

**TOWN OF NORTH CASTLE
PLANNING BOARD MEETING
15 Bedford Road
Armonk, New York 10504
March 9, 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

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

Valerie Desimone
Planning Board Secretary

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

PUBLIC HEARING:

**BERLINER
Special Use
Section 2, Block 5, Lot 12-14
12 Quaker Meeting House Road
Revi Oren, AIA
Discussion
Consideration of approving special use permit resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 9 out of 12 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. The following neighbors were present: Mr. Roland Ryan, Ms. Sharon Ryan, Miss Sarah Ryan and Miss Kala Ryan of 14 Quaker Meeting

Ms. Revi Oren was present on behalf of the applicant. She explained that the applicant was proposing a natural shaped pool and a small spa with a waterfall between the two levels. Due to aesthetic reasons and coverage, the patios around the pool have been eliminated. They will use stepping-stones instead and a very small patio will be built.

Ms. Oren said that they have added a drainage system that will collect runoff as well as two small catch basins. The silt fence was extended along the entire low part of the property. A larger section of the driveway will be removed to meet the coverage requirements than what they originally proposed. There will be a wrought iron fence for first 90' of the property and a chain link fence in the woods.

Chairman Michelman asked if the neighbors had any questions. Mr. Ryan asked for clarification about where exactly the fence on his property line would be placed because the property line runs through the thicket of the trees. Ms. Oren said that the trees were probably on both sides of the property line, because the property line is a straight line. Mr. Ryan disagreed with her and said that the property line was not straight; he said that he had a survey done recently, and it showed the property line zigzags. Ms. Oren said they could straighten out this issue; the applicant wants it to be pleasing to the neighbors. Mr. Ryan said that based upon way the property line was, the applicant would either have to damage the existing trees, or have to put the fence inside the property line on the applicant's property. The Board asked to see Mr. Ryan's survey. Mr. Delano determined that the property line was in fact a straight line, but that it was possible that the trees meander. The Board stated that the fence would have to be on the applicant's property. Mr. Kaufman said that if the Board adopted the resolution, they could include a condition requiring the replacement of any vegetation that is damaged, and the fence would have to be on the property line.

Chairman Michelman was concerned about the land coverage calculations. The applicant is within the maximum allowable, but she said that in her experience that is a terrible mistake. She said the applicant was up to the very maximum and that tells her they were covering too much ground. She said that in all likelihood a problem would arise and then the applicant would be over the maximum and there is no variance for that. She suggested the applicant consider a way to rework the plan to reduce the coverage. She thought it would be a mistake on the part of the Board if they allowed this to be at the very maximum, knowing what happens.

Ms. Oren said that she has had quite a lot experience in Town. Towns like North Castle have devised systems to keep applicants honest. One way is the requirement to submit the as-built survey. She said she was capable of staying within the limits. Chairman Michelman said again that getting this close to the maximum is usually a mistake. Ms. Oren said that if the code allows a specific amount and the applicant can stick to it, then they should be allowed to do it. If there were a problem then they would have to come back.

Ms. Oren said that they were proposing two gates on the side of the wrought iron decorative fence. Where the fence faces a neighbor or was near the pool it will be a wrought iron fence. After 90' it would be a chain link fence; that would be in the woods and won't be visible. The fence and the gate are shown on the detail sheet.

Mr. Delano said he did not take issue with the fence style, but he was concerned that the applicant was fencing in the entire property as well as the conservation easement. Ms. Oren felt

that if a homeowner fenced in an area that is smaller than their entire property, they create a situation where they 'grandfather a portion of the property to someone else.' The Board said that was not true. Ms. Oren asked if the applicant was not allowed to fence in their entire property. The Board said that was not what they were saying; they were concerned that fencing entire properties blocks off the flow of the wildlife. Ms. Oren said that the applicant has two dogs and they want to fence the property so they have the freedom to roam the entire property. Chairman Michelman asked if the property was fenced now, and the applicant said that they had an electric fence.

Ms. Black was concerned about the conservation easement being fenced, and leaving no place for the natural wildlife. Dr. Matusow said that another concern is that if a property owner fences his entire property, he protects his property but forces deer onto neighbors' properties. He said the Board strongly suggests to applicants to keep the fence to a minimum they can live with for this reason, and to maintain and create wildlife corridors. He had a problem with this type of proposal that seeks to fence the entire property.

