

**TOWN OF NORTH CASTLE
PLANNING BOARD MEETING
17 Bedford Road
Armonk, New York 10504
August 3, 2009
6:00 p.m.**

PLANNING BOARD MEMBERS PRESENT:

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

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

The meeting was called to order at 6:00 p.m.

APPROVAL OF MINUTES:

June 22, 2009

Ms. Black moved to approve the minutes from the June 22nd meeting, as amended. The motion was seconded by Mr. Delano and unanimously approved.

July 13, 2009

Ms. Black moved to approve the minutes from the July 13th meeting, as amended. The motion was seconded by Mr. Delano and unanimously approved, except for Mr. Sauro, who abstained.

PUBLIC HEARINGS:

MOUNTAIN LAUREL ESTATES

Special Use Permit

Section 2, Block 5, Lot 2D-19 & 2D-20

7 & 9 Ridgeview Circle

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

Discussion

Consideration of Special Use Permit resolution

Chairman Michelman noted that this was a continued public hearing. Chairman Michelman asked if there were any neighbors present. There were none.

Mr. Peter Gregory and Mr. Richard Morgante were present. Mr. Gregory explained that since the last meeting, the applicant addressed several of the outstanding items that were of concern. They have obtained ARB approval and submitted a copy of the approval for the record. They have also performed testing on the property for drainage and they have heard back from the Westchester County Health Department. The applicant submitted information regarding driveway on Sarles Street for Lot 19 as requested.

Chairman Michelman asked if there were any comments or questions. Mr. Coyne said that he would review the profile but he looked at the plan and he was confident that the driveway could go there. Mr. Kaufman explained that they needed to update the ARB information on page 3 of the resolution and that condition number 1 on page five could be removed.

Chairman Michelman asked if Mr. Gregory had reviewed the resolution. Mr. Gregory said he had, and he had no issues.

Ms. Black 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.

OTHER BUSINESS:

LOWREY

Referral from Town Board

Section 1, Block 12, Lot 8

7 Round House Road

Mark Miller, Esq. Veneziano & Associates

Discussion

Chairman Michelman explained that the purpose of this meeting was to discuss the contents of the draft memo sent to the Board by the Town Planner and hopefully move this application forward. She said the Board believes they have evaluated the issues. She stated that many of the issues of concern that have been raised by the neighbors have focused on the inappropriateness of the property being used for commercial rather than residential purposes, but from the Board's point of view, that was not an appropriate issue to debate. The Board is supposed to judge the application based upon the existing zoning, and determine whether this application meets the criteria within that context.

Mr. Mark Miller was present on behalf of the applicant. He said that the applicant supports the Board's position of moving this forward. He said he recognized that the neighbors have been here in some numbers at every meeting, and there are things that they want to discuss publicly, but the proper forum for that is the Town Board's public hearing.

Mr. Mark Lazarus, 7 Round House Court, said he was not completely familiar with this application. He said that the neighbors recognize that the property is zoned right now for this use, but they just don't feel that this is the type of business that should be in this area. They are concerned with truck traffic. He said that they know that everyone seems to want this to move forward, but the neighbors want this denied.

Chairman Michelman reiterated that the Planning Board's role is only to say that this is zoned GB, and that this application is appropriate and determine whether it meets the standard of the GB zone. If the Board has concerns, they will forward those concerns to the Town Board. This Board has no authority to grant/deny this application.

Mr. Frederick Greenberg, ____ Ave, said he understood there is certain specific criteria that the applicant needs to establish and asked whether it was true that the Planning Board does not determine whether or not the applicant gets that permit. The Board explained that was correct; there are very few special permits that they issue, and in this particular case, the Town Board is the entity who issues the permit. Mr. Kaufman added that the Planning Board will send comments to the Town Board.

Mr. Greenberg asked whether, since the O'Connor's were not present, if the deliberations of the Planning Board could be put into the record explaining why the applicant meets the specifications. Mr. Kaufman explained that was exactly what the Planning Board will discuss and will be part of a memo to the Town Board.

Chairman Michelman noted several letters for the record, the contents of which are set forth in their entirety below (represented in italics below):

Ladies and Gentlemen –

Unfortunately, my wife and I will be unable to attend the Planning Board's scheduled meeting on this Monday, August 3rd, at which the 7 Round House Road application will be discussed.

We live at 5 Hobby Farm Drive and, for the record, we are strongly opposed to the 7 Round House Road application for a special use permit and strenuously encourage the Planning Board to vote against the proposed application.

Our opposition is based on (i) the significant and negative impact that professional studies have shown the proposed use will have on vehicular, pedestrian and recreational safety on Roundhouse Road, (ii) the significant and negative environmental impact that professional studies have shown the proposed use will have on adjacent fresh water wetlands and watercourses and (iii) our serious concerns regarding the significant and negative impact that the proposed use will have on the air-quality in our residential neighborhood and the noise pollution that our neighborhood will no doubt experience if the proposed application is approved.

Thank you for your consideration regarding this matter.

*Robert & Naomi Silpe
5 Hobby Farm Drive
Bedford, New York 10506*

[emphasis supplied in original]

Dear Chairman Michelman and Members of the Planning Board,

I will be away on business on 8/3 and will miss the meeting. I understand the 7 Round House Road application is due to be discussed at this meeting. My note is to let you know I oppose this application because this development is not in harmony with the rest of the properties that border the property. I'm also concerned the local roads cannot support the increased truck traffic, and the noise and activity will have negative environmental impact on this property and the surrounding neighborhood.

*Sincerely,
Nancy Birnbaum
1 Round House Court
234-2046*

To: North Castle Planning Board Members

*From: Paul & Linda Jacobs
1 Hobby Farm Drive*

Re: 7 Round House Road Application

Date: July 31, 2009

I unfortunately will be unable to attend Monday night's Planning Board meeting but wanted to be on record that we are strongly opposed to the 7 Round House Road application for a special use permit and strenuously encourage the Planning Board to vote against the proposed application.

I urge you to pay particular attention to the Adler study that has been provided. It is clear that the proposed use will have a significant and negative impact on the neighborhood. In addition, the environmental [sic] study that we have provided clearly indicates that there will be a significant negative environmental impact on the adjacent fresh water wetlands and watercourses. Lastly, we are fearful regarding the safety concerns that the proposed use will impose in our residential neighborhood as well as the noise pollution that our neighborhood will no doubt experience if the proposed application is approved.

Thank you for your careful consideration regarding this matter.

Paul M. Jacobs | Executive Vice President □ CB Richard Ellis | Brokerage Services □ 177 Broad Street, Suite 700 | Stamford, CT 06901 □ T 203 325 5320 | F 203 978 2803 □ paul.jacobs@cbre.com | www.cbre.com

*From: Joseph Leniado-Chira [mailto:leniadochira@optonline.net]
Sent: Wednesday, July 29, 2009 10:58 AM
To: Planning External Account
Subject: PERMITS FOR BANKSVILLE AV & ROUND HOUSE RD. PROJECTS*

PLANNING BOARD: I AM UNABLE TO ATTEND UR MEETING AUG 3 AND WOULD LIKE TO URGE U TO NOT PERMIT THE PLANNED USE OF THESE PROJECTS. AS I HAVE WRITTEN U BEFORE:

THESE WOULD NEGATIVELY IMPACT THE CHARACTER OF OUR NEIGHBORHOOD, FAMILIES, RESIDENCIES. THESE 2 AREAS SHOULD CONFORM TO HOMES AND NOT BUSINESS'. THERE ARE NO SIDEWALK TO WALK, THE ROADS NEED REPAVEMENT, THERE ARE NO GRANDFATHERED REASONS TO CHANGE THE CHARACTER, WHICH WOULD IF U APPROVE THE APPLICATION, MATERIALLY DEVALUE OUR PROPERTIES AND INVIORNMENTALLY(SIC) IMPACT BADLY OUR AREA WHICH CONTAINS HEADWATERS FOR THE MIANUS GORGE/RIVER (BARGH RESEVOIR (SIC). I HOPE ULL THINK VERY CAREFULLY ABOUT THESE TWO APPLICATIONS AND REFUSE THEM.

