

**TOWN OF NORTH CASTLE**  
**PLANNING BOARD MEETING**  
**17 Bedford Road**  
**Armonk, New York 10504**  
**June 22, 2009**  
**7:00 p.m.**

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**PLANNING BOARD MEMBERS PRESENT:** Peg Michelman, Chairman  
John Delano (arrived at 8:51 p.m.)  
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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**APPROVAL OF MINUTES**

*May 26, 2009*

Ms. Black moved to approve the minutes from the May 26<sup>th</sup> meeting as amended. The motion was seconded by Dr. Matusow and unanimously approved.

*June 8, 2009*

Ms. Black moved to approve the minutes from the June 8<sup>th</sup> meeting as amended. The motion was seconded by Dr. Matusow and unanimously approved.

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Chairman Michelman noted for the public that the Lowrey application had been removed from the agenda.

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**PUBLIC HEARING:**

**99 LAFAYETTE LLC  
Amended Site Plan  
99 Lafayette Avenue  
Section 6, Block 9, Lot 34  
Dennis Noskin, Dennis Noskin Architect, PC  
Discussion  
Consideration of amended site plan resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 13 out of 15 cards were returned and one envelope was returned as well. She also noted that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. There were none.

Mr. Dennis Noskin was present on behalf of the applicant. He explained that the applicant has received a variance for 9 parking spaces from the ZBA and they have since made the corrections to the plan as requested by this Board.

Chairman Michelman asked if it was feasible to make the site have one-way parking circulation. Mr. Noskin said that currently, the circulation works, but said that he had not really explored making it one-way. Mr. Coyne explained that he was merely making a suggestion because the driveway was small, and that it was up to the Board.

Dr. Matusow asked how one-way circulation would work and Mr. Coyne explained that he had suggested that cars enter only from the north and exit from the south. Mr. Noskin said that would really only create visual clutter by requiring a number of signs and he did not think that it was necessary. Dr. Matusow did not think there was enough in and out traffic to make this a serious issue. Mr. Coyne agreed, and said that it was just a suggestion.

Dr. Matusow asked if Mr. Coyne's other issues had all been addressed and Mr. Kaufman said that not all of them had; some things, like the walkway and handicapped parking still had to be dealt with. Mr. Coyne said that again these were just suggestions. Ms. Black felt that there wasn't really enough width for a separate walkway. Mr. Noskin said that these were all good points, but the site is so constrained, they weren't really possible.

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

Chairman Michelman asked if the applicant had seen the resolution. Mr. Noskin said that he had and had no issues.

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

**OTHER BUSINESS:**

**55 WRIGHTS MILL ROAD  
Special Use Permit  
Section 2, Block 3, Lot 36  
55 Wrights Mill Road  
Herb Lackner, RA  
Pete Monteleone  
Referral to the ZBA**

Mr. Pete Monteleone was present on behalf of the applicant. He explained that the Board had conducted their site walk and now the applicant needed a referral to the ZBA. Mr. Kaufman agreed.

Chairman Michelman asked if the Board had any other issues and there were none. Dr. Matusow moved to refer the applicant to the ZBA. The motion was seconded by Ms. Black and unanimously approved.

**ARMONK SQUARE  
Site Plan  
Section 2, Block 14, Lots 3, 8, 9  
Main Street, Maple Avenue, Bedford Road  
Mark Miller, Veneziano & Associates  
Phasing plan discussion**

Mr. Mark Miller was present on behalf of the applicant along with Mr. Pete Monteleone and the applicant. Mr. Miller explained that the applicant had received approval in February 2008. At that time, there were discussions regarding the phasing, and as a result of those discussions, there are several conditions in the approval associated with how the buildings were to be constructed, including the issuance of the C.Os. He explained that at that time, that order of construction and the restriction on the issuance of C.O's worked, but it does not work now. The applicant now must seek permission from the Board to move forward with one of two phasing options. Which phasing plan they end up with would depend on how their leasing goes. In either event, Building "E" is proposed to be built in the second phase, whatever that turns out to be.

Mr. Miller explained that the applicant was also seeking permission to "phase" the recreation fee. Initially the applicant proposed to pay the fee all at once, and now they would like to have it phased with the occupancy of the buildings. Mr. Miller said that the applicant would like to get started with the infrastructure (i.e. water, sewer and stormwater) in the hopes that activity on the site would lead to interest so that they can generate interest in the site. Mr. Miller pointed out

that the applicant was not going to be changing any of the physical structures on the site; they were just hoping to change the order in which they were constructed. Mr. Miller recognized that a public hearing will be required.

Mr. Miller said that the applicant has made the revisions to the plans, and believes they have addressed all of Mr. Kaufman's comments and most of Mr. Coyne's. He presented plans to the Board. He explained that the project has frontage on three streets Bedford Road, Maple Avenue and Main Street. He explained the layout of the site, and where the buildings would be located.

Mr. Miller explained that the applicant was not proposing one of two plans for construction. In "scheme A" the applicant would build Buildings A and B along with some of the parking that would be associated with the entire project. He indicated the parking areas that they'd provide as well as access to Bedford Road. There is an easement with a neighboring property and that easement will be honored regardless of what is approved.

