

**TOWN OF NORTH CASTLE
PLANNING BOARD MEETING
17 Bedford Road
Armonk, New York 10504
June 8, 2009
7:00 p.m.**

PLANNING BOARD MEMBERS PRESENT:

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

ALSO PRESENT:

Adam Kaufman
Town Planner

Roland A. Baroni, Jr., Esq. Town Counsel
Stephens, Baroni, Reilly & Lewis, LLP
Arrived at 8:48

Ryan Coyne, P.E.
Kellard Sessions Consulting, P.C.
Consulting Town Engineers

Valerie Desimone
Planning Board Secretary

Zenaida Bongaarts
Conservation Board Representative

The meeting was called to order at 7:05 p.m.

APPROVAL OF MINUTES

May 11, 2009

Ms. Black moved to approve the minutes from the May 11th meeting as amended. The motion was seconded by Mr. Delano and unanimously approved.

PUBLIC HEARING

CALDER CENTER

Site Plan

Section 2, Block 1, Lot 8

31 Whippoorwill Road

Dr. John Wehr, Director

David Rigney, Office of the General Counsel

Discussion

Consideration of site plan approval

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 28 out of 36 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. Mr. Andrew Richter of 15 Tall Woods Road was present. He said that he lived immediately adjacent to the preserve.

Mr. John Spaccarelli (Fordham University Project Manager), Dr. John Wehr (Director, Louis Calder Center), Mr. David Rigney, Esq. (Fordham University In-house Counsel), Mr. Kenneth Bainton (Kouzmanoff Bainton Architects, Architect of Record), and Mr., Joe Modafferi, Jr., RLA (John Meyer Consulting P.C.) were present on behalf of the applicant.

Mr. Rigney explained that the applicant was seeking approval of site plan and wetlands permit to construct two six-bedroom log cabin residences for full time students. They were also proposing septic, well and stormwater facilities, off street parking and new greenhouse.

Mr. Rigney said that this matter was first before the Board in March 2008. The applicant submitted an application to amend the code to permit residences on the site and with the application they requested an amendment of the special use permit. The Planning Board recommended the amendments be granted, and in May 2008 the Town Board did so.

When the applicant made the initial presentation, they presented a conceptual proposal which they believed was an honest representation of the residences they had in mind. When the applicant moved to an actual plan, the university decided to reduce the number of units to two six-bedroom residences. The new design had definite architectural and environmental advantages.

The ARB and the Conservation Board both positively recommended this project. Mr. Rigney complimented the Board for their efforts and work on this application.

Mr. Modafferi explained that the site was located on the west side of Whippoorwill Road. It is approximately 113 acres and consists of five dwelling units that house families of teachers (indicated). Another three buildings are multi use functions, used as labs, offices, libraries and other guest rooms and apartments. Mr. Modafferi indicated the roadways and the entrances. He explained that the rest of the site is basically natural and pristine.

The applicant proposes to construct the log cabins and a prefab greenhouse, as well as 12' wide one-way roadway and some parking spaces. There are two proposed parking spaces and

sidewalks that would be paved to comply with the ADA. In connection with the development, the applicant has added stormwater basin (indicated). The SWPP has been approved by the Town Engineer and will be submitted to DEP. The applicant has provided plantings in and beyond the basin in order to mitigate for the limited wetland buffer disturbance. Mr. Modafferi indicated the wetland areas, the proposed septic field and the expansion areas.

Chairman Michelman asked the status of the Health Department approval. Mr. Modafferi explained that they have submitted the septic and are awaiting comments. He added that they cannot submit the stormwater plan until they complete the approval process.

Mr. Richter said that he just came to express the support of the project. As a neighbor and a citizen of the community he has taken a great interest in the center. It is fantastic educational resource and acts as a green space. He said that he has seen the project in some detail and wanted to say this center is a tremendous asset to the community. It has a mission and it should not be unnecessarily impeded. He felt that the applicant has taken into consideration all environmental and other concerns. He said he had no concerns about this application.