Ms. Berliner said that she did not want to incur the cost of the fence around the entire property and they would have liked to put the pool back further, but they couldn't. She said that if they fenced around the pool only, it would be a tremendous eyesore and very close to their house. Chairman Michelman said that it was not "either / or." She said the Board was not saying that the applicant must fence around the pool alone, just that they shouldn't fence the entire property. Mr. Delano suggested stopping the fence at the line of the conservation easement. Ms. Black agreed. She said she didn't have a problem with the fence along the side property lines, just near the easement.

Ms. Oren said that because of the grade, the fence would be very visible. She said that it might be possible to curve it through the easement area. Ms. Oren noted that the applicant would have preferred to position the pool further back, but that would have been within the revised clearing and grading limit line. She said that if the pool would have been able to go there, then the applicant would have just fenced the pool area. The Board noted that the applicant never asked for that. Ms. Oren agreed, and said that they did not ask for it because she didn't think that the Board would have entertained that.

Chairman Michelman asked if the proposed alternate location was in a buffer and Ms. Oren said no. Dr. Matusow asked what the coverage would be with that alternative and Ms. Oren said it would probably eliminate 80-100' of coverage. The Board thought that plan might be better.

Mr. Sauro asked what the fence design would be if the pool was relocated. Ms. Oren said that they would fence around the pool only and there would not be any fence around the property line or the front or in the easement. Mr. Sauro asked why they wouldn't tighten the fence around the pool where it is currently proposed and Ms. Oren said that would be a very awkward layout.

Mr. Delano asked why the applicant did not ever propose the pool there and Ms. Oren said that it would have meant putting the pool in the amended clearing and grading limit line. Ms. Black noted that area was already disturbed; the area is lawn currently. Ms. Oren agreed.

Dr. Matusow asked about the visibility between the new proposed location and the neighbor on that side. Ms. Oren said that they would probably have to extend planting on that line. The Board agreed that that plan might be better as long as they extend the planting. The Board thought that would be beneficial in reducing the coverage too.

Chairman Michelman asked if there were any other public present. No one else was present. The Board decided to adjourn the public hearing.

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

OTHER BUSINESS:

559 MAIN STREET

Consideration of waiver of site plan

Chairman Michelman explained that the Board had received a letter from Rich Fon to Mr. Kaufman indicating that there was going to be a change from the auto detailing shop to a retail use, but that there was not going to be any increase in parking. He thought that a site plan waiver would be reasonable. The main issues were the lighting in parking lot, the striping and signage (that would have to go to the ARB). This would not impact the site plan.

Mr. Delano said he knew what the site looked like. He asked if it was in the CB zone and Mr. Kaufman said that it was. Mr. Delano asked if there was anything on file and Mr. Kaufman said that there was a site plan and special permit on file. Mr. Delano pointed out that the pavement is a disaster, the landscaping is deficient and he doesn't know if there is a designated loading space.

Mr. Delano noted that there was an easement on the side of the property and asked what it was for. Mr. Kaufman explained that it provided access to the property in the rear. Mr. Delano said that there seems to be an issue with the parking spaces and the building is ugly. He said that if it were up to him, he'd like to see the property improved significantly. There might be a better-looking conclusion if it were brought through the site plan process. Mr. Kaufman said that the Board was not required to waive the site plan process.

Ms. Black asked if there was any way to require landscaping without having the applicant go through the process. Mr. Kaufman said that there was, but the better way is to get the applicant in before the Planning Board to go through the site plan approval process.

Dr. Matusow said that Mr. Delano brought up good points; this is a very visible piece of property. He did not think that going through the site plan approval process would hold the project up for too long, because there aren't too many issues and they seem to be able to be easily addressed.

Ms. Black agreed. She said the building wasn't attractive and the landscaping was nonexistent. She did not want to hold up the project, but she would like to see the aesthetics improved.

Chairman Michelman asked if there was a plan for the site, and Mr. Kaufman said there was not; they would have only needed a plan to restripe the parking lot.

Mr. Delano moved to require a site plan application. The motion was seconded by Dr. Matusow and approved by all but Mr. Sauro.

