

**TOWN OF NORTH CASTLE
PLANNING BOARD MEETING
17 Bedford Road
Armonk, New York 10504
May 26, 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 p.m.)

John Kellard, 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

MARQUIS ASSOCIATES

Site Plan

Section 6, Block 8, Lot 69.A

56 Lafayette Avenue

Meredith Black, Zarin & Steinmetz

Discussion

Consideration of approving site plan resolution

Chairman Michelman noted that this was a continued public hearing. It had been adjourned because one neighbor had not been appropriately noticed. Mr. Brad Schwartz was present for the application. He explained that they were requesting approval of their site plan.

Chairman Michelman asked if there were any neighbors present for the application. There were none.

Chairman Michelman recognized that the applicant had received a number of variances from the ZBA. She asked Mr. Kellard if he had any issues with this and Mr. Kellard said there was only one small detail in the memo. Mr. Schwartz said he had not seen that memo. Chairman Michelman asked if he had seen the other memos or the resolution and Mr. Schwartz said he had not. The Board gave him an opportunity to review these documents. Once reviewed, Mr. Schwartz said he had no issues.

Chairman Michelman asked the appropriate street address because she noted that it was listed differently in different locations. Mr. Schwartz said he was not sure. Chairman Michelman said that it would be noted as both.

Ms. Black noted there was a minor typo in the second whereas clause. Mr. Kaufman said he would correct it.

Mr. Delano pointed out that the plan talks about a 2-story building but the survey said it was 3 stories. The applicant said that there were two full floors and a small section that is below the other two floors. Mr. Delano just wanted to make sure that the floor numbers are correct. Mr. Kaufman explained that it was a two-story building with some finished basement. Mr. Delano added that the 7th whereas clause is a type of a negative whereas with no positive whereas to support the Board's conclusion. He thought they needed to add another whereas clause to reflect that the Board was accepting the loading area as proposed. Mr. Kaufman agreed.

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

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

DISTEFANO
Special Use Permit
Section 2, Block 17, Lot 4.F
15 Sterling Road South
Pete Gregory, PE, Keane Coppelman Engineers
Ken Eldon, Ken Eldon Landscape Design
Consideration of approving special use resolution

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

Mr. Peter Gregory was present on behalf of the applicant. He explained that the applicant was seeking approval to construct a pool, spa, terrace and a walkway. As a result of the land coverage and impervious surfaces the applicant also requires special use permits. Since the last time before the Board the applicant has modified the plan to provide additional screening on the southerly property line and indicated pool fence. In order to construct the pool the applicant was proposing a temporary construction access and indicated it would be restored, top soiled

and seeded. The plan does not require removal of trees or vegetation. Mr. Gregory said that he had reviewed the resolution. He pointed out that he would be meeting with the Health Department but he has not been in contact with them yet.

Chairman Michelman asked if the applicant recognized the Board was going to require installation of larger trees and Mr. Gregory said that he had, and the applicant has no problem with that.

Mr. Kellard said that there were only a few minor comments in the memo. Mr. Gregory said that he would address those issues. There were no issues from Mr. Kaufman or the Board.

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

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

SINGER
Lot Line Change & Special Use Permit – GLC & FAR
1 Quarter Mile Road
Sec 2, Block 11A, Lot 24
Bob Roth, PE John Meyer Consulting, PC
Discussion

(Mr. Baroni, the applicant's attorney, was not yet present for this application, so there was no need for him to recuse himself)

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 20 out of 24 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. Arlene and Mark Kamora of 4 Whippoorwill Road were present.

Mr. Bob Roth was present for the application along with the applicant himself. Mr. Roth explained that this was an application for subdivision and a lot line adjustment. He explained that they were not creating any new lots; they were only relocating the property line between two properties owned by the applicant. He indicated the two lots and explained that one of the lots has an existing residence and is approximately 2 ½ acres in size. The southern property is approximately 3 ½ acres has a residence on it is as well. The applicant proposes to shift the lot line closer to their home, which will make their property slightly smaller. The result will create a 2 acre lot with the applicant's home and a separate 4-acre lot. The applicants are under contract with the DEC and they will demolish the existing home on the second lot and sell that property to the, DEP which will be kept as open space. It will be owned as watershed land.

In connection this lot line shift, and the corresponding reduction in their lot size, the new lot would continue to meet the requirements of the code. Mr. Roth explained that the applicant also planned to do a small addition to his home and a building permit was issued two years ago. The permit has since expired, so in connection with the lot line adjustment, the applicant would like to proceed with that approval. Mr. Roth pointed out that the applicant had received ARB

approval. Mr. Roth opined that the neighborhood would benefit from the addition of open space.