The Board asked if Mr. Coyne had any issues and he said he did not. Mr. Coyne mentioned that he hoped the Health Department and DEP did not come back with any substantial changes that would require site changes. Mr. Modafferi said that he understood that if that happened they would have to come back to this Board; he had no problem with that.

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

Mr. Kaufman noted a letter of support from a neighbor which is set forth in its entirety below:

John Minutaglio
64 Whippoorwill Road
Armonk, NY 10504

June 8, 2009

Peg Michelman, Chair
Planning Board
Town of North Castle
17 Bedford Road
Armonk, NY 10504

Dear Ms. Michelman:

I am writing both as a North Castle neighbor of Fordham's Calder Center for 25 years, as well as a working professional in the "Green Industry" and a former instructor at the New York Botanical Garden. My first introduction to Calder Center was as a Fordham student taking a post-graduate ecology course in 1970. I have been at several functions on their property, walked it frequently, and have known several of the professors and students.

The Center has been a valuable part of our community, providing important environmental research and, equally important, another green preserve within our borders. The Calder Center's history of using their land resource has always been true to their mission of ecological and environmental research in a relatively undisturbed ecosystem. Having reviewed their proposal to construct two cabins, it is clear that it is a safe, sensible, low-impact and attractive design. It will be meaningful in attracting top students, making them more productive, and enhancing the important findings the facility generates. This will in time help ensure the successful continuation of this important research center, and in turn, help North Castle continue to preserve green space.

I heartily support this project and encourage the Town's approval.

Sincerely,

John Minutaglio

Chairman Michelman asked if the applicant's representatives had read the resolution. Mr. Modafferi said they had, and noticed only some minor typos, which he pointed out for Mr. Kaufman. Mr. Kaufman made the corrections and said that if there were any pertinent conditions of the Town Board's special use permit, they should be included in "other conditions." The Board agreed and the applicant did not object.

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

ARMONK VETERINARY (adjourned from January 12, 2009)

Amended Site Plan

Section 2, Block 13, Lot 3

536 Main Street

Joe Crocco, AIA

Discussion

Consideration of Site Plan Approval

Chairman Michelman noted this was a continued public hearing. Chairman Michelman asked if there were any neighbors present for the application, and there were none.

Mr. Joe Crocco was present on behalf of the applicant. He explained that the application was before the Board back in January. Since that time, the applicant has been to the Conservation Board, and has addressed the main issues. Among the main issues were the crushed stone in a particular area, changing the color of the fence and the rubbish enclosure. The most significant comment from this Board dealt with the handicapped ramp and the applicant has rearranged some spaces per this Board's request. The applicant will use the remaining space for office in order to keep the parking requirement in keeping with what they already have. The DEC flagged the wetlands and he indicated the location on the plan. Mr. Crocco added that the DEC has signed the map and he believed the applicant has complied with all comments.

Chairman Michelman explained that the Board had received a letter from a neighbor requesting consideration of a 4' fence instead of a 6' fence. Neither the applicant nor Mr. Crocco was aware of the letter. Chairman Michelman asked if lowering the height was feasible. Dr. Matusow explained to the applicant that the neighbor thought that a 4' fence would suffice to keep the applicant's own dogs inside. The applicant said he would be willing to do that on that side.

Chairman Michelman asked if any dogs would be walked in the fenced area and the applicant said that would only occur in one area and indicated where. Chairman Michelman asked about waste and the applicant explained that it would be picked up and thrown out. He added that this is not a kennel facility – so at the most – there would only be two dogs in the hospital.

Mr. Coyne said he had no issues or comments. Ms. Black moved to close public hearing. The motion was seconded by Mr. Delano and unanimously approved.

Chairman Michelman asked if the applicant or his representatives had reviewed the resolution. Mr. Crocco said he had not. Mr. Kaufman said there was nothing significant in the resolution.

The Board gave the applicant a chance to review the resolution. In the meantime Dr. Matusow said that the drawings and the resolution should be revised to reflect the 4' fence. There were no other comments from the Board. There were no issues from the applicant.