Mr. Miller said that Buildings A and B (restaurant, retail and residential uses) would require 70 parking spaces, and the applicant plans to have 76. The sites for the C and D Buildings would be seeded to provide a pleasant look. The center lot (Building E) would be screened with a stockade fence. He added that as part of this phasing plan, the sidewalk along Main Street would be constructed.

Mr. Miller explained that under "scheme B" (which would occur if leasing is more active on the Maple Avenue side) Buildings C and D would be constructed and the applicant would provide the required 35 parking spaces (indicated) and still provide access out to Bedford Road. Under this scheme the existing fence along Main Street would be removed, and the site would be seeded and planted with some trees; the applicant would also provide benches until the area was ready for construction. There would also be a paved walkway to get back to "Center Street" so that pedestrians could walk from Main Street and get to Buildings C and D.

In either case, Building E would be constructed at the second phase. He reiterated that the choice of the schemes would be driven by the market conditions, but that the applicant wanted to begin the infrastructure as soon as possible.

Chairman Michelman said that she understood the applicant's need for phasing, but wanted to know when activity would commence if this was approved. Mr. Alan Zaretsky said that they would like to begin as soon as possible, but due to the market conditions, the applicant lost their financing. He explained that they were in the process of finding new financing, and banks are indicating that they would be more comfortable with providing that financing if there was a phasing plan. Mr. Zaretsky said that assuming that the public hearing occurred soon, he thought that they would begin the infrastructure this summer. At that point, they would be able to decide which scheme they would like to move forward with. He said that he hopes that once people see this project moving ahead that leasing would pick up and that they wouldn't need to do phasing at all.

Chairman Michelman said that in her opinion, alternative A would be far superior in terms of protecting the downtown area. Mr. Zaretsky said he understood her position, but it would really depend on how the leasing was going. Option A has higher cost stores and if those spaces can't

be leased, then he wouldn't build there first. He pointed out that with Option B they made sure they provided an aesthetically pleasing area along Main Street

Mr. Zaretsky added that if they moved forward with Option B Mr. Holms' house would not get touched until everything is ready to go. Dr. Matusow asked what would happen to that home if Option A was built. Mr. Zaretsky said that in that case, the house would come down as planned now, and the two buildings would be constructed.

Chairman Michelman said that the Board is responsible for this site as this moves forward. Mr. Zaretsky said again that he is trying very hard to move this forward. Chairman Michelman said that she understood, but she was personally concerned about the phasing. She felt that once the Board approved phasing, the rest of the project would be totally up to the applicant and she was not ready to give that control away. Mr. Zaretsky said that it would not be that way; they would be working in conjunction with the Building Department.

Dr. Matusow agreed with Chairman Michelman. He thought that the phasing was a good idea, but the Board was not ready to say the applicant had approval to do either one, and that whichever one they decided to move ahead with was fine with the Board. He felt that for the Board to go along with this, and he thought that the Board was in agreement that they would like to, then the decision should be structured so that when the applicant chooses a plan, then they come back here for discussion.

Mr. Zaretsky said that they were not looking to change anything that has already been approved, they were just looking to alter how it is built.

Chairman Michelman said that the Board understood but the Board had a responsibility to know what will be going on on the site. There are too many issues that need to be resolved. She said that the Board was not opposed to the applicant, but they need to be part of the operation as the applicant finalizes the plan.

Mr. Kaufman said that they weren't too far off. If the Board wanted details from Main Street, those details are already in the plans. Similarly, other details would be easy enough for the applicant to provide. He asked if the Board be ok with letting the applicant move ahead with the infrastructure, and then having them come back when they start obtaining leases, so that then they could chose which phasing plan to move ahead with. The Board said that would be their preference.

Mr. Zaretsky agreed with that plan, and pointed out that they would also need to deal with the phasing of the recreation fees. He said that as it stands now, in order to start the site work, the site plan has to be signed, and for that to happen the recreation fees would have to be paid all up front. Therefore, the applicant needs to amend this. Mr. Kaufman said he was not opposed to this. He asked whether the Board wanted to move the condition from being paid prior to the site plan being signed to prior to the issuance of the building permit. Mr. Zaretsky said he would prefer that it be moved to prior to the issuance of a C.O. but Mr. Baroni said that though there was precedent to move it to prior to the issuance of the building permit he did not think the Town has ever waited until the C.O. stage.

Dr. Matusow said that he personally had no objection with phasing the fee in accord with the leases being signed.

Ms. Black agreed and said that she wanted to see this move forward. She asked what the stockade fence would look like and Mr. Zaretsky said that within certain financial parameters, he would leave it up to the Board's preference. Mr. Zaretsky said that the fence would only be to screen the construction area but in the other scenario the fence wouldn't matter as much.