*THANK YOU,
JOSEPH LENIADO-CHIRA, 18 ZYGMONT LN., GREENWICH, CT.
06831. TELE: 203-661-7413.*

[spelling and capitalization supplied in original]

Chairman Michelman explained that all prior letters submitted to the Board are part of the minutes of prior meetings.

Mr. Delano recalled that the Board suggested that the applicant reduce the pitch of the roof and the building height. Mr. Kaufman said that was mentioned in the memo, but the Board has not received the new plan. Mr. Delano did not think it was appropriate to say that the Planning Board “feels” in first second and third on pages two and three. He suggested using “finds” or “determines.” The Board agreed. Mr. Delano said that he was concerned about grouping wood splitting and unregulated snow plowing together. It is common in this business to supply snow plowing services and he had a problem with trying to take snow plowing away from the applicant. However, he did not object to wood splitting being precluded. If the applicant is willing to forgo the wood splitting, the Board shouldn’t deny him the snow plowing. He thought that this could be a very enforceable site plan. There shouldn’t be any cars or anything outside; this should be an empty lot, with beautiful landscaping and a nice building.

Ms. Black said she had a problem with the wood splitting too due to noise concerns. However, she also objected to the snow plowing because the plowing could occur at any time of day or night. She said she would support the memo as written. She said she thought that the applicant has gone a good way toward satisfying the concerns of this Board.

Chairman Michelman agreed with Mr. Delano in terms of the snow plowing. Snow plows work when they’re needed and that is what the town offers. It is part of the applicant’s business. The applicant told the Board that the trucks and plows are out ahead of time in the event snow is predicted. She agreed that the wood chipping and splitting should be precluded due to the noise concerns. She also agreed with Mr. Delano’s point that after 4:30 or 5:00, the site will be empty. As far as she was concerned this is an acceptable use in this zone, but she objected to the

language of “harmony” in the memo. However, she understood that this is language that is required to be written in the code.

Mr. Sauro agreed, however he thought Mr. Kaufman’s memo effectively brought the Board’s concerns about wood splitting to the attention of the Town Board. He was concerned about the wood splitting, however, the fact that the memo says that is an issue that should be closely studied should suffice. As far as snow plowing he did not think it would cause any significant increase in truck traffic to the area.

Dr. Matusow agreed with Mr. Delano and Chairman Michelman. Snow plowing is reasonable for the business being proposed, and the business is appropriate in the zone. The wood splitting does raise concerns, but he thought that the Town Board, one way or another, will look at this issue. He had some questions about the wording of this document and said that the Board needed to be careful about the wording because they would not be at the Town Board meeting, so this needs to be clear. On the first page, 1st sentence of the 4th paragraph, it seems to indicate that the Board is not in consensus. He’d rather say that the Board studied the impacts of the proposed uses, and go on from there. He did not want to color what the Town Board will read in from that. He suggested a revision and the Board agreed.

Dr. Matusow said that in several places the memo says that the site “*will* be in harmony” and it “*does* comply” but her thought they should be replaced with it “*could* be in harmony” and “*can* comply”. The Board agreed.

Dr. Matusow asked how the Board should deal with the issue of wood splitting and Ms. Black thought it was a negative – people are concerned with noise. Dr. Matusow asked if they should keep the word snow plowing in because the majority of the Board did not have an issue with the snow plowing. Chairman Michelman thought the two should be separated. The wood splitting remains a very serious concern of the Board, but the issue of snowplowing could be reviewed by the Town Board, and then that Board could determine whether they want to put any limitations on this aspect. She did not think they should be ‘packaged’ together. The Board agreed. It was also suggested that the memo include the words “unanimously concerned about wood splitting.”

Dr. Matusow wanted the record to show that this was essentially a positive recommendation. It is one saying that this Board believes that it can get a site plan that would meet the criteria if the Town Board sees fit to grant a special use permit. He thought the Board should be clear that we are not taking a position on the special use permit. Additionally, he noted that the Board has taken note of all of the neighbors’ objections to this application. They have all been considered. Even in the face of those objections, the Board feels the right thing is to send this with a positive recommendation. If the Town Board grants approval, then the Planning Board will get it back for site plan approval.

Chairman Michelman added that there would be a public hearing the Town Board must hold which gives everyone the chance to voice their concerns. Ms. Black noted that it was not this Board’s province to discuss the issue whether it is appropriate that this property is zoned a certain way.

Dr. Matusow said it was important to note that the GB zone was there before the residences around the area were. In 2006, the Town Board declined to change the zoning. Even recently

the Town Board considered the possibility to rezone areas in town, including this one, and they decided against it. The zoning is not at issue, and the Planning Board has no authority to do anything about this.

Mr. Lazarus asked if the Board's recommendation addressed the concerns about the traffic. Dr. Matusow said that the traffic situation is just one of many number of assertions that were made by those opposing the application. There was a battle of the traffic consultants and they did not get very far with that. However, this Board did look at the traffic issues, and they are very familiar with this type of review. The trucks that this application would generate are not bigger than other vehicles that are already using this road. There would be seven trucks early in the morning and seven returning in the afternoon. That was not enough to really change the traffic on the road. If someone was to make the argument that the landscaping trucks were not safe on the road, what would you have the town do, preclude these trucks from entering onto your road at all? The safety and traffic issues, considering the size of this proposal, are significantly overstated.

It was noted that the changes would be made to the memo as discussed tonight, and if anyone wanted to see it, it would be part of the file in the Planning Department, and part of the Town Board record.

Mr. Delano reiterated that he did not want to overstate the concerns of the snow plowing. Mr. Kaufman said he understood.

Ms. Black said that she knew the Board was very concerned with the potential environmental impact when there was outdoor storage of materials, and now that has been withdrawn, and she did not see that there would be any adverse impact environmentally.

Dr. Matusow moved to forward the recommendation as amended to the Town Board. The motion was seconded by Ms. Black and unanimously approved.

CONTINUED PUBLIC HEARINGS:

69 ROUND HILL ROAD LOT #1

Special Use Permit

Section 1, Block 9, Lot 4-2

69 Round Hill Road

Susan Fasnacht, PE WSP Sells

Discussion

Consideration of approving special use permit resolution

Chairman Michelman noted that this was a continued public hearing. Chairman Michelman asked if there were any neighbors present. There were none.

Chairman Michelman said that these applications were discussed in great detail last week and she did not think they needed to go through everything again. Mr. Fareri said that he wanted to give some background information. Chairman Michelman said that was not necessary as the Board had all the information they needed. Mr. Fareri said he insisted on giving the information,

and he had an absolute right to give this information. He pointed out that Mr. Sauro was not here last time and he should be able to present him with the history.

Ms. Susan Fasnacht was present on behalf of the applicant. She explained that since the last time they modified lot line so that they could keep the barn and the shed on that lot. She added pads for the pool equipment, which are on the plans now. She said it was a mistake that they were not there last time. They added fences around the pools and also around the tennis / sport court. There is also a note for outdoor lighting on the plans.

Mr. Fareri presented and explained the site plan. He indicated various structures on the property. He explained that this was approximately twelve acres in a two acre zone. He received subdivision approval as lots are configured. During the subdivision process, the Board put him through a very extensive review. During that review, he had to include what each lot would include. He took approximately 2½ acres in the rear of the properties and made it a conservation easement. He kept the entire front of the street the same. There would not be any new entrances and this would not impact any historic significance. They studied stormwater runoff and septic locations. The final set of plans consist of 11 pages. Every time he revised the plans, it was studied 9 different times (Mr. Kaufman said it was only 4 times). He used a significant amount of paper to get this subdivision. He went through the history of the project. He read section 213-1 of the town code again regarding the responsibility of the Planning Board and said that the Board has to be concerned with the economic activity. The town has only increased assessables a small amount over the last several years. He has spent \$9,000 between the Town Engineer and Town Planner in reviewing the plans.