Mr. Kaufman said that he would speak to the applicant and relay the Board's specific issues. He

asked if the Board wanted the first meeting to be scheduled as a public hearing or if they wanted to see something first. The Board decided they wanted to see a plan first. Dr. Matusow advised Mr. Kaufman to remind the applicant about Mr. Delano's comment about the loading area specifically.

TOLZ/NAGLE

Lot Line Change

Section 2, Block 5C, Lot 5C (Tolz)

Section 2, Block 5C, Lot 4 (Nagle)

104 & 92 Byram Ridge Road

Consideration of 3rd extension of time for preliminary subdivision resolution

Chairman Michelman explained that the applicant was seeking an extension of time. Dr. Matusow said he saw no reason why the Board should deny the request. Chairman Michelman agreed, but said she saw no reason why this should have taken so long. Dr. Matusow moved to approve the extension of time. The motion was seconded by Ms. Black and unanimously approved.

TURET

Preliminary Subdivision

East Lane, West Lane, Nichols Rd

Bibbo Associates, Tim Allen

Discussion

Mr. Tim Allen was present on behalf of the applicant. He explained that there were previously some archeological issues with this application. Chairman Michelman noted that was resolved. Mr. Allen explained that Mr. Sessions went and earmarked some other wetlands that were on and off site. The plan basically remains the same, but the applicant has tweaked some of the houses to increase the buffer to the buffer. With respect to the house on lot one, it would not be a teardown because the applicant lives in that house and it is not in the cards to tear it down right now. Ultimately, a site plan would be required for lot one. The applicant has tested all septic and storm water areas. Mr. Allen recognized that they would have to provide some additional information, but that would not be a problem.

Mr. Allen said that they needed to discuss the four lots that are proposed. The applicant will provide a landscaping buffer along Palmer Road and will provide the Board with a plan as this progresses. There will be additional landscaping between lots one and two once the board feels comfortable.

Mr. Allen said that the storm water system in the buffer would require wetlands approval. This is a one-acre zone, so the septic, wells and other things can get tight. The applicant is proposing an underground system in the wetland buffer and the 2:1 mitigation as required by code.

Mr. Allen said that they have received the memos from staff. They will provide a functional analysis as requested by Mr. Kaufman. There is a storm water system in back that will need a wetland permit. There are some impervious areas, but the storm water report will reveal whether the applicant needs a larger system.

Mr. Kaufman suggested using the conservation subdivision technique in helping to shape the lots. He said he was not talking about reducing the size of the lots, but using the benefits of alternative setbacks, with the goal of alternating the lots with the hope to preserve the buffer. Then that could be the open space area. He said that he had not designed this, so he did not know if it will ultimately be a benefit, but it should be looked at. Mr. Allen said that they discussed this at the last meeting, and the problem is that the site is predicated on the septic areas. If there were some setbacks that could be adjusted slightly, then they could look at that, but this plan is predicated on the septic areas. He added that there is a need for storm water system and this needs to be addressed. Mr. Allen said that he did not think there was enough to work with.

Mr. Delano asked if, based upon the vertical alignment of the road and the location of the wells whether it was possible to do treatment within the confines of the common drive. Mr. Allen said that he could look into this further. He cautioned that there was a lot of rock on the property and that may be a prohibitive factor, but he would look at it.

Ms. Black said that even if the applicant wasn't doing a teardown on lot one, perhaps they could work the addition in a way to improve the relation of that house to the others. Mr. Allen said that if they tried to turn it at any angle would compromise the existing structure. Mr. Kaufman said that the Planning Board shouldn't get involved with that at this stage. The way it is executed will be for some other Board in the future. The existing house orientation is what creates some awkwardness. Mr. Allen said that he could try and show something, but it is more for site plan approval and he didn't think that the applicant could be held to that.

Mr. Kaufman said that the recreation area for lot one versus the front yard for lot two is the real issue. Mr. Allen said that they could bring the driveway around the rear and alter the plan that way. Mr. Kaufman said that would not relate to the road well.