Ms. Black thought that they were talking about three phases and not two. First would be infrastructure, then presenting the two options and then the third stage would be the construction of the remaining buildings. Mr. Zaretsky said that was not accurate. The first portion would be installation of the infrastructure, but he would not begin that construction without approval to do the phasing. Mr. Zaretsky said that the worst case scenario would be having an improved site that has water and sewer that would sit vacant until the market improved. Ms. Black noted that with this phasing plan, then the worst case scenario would look like a small park. Mr. Zaretsky agreed.

Mr. Kaufman explained that the next step was to set a public hearing to discuss the concept of phasing, the construction of the infrastructure and the phasing of the recreation fee. The Board said that the public hearing could be scheduled for July.

Mr. Sauro asked how long the applicant would you be prepared to sit on this project and Mr. Zaretsky said that he was prepared to sit on this as long as he had to, but he would prefer not to have to do that at all. He explained that lenders he's been speaking to are looking for at least 60% leased. He added that the investors are willing to put more of their own money into this project in order to move this forward.

Ms. Black asked if the property had leases before and Mr. Zaretsky said that initially, they were 80% preleased and had construction financing. He said that if this project hadn't been bogged down in the Town processes, there wouldn't have been any problems. However, since the approval, almost 65% of the tenants have gone away and the applicant lost its financing.

**ARMONK SHOPPING CENTER**  
**Concept Plan Discussion**  
**Section 2, Block 13, Lots 7.A & 10.A**  
**450 Main Street & Maple Avenue**  
**Al DelBello, Esq. DelBello Donnellan Weingarten Wise & Wiederkehr, LLP**  
**Discussion**

Mr. Al DelBello was present on behalf of the applicant along with Roy Rosenbaum, Bob Roth and the applicants themselves.

Mr. DelBello explained that this project has been before the Board for at least 3 years now, and the applicants have been working with various agents of the Town to keep the food store in downtown Armonk. He said that the A&P will not stay in a store that is as small as it is. The applicant has designed a store that is larger and contains a number of satellite stores and retail space on the Main Street level.

Mr. DeBello said that the applicant has petitioned for a Zoning Code amendment, and he believed the Town Board declared intent to be lead agency. It is a very marginal development right now from an economical standpoint. He said that they have been working with the Parks and Recreation Department and they have come up with a very workable solution. There are 55 parking spaces to be shared with the Recreation Department and the applicant will also make its parking available to the recreation site, and in turn, the applicant will be able to use their's. The applicant has drafted a shared parking agreement, and will submit it to the Town Attorney. The applicant has expended a great deal of time and money on this to come up with a good plan.

Mr. Rosenbaum presented an aerial photo to the Board. He indicated the existing building and the extended lot lines that show the additional acquired property. He explained that it is larger than what currently exists. The applicant plans on building parking underneath the structure that is being built on Main Street. That will give the applicant more parking. Currently the driveway comes in at the northern end of the site and this will be relocated so that it comes in on the southern end of the site so they would be able to use the grades better. The current entry is not particularly safe. By moving it to the south, it provides easier access and makes it a better route for the trucks to get to the loading area. Mr. Rosenbaum explained how the trucks would back into the loading areas. They will not have to go through the parking lot at all.

Mr. Rosenbaum said that there will be a small retail portion that will shield the trucks from view while they're in loading. There will be a staircase that will take people from the lower to the upper level and they would be able to have access to Main Street. There is also a walkway that would enable wheelchairs to get to Main Street. The applicant has shown landscaping and cart corrals and has demonstrated that they meet ADA requirements. There is a small mechanical mezzanine for machinery; it will not provide occupancy for people.

Mr. Rosenbaum said that they were not really able to set the building on the property line as suggested. If the stores were aligned with the sidewalk, the floors within the retail space would have to be stepped to the grade of the site walk, which means that the applicant would be restricted to certain sized stores, which limits the choice of retailers. By moving it forward, he would have to put the parking in the rear, and then patrons would have to go through the "entrails" of the store, because the front of the store would be designed to be the formal entrance. Therefore, the applicant was proposing to landscape the front and give some natural aspects to the site.

The A&P would be approximately 34,000 sq. ft. and the retail stores would be approximately 9,600 sq. ft. He noted that the retail stores would have a lower ceiling than the supermarket.

Mr. Rosenbaum explained that the recreation center has an 11' wide driveway now and the applicant would be providing a new driveway that will serve as an exit only. That way there will be a one-way flow of traffic. The access between the two parking lots will be for pedestrians only – not vehicles. Ms. Black asked what would happen to the existing entrance off Maple Avenue and Mr. Rosenbaum said that would remain.

Mr. DeBello explained that this was a conceptual plan and that they would like the Board's comments and input so that they could go to a site plan. The applicant would like to be referred to the ZBA because they will need variances for the rear yard and the number of loading docks.

He noted that it was the Park Department's desire not to have vehicular access through the site to the store. That is why it was designed for pedestrians only.

Mr. Baroni asked what would happen if someone came onto the applicant's site and found there was no parking. Mr. DelBello said they would have to leave this site and go back out to the rec center site to park there. Mr. Baroni had thought that there was vehicular access between the two sites, but Mr. DelBello reiterated that was not what the rec department wanted.