Mr. Fareri said that these three lots will give a lot to this town. He maximized the amount of house that could be put on the lots based upon the code requirements. The people who will buy these lots will want to know exactly what they can put on their lots. He has Health Department approvals for the septic systems that he's designed. He explained that he was also requesting special use permits, and he has submitted the appropriate applications.

He discussed the benefits for the community, which concerned mainly the financial aspects and tax benefits. He explained that he made a \$20,000 payment to the Parks and Recreation Department and included a 20,000 gallon cistern, which will benefit properties miles away from his subdivision. This was done at a cost of approximately \$100,000 to him. He thought that there would be appx \$10 million of development on two lots. The town would collect more money per house than it would cost to educate the students that are anticipated to reside in these homes.

With respect to the special use permit for Lot 1, he said he reviewed the resolution. When he did this lot, he studied all the requirements but he didn't do a full set of plans, but he did do the work. He has a survey, the environmental plan, erosion and control plans, profiles and sight distances for driveway, and all the details. He asked Mr. Coyne if his plan was in compliance and Mr. Coyne said that in terms of engineering, it was. He asked the same question to Mr. Kaufman and Mr. Baroni, who both answered yes. Mr. Kaufman said there was nothing to stop this Board from adopting it.

Mr. Fareri said he had no problem with the resolution except for the one year expiration date on the site plan. He thought that the expiration date shouldn't really be one year from tonight, it should be one year from when the plat is filed with the county. Mr. Baroni said that it was not

done that way. He explained that the applicant needed to track both dates, and if he needed extensions he could come back here. The Board can grant unlimited extensions.

Mr. Fareri said that on Lot 1 he was not sure he needed a special use permit or subdivision approval at all because that is how the lot exists today. He shouldn't be restricted in terms of this resolution. Ms. Black said the applicant would have to submit a plan showing the entire property but Mr. Fareri said he didn't think it made too much of a difference because he did not plan on building a pool there.

Dr. Matusow moved to close the public hearing for Lot 1 and then move to the hearing on Lot 2. The motion was seconded by Mr. Delano. Mr. Fareri said that he'd prefer not to do it that way. and unanimously approved.

Mr. Delano made a suggestion for a minor addition to the resolution for Lot 1. Mr. Kaufman made note of this change.

Mr. Delano moved to approve the resolution as amended. The motion was seconded by Ms. Black. (vote below)

Dr. Matusow said he would have preferred to do the resolutions separately. He said that he had something that applied to all three resolutions, but he would only say it once. He said that the Board has seen many presentations and reiterations of all of the data as the subdivision has proceeded, which has culminated in what the Board called IPP's. The Planning Board has indicated its agreement, in concept, that the houses the applicant has shown on the IPPs and the amenities that go with it can fit on those lots. That is not an issue and it is not germane to the discussion. The Board has gotten the same information over and over from Mr. Fareri. There is no controversy about this. This is not a question of land use. What the Board had before them was the question of policy and procedure.

Dr. Matusow said that the Board had two real issues: whether the conceptual IPP is equal in value to the site plan, and whether it was appropriate for this Board to grant a special use permit for either FAR or land coverage, on the basis of an IPP without having seen or having opportunity to discuss a real site plan. This is not a land use issue or a legal issue. There is no doubt that the Board *can* grant the applications as requested, but there is no law that says they must. He asked the Board, when, in anyone's memory, they put their approval on a plan without seeing a real plan. He did not think that ever happened. In his recollection, the Board has seen applicants come with an application who have gone through the whole process, and the Board still rejected them because the plan didn't have the proper seal on them. The plan was not yet appropriate because the Board wanted all i's dotted and t's crossed. He thought that was the right thing to do. The Board has never gone so far as to approve a conceptual plan.

He thought that if the Board approved the permits they would have a very significant and far reaching decision that would set precedent for any lot, on which a conceptual plan can be granted without seeing a real plan. This will not be the end of it. The Board will see this again very soon. If the Board does this, they will lose significant leverage in negotiating with builders / developers when the site plan is actually presented. The special use permits will require public hearings, but they will occur well before any real site plan is coming before the Board. This will guarantee that there is no one present to comment because nothing is imminent. This will guarantee that there will be no public participation – and when construction is imminent – no

one will be there then either. This is guaranteed to reduce the amount of public participation. Because a special use permit will already be behind the applicant, any warnings or admonishments from other boards will carry much less weight because the Planning Board will already have granted approval before the issue came to light. There will be no further special use permits to be required – future applications could be routed away from this Board and to the RPRC, which would completely take it out of the Planning Board's hands. Planning Board involvement in future site planning would become essentially ministerial.

Dr. Matusow said that if the Board granted the permits it will be making a permanent change in the town's procedures and it will be of significant detriment to protect the neighbors and the town from what could potentially be inferior development. He said again that the issue is not the way it seems to be presented by the applicant – it is not a land use issue. This is a policy and procedure issue and it could set a detrimental precedent. If this is done on smaller lots, the possibility of being unable to deal with site plan issues will be even harsher. If the Board approved these applications, they will forever diminish the powers of the Planning Board. He said his vote on this is no. Dr. Matusow said will not repeat this in the next two resolutions, but it is equally applicable.

Mr. Delano said he did not know that he's entirely correct. He believed the Board was in the position to consider the applications based upon our ability to waive particular parts of the application. By the way they are constructed, we are making clear that we are waiving the requirement to submit a building plan based upon the explicitly considerations and the extensive history on this subdivision. I don't have an issue with these resolutions. Other applicants could have the right to lock in FAR and land coverage – and we have the right to ask for everything we'd like to see in connection therewith. Mr. Baroni agreed.

Mr. Fareri said he is a resident of the Town and he's studied this to death. The Board has gotten a lot of good things for the community. His application will enable me to sell these lots with a guarantee that the buyer will be able to build what he presents to them. They comply with the town's code requirements 100%. If this changes by one iota the applicant will have to come back for site plan approval. As far as what it looks like is the responsibility of the ARB.

Mr. Fareri asked that Dr. Matusow recuse himself from a vote on his applications. He said that they have some differences, including the fact that Mr. Fareri brought Dr. Matusow up on ethical issues within the community. He said he has discussed this with the Town Attorney and his own attorneys and he has the right to request this. Chairman Michelman thought that any differences were based upon Mr. Fareri's own perception.

Mr. Baroni stated that the request has been made but it was up to Dr. Matusow to decide. The Board has no say in this. Dr. Matusow said this request was made by the applicant a year or so ago and he submitted a written refusal to recuse himself. He thought it would be wrong to let any potential applicant to try and change the nature / complexion of the Board by raising all kinds of personal issues, and then demand that he be precluded from voting. He respectfully informed the Board and the public that he has always acted in an impartial manor for every application or applicant. He will not shirk his duty and he will continue to do that as long as he's a member of the Board.

Chairman Michelman wanted to make sure that any changes will have to come back to the Planning Board for approval. Mr. Delano explained that the approval would be tied to this set of plans. Mr. Kaufman agreed.

Dr. Matusow asked the Board how they would envision that the public would have its say in future applications that would come before the Board.

Mr. Fareri said his neighbors have all been here in support of this. This is a public hearing. Ms. Desimone pointed out that the public hearing was closed on this. Dr. Matusow asked his question of the Board again. Mr. Fareri said that the approval was only good for one year. Dr. Matusow said that the separation is very long, and no one will be noticed when the real construction comes about. This is a very serious issue.