Someone (didn't identify himself) said that there are other houses on the street that are situated similarly to lot one. The landscaping will separate lots one and two. Chairman Michelman said that the Board looks at it differently. This is a subdivision and all four lots are a part of the subdivision. Mr. Kaufman said that the point was a good one; the relationship between one, three and four all work – it is lot two that has an issue. The Board should look at an alternative that shows screening between lots one and two. That is not certain to be adequate, but the Board should look. The alternative would be to eliminate lot two.

Dr. Matusow thought they were getting a little ahead of themselves. He tended to agree with the applicant about lot one. A reasonable screening plan around lot one keeps it separate from the others. He did not think the Board needed to worry that much about that lot; nor do they have to worry about redesigning that house now. The Board should be thinking about lots 2, 3, and 4 and how they relate to each other as the issue. As for eliminating the lot, he thought that the engineers should try and work toward Mr. Delano's suggestion to rework the storm water to get it out of the buffer. If that happens, he did not see a need to eliminate a lot. Dr. Matusow said he would also like to see the number of trees being cut down reduced. The applicant is proposing to remove 158 trees (50 of which are specimen trees); he'd like to see that reduced.

Chairman Michelman asked if the Conservation Board has been to the site. Mr. Fava said that they had not. Chairman Michelman said that would be useful. Mr. Allen thought that the application had been referred, but the applicant wasn't quite ready. He thought that was the next step and then they'd come back here with that board's comments. Chairman Michelman said

that would be productive.

Mr. Kaufman asked if there was a consensus that the lot orientation was acceptable. Mr. Allen said that would be part of a future site plan, but he would show the house on lot 1 angled if that was what the Board wanted.

Dr. Matusow said the orientation was fine if the applicant could resolve the massive intrusion into the buffer. Ms. Black said she was still a little concerned with orientation between lots 1 and 2; she'd like to see more landscaping and maybe reconsidering the pool area. Mr. Allen said that would not be a problem. He did not think the landscaping would be an issue.

Chairman Michelman said that she had a bit of a problem with everything being deferred to site plan approval stage. She said that if the Board approved a subdivision, she thought they had a responsibility to ensure that appropriate spaces were reserved for houses and recreation. She didn't think the Board should approve something that would be impossible to build. They need to make sure that the lot size is sufficient to build what needs to be built. Mr. Allen agreed and said that they would also provide a schematic landscaping plan.

Dr. Turret said that he currently lives on lot 2. He has cleaned out the back yard and removed dilapidated fence. For all these years, people have lived with parts of a dilapidated fence in that area. He said that if he put up a better fence, that would be an improvement, but a fence has always been there. He said he understood that he was building a house there, but putting a fence would screen the whole area. He thought that, just for now, the Board dictate that there be screening of some sort, either a fence or landscaping. No one has ever tried to improve the area. Chairman Michelman said that the Board was looking at this area for a 4-lot subdivision; they have to make sure that if that is approved, that all the homes and recreational facilities will fit. Dr. Turret said that he was trying to give the Board everything, but the fence along Palmer is a solution. Chairman Michelman said that she was not talking about fencing between the applicant and Palmer; she was looking at the entire package.

Mr. Kaufman said that the Board has discussed the important issues. He noted that there was a general statement that the plan should be revised to preserve as many trees as possible, but he would not characterize this as excessive tree removal. In order to put in additional houses and septic systems, many trees will have to be cut. Mr. Delano agreed, but the plan should be revised to try and save as many as possible. Dr. Matusow agreed and said that big houses with a pool might not fit. He was perfectly willing to say that the house should be smaller and that there was no room for a pool, and therefore they could save some of the trees. He said that he was happy to deal with each site plan as it comes along.

Mr. Delano suggested that the Conservation Board comment on any trees that they think should be saved. Mr. Fava agreed. Mr. Allen said they would work with the Conservation Board.

Mr. Allen asked if the Board was comfortable with the cul-de-sac. The Board said this was not an issue. Mr. Kaufman said that it would be in the memo, but it is not an issue.

Mr. Delano asked if this was referred to the fire department and Mr. Kaufman said that it was, but there was no response yet. He said that he would send a reminder out to them. Mr. Allen added that they would add a school bus area.