Ms. Black pointed out that Mr. Kaufman had suggested moving the retail on Main Street closer to the street. She understood that the applicant did not think that was feasible because patrons would be entering from the rear, but she pointed out that that is similar to what stores in Mt. Kisco have. They have entrances on both sides and she did not think that was necessarily a drawback.

Mr. DelBello said that the applicants are very strong in their belief that they will have difficulty renting these spaces if the parking is in the rear. Chairman Michelman wanted to know what they based that belief upon; she pointed out that all the other stores on Main Street have parking in the rear and they don't have a problem.

Mr. Rosenbaum said that the elevation grade is 297 the parking is at 288. That leaves him with 9' of floor to floor height. By the time he took away for the structure, he would wind up with a very very low head room that won't meet ADA standards. Also, if a car came in with a roof rack, then it won't fit. There isn't enough room to tie it to the street grade. It would be more than 4' of a drop. He said that he could not install stairs from the sidewalk level into the stores; that wouldn't meet ADA standards. Mr. Baroni asked if it was possible for the applicant to dig down and Mr. Rosenbaum said that was not possible. Mr. Roth noted that suggestion would create a depression underneath the deck and cause a drainage issue in addition to creating the physical constraints of the stores.

Mr. Rosenbaum said that with respect to the truck access to the loading dock they ran a program known as "Truck Turn" and they have demonstrated that the turning radii are appropriate. He submitted the plan to the Board, but there were not enough copies. He said that he would send more copies to the Board.

Mr. Kaufman agreed with the applicant on these points. However, in his opinion, the design aspects of downtown are so significant, the applicant will either need to fix and address these issues or the Planning Board will seriously need to consider whether the building should be built as proposed. It is his opinion that it would be better to do without the retail rather than be counterintuitive to the downtown area. Having those stores in the front is what is creating the difficulty. Traditionally, the Board sees a smaller footprint and smaller stores right on the street. Here is a prime example of how the Board can extend Main Street and the Board needs to consider this application carefully.

Ms. Black said that in thinking of Main Street, the only place where buildings are set back from the road really takes away from Main Street. It takes away from the pedestrian friendly Main Street. Mr. DelBello said that this project had to be economically feasible in order to make this project happen. The retail is a big issue for this part of Main Street; right now there is a void on Main Street, and it is pretty ugly. Mr. DelBello said that this would be much better than what is

there now. The applicants have gone pretty far in designing what the Town wanted; they have given a lot and he thought that the Town should give a little in how the buildings are designed. Ms. Black mentioned the stores in Mt. Kisco again and said that it was possible and it could be attractive. Mr. Roth explained that Mt. Kisco was different because the road is flat, unlike Main Street in town.

Someone [*did not identify himself*] said that the issue becomes where the floor goes. There is only going to be one spot where the sidewalk and the floor of the store meets and everything else will require staircases and there would not be any way to give handicapped entrance.

Dr. Matusow said he understood the issue, but he was not sure how the grade issues would be any different when it is in the front or the back. Mr. Rosenbaum said that he can "make up the grade" in the parking lot if the parking is in the front. Mr. Rosenbaum thought he sent in elevations but the Board said they did not have them. Mr. Rosenbaum said he would submit them to the Board and recognized that they would also have to go to the ARB.

Chairman Michelman said that the concept was terrific and very creative, and the Board would like to see it happen, but there are questions that remain. Mr. Rosenbaum presented some elevations / architectural renderings. Chairman Michelman asked how it would look from the A&P lot and looking up at it from the back and Mr. DeBello indicated.

Ms. Black wanted to know why the roof was only gabled roof in the front and not the back. She said it was not attractive. Mr. DeBello said that as the plan moves further along they could probably revise this and make it more pleasing, but they did not want to do any of the site plan work until this Board let them know this was the plan they could move ahead with.

Dr. Matusow thought that the only real big issue was the placement of the retail block; everything else is workable. However, he recognized that it was a big issue and he was not sure how to handle it. He recognized that Mr. Kaufman had strong feelings on the subject, and he said that he initially felt that strongly too. However, after hearing the grade difficulty he said he realized that might not work. He'd like to see some innovative revisions in keeping with Mr. Kaufman's concern about keeping the Main Street streetscape.

Mr. DeBello agreed they would try to make some revisions, but pointed out that A&P wanted to know what the plan and the parking is going to look like before they finally commit and he hoped those kind of details would be able to be worked out at site plan and ARB stages. Dr. Matusow said that he would like to know that they would be able to preserve some of the streetscape before he would agree with a particular plan.

Mr. Rosenbaum said he had left 5' of space for landscaping and wanted to know if it would satisfy the board if he increased that space, and created a public amenity along the front end. Dr. Matusow said he did not know for sure but this was a step in the right direction. Ms. Black said she'd like to see this happen and thought that the shared parking with the rec center is a great idea and agreed that the town needed a supermarket, but she was still concerned with this streetscape issue.