Ms. Black pointed out that this was noticed, and there was a public hearing. If she was a neighbor, and she was interested, she would attend the public hearing regardless of when it was.

Chairman Michelman thought that Dr. Matusow's point was that this lot will not be developed for several years, and by the time the applicant will come to this Board, the public hearing has already been held. Mr. Fareri said that this was a final site plan and the Board has everything they need for a site plan. Mr. Kaufman said that it has all the details that would be required in a site plan. Mr. Fareri said that the neighbors aren't concerned. Additionally, if this plan was not built within the period of time in resolution it would expire. He added that if anything changes on this plan, the applicant would have to come back. This is the worst possible scenario – this is the maximum that could possibly be built.

The motion was approved by all except for Dr. Matusow and Chairman Michelman who both voted nay. (*motion made above*)

69 ROUND HILL ROAD LOT #2

Special Use Permit

Section 1, Block 9, Lot 4-2A

69 Round Hill Road

Susan Fasnacht, PE WSP Sells

Discussion

Consideration of approving special use permit resolution

This was heard in connection with the above application.

Chairman Michelman thought that Lot 1 might have made sense but Lots 2 and 3 are concept plans only. The Board has never approved a concept plan and she did not think it was a good idea. She recognized that it makes an easier sales pitch for the applicant but she was not sure that is the goal of the Planning Board.

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

Ms. Black noted that the Board had not seen the architectural plans and the ARB hasn't seen this plan, and wanted to know how this would work. Mr. Kaufman said that everything is still tied to these plans. Ms. Black said she was comfortable with this.

Mr. Delano moved to approve the resolution for Lot 2 as amended. The motion was seconded by Ms. Black and approved by all except for Dr. Matusow and Chairman Michelman who both voted nay.

69 ROUND HILL ROAD LOT #3

Special Use Permit

Section 1, Block 9, Lot 4-2B

69 Round Hill Road

Susan Fasnacht, PE WSP Sells

Discussion

Consideration of approving special use permit resolution

This was heard in connection with the above application.

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

Mr. Sauro thought that the Rolling Hills Subdivision was a precedent and Mr. Kaufman said that it was a similar issue but it was not precedent. The Planning Board wanted to go beyond the IPP, and tie the subdivision approvals with what could be done on the property by limiting the footprint of the houses.

Mr. Delano moved to approve the resolution for Lot 3 as amended. The motion was seconded by Ms. Black and approved by all except for Dr. Matusow and Chairman Michelman who both voted nay.

LORBERBAUM

Special Use Permit

Section 1, Block 4, Lot 1.D1-D

31 Middle Patent Road

Ralph R. Mackin Jr. Architects PLLC

Discussion

Consideration of site plan resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 11 out of 14 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present. There were none.

Mr. Darren Mercer and Bob Schweitzer were present. Mr. Mercer explained that they were before the Board last September to present plans for a detached garage. The applicant received ARB and ZBA approvals and they were before this Board for a final vote.

Chairman Michelman noted a couple of changes in dates contained in the resolution. Mr. Kaufman made note of the corrections.

Chairman Michelman asked if there were any issues. Mr. Coyne said that he had some detail issues, but they were covered by the final details clause resolution. He suggested adding his comments as separate conditions. Mr. Kaufman agreed.

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

Chairman Michelman asked if the applicant reviewed the resolution. Mr. Mercer said he had, and had no issues.

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

GODNER

Amended Special Use Permit Application

Section 2, Block 1F, Lot 2.A

11 Whippoorwill Crossing

David Graham, David Graham Architects

Discussion

Consideration of amended special use permit resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 13 out of 14 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present. Mr. Tom Flanagan, 1 Deer Trail and Mr. Ken Kaufman, 2 The Knoll, were present.

Mr. David Graham was present on behalf of the applicant.

Chairman Michelman asked if the neighbors had any questions. Mr. Flanagan noted that the ARB approved the plans with conditions and he wanted to make sure they are addressed. Mr. Kaufman explained they were conditions of the Board's resolution. The disturbance is only a few hundred square feet. It is only a 300 square foot addition. The wetlands issues are holdovers from the original resolutions. Mr. Kaufman said that he believed that the applicant has addressed these, and they will be checked off. Mr. Flanagan said they weren't in the file when he looked last week. He would like to know if they have been met before the Board votes. Mr. Kaufman said that he should assume they have not been met, but know that the applicant would have to address them before the Board finally signs off on the plans.

Mr. Flanagan asked about Mr. Coyne's comment regarding the new garage bay and the fact that there was no driveway going into that bay. Mr. Graham explained that if they were to add the driveway there it would add to the land coverage. Mr. Delano explained that the addition will not be physically used to park a car – that area will house yard maintenance equipment. That is why there would not be any driveway there. Mr. Graham explained the site plan for the neighbors. Mr. Flanagan asked if macadam was added at a later time if the applicant was

allowed to do it. The Board explained he would have to come back to the Board first and they would have to have another public hearing.

Mr. Flanagan noted that the May 26th meeting minutes reference the septic area. Chairman Michelman explained that the septic plans are in conformity. Mr. Graham indicated the location of the septic area and explained that they have approval from Health Department.

Mr. Kaufman (neighbor) had no questions. There were no issues from the Board or Mr. Kaufman.

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

Chairman Michelman asked if Mr. Graham had read the resolutions. Mr. Graham said that he had, and had no issues.

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

OTHER BUSINESS:

BYRAM RIDGE ROAD SUBDIVISION

Preliminary Subdivision

Byram Ridge Road & Hunter Drive

Section 2, Block 5C, Lot 10

Jim Ryan, RLA Senior Associate, John Meyer Consulting

Discussion

Mr. Daniel Hollis was present on behalf of the applicant along with Megan Smith, Jim Ryan and Rob Aiello. Mr. Hollis said that he has reviewed the memos from Mr. Kaufman and Mr. Coyne and made revisions to the plan as requested. From the applicant's perspective, subject to whatever comments / questions the Board has, they would like a referral back to Conservation Board, and for this Board to schedule a public hearing for September 29th meeting.

Mr. Hollis recognized that there is concern about the 5 lot subdivision but the client wants to pursue that plan. The concerns raised in the memos will be met, or not, through the Conservation Board process and there are no other health safety and welfare concerns. If the applicant is successful at the Conservation Board, they will have a public hearing.

Chairman Michelman pointed out that at least once, the Board requested an alternate plan that would be of a four lot subdivision for use to evaluate but they have not received this. She stated that the Board was still asking for this. Mr. Hollis explained that the applicant was here with an alternate plan (the conservation plan) and that was not well received. He said that during the course of the public hearing, the applicant may show the difference between a four and five lot subdivision, but he did not think that the failure to provide this should bar the referral to the Conservation Board or from scheduling a public hearing. Chairman Michelman agreed with respect to the Conservation Board referral, but she said that the Board liked to see everything before a public hearing is scheduled. Mr. Hollis said they plan to demonstrate that there is no

difference to the health safety and welfare of the community between the four and five lot subdivision, at the public hearing. To pursue a four lot subdivision when the client has no intention of doing it, is a waste of resources.

Mr. Delano said that the applicant would need a wetland permit, and the Board is required to look at the alternatives, and they haven't seen any. The Board is required to look at an alternative to accomplish the subdivision without a wetland permit – and perhaps that meant a four lot subdivision. He did not know because he hadn't reviewed that, but perhaps this is something that should be addressed before the public hearing.

Mr. Hollis explained that was why he requested a hearing date so far out. Mr. Delano said that coming back with a plan that still requires a permit is not the requirement. He thought the applicant would have to show the Board something that does not require a permit at all.

Mr. Hollis said that whether they can show a plan for four lots that does or does not need a permit, the applicant still has the right, subject to the permit to do a five lot subdivision, and that extra lot is economically necessary for the client. Mr. Delano said that they may develop an alternate that will still enable them to get 5 lots.