Mr. Coyne cautioned the applicant about moving the storm water system. If it was going to be

moved, the Board and applicant needed to be cognizant that the system size might be altered. What is currently shown is enough; but they needed to make sure, prior to site plan approval that they will be large enough. He asked if there was a way to reduce the size required by reducing the amount of impervious surfaces. Dr. Matusow said that if the applicant limits himself by his storm water system, then when site planning comes up, the town engineer would remind the applicant and the Board that 'this is as much surface they could have without over-exceeding the system previously approved'.

Mr. Delano noted that this could theoretically box in the applicant as to what they can do on the site. Dr. Matusow agreed, and added with a joint system, by approving something on 'site a' could seriously limit what would be allowed on 'site b'.

Mr. Allen cautioned the Board that they shouldn't be surprised if he came back with something still in the buffer. He said he might be able to reduce the size, but he would still need something in that area due to the storm water there.

Mr. Delano asked the amount of the total disturbed area, and Mr. Allen said it was less than 5 acres. Mr. Coyne said that he did not want to get into a situation where the systems are designed down to the square foot. The Board needs to make sure there is flexibility.

Mr. Sauro asked if lots 2, 3, and 4 feeding into that system and Mr. Allen said they did. Mr. Sauro asked if it would be possible to limit a percentage of use toward a system and based upon that percentage, have a certain amount of square footage allowable. Mr. Allen said they could give a worst-case scenario. The houses are large, there are decks and pools. They will try and work with that. Mr. Allen said that it would be difficult to work a percentage into a legal agreement.

Mr. Allen said that there is a high point in the road, and they are improving the road back to North Greenwich; this area is untreated. There is an existing road there now, but this is something that they would need to discuss with the DEC. He was not sure how much treatment they could provide. Mr. Coyne said that was the reason for his comment. He did not know that the Town would want to take over the infiltrators and the like, but it is in the Town's right of way. Mr. Allen said he'd have to work this out with the DOT and DEC. Mr. Baroni said it could be argued that this was more than just a repair. Mr. Allen said that it was an improvement; the applicant is widening it and paving a dirt road. Mr. Coyne asked if that was a Town-owned right of way now and Mr. Allen said that it was a private road now. Mr. Coyne said that the applicant would need to talk to the highway department too. Mr. Allen agreed. The applicant will also go to the Conservation Board and speak to the fire department.

CALDER CENTER – FORDHAM UNIVERSITY
Site Plan
Section 2, Block 1, Lot 8
31 Whippoorwill Road
Dr. John W. Wehr, Director of the Louis Calder
David Rigney, Office of the General Counsel
Discussion

Mr. Rigney was present on behalf of the applicant. He explained that the university is in support of the application of the Calder Scientific Research Center to construct residences for 12 full time students. He said that Dr. Wehr was not able to attend.

Mr. Rigney said this application was last presented to this Board last March. At that time, the Board gave a favorable recommendation to the Town Board to enact a change in the town code to permit residences at the Center. There was a site walk. He explained this is a totally separate and private site. Then the application was back to the Town Board in May and the code change was adopted which would allow housing for up to 20 students. At a subsequent public hearing in June, they amended the applicant's special use permit that permits the housing of 12 students. Mr. Rigney explained that they were seeking approval of final site plans.

Mr. Rigney added that during the review, the Town Board made a negative declaration and found that it was not necessary to prepare an EIS. The applicant submitted detailed plans and renderings to the Board.

Mr. Rigney said they tried to give a conceptual rendering, and they came up with three log cabins. However, in moving forward, they had to deal with fiscal and other realities of coming up with a final site plan. They have determined there should be some change in the configuration – they went from four-unit cabins to six-unit cabins. This achieves some cost savings and environmental benefits. The applicant is now proposing two slightly larger cabins rather than three.

Chairman Michelman asked Mr. Baroni if the change was an issue. Mr. Baroni did not think the change was substantive enough to require referral back to the Town Board.

Mr. Joe Modafferri of John Meyer Consulting presented the site plan to the Board. He explained that the existing site is approximately 113 acres and is operated as a bioresearch center. It has five dwelling units for resident families and he indicated their location. There are four additional buildings on the site as well (indicated). They are multiuse spaces that have labs, offices, lunchroom, student area, guest rooms and apartments. There is a fairly simple road system through the site. There is a lake that they use for various environmental studies.