Mr. Sauro thought that if the applicant pulled the stores to the front, they would be able to take the high point of the 4' differential and perhaps make a handicapped lane in the front of the

stores and have some steps in the front. The applicant said that they looked into that but found that it was almost like putting the building on a podium. That would be creating steps and that would not be streetscape friendly. If it was a flat street, then that would work, but it does not work for this site. He said that they are fighting the topography and they are trying to minimize the impacts, but they really can't overcome this. All the solutions create a new problem. The applicant noted that this was not just an economic consideration; it was not them saying that they wanted a certain plan or else they were abandoning the project. It works against the tenants and the town. Certain tenants would not be able to rent these stores due to the constraints that would have to be imposed. Mr. Kaufman said that Mr. Sauro's suggestion would be friendlier than having a parking lot along Main Street.

Mr. Sauro said that he understood the applicant's problems and think that anything that is proposed is better than what is there now. Mr. Sauro further explained his suggestion and said that he thought it would be more attractive and more in keeping with the streetscape. The applicant said that would be very difficult to provide handicapped access and no matter which way they tried, it would be awkward.

Dr. Matusow said that he didn't really foresee the Main Street streetscape extending beyond this point due to the location of Route 128. This is really not the center of town so he said he was somewhat more flexible about the parking in the front. He said that he liked the project enough if there could be some softening of the streetscape. The applicant said that was something that could be done. Dr. Matusow said that the applicant should submit that plan so the Board had something to look at. Mr. Rosenbaum said he would come back with a concept plan and noted that he might be able to create a bigger buffer in the front.

Mr. Baroni asked if the benches and lighting and other things would have to conform to what is already downtown. Mr. Kaufman said that they would and the applicant could get those specs from the Town Engineer.

Chairman Michelman also suggested that the applicant do something to the façade of the building to make it look less boxy. Ms. Black agreed. She referenced the Armonk Square project and pointed out that they did something similar to make it have more of a "New England" look. Chairman Michelman said that with those two revisions, they may be in a better position to move toward the site plan stage.

Mr. Kaufman asked if the Board wanted to talk about the referral from the Town Board for the off street parking. He said that in his opinion that was an appropriate change. The Board agreed. Mr. Roth noted that they would need a public hearing before the Town Board on that issue.

Ms. Black moved to make a positive rec back to the Town Board. Dr. Matusow seconded the motion and it was unanimously approved.

Mr. DelBello asked if the Board would refer this to the ZBA. Mr. Kaufman said that they couldn't because the Board didn't have a plan. Mr. Baroni added that the applicant still needed to complete SEQRA and the ZBA did not like to have an application come to them before SEQRA was completed.

## **WEILL**

### **Referral from the Town Board to Planning Board Recommendation from Planning Board to the Town Board**

Mr. Anthony Guardino was present on behalf of the applicant, CitiGroup. He explained that they have made a petition for a zoning text amendment to allow the applicant's center to be used by CitiGroup and its affiliates.

Mr. Guardino explained that the property is approximately 30 acres and approximately four of those acres are located in Greenwich. There are 114 parking spaces and the facility currently operates as a professional and business conference center. The center is an exquisite, state of the art facility. He invited the Board to do a site walk.

Mr. Guardino said that the property is in the DOB 20A district that allows conference centers but only when they are being used by the owner or the lessee of the property. The property is an asset for CitiGroup, but as a result of the recent restructuring, there has been a decrease in utilization. CitiGroup has been approached by companies who would love to use this facility in the same way that CitiGroup has used it, but due to the zoning code, CitiGroup can't permit them to do so. The applicant would like to eliminate the language in the code that says the facility can only be used by owners or lessees. He said that this was an application similar to what IBM presented to the Board some time ago. Mr. Guardino added that he has received the memo from the Town Planner, and the applicant has no objection to those comments.

Chairman Michelman said that the Board would conduct a site walk and once that is done she did not see any problem with referring it back to the Town Board.

Mr. John Sullivan, the architect who designed the building, was also present. He presented a plan to the Board and explained the orientation of the plan. He said that there are no plans for further expansion of this site that he is aware of. This is very heavily landscaped and it is very private despite its proximity to Route 120.

Mr. Kaufman noted that there was a limited amount of parking on the site and asked how that would be managed. Mr. Sullivan explained that is about 114 spaces on the site now and many people who come to the site come via car / limo service. Typically, even when there are events here the parking is not maxed out. In almost 15 years of operating, they have not had a parking issue. It is not used for "large catered affairs." The parking on this site works. CitiGroup's Vice President said that often, if there is a large group of more than 125 people, they are bused in from neighboring hotels. Mr. Sullivan added that not all the conferences require overnight stays.

The Board will conduct a site walk. The applicant asked if they would need to make another appearance. Mr. Kaufman said that the Board would reconvene but it was up to the Board if they wanted the applicant there as well. Chairman Michelman said that they would let the applicant know if they have to appear after the site walk.

**HIRSCHMAN**  
**Tree Removal**  
**Section 1, Block 4, Lot 10-310**  
**3 Hardscrabble Circle**  
**Jeffrey Econom, PE**  
**Discussion**

Mr. Hirschman was present for his application. Chairman Michelman asked if there were any neighbors present. Mr. Murphy of 4 Hardscrabble was present as well as Mr. and Mrs. Gavigan of 6 Evergreen.