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

OTHER BUSINESS:

FRISOLI

Site Plan

Section 3, Block 7, Lot 6-26

7 Kensico Knoll Place

Kory Salomone, Esq. – Veneziano & Associates

Discussion

Consideration of Site Plan Resolution

Mr. Joe Eriole was present on behalf of the applicant, along with the applicant himself. Mr. Eriole explained that the applicant has consented to a limited set of revisions requested by the Board. The plan would be revised to remove items in the right of way. He noted that those things have already been removed, so it won't be an issue. The other issue was the square footage of the downstairs apartment. He explained that there was an area of the downstairs that was not accessible to the downstairs apartment and they have decided to give that tenant access to that space, and that would get the square footage well over the minimum.

Chairman Michelman asked if the apartment now met the criteria, because that was the Board's only concern. Mr. Eriole said that it does and showed the Board the plan with the calculations.

Chairman Michelman asked if Mr. Eriole had reviewed the resolution. He had not. The Board gave him an opportunity to do so and when he had, he said there were no issues.

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

BENNIS

Special Use Permit

Section 1, Block 3, Lot 6.B

250 East Middle Patent Road

Teo Siguenza, Architect, PLLC

Discussion

Teo Siguenza was present on behalf of the applicant. He explained that he had submitted the plan to the ARB for approval and now the applicant was back before the Planning Board. He said that he had received the comments from Mr. Kaufman and Mr. Coyne. He added that he sent a letter to the Board answering the questions regarding the footprint, height and other

issues. Mr. Kaufman explained that when the Board last saw the application the Board was very concerned about the mass of this building and the view from the neighboring houses. The applicant has attempted to resolve these issues by adding planting and curbing. Mr. Kaufman said that, in his opinion, this was pretty good mitigation.

Mr. Siguenza added that a stormwater management plan had also been submitted. Mr. Kaufman recognized this, but said that this presented a new issue. It had to be determined whether a wetlands permit will be required for the infiltrators. Mr. Siguenza recognized this. Mr. Kaufman asked if the applicant would be able to relocate the infiltrators and Mr. Siguenza said they would be able to, but they were still discussing the options. Mr. Kaufman said that if the applicant was going to revise the plans so that they don't need a wetlands permit, they would not need to go to the Conservation Board. Mr. Siguenza said they would prefer not to disturb the area.

Mr. Kaufman pointed out that the applicant would still need a public hearing for the structure over 800 sq. ft.

Chairman Michelman said that, with respect to the mass of the building, the wall and the plantings have mitigated the view from the front, but it was still 22' high exclusive of the cupola. Mr. Siguenza agreed, and stated that the cupola was not required to be included in the calculations. Chairman Michelman recognized this, but said that it was still visible. Mr. Siguenza thought that it was aesthetically pleasing. Chairman Michelman said she was just letting him know that it might be an issue for the public at the public hearing.

Ms. Black asked if the ARB approved this and Mr. Kaufman said that the ARB issued their approval in April.

My Coyne said that he had no major issues. Mr. Kaufman said that he had no issues other than the size.

Mr. Sauro stated that Mr. Siguenza did a good job on the plans and asked whether he tried to have the garage positioned so that they could drive straight in. Mr. Siguenza said that the exposure would actually be larger in that situation. The applicant agreed that more excavation would be required for that. Ms. Black added that due to the character of the house, and neighborhood, she thought the garage was better the way it was proposed. Ms. Black added that the new plan has done a good job at mitigating the view from the road.

The Conservation Board representative [*NB – not sure if this is correct – she did not identify herself*] asked if the applicant had a professional other than Mr. Sessions flag the property because his letter recommended that someone else do it. Mr. Siguenza said that was his recommendation only if the infiltrators are going to remain in the area; then that would be required. Mr. Kaufman agreed. Mr. Coyne said that he thought Mr. Sessions was comfortable with the building but if the infiltrators would be within a certain distance then the applicant would need a formal delineation.