Mr. Delano pointed out that in the cover letter that came with the application from Meyer Consulting it is noted that they would also mitigate peak rates of runoff. As part of the stormwater management ordinance, he would like to see the stormwater issues put to bed as much as possible prior to public hearing. He knows the applicant has made significant strides, but Mr. Coyne has requested additional information and Mr. Delano would like to have that done and have the Town Engineer satisfied on this issue prior to public hearing.

Chairman Michelman asked the applicant to walk through the plan since there were neighbors present.

Mr. Jim Ryan explained the applicant was proposing a five lot subdivision on a 6.1 acre site. He indicated the location of the previously existing building that was demolished with permission as well as the proposed driveway locations. He explained that the property is in a one family zoning district. There is a drainage way on the property, but the applicant's environmental consultant said that it is low quality wetland. The applicant will have a buffer and provide substantial mitigation. This is a compliant plan in terms of the bulk requirements meets setback requirements. They have looked at the septic locations for the lots and done on-site testing. Almost 20 test holes have been done on this property and though he recognized that additional testing would have to be done in certain areas, they have done quite a bit. Mr. Ryan explained that they have also identified potential well locations for this. They have also looked at the adjacent wells and mapped the individual trees on the property. The applicant listened to the Board's comments about maintaining the character of the neighborhood, and they have tried to save as many trees along the road as they could.

Mr. Kaufman explained that the issue is whether the Board wanted to pursue a conservation or traditional subdivision. He pointed out that the Board has the authority to require a conservation subdivision. In the past, the Board had requested plan with no wetland impact, but they have not received this. The Board could request input from the Conservation Board, or the Board could wait to refer this until they receive the input from the Conservation Board.

Chairman Michelman thought that this could go to the Conservation Board, but that it was not necessarily ready for the public hearing. Mr. Hollis said that it was possible that a four lot subdivision would not require a permit, but if that is the only difference, and they demonstrated that they satisfied mitigation for that, the applicant would expect a favorable consideration for the 5 lot subdivision.

The Board said they would refer this application to the Conservation Board. Chairman Michelman said that would help clarify things. Mr. Kaufman asked what plan the Board wanted to look at and whether it had to be a 4 lot subdivision. The Board said that it did not necessarily have to be a four lot subdivision, just one that does not require a wetland permit. The conservation subdivision was rejected by this Board and the applicant. Mr. Ryan said that between now and the next meeting, they could probably complete the balance of the testing.

Mr. Kaufman said there was still the issue of the common driveway and how it would function. Mr. Hollis said there didn't appear to be ample parking for visitors and there was also the issue for the turnaround for fire trucks. He explained that the applicant believed there was adequate space for a truck to be able to back out, and if there is an emergency – they will find a way. Chairman Michelman said the fire department had not yet submitted their comments. Mr. Hollis recognized that, but pointed out that if they had to create a turnaround, that would require additional intrusion into the buffer.

CARRIER

Special Use

29 Sarles Street

Section 2, Block 4, Lot 1-5A

Dean Pushlar, ASLA Studer Design Assoc.

Discussion

Consideration of approving special site plan resolution

Mrs. Jennifer Carrier was present for her application. She presented the plan that was before the Board at the last meeting. She explained that she has discussed the plan with her neighbor, Monica Grey, who has expressed interest in settling any disagreements that they have privately. Ms. Carrier explained that Ms. Grey would not appear before the Board.

Chairman said that the issue was between the 8-10' trees versus the 10-12' trees. Mrs. Carrier said she chose arborvitae because it is a fast growing tree. She noted that nothing will really make Ms. Grey happy, but the professional said that reducing the number of trees and increasing the height might hurt her overall.

Dr. Matusow said that the important thing is that the resolution was satisfactory to the applicant and that it would enable her to move forward. Mrs. Carrier said she'd prefer to move forward with the smaller trees. Ms. Black asked if that was acceptable to the neighbor. Mrs. Carrier said that she had told Mrs. Grey that she was going to be moving forward with what she's already seen, and said she would prefer to do this privately.

Ms. Black said that neighbor expressed a desire for the taller trees, and the Board hasn't seen anything different from her last opinion. The Board ultimately decided to say "no less than 10" trees. Mrs. Carrier agreed.

Mrs. Carrier said she saw the resolution and had no issues.

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

11 NEW KING STREET PARKING

Site Plan

Section 3, Block 4, Lot 14.B

11 New King Street

Steven Gates, AKRF Environmental & Planning

Discussion

Mr. Jeffrey M. Brown, Ms. Jan Endresen, Ms. Kim Frank, Mr. Robert Silver, Mr. William Null, Esq., Ms. Nanette Bourne, Ms. Jannine McColgan, PE, and Mr. Eric Kaeyer, AIA were present on behalf of the applicants.

Mr. Null explained that this property was in the INDAA district and the applicant is seeking permission to allow a parking garage. He explained the plan was to construct a garage that would allow up to 1450 cars to meet an existing need at the Westchester County Airport. The airport does not have enough parking. This will serve to reduce traffic in the area as many people take service vehicles or have friends / family drop them off.

Ms. Bourne explained the site plan. She explained the site was bounded by Route 120, Route 684, the airport, the Town of North Harrison and a small portion of the Town of Rye Brook and Greenwich, Connecticut.

The primary site is 2.4 acres and the secondary site is 1.2 acres. The site is accessed by 20' wide driveway and will have parking and an office building. There are two wetlands on the site and a stream that runs through. These have been verified by the DEP but they still have to be verified by town consultant. Ms. Bourne indicated the steep slope areas.

Ms Bourne explained that the secondary site is adjacent to the primary site. It is under common ownership with the primary site, and the applicant intends to use that area for stormwater management. Currently, the surface runoff goes untreated into the reservoir. The applicant is proposing to locate approximately 50,000 sq. ft. of building in the same area, using the existing drive. Next to the site, there would be two stormwater basins that would have storage and treatment. They will have almost an acre that is currently not treated in any way but there would be a net beneficial gain in terms of stormwater quality. The existing site has impervious surfaces of approximately 32%, and they are proposing 50%.

Eric Kaeyer explained the plan. There would be a 52,000 sq. ft. footprint. He indicated the access location. The first 1/3 of the site would be dedicated to ingress / egress of cars. The next portion would be an office area and the other two thirds of this area would be dedicated to the actual physical parking of cars. The site slopes fairly substantially from New King Street to Route 120. He presented an elevation and explained that the average height would be less than 55'. The actual construction is still to be determined, but they are considering a building where the walls and roof almost entirely encapsulate the building. There would be very little

illumination visible, only on the driveway and the entrance. He is very interested in doing sustainable designs and practices. The applicant is trying to make this as sustainable garage as possible and will continue to evaluate this.

Mr. Knull said the applicant would like the Board to declare intent to be lead agency and to schedule a public scoping session for November 14th. Chairman Michelman said there was no problem with declaring intent.

Mr. Kaufman said that the Town Board would not mind the Planning Board being lead agency. Dr. Matusow pointed out that the Town Board has already said they would like the Planning Board to be lead agency.

Mr. Delano asked about the zoning change. Mr. Knull said this was referred to the Town Board by the Planning Board. He added that the Board could indicate its intent to adopt a positive declaration in the intent to be lead agency.

Someone, who did not identify himself, said that "we are all in opposition to this." Mr. Kaufman said that the Board understood that but this was just the first step. He explained they would all get their opportunity to speak. Mr. Knull explained that the SEQRA process will enable the public to have the utmost input.

Richard Fennimore, 41 Byram Ridge Road, asked if this required a change of zoning. The Board said it did. Mr. Fennimore wanted to know who makes that determination and he was told that it was up to the Town Board. Mr. Baroni explained that the Town Board received the request for the zoning change at the last meeting and they referred to the Planning Board for comments and to declare intent. Mr. Kaufman explained that no approvals can be granted until the Board completes the SEQRA process. Eventually the Town Board would ask for comments from the Planning Board.