Chairman Michelman asked if the neighbors had any questions. Mrs. Kamora said she was at the meeting because she lived "across the street from the big white house" (indicated). She said that 23 trees were removed "pursuant to the right things to do." She said she has been looking at stumps and mounds of dirt. When the trees were cut down she wasn't given any notice. She said that she had been very upset and she told the tree cutter not to cut any more trees down. Mr. Singer was upset and said that he would rectify the situation. Mrs. Kamora said that she knew that the applicant had good intentions, but she was concerned with having to depend on the DEP to control a mess of weeds. She said that the applicant does not have the land to plant and replace what was taken down to get the same coverage she had before. She said that she wanted the applicant to have everything he wants, but she did not want to look at a mess. She presented photos to the Board. She said that now, in the winter, she could see from her bedroom window up to the applicant's house.

Chairman Michelman said that the Board had received Mrs. Kamora's letter and thanked her for her input. She noted that the letter would be made a part of the record. She explained that to the best of the Board's knowledge, Mr. Singer had approvals to cut the trees down; he didn't just go ahead and do this willy-nilly. This property was going to be sold to the DEP. Mr. Singer said he brought some photos too and presented them to the Board. He explained that the house was being torn down and indicated what could be seen of his house from the road today. It is 6 acres away. He explained that a developer had asked him to turn this property into a multi-home subdivision and he chose instead to sell it to the DEP. He also presented photos from his view of the Kamora's house. Mr. Singer said he had no problems if Mrs. Kamora wanted to plant several trees on this ppty at her own expense. He thought that five evergreens would screen her completely. Mr. Singer said that if he did not think it was right for him to have to pay to replant things that he had permission to remove.

Chairman Michelman asked if Mr. Singer was suggesting that Mrs. Kamora plant the trees prior to the sale of the property. Mr. Singer said he was because he doubted the DEP would let her plant there after the sale. Chairman Michelman asked if the DEP had signed the contract and Mr. Singer said that it had, but that the closing won't occur until the house was demolished, which would take some time due to the amount of asbestos.

Chairman Michelman asked Mr. Singer to explain the need to shift the property lines. (This had been Mr. Kamora's question). Mr. Singer explained that the DEP wanted to buy larger land and the lot line shift would enable the applicant to sell two lots.

Mr. Kamora asked what would happen to the contract if the applicant did get approval to make the lot line change. He also wanted to know why they weren't notified about the trees coming down. Chairman Michelman said that they were not notified because they were not required to be. Mr. Kamora said that Mr. Singer had told him that he would pay for the trees, and the landscape architect said that it would take as many as 11 trees to screen properly - 5 won't do it. He said he was also concerned about any asbestos that will be flying around as a result of the demolition of the house. He wanted to know why he should be responsible for something that should not have been done in the first place. Chairman Michelman said that whether or not the Kamoras' thought it should have been done was not the issue. The trees were removed legally and with the approval of the Building Department. Mr. Kamora said that he wanted to get back what he had before this began.

Mr. Singer reiterated that he had been approached by builders to turn this property into three houses and sell them off at a large profit and he did not want to do that. His attorney had suggested that the DEP might be interested in buying the property. The DEP was interested and wanted to buy as much land as possible. By the Singers selling two lots the DEP was more interested and he was able to gain more of a profit.

Chairman Michelman asked if there were any comments from the Board. Dr. Matusow asked if the Board thought that they should get involved in the tree issue. Mr. Kaufman explained that normally the Board would screen for the use for a building, but in this case, he questioned whether the Board would be comfortable with screening a meadow. Dr. Matusow said that even if the Board was to require the screening, the Board would not have any way to control what the DEP does after the closing.

Ms. Black suggested requiring that area seeded as a meadow so that at least the Board would know that it would be. Mr. Singer said that the property would be seeded shortly, including the area where the house was. The land would be regraded and seeded. He said again that once the driveway was removed he would not have any issue with the Kamoras adding as many trees as necessary. He pointed out that another problem would be watering the trees.

Chairman Michelman said that the issue was that the property was going to be owned by someone else, who can either accept any planting there, or not. She wanted to know what guarantee there was that they would remain. Mr. Singer said that another problem that would be caused by this screening was that they would be blocking any access the DEP would have to the property.

Chairman Michelman explained that the owner has the right to sell the property to whomever they wish, but she questioned the benefit of anyone spending money on the property to plant trees, when there is no guarantee that they will remain.

