be submitting a formal photometric plan.

Ms. Martelli stated that they have also been working through the design of the building. They presented a more symmetrical layout and improved the overall look of the rear of the building. They have also proposed a continuous sidewalk as well.

Chairman Michelman noted that Mr. Coyne had commented about one-way versus two-way traffic and wanted to know the applicant's response. Ms. Martelli said that once they have formal comments from the DOT, they would be able to answer this better but the applicant wants to create a functional space, and in order to do two-way circulation they would have to compromise some of the parking that they desire on this site. Ms. Martelli said that if they a two-way lot, they would have two-way driveways in and out, but this plan would create very focused and limited circulation which is important on this road.

Ms. Martelli recognized that Mr. Kaufman had suggested additional planting around the heightened retaining wall and she thought they would be able to do something there. Mr. Kaufman asked the number of feet between the retaining wall and the swale and Ms. Martelli said it was approximately 7'. Mr. Kaufman said that he was able to convince the Highway Department that it would be a good idea to plant trees in the right of way. He said that these plantings would come at the cost of a sidewalk, which had also been one of his recommendations. He noted that there is only room for one or the other. Ms. Martelli agreed with that statement and thought that the safer option would be to plant the area; she did not think it would be wise to invite pedestrian traffic here.

Mr. Kaufman thought there might be an opportunity to get the trash enclosure even further away from residential properties and he indicated an area on the site. Ms. Martelli thought that might work and that the applicant could time the activities on the site so that pickup is off business hours. Mr. Kaufman said that he was not completely sure it would work because he did not recall the grade in that area. Mr. Stein thought the retaining wall could be altered to accommodate the grade.

Mr. Kaufman pointed out that this location would be much more visible from the street. Ms. Black thought there would be room for some landscaping so that it wouldn't be as visible. Ms. Martelli said that if they were allowed to overlap the loading space with a parking space, they might be able to work something out to more heavily landscape this. The Board said they would like to see this. Mr. Coyne pointed out that if that were done, it might even allow the applicant to get two-way circulation in the parking lot.

The applicant will come back with revised plans.

**THOMPSON**

**Special Use Permit**

**Sec 2, Block 1, Lot 12.A**

**13 Whipoorwill Road**

**Robert Schweitzer, AIA - Lasting Impressions – Landscape Architecture**

**Discussion**

Mr. Robert Schweitzer was present on behalf of the applicant along with Chris Carthy and the applicants. Mr. Schweitzer said that at the last meeting, the applicant was proposing a plan with more disturbance. The comments caused the applicant to raise the pool up so that they reduced the amount of grading. He indicated the "area of disturbance" defined by grading. Originally that was larger and was into the wetland. Mr. Schweitzer said that he has steepened the slope and it was now proposed to be 45 degrees, but it is out of pedestrian area and will be stabilized. As requested by the Town Engineer, an extra infiltrator was added. They have controlled all runoff from the decks into rechargers and the overflow will go into a rain garden. They are still working with the Town Engineer to finalize the details. Mr. Schweitzer said that he has removed the cribs, and now will use rocks and small boulders to act as a grade stabilization device for the water coming down the hill.

They have added more screening to the mitigation plan and recognized that Mr. Kaufman suggested more evergreens in a certain area. He indicated areas of disturbance. He indicated the "give back" area and said that it would be permanent no mow zone. Mr. Kaufman said that he did not necessarily need to plant more evergreens, just more screening that would increase the buffer.

With respect to the Town Engineer's comment on the septic system Mr. Schweitzer indicated the existing system and said that they would be going over a very small part of it. He had suggested plywood and 18-24" mulch but Mr. Coyne had suggested steel plates, which the applicant has agreed to.

Chairman Michelman asked if the pool was the same size as it was in the last submission and Mr. Schweitzer said that it was. Chairman Michelman pointed out that the Conservation Board had suggested reducing the size of the pool. Mr. Schweitzer recognized this, but said that the applicant is adamant about having this size. Mr. Delano reminded the Board that the applicants have represented that they are swimmers

Chairman Michelman asked if this needed DEP approval and Mr. Coyne said it did not. He stated that this would need approval from the DEC for work within the DEP watershed though.

Mr. Delano cautioned the applicant to be careful with the stone stabilizing and to make sure the details are satisfactory to the Town Engineer.

Dr. Matusow noted that this was a pool plan in a buffer and on a steep slope and although there doesn't seem to be another viable alternative, he did not think they should necessarily approve this. He read from a recent memo from the town's consultant, which says that in general impervious surface should not be constructed within a buffer if it is not necessary, and therefore he did not recommend this approval. Dr. Matusow said that not every property can

accommodate a recreational amenity. He agreed that the proposed location is a beautiful location for a pool, but the code says that the Board shouldn't allow it to be built there. If they permit this he did not think they would be following the town guidelines. Mr. Carthy pointed out that it was within the Board's domain to approve it. Dr. Matusow agreed, but stated that the code discourages it. If that is the case, why should the Board overlook the code and all the things we are asked to consider regarding buffer and steep slope protection.