Ms. Karen Schultz, 1552 Old Orchard Street, West Harrison said that she wanted to remind everyone that there is a county resolution and a state resolution against any airport expansion – they asked for no increase, including no additional parking. If this is done, it will add to the number of planes at the airport. She said that Christopher Ward (formerly of the DEP) submitted a letter explaining that the reason they were able to get state resolution for no expansion was because the site is so close to drinking water for 9 million people. The idea that the parking facility for the airport will be allowed off the property of the airport itself is a very dangerous precedent. "This is an economic issue for the citizens surrounding the airport with their health."
[sic]

Dr. Matusow said he read the applicant's material and it mentioned new technologies that may permit automated parking systems and may permit up to the maximum number of cars. He wanted to know what this meant. Mr. Knull said that they would be able to achieve the maximum number of cars without that technology, but they were referring to computer mechanisms that transport vehicles, or possibly valet parking. This would prevent people from having to keep driving around the garage trying to find a spot. They have not made a commitment to this; they are looking at other ways. He added that the applicant does not believe that this facility is in any way linked to the airport, but they would address this in the DEIS.

Dr. Matusow said it was quite clear that the Board is going to be involved in a very contentious debate on the pros and cons of this project. The only way they can come up with the right answer is to test every assertion and allegation against real data. They have to make sure that what is being said is true and accurate. They must insist that the assertions that are made are tested in a way that makes sure the facts are revealed.

Chairman Michelman said that the Board had to declare intent. Dr. Matusow moved to declare intent to be lead agency, with the statement that the Board will be adopting a positive declaration. The motion was seconded by Ms. Black and unanimously approved.

Chairman Michelman noted several letters for the record, the contents of which are set forth in their entirety, in italics below.

Comments prepared for North Castle Planning Commission, August 3rd, 2009

Hello, my name is Susan Leifer. I have lived in Westchester for 33 years; I am presently a member of the Westchester Citizens Airport Advisory Committee; and a member of the Watershed Committee for the State Sierra Club. I am concerned with many watershed issues, in particular preserving the integrity of the Kensico Reservoir. These remarks are from my role as a Westchester citizen and an environmentalist.

Keeping the Kensico clean

The area proposed for the parking complex is in the Kensico watershed just 500 feet from its shore. This reservoir holds water for one million people in Westchester and 8 million of NYC, a total of 9 million or one half of the State's population.

Right now our water is under an EPA filtration avoidance mandate. The cost of building a Filtration Plant is estimated to be 20 to 30 billion dollars and millions to maintain; it would need to be rebuilt every 12-15 years. From a taxpayer's point of view, if we had to filter our water, the cost to the County, City and State would be staggering. For Westchester alone it would be in the billions of tax dollars.

Filtration is not a sieve, but a major Chemical Plant, which would involve multiple daily chemically loaded truckloads in, and multiple effluent truckloads out. Chemically treated water can never be returned to the sparkling quality of water filtered naturally by wetlands and forests.

Parking

At present the Airport parking capacity is 1200 spaces; the New King Street offsite proposal is for 1450 spaces, more than doubling the parking capacity. Both the airport and Route 684 are in the Kensico Reservoir's watershed. Route 684 is a major highway that has 12

outflows that go directly into the reservoir: adding another major pollutant source like a parking complex will further strain the integrity of our water.

The idea that more than doubling the parking for the Airport will reduce air pollution and greenhouse gas emissions by reducing the number of car trips to the airport is a dangerous fallacy. It is estimated that on the occasion of peak demand with our present plane traffic, the airport could use 400 more parking spots. So I contend that these extra 1050 parking spaces would ultimately mean more planes! The added planes will increase air pollution and greenhouse gas emissions and this will thus vastly outweigh any reduction from fewer car trips to the Airport.

Terminal Use Agreement

DOT Deputy Commissioner Stanton has told me that Westchester's agreement with the FAA mandates that the Airport remain available for flights 24 hours a day. This agreement is for 4 passenger planes or 240 passengers per half hour, during all 24 hours of the day. Right now night flights are not in demand, but the potential to increase use during that time would be enhanced by a surplus of available parking. With the Terminal Use Agreement (formerly known as the TCA) there are presently about 10 daily slots available; there are also 7-10 free slots in the early morning (6:00-6:30 AM) and at night (10PM-12:30AM). With additional parking it would make flying early or late easier. Just three years ago there were many mid-day slots available; that was changed with the arrival of Jet Blue, resulting in a sharp increase in passengers.

Increase in Pollution

More planes means more pollution over the Reservoir, more noise, more fugitive deicing effluent from both planes and runways, and more air pollution for the county. Recently, in an effort to decrease air pollution at the airport, all 25 ground support trucks were replaced with non polluting new electric vehicles. The benefits of that positive step would be erased by an increase of planes.

There is another factor. FAA airspace redesign, if it goes into effect, would cause the pollution right above the airport to be more compressed and have a more intense effect. Part of their Plan is to change the three layers over the North East Airports to five layers thus bringing the over flight ceiling down to 2 thousand from 3 thousand feet.

Public Transportation

Airports all over the world have found creative ways to limit their parking and encourage public transportation. Westchester can do the same! There are already Airport shuttles from hotels in White Plains and business complexes such as the Summit. DOT is now providing

public bus service at a nominal cost to the passengers from the White Plains railroad station and other places, and hopefully more of the public will avail themselves of this.

Westchester County Resolution

*We are very appreciative of three resolutions. The first was passed by Westchester County, the owner of this airport, followed by the NY State Assembly and, finally, the NY Senate asking for no more gates, hangers, heavier planes, and longer runways, and **no more parking**. While we have as much land as La Guardia airport, Westchester County deliberately and wisely mandated a modest parking structure so as to prevent the expansion of this Airport, mindful of its proximity to the Kensico Reservoir's water supply.*

Under present environmental law this Airport would never be allowed to be built and has been called an 'environmental disaster'. Our clear mandate is to protect the pristine, affordable and irreplaceable water supply of lower NY State.

Change of Zoning

Presently the Town Board of North Castle would have to vote to change its zoning to allow this parking complex. This change would also apply to many other town properties: it cannot be limited to this parcel. We would hope that the Board does not do so! By maintaining its present zoning, North Castle would likely be immune from any lawsuit challenging a legislative decision by the Board not to enact a zoning code amendment.

The developer needs a use variance. On appeal, he would have the arduous task of proving that there is no other economically feasible use for this property under North Castle's present zoning.

Conclusion

While the proposed parking structure is not on Airport property it is being built solely for the Airport and would encourage more planes, pollution and threats to our water. It seems to be in direct contradiction to the intent of the County and State Resolutions.

[emphasis supplied in original]

To: The North Castle, NY Planning Board
phone: 273-3542
Fax: 273-3554

Re: Meeting Monday, August 3rd, 2009 agenda item:

Proposed Parking Complex for the County airport

*From: Margot Dilmaghani
Representing Wespac Foundation, Pleasantville NY (a not-for-profit, grass roots organization with hundreds of members working for the peace, justice and the environment in Westchester County, NY)*

We are asking the North Castle Planning Board to vote "NO" to a zoning change request regarding a parking complex for the County airport. Do not allow a parking complex so near to our water.

Thank you.

IBM

**Preliminary Subdivision & Amended Site Plan
Section 2, Block 16, Lot 4 – 1 New Orchard Road
Section 2, Block 16, Lot 4-1 – 1 North Castle Drive**

Discussion

Mark Gratz, Divney Tung Schwalbe

Mr. Anthony Canonaco, Mr. Edward P. Nolan, Esq., and Mr. Mark Gratz were present for the application. Mr. Gratz explained that IBM has filed applications with the Planning and Town Boards in connection with a subdivision of what is known as Lot A.