Mr. Modafferri said that the applicant was proposing two log cabins (indicated). They will have six bedrooms each. They are both approximately 1,900 sq. ft. There will be a proposed greenhouse too. The proposed development area is set within the site and is not really visible to anyone. They are reducing the overall square footage of the impervious surface by approximately 700 sq. ft.

There will be a one-way loop road, constructed with item 4 gravel. There will be parking spaces for the buildings. There are two proposed ADA spaces, with a sidewalk. The lot and the spaces are all proposed to be paved.

In association with the cabins, as a result of the additional disturbance, and the change in impervious surfaces, the applicant is proposing an open basin of some type to treat the water quantity and quality. The applicant is also proposing septic fields down in another area (indicated). Mr. Modafferri said that they have been through the Health Department process, who observed the perc tests in various locations. It was determined a particular area was the best for the septic. The 100% expansion area would be in the 2nd best location.

The applicant proposes a rustic / natural feel and they plan to take most of the limit of disturbance area and plant it with a mix that would let it go "back to nature." This would allow the center itself to do some studies.

Mr. Delano asked if the applicant had to use fill for the septic system and Mr. Modafferri said they did but they intend to ask for a waiver. He said that it was included as part of the application just in case they could not get the waiver but they would prefer to leave the area alone, with the understanding that if they had to, they would request the necessary approvals to construct the expansion area.

Chairman Michelman asked if there were any questions. Mr. Kaufman said that it was a good plan, but the applicant should add safety lighting in and around the cabins and parking areas. Mr. Modafferri said he would look into that further. The applicant would come up with something low intensity but sufficient to make it safe to walk to car. Mr. Kaufman said that was exactly what he was asking for.

The applicant recognized that they needed to go to the ARB.

Mr. Coyne said that some additional details were needed, but he did not anticipate a problem. He asked if the applicant talked to the Health Department about the water / wells. Mr. Modafferri said they had not yet. Mr. Coyne cautioned that if the Health Department considers this a public water supply, the well setbacks might change. Mr. Modafferri noted that two wells already exist, but he would look into this further. If there is a problem there is enough space to move things around.

Mr. Kaufman said that this needed to be referred to the Town Wetlands Consultant. Mr. Modafferri said that their consultant went back and reconfirmed the wetlands after the recent snow melted, and now there are some additional flags in the area. He said that he could get a copy of the plan before the consultant goes out. Mr. Kaufman said that would be helpful. Mr. Modafferri said he knew that the applicant would need a wetland permit, but he was going to take another look. Mr. Kaufman said that if the applicant needed a wetlands permit, they would need to be referred to the Conservation Board. Mr. Modafferri said that they would like to be referred but they would try and find a way around it.

STEINER
Special Use Permit
Section 2, Block 4, Lot 1-3
37 Sarles Street
Luigi DeMasi, AIA
Discussion

Mr. DeMasi said that they were proposing to add an addition above the existing first floor, which will be just a playroom of approximately 910 sq ft. He said that this would not impact any landscaping. If any trees were to be damaged, they would be replaced in kind.

Chairman Michelman said that there was a slight concern about the well and propane being protected. Mr. DeMasi said that they would have barrier protection around the well, but the propane tank was not an issue because it was far away.

Chairman Michelman asked if the applicant has been to the ARB. MR. DeMasi said they had not been yet. The Board advised him to proceed with that.

There were no issues from Mr. Coyne or Mr. Kaufman. The Board would schedule public

hearing and resolution for same night, after they receive ARB approval.

THOMPSON

Special Use Permit

Section 2, Block 1, Lot 12.A

13 Whippoorwill Road

Robert Schweitzer, AIA Lasting Impressions – Landscape Architecture

Discussion

Mr. Schweitzer and Mr. Carthy were present for the application along with the applicants themselves. Mr. Schweitzer presented an aerial photo to the Board. He indicated the site, Whippoorwill Road and the proposed pool location. There is a residence to the north, but that was far away. The residence to the south will be screened.

Mr. Schweitzer presented the site plan. He indicated the house, driveway, brush line, lawn area and property line. He explained that the site slopes down steeply and he indicated the steep slope line. He indicated the location of the proposed pool and pool deck. There will be an existing wall on top, and it will go down several steps to a landing, down several steps to another landing etc.