Chairman Michelman said that it would be helpful to go over the landscaping plan. She asked if the applicant's landscaper was present and Mr. Hirschman said he was not. Chairman Michelman said that Mr. Hirschman would have to discuss the landscaping plan, but Mr. Hirschman said that he did not have any documents or plans with him and he was not sure he'd be able to list all the trees. A Board member gave him their copy of the plan for Mr. Hirschman to discuss.

Mr. Hirschman presented the landscaping plan. He explained that issue had been the recommendation to remove five additional trees. At the site plan stage, the applicant had agreed to move the house several feet in order to save the five trees initially, but when they were ready to start construction, they realized that these trees had dropped large branches and it was recommended by his professionals as well as the Conservation Board and the Building Inspector that they be removed.

Mr. Murphy asked if the applicant was referring to certain large evergreens and Mr. Hirschman said he was not talking about the ones between his property and the Murphy property. Mr. Murphy thought that two of the trees should come down but three looked perfectly fine to him. Mr. Murphy noted that it is important to keep the appearance of Windmill; this area has very large trees on the properties and to remove them would be to take away from the aesthetics. He thought that was the biggest issue for the neighbors.

Mr. Hirschman explained that he had worked to save those trees, but when he started construction it was discovered the trees ought to be removed. Even though they look nice, they are dangerous trees.

Mrs. Gavigan made comments about other trees that had been removed. Mr. Hirschman said he was not looking to pick fights with neighbors, but the trees have been recommended to be removed. Mrs. Gavigan asked what the applicant was going to replace them with and Mr. Hirschman said they would plant spruces. Mr. Kaufman noted that the applicant's plan was an adequate and professional plan. He pointed out that the resolution calls for the spruces to be taller and requires some additional replanting in a particular area as a condition of the approval. Mr. Hirschman said he noticed that and he had no issues with it.

Mr. Gavigan thought that, by removing those trees the applicant would be changing the grade of the site. He also noted that there was a large pile of dirt on the site and wanted to know what will be happening with that dirt. Mr. Hirschman said that the dirt was topsoil and it would be spread out on the site. Mr. Gavigan asked where the runoff would go. Mr. Hirschman said that

he was not changing the grade at all; he would only filling in the holes from where the trees were. Ms. Black pointed out that the grading was already approved and cannot be changed without subsequent approval.

Mr. Gavigan thought the applicant had already removed trees without approval. Mr. Hirschman said that was incorrect; he had Building Department approval for that. He pointed out that was the area where Mr. Kaufman has suggested additional planting.

Mr. Gavigan said that he did not have any problems with water on his property now, and was concerned about the applicant changing the grade. Mr. Kaufman said that although there is some grading associated with the plan that was previously approved; this tree removal / landscaping plan does not have any grading associated with it.

Chairman Michelman read Mr. Fava's letter to the neighbors.

Mr. Murphy asked the definition of a substantial tree. Mr. Kaufman explained that he was requiring 8-10' high spruce trees. Mr. Murphy said he considered that a shrub. He said that if the applicant went to Mariani's he'd be able to buy a substantial tree. He said that the two trees in the back of the house should be removed but the three substantial trees between the Conte property and this property seem to be far enough away from the construction. He thought that they act as a barrier and maintained the character of the neighborhood so he objected to those three being removed. Mr. Kaufman said that he did not think that the Board disagreed with that statement; it was their intent all along was to save those trees. However, based upon the recommendations from the applicants and the town's professionals they are reconsidering this.

There were no other comments or questions from the neighbors. Chairman Michelman said that the Board needed to vote on whether they would approve the amended tree removal permit.

Mr. Sauro moved to approve the permit and the motion was seconded by Ms. Black. Before a vote was taken, Dr. Matusow wanted to state his opinion.

Dr. Matusow said that the issue is whether these trees are in predictable danger of falling down in the foreseeable future. He agreed that if they are unsafe then they should come down. The Board had already decided that they wanted them saved. There is a history on this application. He referenced quotes from Planning Board minutes from March 10, 2008, May 2008 and August 2008 where the Board had discussed their concern over the trees and their desire to save them. He pointed out that in the March minutes, Mr. Econom had said that the trees were in "bad shape" and in a "watery area". Dr. Matusow said that in looking at the site it is obvious that those comments are not true. At a meeting in May, Mr. Hirschman had told the Board that he agreed to move the house to try and save those trees and in August, the applicant said he was able to save 3 of the 4 large trees. Then the resolution was approved which specifically referred to the Board's concern about the removal of the trees, and that the house was relocated in order to save those trees. The applicant accepted the resolution one year ago, and now they are saying that everything has changed since that time. Dr. Matusow said that he did not think the trees were any more dangerous now than they were then. The mature pines are classified as significant trees and they are all in excess of 20' from the home; there is no reason for anyone to assume that the construction of the home will disturb those trees. As for them falling – no one can predict when they will fall, but it doesn't seem likely that they are in danger

of collapsing anytime soon. If, based upon the assessment that the trees are large and mature and near enough to a house site, and therefore present a danger so that they should come down, it would make it incumbent upon many homeowners to start taking down thousands of trees in town. This is not a viable reason to remove trees. Dr. Matusow felt that the Board was faced with an applicant who had wanted the trees removed from the beginning, and was only willing to accept the trees stay in order to get his approval and move ahead. Now, he is claiming that the trees have to be removed. Dr. Matusow said he did not think this was right, and he did not think the Planning Board should alter its initial decision that these trees are healthy. He said that the Board should vote against this.