Mr. Gratz said that the application to this Board is for subdivision and amended site plan approval. The application to the Town Board is for a zoning amendment to create office / business hotel district on a 32 acre site and also a transfer of density on Lot A. He was asking this Board declare intent to be lead agency.

Mr. Gratz explained that this property is approximately 340 acres and it is divided into two lots: Lot A, which is home to IBM's original corporate HQ built in the 1960s, and Lot B, which is the current home of the existing corporate HQ constructed in 1997, and also home to the learning center.

As part of the new construction in 1997, IBM sought and obtained subdivision of the 340 acre parcel into the two lots. Lot A, as shown, is what they hope to further subdivide. It will be known as Lot A4. As part of the subdivision, another small sliver of Lot A (Lot A5) will be annexed to Lot B. It will be expanded from 211 to 229 acres. Lot A3 (what is today Lot A) will be reduced in size. The new lot to be created – A4 – will be 32½ acre development parcel.

There are several zoning amendments before the Town Board, they have been referred to this Board for review. Mr. Gratz said the Board should keep in mind that as part of the subdivision application, primarily Lot A has 1.5million sq. ft. of development potential. That will remain true for Lots A3 and A4 combined because part of the application is to transfer development rights. They are also requesting that a new OBH zone be allowed to permit a hotel use limited to Lot A4. Dimensional standards will be identical to that of the OB zone in terms of parking, setbacks, coverage, etc.

Mr. Gratz said that the IPP does not provide for a side yard between the lot and the town park. This is from the time when IBM donated the land to the town park, in exchange for the right that all future construction will be measured from the original property line. Therefore, the applicant is entitled to build right up to the town park.

The applicant is also looking for an amendment so that the Lot A4 will become compliant with the setback requirements. The sewer line will be tapped from the southeast corner for the new lot. Water is shown as proposed to be extending through the town park up to Lot A4. There might be other routes that they could investigate.

One of the key elements of the application shows approximately 207,000 sq. ft. structure on the new Lot A4. This gives the Board the sense of the development of the parcel. It could house a hotel use or an office use. Mr. Gratz pointed out that this was not a specific design; the applicant was just submitting a concept.

Mr. Gratz explained that they show potential water and sewer connections and potential locations for stormwater basins. The development potential for the new lot is approximately 207,000 sq. ft. They have done sewer and water analyses and traffic analyses. The sewer analysis does show that the hotel will have more demand than the office use. Through revised wording in the zoning amendment they could limit the additional use through their reserve limit. In terms of traffic it was concluded that because of reduced generation and peak times, if the hotel use was to be pursued it would probably result in better patterns. Lot A4 will not have access to Route 22, but there will be an easement off North Castle Drive.

Mr. Gratz said that the applicant received the memos from Mr. Kaufman and Mr. Coyne and they are prepared to respond to them in the next submission.

Mr. Gratz said that, in terms of wetlands, the information is reflected in the various zoning comparison tables. There is approximately 5 acres of DEC wetlands on the site and the applicant has received verbal confirmation that the flagging is adequate. He recognized that the town consultant still had to sign off but explained that was pending.

Mr. Coyne said that his only issues related to the sewer and water. He pointed out that there was a Sewer task force meeting later in the week. Mr. Kaufman agreed.

Mr. Gratz stated that this was a land use application. They agree that they would limit whatever is done to the 135,000 gallon agreement. The applicant wants to try and separate the proposed water and sewer from this. Dr. Matusow asked if the 135,000 gallon reserve is still there and Mr. Coyne said that it was. Mr. Baroni pointed out that the usage has been reduced over the years so the reserve is greater than the Town ever thought it would be.

Mr. Kaufman noted that based upon the analyses, if a 300-room hotel was built and the existing buildings were at full occupancy, then the reserve would be exceeded. Mr. Gratz said that in order to get to that level they would require a specific site plan and approval from this Board. The subdivision would not do anything to increase the use.

Mr. Kaufman said that the Board did not want to be too restrictive. The applicant could amend the plan but there is a disconnect between the 300 room hotel and a 700 room hotel. He said he would look at the fine details when an actual construction plan was submitted.

Mr. Gratz explained that they were only trying to portray what would be realistic they will probably have conference rooms, and possibly a restaurant open to the public. Mr. Kaufman thought they were all on the same page.

Ms. Black moved to declare intent to be lead agency. The motion was seconded by Mr. Delano and unanimously approved.

BUCHBINDER
Special Use Permit
Section 2, Block 5, Lot 2.D-16
28 Sarles Street
Pete Gregory, PE Keane Coppelman Engineers, PC
Discussion

Frank Guiliano, Brad Schwartz, Esq., Paul Jaehnig and Peter Gregory were all present for the application, along with the applicant. Since the last time before the Board, there was a joint site walk with the Conservation Board. The applicant has submitted additional plans based upon that site walk. They have also submitted response to the Conservation Board memo. The applicant has received the memos from Mr. Kaufman and Mr. Coyne, and they will be responding to those. The applicant wanted to have public hearing scheduled for September.

Chairman Michelman explained that the Board has not had subsequent conversations with the Conservation Board, who said they would have great difficulty in approving this plan. That could impact on how or if this application moves forward. Mr. Schwartz explained that the landscaping plans have gone a long way in demonstrating there will be no adverse visual impacts to the neighbor.

Mr. Delano asked about the staging plan. Mr. Guiliano explained that he met with contractor who does major excavation as well as a pool company and together they came up with the schedule. Mr. Delano asked the location of the staging area and Mr. Guiliano indicated. Mr. Delano noted the applicant would be sharing the access area with the staging area. Mr. Guiliano recognized that and said that everything that happens in a day will be taken away on that same day. He added that the trees could be removed from the site or stacked; whatever the Conservation Board decides.

Mr. Delano asked where the rip rap will be crushed and Mr. Guiliano said it would be done off site. He noted that the applicant was looking to do this quickly and quietly. There will be no chipping or blasting. He added that the site will be greatly improved in terms of visual impact to the neighbor.

Ms. Black asked about safety issues. Mr. Guiliano said there are no safety issues for the vanishing edge and because it is a 100% chlorine free pool there were no concerns over

chemicals. He added that the equipment pad will be placed as far away from the neighbor as possible.

Mr. Guiliano noted that the slope is currently fenced in a way to preclude the owner's children from falling down it, but not any adjacent homeowners. The proposal will be quite an improvement to the safety and the visual quality of the site. Mr. Delano said no one could argue with that and the Board agreed.

Ms. Black asked why the Conservation Board had such great difficulty with this proposal. Mr. Guiliano said he did not know. Mr. Kaufman did not know why either, especially since there was not much disturbance associated with this. Mr. Kaufman said that the issue is whether the applicant can build it, and how are they were going to do this. The rip rap slope has already been disturbed. There is very minimal disturbance here. In the end, it will be a net benefit in terms of environment. Mr. Guiliano pointed out that they were still within the original limit line.

Chairman Michelman thought they should hear from the Conservation Board. Dr. Matusow noted that they haven't yet sent their final word. Mr. Kaufman said that was correct; the letter referred to earlier was not their final recommendation. It seems their biggest concern was whether this should have been made a lot to begin with. The Board pointed out that they were beyond that issue now. Mr. Kaufman said he would tell the Conservation Board that the Board was ready for their final comments.

The Board decided that the public hearing could be scheduled regardless of whether they receive the Conservation Board's comments.

CODY AND C.S. HADLEY LLC

Special Use Permit

7 Hadley Road

Section 2, Block 17, lot 5F

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

Discussion

Mr. Barry Naderman was present for the application. He submitted updated aerial exhibits for the board.

Mr. Kaufman explained that there was really only one issue and that was the sprawling nature of the development on this lot. The Board had asked whether it was possible to pull some of the development in order to preserve the woods. Mr. Naderman said that it was possible.