In terms of storm water, the applicant has placed a water garden next to the wetland. There is some swaling. The drainage from the pool area will be funneled to the rain garden. It has been sized to accommodate this runoff. In addition they have added five cultech infiltrators. As part of mitigation there is an existing drain course that spills down the slope. They are taking out a part of it and relocating it. Mr. Schweitzer indicated the ledge rock and the open brushy area with field grass.

The idea to put the pool there is to use the ledge rock as an anchor system for the pool. Mr. Schweitzer developed an alternate pool site after meeting with the Board. It was suggested that the applicant take out the existing septic system and place the pool there, then move the new septic into wood line. Mr. Schweitzer said that he discussed this with applicant, but they are concerned with minimizing tree removal. The applicant felt that the alternate plan required too much tree removal, and was adamant that they wanted to proceed with the original plan. Mr. Thompson said that he has tried very hard to fit the pool into a “non-tree” area. The second alternative would take down about 12 trees, including a large maple. They are very opposed to this type of change. Mrs. Thompson said that they love that treed area, and it also acts as a screening / buffer between them and the neighbor.

Mr. Carthy said that any kind of change to the septic, like in alternative #2 would result in great tree loss. The original plan is the best to preserve trees. In fact, the original plan was more difficult because the owner was so bent on saving the trees.

Mr. Carthy said that they were able to use a negative edge pool in the original plan, but they can't do that in the alternate location. The applicant would probably be willing to give that up in the alternate plan, if they didn't have to remove those trees.

Chairman Michelman pointed out that the original plan is in the wetland. Mr. Carthy agreed, but said that it was a very low-functioning wetland. He submitted a wetland report to the Board.

Ms. Black asked if there was a compromise. Mr. Schweitzer said there might be a way to move it up higher, but trees would still have to come out and the owner didn't want to do that. Mr. Thompson said there were two large oak trees there; he did not think it was worth it to remove actual trees in favor of a wetland buffer.

Chairman Michelman said she understood the thinking there, but pointed out that there was enormous grading that would have to occur to make this happen. She asked if there was any way to reduce the grading. She said there were many factors with this site - steep slope, grading, and the fact that it was in the buffer.

Mr. Schweitzer said there are options. In order to get the pool to rest on the ledge, the pool steps down. It is in close proximity to the wetlands, so he had to grade it 2:1. They could raise the pool higher, but they didn't do that initially because they would have had to install a grade beam to stabilize the pool. Then the walls would be higher. Right now the highest part of wall is 6' to bring it higher would cause it to look like a fort. Additionally, there would be a safety concern. Because the wetland was not identified as a valuable functioning wetland, he thought this was better. If the Board allows the applicant to build in this area, they have to struggle to get the 2:1 mitigation.

Chairman Michelman said the applicant needed to consider how to some way minimize the overall grading issue, presuming the pool has to be where it is. This is an enormous disturbance through the slope. She asked if there was a way to maintain the site and minimize the enormous disturbance. Mr. Schweitzer said the only way to do that would be to make the pool higher. Mr. Coyne asked if he meant raising the pool deck itself and Mr. Schweitzer said he was.

Mr. Delano said that seemed counterintuitive. Mr. Schweitzer said that the retaining walls would grow. Mr. Kaufman said that he was talking about the regrading that could be done behind there. If the applicant changes the edge with the vanishing edge and meets existing grade at the bottom, then that could be an alternative. Mr. Schweitzer said they could also rip rap at the end of the wall if it's a short distance and then they could plant shrubs there. Mr. Kaufman agreed, as long as the distance is short enough.

Mr. Delano said that the Town's Wetlands Consultant and the Conservation Board needed to visit the site. The Board wants to limit the amount of grading between the pool and the buffer as much as possible. The rain garden could be more specifically designated to create a habitat. Mr. Schweitzer agreed.

Mr. Delano said there might be an issue with concentrated flow on one side of the pool. If so, the applicant should do something similar to what was done on the other side. He thought that this was a wonderful spot for the pool, if the wetland wasn't there. Chairman Michelman and Ms. Black agreed.