Chairman Michelman pointed out that Mr. Hirschman didn't raise the tree issue this time around. She said she was approached by the Building Department and she went to the site with the Building Inspector who was very concerned with the trees falling. He told her that he would have a problem if the trees weren't removed. She said that she had to respect the Building Department's determination. Chairman Michelman added that the Conservation Board went out to the site again and confirmed their initial opinion that the trees should come down. She said that at the time, this Board thought they knew better than the professionals and decided to save those trees; however, now, two of the town's professionals and two of the applicant's professionals are saying that the trees present a danger and she has to respect those opinions.

Ms. Black agreed. She said that she could not in good conscience, second guess the opinions of the professionals. Mr. Sauro agreed. He recognized that Hardscrabble Circle was a gorgeous area, but the Conservation Board's opinion has been consistent all the way through. He had said even at the prior approval stage that the Board should yield to the experts' opinions.

The motion was approved by all except Mr. Delano and Dr. Matusow.

**SHAPIRO**  
**Special Use Permit**  
**Section 2, Block 17, Lot 4 I 01**  
**2 Hadley Road**  
**Discussion**  
**Robert Sherwood, RLA**

Mr. Rob Sherwood was present on behalf of the applicant. Mr. Kaufman explained that the Board went to the site and that there were no significant issues. He noted that a portion of driveway is in town regulated wetland buffer. If there are no issues the Board should refer this to the Conservation Board.

Mr. Sherwood explained that this was a 1.95 acre site and indicated the wetland area. It had been flagged in 2006 after a wetland violation. He went through the wetland permit process to correct the violation and in 2007, the applicant got this Board's approval for the land coverage for the pool. Unfortunately the applicant didn't apply for the driveway at that time so now they are seeking approval for that. He recognized that the application would have to be referred to the Conservation Board.

Chairman Michelman said that the Board did not see any issues at the site walk, but that they could not have the public hearing until they heard from the Conservation Board. Mr. Delano pointed out that the applicant should also relay any information about having drainage in the buffer area to the Conservation Board in keeping with the Town Engineer's comments.

The Board would refer this to the Conservation Board.

## **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**

Mr. Peter Gregory was present on behalf of the applicant along with Mr. Rich Morgante. Mr. Gregory explained that the last time this application was before the Board, there were discussions about the development of 7 Ridgeview and the possibility of eliminating the access easement to the property to the north. At that time the applicant decided to investigate and have had the surveyors confirm the sight line distance. The applicant has 500' to the north and 258' to the south.

Chairman Michelman asked what, if anything, the applicant had to do in order to get 258' and Mr. Gregory said that is what there is now, but they anticipate having to do appx 250-300 sq. ft of grading in the right of way. That will only extend approximately 30-35' and that will allow a large portion of the right of way to remain in tact.

Mr. Kaufman asked about the existing stone wall. Mr. Gregory said that it was approximately 6' off of the edge of the road so they will be just behind the stone wall. However, it would have to be removed for the driveway. He said that they could relocate the wall if they had to. Mr. Kaufman asked if the applicant was proposing 30 linear feet of disturbance along Sarles Street and Mr. Gregory said that was correct. Mr. Kaufman said that was reasonable.

Mr. Gregory said that he would provide the Board with profiles along the sight lines so they could get an accurate representation of what will be cleared from that area.

Mr. Kaufman said that in addition to the sight lines, the Board is concerned about keeping the streetscape as much as possible. The applicant agreed and said that was what he wanted too.

Mr. Coyne pointed out that by taking the measurements at 6' would mean that a car would have to inch out into the road. Mr. Gregory said that he was looking to have at least 10' and that is what they'd end up with. He noted that they would need to do clearing for that and that he would get the Board the information on just what has to be cleared out. Mr. Gregory anticipated the sight distance will increase after the work is done.

Mr. Kaufman said that this was the only real issue. Mr. Gregory said that a landscaping plan had been prepared but not yet submitted this. He showed the plan to the Board.

Mr. Gregory explained that there was a comment on the wetlands at 7 Ridgeview; there is a wetland line that shows up on the original subdivision plan. He said that the wetland is across the street, and a buffer falls on this property. He noted that it was almost in line with their grading limit line. Mr. Kaufman asked if that line was being shown on the plans and Mr. Gregory said that it would be shown on the next set of plans.

Mr. Kaufman said that the Town Wetlands Consultant should go out to confirm the lines. He added that the applicant should create profiles to see just how much will have to be cleared. This is the last issue for the Board before they can agree to eliminate the access easement for the other lot. Mr. Kaufman said that the Board could schedule a public hearing, and if the requested information was not submitted or was insufficient, they could always continue the public hearing.