Chairman Michelman thought that a public hearing could be scheduled for July 13th and the applicant could still address that issue before the hearing. A draft resolution could be prepared for the same time as long as the applicant would not need a wetlands permit.

55 WRIGHTS MILL ROAD
Special Use Permit
Section 2, Bloc 3, Lot 36
55 Wrights Mill Road
Herb Lackner, RA
Discussion

Mr. Peter Monteleone was present for the application. He explained that the new owner of this lot would like a pool and that was something they didn't plan for at the subdivision stage. This is a little above the minimum but way below the maximum for the gross land coverage. Mr. Monteleone suggested the Board conduct a site walk and the Board said they would.

Mr. Monteleone explained the proposed location for the pool. He added that no one would be able to see the pool and the Board agreed.

Mr. Kaufman explained that there were some wetland issues and the Conservation Board would have to review this. Ms. Black asked if the pool was in the buffer and Mr. Delano said that the entire site development was in the buffer. The Board advised Mr. Monteleone that he needed to go to the Conservation Board and provide 2:1 mitigation.

Mr. Monteleone pointed out that there would be no additional disturbance other than what was already there. Dr. Matusow asked what that area was currently planned for and Mr. Monteleone said it was going to be a courtyard with a patio. He explained that the drywells would still follow the same plan. Dr. Matusow said that the Board was faced with a similar plan on North Lake Road. If the applicant wanted to put a pool in an area that was already approved for disturbance, the Board has said that was acceptable and this sounds similar.

Ms. Black asked if the gross land coverage would be the same as what was approved and Mr. Monteleone said that the disturbance wouldn't change. Mr. Delano agreed, but said that the impervious surface might change.

Dr. Matusow said that if it is already counted toward the gross land coverage, then the Board was not really adding a pool into the buffer, because whether it is a pool or a patio makes little difference. However, if it was supposed to be pristine, then he could see a problem; however, he did not think that was the case here.

Adam- the area of disturbance was included in the approved plan in the area where the pool would go. There were no gross land coverage amounts approved. Chairman – if we are swapping one thing for another in the same area...

Mr. Delano said that if this was the same as what was previously approved, with the exception of swapping an amenity, this would not be an issue.

Ms. Black asked if the existing wetland permit covered this and Mr. Delano thought that it did. Ms. Black said that if that was the case, the applicant might only need a special use permit for the land coverage and not a new wetlands permit. Mr. Kaufman said he would look into the language of the wetlands permit.

Mr. Kaufman explained that whether a public hearing for the wetland permit is needed would depend on the prior approval. Regardless, they would need a public hearing for the special use permit. The Board scheduled a public hearing for July 13th.

Mr. Kaufman said that if a wetland permit was needed, they would have to try and coordinate with the Conservation Board to get their comments before that hearing.

OBSERVATORY, LOT 81
Special Use Permit
Section 1, Block 11, Lot 11-21
23 Cowdray Park Drive
Peter Gisolfi Associates
Discussion

Mr. Frank Crane, Diana Bate and Matthew van Houten were present for the application. Mr. Crane explained that the applicant has received ARB approval for the observatory and they were now seeking special use permits for the land coverage and the FAR. The property is slightly above the basic allowable. The applicant was also seeking a tree removal permit to remove 12 trees.

The property is 12.11 acres. Mr. Crane indicated the area where the observatory is proposed. It is approximately 140 sq. ft. They have confirmed their calculations in accordance with Mr. Kaufman's request and they have arrived at the same numbers.

Mr. Crane explained the Google earth map and indicated buildings and structures on the site. The applicant was trying to locate this structure so that they would have maximum viewing capability from the observatory. The applicant proposed to do very modest grading and would only have a gravel path as an access (indicated). They are trying to minimize the disturbance.

Mr. Crane explained that a majority of the trees are on a rock ledge. They have marked the trees they plan to remove. He presented a rendering of what the observatory would look like along with photos of various views. Mr. Crane also showed the Board some samples of some of the materials that are on site now and explained that the observatory would use matching materials.