Chairman Michelman said that the Board needed to hear back from the Conservation Board and Wetland Consultant. Dr. Matusow said the merit of the wetland is the main question. The Board is faced with another recreational amenity that is being proposed 100% in the wetland buffer and regulated steep slopes. The amount of disturbance would be significant. He agreed that, from an aesthetic point of view, this location is terrific. However, the buffer is there. It is important to note that there is room on this site to place the pool entirely out of the buffer. He questioned what it meant if the Town establishes a wetland buffer, and the Board allow things to be built there. He's hesitant about accepting the pool in this location. Dr. Matusow asked the

size of the pool and Mr. Schweitzer said it was approximately 20x50. Dr. Matusow noted that was a very large pool. He was not sure if any environmental benefits would be gained by reducing the size of the pool. Mr. Carthy said that it was the bowl that increases the size.

Mr. Schweitzer said that when the Board discusses this being in the buffer, they should try to understand that the wetland was a low functioning wetland, and that there is no valuable wildlife function. If there was, he would argue not to put the pool there, but it isn't, and there is plenty of buffer beyond this that is NYCDEP controlled. Mr. Thompson said that the only reason there is a wetland there at all is because the city has pushed dirt there to erect a stonewall to mark their property. Dr. Matusow said he understood, but it was still 100' from the boarder of the wetland. Mr. Thompson agreed but said the functionality of the wetland was something for the Board to consider.

Mrs. Thompson noted that the town feels trees are important as well and more than 12 trees would have to be removed in order to get the septic in there. Mr. Kaufman said that it does come down to the function of the wetland. If it was high functioning, there wouldn't be a question, but the Board needed input from their consultants.

Mr. Fava thought it would be helpful for the Conservation Board to have a cross section from the pool down to the water garden. Mr. Kaufman said that the best thing for the applicant to do is to go to the Conservation Board.

POWER

Special Use Permit

Section 2, Block 5, Lot 14-16

6 Quaker Meeting House Road

Charles Gardner, RLA

Discussion

Mr. Charles Gardner was present for the application. He explained that there is a Clearing and Grading Limit Line that was created when the subdivision was created, which cuts off most of the back yard. There is very little space to locate a pool and the applicant's property is 1.25 acres. When the residents purchased the site, the whole back yard was lawn, and behind that there is a conservation easement with a 100' buffer. They came to understanding that where the big trees were, is where they could locate the new Clearing and Grading Limit Line. Only a small bit would be disturbed as the new line. Additionally, the applicant discovered that they were above the minimum but below the maximum allowable land coverage. He said that they were below the maximum by approximately 1,300 ft.

Mr. Gardner indicated the proposed location of the pool and spa. The spa will cascade into the pool. As part of the project, the applicant would continue the stonewall and add planting. They would also take some of the spoils of the excavation to berm up some of the area. They intend to keep as much good quality soil on the site, and remove the rest that same day. There would not be much stockpiling. Mr. Gardner said that they would have a no mow zone and would also add new plant materials.

Mr. Gardner explained that there is another pool being proposed on the neighboring property, so the applicant would work with that neighbor to discuss plantings that would work together.

Everything is being graded toward the pool and they are proposing leader drains and drywells, which are designed to take out the first 8" of the pool. He noted that they still needed to do perc tests.

Mr. Delano asked if they were limiting the fence installation to be along the conservation easement and Mr. Gardner said that they were, and indicated the location. He said this would also help to define where the conservation easement is. There will be gates in the fence, which would be a mix of decorative fence and black chain link. There would be planting around the fence as well.

Mr. Kaufman suggested the applicant consider putting a gate in the rear of the plant line so they could access the conservation easement. Mr. Gardener said they'd consider that, but beyond that line, the property dropped off severely.

There were no issues or concerns from the Board aside from landscaping. They thought this was a good plan. Mr. Kaufman said that the applicant did good job in preparing the submission; by the time it came in for Planning Board review, most of the issues were resolved.

The Board said that a public hearing could be scheduled and a resolution prepared for same night.

ACTING PLANNING BOARD CHAIR 2009

Dr. Matusow moved to appoint Mr. Delano as acting Planning Board Chairman. The motion was seconded by Ms. Black and approved by all but Mr. Delano who abstained, and accepted the nomination.

The meeting was adjourned at 9:31 p.m.