The Board decided that the public hearing would be scheduled for July 13<sup>th</sup>. The Board agreed to permit the applicant to file his documents on June 23, 2009, even though it was past the submission deadline.

#### **FUTIA**

##### **Lot Line**

##### **Section 6, Block 5, Lot 9A**

##### **34 Custis Avenue**

##### **Dennis Lowes, Ralph MacDonald Company**

##### **Discussion**

Mr. Futia was present for his application. He explained that he has submitted the proposal to the Health Department several weeks ago. Mr. Kaufman explained that the final subdivision plat is in good order and there were no significant issues. Chairman Michelman asked if Mr. Futia had read the resolution and Mr. Futia said he had.

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

#### **BARON**

##### **Amended Site Plan**

##### **Section 2, Block 4, Lot 1-15**

##### **49 Sarles Street**

##### **Frank Giuliano, Landscape Architect**

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

Mr. Kaufman noted that this was a second time extension. Mr. Delano moved to approve the time extension. The motion was seconded by Ms. Black and unanimously approved.

**SEMEL (formerly known as Luppino)  
Section 2, Block 17, Lot 5.J01  
Amended Site Plan  
6 Hadley Road  
Cami Fareri Luppino  
Consideration of site plan resolution extension of time**

Chairman Michelman explained that the applicant bought this property from the Luppino's in 2008 and they haven't had a chance to address the pool issue.

Ms. Black moved to approve the time extension. The motion was seconded by Mr. Delano and unanimously approved with the exception of Dr. Matusow, who did not approve of the initial site plan approval .

**Local Law 213-22.2.C(1) GLC  
Local Law 213.22.2.B GFA  
Referral from Town Board to Planning Board  
Recommendation from Planning Board to Town Board**

Mr. Kaufman explained that this was a local law that resulted from the joint work session with the Town Board. The Town Board has discussed it at their meeting and has referred it to this Board. It calls for a 15% increase in the basic amount of floor area with no change in the maximum amount and a 25% in the basic amount of gross land coverage with no change in the maximum.

This revision would have an impact on what plans could be reviewed by the RPRC; more applications would be able to be heard by the committee. The RPRC would still have the ability to send an application to this Board for site plan approval or to the ARB if needed.

Ms. Black said that this was exactly what the Board had asked for. Chairman Michelman agreed, but said that by increasing the basic allowable by 25%, the Board might be opening a Pandora 's Box in terms of applications that would normally have come here, that might not come here any longer. Mr. Kaufman gave an example of a four-acre lot; the basic permitted now is 8,710 sq. ft. and with the increase it would go to 11,202. The maximum would be 13,270. Therefore, anything below the 11202 would be reviewed by the RPRC. Chairman Michelman said she was just raising it as a concern.

Dr. Matusow said that it had been his understanding that if any one individual on the RPRC wanted an application to come to the Planning Board it would have to come here. Mr. Kaufman said that was incorrect; it has to be a majority to send it to this Board. Mr. Baroni explained that had been considered, but it was never approved.

Chairman Michelman pointed out that the RPRC includes the Town Engineer, Building Inspector, a representative from this Board, and usually a representative of the ARB. She said again that she was just raising it as a concern because 25% is a huge leap. She did think that it

good for the smaller projects but when it reaches much larger homes that is where the concern would be.

Mr. Delano noted the range really shrunk on the land coverage. Mr. Kaufman showed the Board a table with the changes for gross land coverage and far. Ms. Black said that the only real discussions the Board has had relate to those applications that were higher coverage. Mr. Kaufman said that was why he suggested 25%.

Mr. Delano asked if they would be able to rely on the engineers in terms of the drainage and stormwater review. Mr. Coyne doubted it because the RPRC decided when and if to refer applications to the Town Engineer. He added that the Town Engineers normally don't review normal Building Department applications.

Mr. Kaufman thought this was a good point. He suggested the Board include this concern in the recommendation to the Town Board. He said that there shouldn't be a lesser level of review in this regard. Chairman Michelman asked how they should handle this; though it is important, she thought it would add a complicated dimension to this. Mr. Kaufman said that if it passed through the RPRC without any issue, then the application would be referred to the Town Engineer. Mr. Kaufman noted that the Town Board would need to discuss the mechanism for paying for that review. Mr. Baroni thought that the Town Engineer received a percentage of the building permit fee to review those plans. Mr. Ryan believes that was only for the inspections. He thought that the Town Engineer's office used to review the plans, but things changed along the way.

Mr. Coyne said that his office would discuss this issue with the Building Inspector and see how they can work this out.

Mr. Kaufman said that the Board should express any concerns they have to the Town Board. He noted that the Board seemed to be concerned with the smaller range in square footage and the fact that the Town Engineer would need to review the stormwater plans.

Mr. Delano thought the Board should refer this back to the Town Board with a positive recommendation, expressing these concerns.

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The meeting was adjourned at 9:59 p.m.

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