Chairman Michelman asked if there was going to be any facilities in the observatory and Mr. Crane said there would not be anything other than electric so that there could be power to the telescope.

Dr. Matusow asked if the applicant had HOA approval. Mr. Crane said that they did; that was the applicant's first step, and then they received ARB approval. There were no other questions / issues from the Board or the professionals. The Board would conduct a site walk and schedule a public hearing for July 13th. A resolution could be prepared for the same night.

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

Chairman Michelman explained that this was before the Board for a discussion based on the recommendations of the Building Department and the Conservation Board regarding their opinion that the white pines should be removed. She explained that the Board members have been to the site. Chairman Michelman said that based upon the recommendations, she would accept the professionals' recommendation; however if that does occur, it seems that they need to get a full scale landscaping plan.

Mr. Econom said that he had already submitted a landscaping plan to the ARB, and it was approved. Chairman Michelman said that this Board needed to see one. Mr. Econom said that the applicant planned to screen an entire side. Mr. Kaufman said that the Planning Board never saw the landscaping plan and it should be submitted. Mr. Econom said he would submit the plan, but reiterated that it was already approved by the ARB.

Mr. Delano explained that the ARB's concern seemed to be primarily about planting around the house and this Board needs to ensure that the perimeter is screened. Mr. Econom said that it would be. The Board reiterated that they wanted to see a plan.

Mr. Delano said that he would also like the letter from Arborscape corrected for the record; he pointed out that there were several errors in that letter. Additionally, he asked whether this Board would like to retain its own arborist on this issue. He said he understood the Board received recommendations from the Conservation Board and the Building Department, but pointed out that they were not arborists.

Mr. Sauro said that the Board was in possession of two other opinions that the trees are in poor condition and he thought the Board should yield to the professionals. Chairman Michelman said that she agreed, but was concerned with how those trees would be replaced and how it would impact the neighbors. Chairman Michelman felt that more professionals would delay this further.

Dr. Matusow said he was not concerned about the delay. He agreed with Mr. Delano. When the applicant was here initially, this Board was very concerned with saving those trees and they worked hard to determine how to do that. Mr. Hirschman said that Mr. Econom did not render an opinion on the trees at the initial application. Dr. Matusow felt that the trees were no more dangerous now than they were a year ago. He thought that the applicant just wanted to get the approval at the time and figured he would work on tree problem later. Dr. Matusow thought that now the applicant has convenient opinions that say the trees have to come down and he had a problem with this. He noted that the neighbors at the time of the initial application were concerned about saving the trees, and now they are probably less likely to even know of this application.

Mr. Hirschman said that Dr. Matusow's statements were insulting and not true. He said that he

did not agree to move his house 2' and pay thousands of dollars to get his approval just so that he didn't have to remove the trees, only to be told that they have to be removed now. The Conservation Board made a recommendation that the trees should be removed on their own accord, not at his request; then the Building Inspector said the same thing. Mr. Hirschman said that Dr. Matusow could not claim that he had any impact on those recommendations. It cost him money to save them initially and now it was going to be a huge, costly project to remove them. He added that this would only delay him even more, because the time to remove the trees was now, while the site is open. He said he won't be able to move forward until this issue is resolved. Dr. Matusow said he had no intention of delaying this application.

The Conservation Board representative said that the Conservation Board went to this site and Mr. Fava, who is quite experienced, was present along with "another tree person" and they both agreed those trees should be removed. There was a concern the trees will fall and damage the house. Chairman Michelman said that she had a lengthy conversation with the Building Inspector, who had similar concerns.

Ms. Black stated that the Board had seen another property in Windmill where a tree had fallen onto a house. She went to this site and looked at the trees and she would defer to the Conservation Board and Building Inspector. Mr. Sauro agreed that the Board should yield to the professionals' opinions.