Mr. Delano said he thought that onus fell on the applicant. He thought that the applicant should sit down with the town code and make that analysis. That would answer Dr. Matusow's questions.

Dr. Matusow pointed out that the applicant's ability to mitigate is not a reason to grant the approval.

Chairman Michelman said that one issue that the Board was focused on when they were out at the site was the functionality and quality of the wetland. The Conservation Board had been out there and their report indicated that the wetland was not highly functional. She thought the Conservation Board also felt that the new design is an improvement and will ultimately benefit the wetland. She agreed that building in a wetland is generally not something that should be done, but in this case, doing so will improve and enhance the site.

Ms. Black noted that in cases where the Board has approved a pool in the buffer it was because they could not see a reasonable alternative for it. Here, there was an issue that would require tree removal for the alternate location. She did have to question why they need a pool that is nearly double the size. Mr. Schweitzer said that it was not double. He said that a standard pool is approximately 800 sq. ft. and this was, at most 1,000 sq. ft. He recognized that this was a large pool, but it was still rather conventional.

Mr. Schweitzer said that if this had been a highly functioning wetland, he would have told the applicant that this was not a plan that should move forward, but since it was not, he thought there was a good chance they would be able to build their pool.

Mr. Kaufman said that if the Board was comfortable with the plan, they could schedule a public hearing. He pointed out that the Board needed final comments from the Conservation Board. He recommended getting this prior to public hearing. Dr. Matusow wanted to have the applicant go through the code analysis as stated by Mr. Delano. The Board thought it was prudent to have that analysis. Dr. Matusow advised the applicant not to make the mistake saying that they can build the pool because they can mitigate; that is not what the code says.

The Conservation Board representative said his board anticipated being able to make additional comments. He said they have some additional comments about the construction access, the site, the size of the pool etc. Chairman Michelman said they would await the final comments from the Conservation Board.

**SINGER**

**Lot Line Change & Special Use Permit – GLC & FAR**

**1 Quarter Mile Road**

**Sec 2, Block 11A, Lot 24**

**Bob Roth, PE - John Meyer Consulting, PC**

**Discussion**

Mr. Baroni recused himself from this application. Mr. Bob Roth was present for the application.

Chairman Michelman asked if the applicant wanted to move forward with this application as one or two separate applications. Mr. Singer said that they were waiting for the DEP to sign the contract, which should be within a few weeks. It is an irrevocable contract; once it is signed it is sold. Mr. Kaufman said that it was more efficient to do it as one public hearing and Mr. Singer agreed.

Mr. Roth explained the applicant was seeking subdivision approval to move a property line between two adjoining pieces of property, both owned by the applicant. The green line on the plan is a 3½ acre property improved with an existing residence. The other lot is 2½ acres. The proposal shifts the property line closer to the applicant's home, making their lot ½ acre smaller and the other one ½ acre larger, so that it is on par with the contract of sale to the DEP. Additionally, once the line is shifted, the existing pool on the applicant's lot will be within the setback line and the applicant has received the necessary variance from the ZBA. Mr. Roth added that a basketball court on the side yard that was built in the 1950s encroached about 18" in the setback, and that has been legalized by the ZBA as well.

Mr. Roth said that they were seeking a special use permit because the existing home and structures, plus the planned addition to the applicant's home, will fall between the basic and maximum allowable for land coverage and FAR. He showed the Board the gross land coverage calculation sheet.

Chairman Michelman noted that the applicant would have to go to the ARB again since the plans have changed and because the original approvals have expired. Mr. Roth recognized this and hoped this Board would set a public hearing. He said when he made the recent submission, the Building Inspector determined that this would have to go to the ARB, and he did not anticipate any issues in that regard. In fact, one of the ARB concerns had been the length of the building, which has been lessened.

Mr. Kaufman said that the Board could schedule the public hearing, but he did not recommend having the public hearing without hearing back from ARB. They would be placed on the next agenda after the ARB meeting and a draft resolution could be prepared for the same time.

**DEHMER**  
**Site Plan**  
**Section 2, Block 2, Lot 23.D01**  
**11 Annadale Street**  
**Fred Rucker, AIA**  
**Discussion**

Mr. Fred Rucker was present on behalf of the applicant. He explained that the applicant has been parking his truck at a particular place for the last 30 years. They have shown a fence detail (6' high white vinyl and this is the best they can do for screening.

Chairman Michelman stated that the Board still needed documentation from the Building Department that the basement and first floor meets the current code. Additionally, there should be some screening for the house across the street on Annadale Street.

Mr. Rucker stated that the applicant would add a recreational area as suggested by Mr. Kaufman and indicated the proposed location. He said they would add screening there as well. Mr. Kaufman said that the Board had been talking about adding screening in the front, and if they do that, this could be a nice recreational area.