Mr. Naderman explained that the applicant tried to do something along the street that will have a nice visual presence. It will be a nicely landscaped courtyard rather than a slab of asphalt. They considered shortening the depth and width of the house. This pulled the face of the garage doors furthest away from the property line and enabled the applicant to increase landscaping there. Also, by making house smaller they were able to relocate the septic area. Mr. Naderman noted that the adjoining property is a large farm in Connecticut, and what is on the back of the property is the maintenance garage.

Mr. Naderman asked if he could be placed on agenda for public hearing on September 17th.

Mr. Kaufman pointed out that the applicant needed ARB approval and said that it didn't really make sense to have the public hearing if they did not have all the information in terms of the drawings.

Mr. Charles Rosenschwitz, 9 Hadley Road, said he was concerned about the tree removal. He said the applicant's property was above his, so if trees are going to be removed, he was worried about runoff onto his property. He asked that the Board ensure that he was not impacted. The whole area is somewhat wet as it is. He said he was also concerned about screening. The Board recognized the concerns and said they would take this into consideration. Mr. Naderman assured him that the landscaping plan will heavily screen all the way back.

LUCIANO

Special Use Permit

10 Morning Side Place

Section 5, Block 23 Lot 1.A

Pellegrino Orsini, Michael Rina Architects

Discussion

Mr. Delano recused himself from this application. Mr. John Luciano was present for his application. He explained that there is a residence on the site and he planned to demolish it. They would like to have the bedrooms upstairs, and with what we have now, that is not possible.

Ms. Black noted that the new home has a slightly smaller footprint than the existing home. Mr. Luciano presented a plan that showed the difference. He explained that the new home will be a partial two story building. He stated that they would landscape this but there seemed to be a discrepancy between the number of trees to be removed. Mr. Kaufman said he would review this.

Chairman Michelman noted that there would be a lot of excavation on this site and wanted to know if there would be blasting. Mr. Luciano said he would be able to do it without blasting. Most of what will be excavated will be rocks and this can be crushed. Then he would be able to use it elsewhere on the property. There is no dirt being removed or being brought in.

Chairman Michelman pointed out that the applicant gets in just under the wire in terms of the gross land coverage and FAR. She cautioned him that he did not have any room for error. Mr. Luciano said he has been working on this for more than a year and he was confident that he had everything he needed and that he would not need to add anything else. Mr. Luciano noted that, if anything, it would be a couple of inches smaller, not bigger.

Mr. Coyne said that the applicant might want to consider adding more of a backup area for the garage. He did not think it would cause the applicant to go over the maximum. He noted that this was more for the applicant's benefit than his. Mr. Luciano said he had 30'. The Board thought 30' was enough.

Mr. Luciano said that there are three trees near driveway and he would do everything possible to save the trees, but if he changed the elevation of the driveway, it might harm the root systems. Mr. Coyne said he would look at this.

Chairman Michelman explained that the applicant needed to go to the ARB. Once he received the ARB approval, a public hearing could be scheduled.

ENGLE

Special Use Permit

19 Sterling Road South

Section 2, Block 17, Lot 1E

Discussion

Tim Rowe, EB Design Studio Inc.

Mr. Engle was present for his application. He explained that he purchased the house approximately 15 years ago and installed a wood deck and pavers when he put in the pool. When he did this, he did not know anything about the gross land coverage. He only learned about this 60 days or so ago. His wife wanted a patio, so he took the deck down and started the work on the patio. In the middle of it, he called the Building Inspector who told the applicant that he needed to get a permit. He is over the gross land coverage and that is why he was before the Board.

Chairman Michelman noted that the house is grandfathered, but by adding the patio the applicant is exacerbating the problem by approximately 500 sq. ft. Mr. Kaufman explained that other applicants in this situation have said that while they are adding 500 sq. ft., they were taking it away somewhere else. He explained that argument has been persuasive to the ZBA in the past and this is an option the applicant could pursue. There is nothing this Board could do until the applicant got a variance from the ZBA. The applicant has to decide the way he wanted to proceed.

Mr. Baroni thought that if the applicant was able to get back to where he was, he would not need to get a variance. Mr. Kaufman said that there have been at least two prior applications that say because it is in a different location you do need a variance.

Mr. Engle did not know where he would be able to give up that square footage. Mr. Kaufman said that was something the applicant would have to look into, but suggested the applicant consider removing a portion of the driveway Mr. Engle said he was not prepared to spend that amount of money at this time.

The Board said that he could make the application to the Zoning Board for a variance as is. Mr. Kaufman said they would refer this to the ZBA. He advised the applicant that he would have to file a separate application for that Board.

Mr. Delano moved to refer this application to the ZBA. The motion was seconded by Ms. Black and unanimously approved.

JENNIE CLARKSON / ST. CHRISTOPHER'S INC.
Preliminary Subdivision
Section 3, Block 4, Lot 4
1608 & 1612 Old Orchard Street
Tom Merritts, Land Surveyor
Russell Gilmore, Director of Operations St. Christopher's Inc.
Discussion

This application was removed from the agenda.

JACOBS
Special Use Permit
Section 1, Block 11, Lot 11-11
3 Ashfields Lane
Nick Pouder, ASLA Pouder design group
Michael Schwartz, Delbello Donnellan
Weingarten Wise & Wiederkehr, LLP
Discussion

Mr. Michael Schwartz and Mr. Nick Pouder was present on behalf of the applicant. Mr. Schwartz explained that the applicant acquired this property in 2006. It is approximately 11 ½ acres in an R2A zone. It has a house, pool and a pool house. There have been some improvements to the property, including an 8' deer perimeter fence and a retaining wall. The applicant was seeking several permits from the Board. He noted that parts of the retaining wall count toward the land coverage.

Mr. Pouder explained that there are fairly extensive wetlands on the site (indicated). The work that was done essentially flattened out a sloping lawn. There was an issue about the deer fence (the code has been modified to allow that height). The applicant was asked to remedy some of the other issues. Mainly, the approximate 150 yards of fill that was brought in and the intrusion into the wetland buffer. Approximately 5,000 sq. ft. was regraded. The applicant did a fairly extensive planting plan. There was a fairly limited area of disturbance but they have added approximately 300 shrubs and approximately 60 trees.

The applicant had a soil scientist come to the site and do soil tests; the report was in the Board's package. There is clean fill on the site. The applicant recognized he was here slightly out of sequence and that he should have been here first.

Dr. Matusow noted that two summonses were issued in March. Mr. Schwartz said that was correct, but that they have been settled. He said he would provide a copy of the Stipulation of Discontinuance if the Board wanted. Dr. Matusow asked how the issue was resolved in Court, and Mr. Schwartz explained that the applicant paid a fine and that the Stipulation required the applicant to come and get whatever approvals necessary.

Chairman Michelman said she was interested in finding out how this happened. Mr. Pouder speculated, but said he was not really sure.

The Board explained that since the applicant needed a wetland permit, they would need to go to the Conservation Board. Mr. Delano moved to refer this to the Conservation Board. The motion was seconded by Ms. Black and unanimously approved.

Mr. Kaufman asked about the height of the wall. He explained that the mesh fence is allowed, but the wood fence was not. Mr. Schwartz believed the pillars were part of the original construction. He said that if they needed to go to the ZBA, they would. Mr. Kaufman said that if the Building Department said that it did not need a variance, that was fine, but he would need to make a determination.

Chairman Michelman asked if part of the wall was 4' and part was 8'. Mr. Pouder said that was correct, and it was done that way to follow the grade.

Dr. Matusow asked if the applicant needed to get HOA approval and Mr. Pouder said he was not sure but they would look into that.

Ms. Black moved to refer the applicant to the ZBA, if necessary. The motion was seconded by Mr. Delano and unanimously approved.

Request from extension of time on 14 Sunrise Drive

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

The meeting was adjourned at 10:20 p.m.