Mr. Kaufman explained that no public hearing was needed. The applicant just needed to provide the landscaping plan. The Board could have a resolution prepared for the same night. This plan would have the same amount of FAR and gross land coverage, and that was why no hearing was required. Mr. Kaufman noted that the tree removal permit would have to be revised but there would be no notification for neighbors. Mr. Delano did not think that was right; he felt the neighbors should be notified.

Mr. Kaufman explained that a tree removal permit doesn't need a public hearing, but an argument could be made that the landscaping plan is mitigation.

Mr. Delano noted that the applicant's approvals were tied to the landscaping plan, and now that plan was changing. The applicant was initiating a tree removal permit to the Building Inspector, but the Building Inspector was uncomfortable with that and sent it here. However, a tree removal permit alone is not necessarily required to come to this Board. Mr. Kaufman agreed, and said that they were not required to come here for a tree removal permit unless it was tied to other approvals.

Mr. Baroni said that even if the Board took the position that the permits are intrinsically tied to each other, the Board could still conclude that this was not a substantive change to the approved plan. Mr. Delano said that the question for the Board was whether this was substantive enough to require a public hearing or not.

Dr. Matusow said that based upon his recollection of the resolution, the Board specially noted that the trees would be saved, so he felt that the tree removal was tied to the other approvals.

Ms. Black noted that Mr. Kaufman had asked whether the pool was still part of the plan and Mr. Hirschman said that the pool was not a part of this.

Mr. Delano read from the resolution, and specially noted the part that Dr. Matusow referred to. He asked again whether this was substantive enough to require public hearing.

Mr. Hirschman said that normally he was in favor of public hearings if they were appropriate, but at the end of the day, if these trees have to come down then they have to come down. He questioned the benefit of having a public hearing on this issue. He felt the real purpose of public hearings was so neighbors can be heard and perhaps effect a change if necessary. Chairman Michelman said that was not their purpose. She felt that neighbors were entitled to see what was being replaced rather than watch the trees come down and get hysterical. She thought the trees have to come down, but that the public deserves to see the plan.

Ms. Black felt that the neighbors clearly expressed their opinion. The Board has now heard from the Conservation Board and Building Department that the trees need to come down. If they now hear from the neighbors again, nothing would change. She thought that the Board just needed to make sure that the landscaping plan was sufficient. Mr. Sauro agreed. He said he was confident in the town's professionals to ensure whatever is necessary to provide the neighbors adequate protection.

Chairman Michelman said she could go either way, but she did think that the neighbors should be made aware of this, but perhaps a public hearing wasn't needed.

Mr. Delano asked the harm in having a public hearing. Mr. Hirschman said that it would be a cost to him that is not required by the law. He again questioned the benefit. Mr. Delano said that the benefit was that the neighbors would be notified and be able to provide input on the plan. That way the Building Department and this Board do not need to hear it from them later. Mr. Hirschman said that the people who objected the loudest are not even near his property. He said again that he was going to provide adequate screening.

Chairman Michelman said that may be true, but perhaps the applicant should have shown the plan to those neighbors. Mr. Hirschman seemed to say that he would rather do that than have a public hearing.

The Board decided to waive the submission deadline and authorized Mr. Hirschman to submit his landscaping plan the next day.

Dr. Matusow said he was not hung up on having a formal public hearing, he just wanted the neighbors to be made aware. He suggested sending a letter informing them that this will be on the agenda. The rest of the Board agreed. Mr. Kaufman said that the applicant should review the minutes of last public hearing and notify whoever was there. The Board said the letter should come from the Planning Board. Ms. Black pointed out that neighbors who submitted letters be made aware too, not just those who attended the meeting. Mr. Baroni told the Board that they should not distinguish between those who are legally required or those who expressed interest at the last meeting. If the Board was sending a letter, they had to send it to all those who were legally required to be noticed. Mr. Hirschman had no objection.

Ms. Black said that the Conservation Board should have someone at that meeting as well.

CARRIER

Special Use Permit

Section 2, Block 4, Lot 1-5A

29 Sarles Street

Dean Pushlar, ASLA – Studer Design Assoc.