Chairman Michelman asked about gravel versus pavement. Mr. Kaufman thought that the code stated that commercial areas should be paved but the Board could waive that. Mr. Rucker stated that the gravel looks more residential and fits in better with the area. The Board agreed and felt that it would be a very large paved area if it was paved.

Dr. Matusow said that there were a number of things in Mr. Kaufman's memo and wanted to know if they were being addressed. Mr. Rucker said that he only just received the memo but he would go through it and respond to each item. Chairman Michelman noted that many things in the memo had been cleaned up.

Mr. Kaufman said that the Board still needed documentation from the Building Inspector; the site has been cleaned up and the truck is no longer proposed to be stored on top of septic system per this plan.

Mr. Rucker said he'd go through each item and submit a formal response along with revised plans.

**STURINO**  
**Special Use Permit**  
**Section 3, Block 7, Lot 10.E01**  
**75 Nethermont Avenue**  
**Steven Basini, PE - Petruccelli Engineering**  
**Discussion**

Mr. Steven Basini was present on behalf of the applicant. He explained that the site walk was conducted the week before. The applicant has single family house in R2F zone, which is one story with a legal finished basement. The applicant seeks a permit to renovate the basement to turn it into a two family house in a two family zone. It was discovered that the amount of FAR and land coverage was exceeded. He said that the applicant was not really increasing the coverage or exacerbating the situation. He removed a parking space which takes off about 225' from the land coverage. The two spaces were exceeding the code requirement

Mr. Basini said that in the garage, there are two bays and one would be renovated to turn into a bedroom. The other bay would remain as a parking space. There is more than enough room for the turnaround in the driveway. He indicated the preferred parking space and said that the applicant will be able to achieve the four required spots.

The entrance to the secondary residence would be through an existing door into the finished basement. The two residences will connect in a small common hall in the basement. Each will have access to the utilities. The only difference would be in the back on Lake View Road because they are taking out one of the garage door bays and replacing it with windows.

Mr. Basini said that they were seeking approval for the two family house and the special use permits for the overages and wanted to know if it was within the Board's power to waive the public hearing. Mr. Kaufman said that they would have been able to waive it for the site plan approval for the two family approval but they could not waive the public hearing for the special use permit.

Mr. Baroni thought a public hearing was required for the site plan approval for a two family. Mr. Kaufman said that one was required for accessory apartments but not two family houses. However, since the special use permit does need a hearing it did not make a difference here. Mr. Baroni said he would need to look into this more to make sure that the public hearing could be waived for the site plan approval on a two-family.

Mr. Delano asked a question about the ceiling height and Mr. Basini explained the notations on his plan. Mr. Basini asked again if there was any way to waive the public hearing since this was "really just a paper special use permit" and the Board said they could not.

The public hearing would be scheduled for May 26<sup>th</sup>.

**DISTEFANO**

**Special Use Permit**

**Section 2, Block 17, Lot 4.F**

**15 Sterling Road South**

**Pete Gregory, PE - Keane Coppelman Engineers**

**Ken Eldon, Ken Eldon Landscape Design**

**Discussion**

Mr. Pete Gregory was present on behalf of the applicant. He explained that they were seeking approval for the construction of pool in the rear of house between the house and the existing wood frame shed and existing septic system. As a result of the pool and terrace, they would exceed the basic amount of land coverage, so the applicant needs a special use permit.

Mr. Gregory said that he had seen the memos from the Town's professionals and he was in the process of responding to them. He explained that the applicant has proposed a mitigation area and there are no plans to remove any trees. The existing wood structure will remain in its current condition. The applicant has prepared a landscaping plan and proposed screening along the front of the pool and wrapping some around to the shed and some behind it. There will be some additional plantings around the pool too.

There were no issues. The Board said the public hearing would be scheduled for the 26<sup>th</sup>

**GODNER/DUTOIT**

**Special Use Permit**

**Section 1, Block 4, Lot 10.-87**

**70 Windmill Road**

**Arborscape Inc.**

**Consideration of extension of time site plan resolution**

Chairman Michelman explained that the applicant was seeking an extension of time for the approval for his pool.

Mr. Delano moved to extend her site plan approval until April 28, 2010. The motion was seconded by Ms. Black and unanimously approved.

**VALEV**

**Site Plan**

**Section 7, Block 04, Lot 1 L**

**18 Nethermont Avenue**

**Teodor A. Valev, PE**

**Barry Naderman, PE - Naderman Land Planning and Engineering, P.C.**

**Consideration of 2<sup>nd</sup> extension of time site plan resolution**

Chairman Michelman explained that the applicant has been delayed in obtaining a construction loan based upon the recent economy and he was requesting a one-year extension.

Dr. Matusow moved to grant the extension. The motion was seconded by Ms. Black and unanimously approved by all but Mr. Delano.

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The meeting was adjourned at 9:49 p.m.

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