Discussion

Mr. Dean Pushlar was present with the applicant. Mr. Pushlar explained that the applicant submitted a revised landscaping plan for the property currently under construction. The owner has eliminated the pool and pool house and they have revised the plan accordingly.

Chairman Michelman asked if there was a reason for removing the pool from the plan and Mr. Carrier said that the plan was too expensive, so he decided against doing it. Mr. Pushlar presented the landscaping plan to the Board and explained it.

Chairman Michelman asked the applicant to explain the plants around where the berm was going to be and Mr. Pushlar did so. He explained that in that location they will plant arborvitae to create a wall of evergreen screening. Mr. Pushlar told the Board that they grow approximately 3' per year and will grow to about 40' tall. They will be 8-10' to start.

Ms. Black asked what would happen to the spruce trees if the applicant decided to go ahead with the pool. Mr. Carrier pointed out that since he would have to come back for that approval, that could be dealt with that at that time.

Mr. Pushlar added that he would remove the comment on the plan that indicates "future pool" per Mr. Kaufman's comments.

Monica and Mark Gray (neighbors) were present for the application. Mrs. Gray said that she was informed by the Building Department that this was on the agenda. She submitted a letter to the Board, a copy of which is set forth in its entirety below:

June 8, 2009

*Mrs. Peg Michelman
Town of North Castle Planning Board
17 Bedford Road
Armonk, New York 10504*

Dear Peg Michelman and Members of the Planning Board,

I am writing with concerns regarding 29 Sarles Street and the amendment to the previously approved site plan which is currently in front of the planning board. I am the neighbor that has the "peculiar

relationship” (as stated by Adam Kaufman, Director of Planning in the Planning Board Memo dated June 5, 2009). My address is 12 Dellwood Farm Way. As stated, my house’s front yard sits adjacent to the rear yard of the subject lot.

Originally, after many months, planning board meetings and reviews, it was agreed upon and approved that the Applicant would build a 160’ x 13’ 4-5 foot high berm with 19 Norway Spruces on their side of the property line. Specifically, 7 Norway Spruces 16-18’ tall and 12 Norway Spruces 12-14’ tall. These mature trees would sit on a 4-5’ berm built by the Applicant which would allow for up to 23’ of height coverage.

Now, the Applicant is proposing 3 Norway Spruces 12-14’ and 25 Arborvitae 8-10’ closer to the house with an aluminum/chain link fence on the property line. The changes are significant:

- *16 less Norway Spruces. All of the 16-18’ Spruces were eliminated.*
- *Elimination of the proposed 4-5’ berm which was to allow for greater height and privacy.*
- *The amount of coverage along the property line went from approx 160’ to less than 100’*
- *The deletion of a pool yet the addition of an aluminum/chain link fence on the property line to run the length of the originally proposed trees (160’) adjacent to the subject’s house and our house and in the rear of the subject’s house which is in our front yard.*
- *The addition of arborvitae which are 8-10’ in height, not deer resistant and pulled in from the property line and, therefore, the proposed fence.*

The aforementioned changes impact us in the following ways:

- *Less coverage between houses.*
- *Less privacy on both first floor and second floor interior rooms. We have permanently drawn shades in our bedroom and bathroom.*
- *Our backyard views and privacy have been completely compromised. The subject built a large house in very close proximity to an existing house (ours). When they built their house, they had the knowledge of our house and how it would sit in relation to theirs. With this knowledge, they chose to build an L shaped house which granted them privacy, but gave us a lot more of their house toward our property and in our line of sight. Currently, the view from our deck is the side of their unfinished house.*
- *Overall aesthetic for both houses. Adding an aluminum/chain link fence around a significant amount of their property in lieu of large Spruces is still very costly and was not part of the original plan.*

- *Depreciation of home value and overall quality of life from reduced privacy, views, aesthetic and noise.*

To make matters worse, we have been living with a construction zone for almost a year and a half. We have been patient. The house is still incomplete and we are patient. But where we draw the line and are asking for your help is with this amended site plan.

The Board was formed, in part, to advocate for existing homeowners. Please be our advocate and insist on keeping with the original landscaping plan that was agreed upon by all parties.

Thank you for your time and consideration.

Sincerely,

Monica and Mark Gray

Mrs. Gray said that the tree line was in the front of their house up to the edge of the applicant's house and the plan had called for 160' of 19 large and tall Norway spruces. The new plan has a fence which is approximately 1' from their ppty line and that was where the trees would have been staggered. The new trees are shorter than the ones proposed initially and they are further inside the property line. Mrs. Gray said that it also covered 60-70' less. She understood the pool will not be part of the plan but it was still a very cleared area. It has been a cleared area for some time as a result of the prior owner's actions but now the applicant was proposing an aluminum fence with no plantings on the property line. This is "beyond different" from what was originally proposed. She understood the pool was costly but said that the fence is costly too.

Mrs. Gray said that her house sits lower than the applicant's house but she thought that in addition to that, she would also have a berm with all the trees. She feels she was blindsided. She said that she was staring at an unfinished house and now she was presented with a completely different plan. She thought that the arborvitaes were completely different than the Norway spruces. Mrs. Gray added that in her back yard, which sits to the applicant's front, "they built a large L shaped house knowing that." She said she now stares at a 100' wall that is their house. When she is on her deck, she is looking at their house, windows and all, and she can easily see their yard. She "pleaded" with the Board to help her.

Chairman Michelman stated that the Board had not yet been to the site but that they would conduct a site walk.

In response to Mrs. Gray's comments, Mr. Pushlar stated that because the pool would have required a fence, the applicant had proposed a fence from the start. He said that the berm was

right on the property line and the trees that are there now will remain. The arborvitaes they are proposing are the deer resistant kind and they do grow fast. He said that he believed the Gray's were going to get better coverage now, and that there will be a wall of screening there. It is both parties' desire to screen this adequately.

Mr. Carrier cautioned that this additional time would likely cause them to miss the planting window, and so they would not be able to plant until approximately September.

Chairman Michelman asked what kind of fence the applicant was proposing and Mr. Pushlar said they were proposing a black aluminum, wrought iron style. Dr. Matusow asked whether the applicant needed that much of a fence if they were no longer proposing a pool. Mr. Carrier said he didn't realize the fence was an issue for his neighbor. He was only including a fence for his dogs, and now he might consider an invisible fence.

KWITTKEN

Special Use Permit

Section 2, Block 10, Lot 2-1

732 Bedford Road

Kate Foster, AIA – Kate Foster Architect, PC

Discussion

Consideration of extension of time for special use resolution

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

POLVARA

Site Plan

Section 1, Block 9, Lot 20-2-12

40 Green Valley Road

Joseph Rinna, P.E. – Site Design Consultants

Consideration

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

REFERRAL FROM TOWN BOARD:

Draft local law – Sections 213-32 & 213-41

(Site Plan approvals and Special Use Permit approvals will not expire if valid Building Permit exists)

Recommendation to Town Board

Mr. Kaufman explained that he was recommending these changes to the Town Board. In the code, there are expiration provisions for site plans and special use permits. There is an inconsistency in the times. Mr. Kaufman suggested keeping the one-year time period for construction to commence, but to have the expiration be tied to the building permit and the

renewal thereof. That way it eliminates concurrent time lines. If an applicant pulled a permit, but did not commence construction, the site plan / special use permit would still expire. This is important because it would eliminate outstanding approvals.

Mr. Delano asked if there was any limitation on the renewal of building permits and Mr. Kaufman said there were none. Mr. Kaufman said that he had spoken to the Building Inspector about this, and although there are no limitations per se, the Building Inspector has the right to deny renewal for cause.

The Board felt this was logical amendment. Mr. Delano moved to positively recommend this to the Town Board. The motion was seconded by Ms. Black and unanimously approved.

The meeting was adjourned at 9:03 p.m.