Mr. Kamora said that he had been told at the beginning (not by applicant) that if trees were taken down and he didn't like what it looked like, that the DEP had no problem with adding trees to screen it. If this mistake can't be rectified then he has been damaged by this process. He said that his highest priority was to get the trees back up. Chairman Michelman said that she understood his complaint but the trees were removed with authority.

Mr. Kamora thought that because the applicant's permit required, the Board had the power to accept or reject their new permit request. Chairman Michelman explained that was not the case; the permit that expired had to do with the applicant's residence and not this property. Dr. Matusow thought there might be a way to fix this situation but it may not be within the power of this Board to do so. It seemed that the neighbors should probably work out an agreement with the DEP.

Mr. Singer said that he had told the DEP that he may want to put screening up when the house was removed, so he did not think there would be any problem with adding trees. Dr. Matusow thought that the applicant could expand the agreement with the DEP in order to make the Kamoras whole again. Mr. Singer said that if the DEP did not need access to the property then the only issue he saw was who would pay for it. Chairman Michelman said that if the DEP would not agree to block their only access in, then who would pay for the screening is a non-issue.

Mr. Singer thought this was something that could be worked out but as far as he was concerned the issue was who should pay for it. Chairman Michelman thought it should be done by the applicant and the neighbors together. She said that it was not part of the Board's resolution or within their jurisdiction.

Chairman Michelman said the Board needed to deal with the preliminary subdivision resolution first. Mr. Roth said that he had reviewed that resolution and had no issues.

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

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

Mr. Kaufman explained that the Board also had a resolution for the final subdivision. One caveat was that the Board did not technically have the final plan before them. He explained that this was a condition of approval and he did not expect it to be any different than what is proposed. He said that if the Board did take action on the final subdivision approval, he did not think the Board should take action on the special use permit resolutions. He said that he prepared the resolution for the Board's review, but they should wait to adopt it until the lot has actually been created.

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

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

Chairman Michelman advised the applicant to get an answer regarding the trees and the DEP.

GODNER
Special Use Permit Application
Section 2, Block 1F, Lot 2.A
11 Whippoorwill Crossing
David Graham, David Graham Architects
Discussion
Consideration of special use permit resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 9 out of 9 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. Mr. Ken Kaufman of 2 The Knoll was present.

Mr. Kaufman explained that this applicant was back for a new public hearing because he had inadvertently excluded the gross land coverage for the back up area.

Mr. David Graham was present on behalf of the applicant. He explained that the applicant was back with the additional information and revisions. They have added a landscaping plan along

the property line for the property to the left. They have included the 413 sq. ft. of guest parking and revised the calculations for that. The applicant has also provided cross sections of the property and made adjustments for the ceiling height. They have also made other minor adjustments to the plan. The plans more clearly delineate the silt fence and the area of disturbance. Mr. Graham explained that because some of the data changed slightly, they renoticed and were now seeking revised approval.

Chairman Michelman pointed out that Mr. Coyne's memo noted that the plans require a new septic system. Mr. Graham recognized this and said that they already did the deep hole tests and it would not impact the plan. The existing septic system will be severed and that will be the future expansion area. The septic system will be located in the area behind the pool. Chairman Michelman asked if they would have to move the pool at all and Mr. Graham said they would not. Chairman Michelman explained that she was asking all these questions to make sure that the plan the Board was going to approve would be exactly what will happen on the property. Mr. Kaufman confirmed that no additional permits would be required.

Mr. Delano asked if there would be any impact from the stormwater mitigation in the front. Mr. Graham said that he and the applicant's engineer walked the site with the Town Engineer and they have made adjustments to the plan based upon that meeting. Mr. Kellard said that it sounded like this would be fine he just wanted the applicant to resubmit the plan with the new septic and drywell locations. Mr. Graham said that based upon the soil they encountered, the Town Engineer approved his opinion of the outcome.

There were no issues from the Board or Mr. Kaufman.

Chairman Michelman asked Mr. Graham to review the landscaping plan. Mr. Graham did so. Mr. Kaufman (neighbor) viewed the plan. Mr. Graham indicated the neighbor's property and the applicant's property. He indicated areas where the work would occur and the existing landscaping. He explained how they would modify the landscaping, which included 8 new Norway spruce trees, 9-10' tall. Mr. Kaufman (neighbor) asked why the planting stopped in a particular location and Mr. Graham said it was because his trees were so mature. Mr. Kaufman (neighbor) asked if the dogwood would be removed and Mr. Graham said they would not. The neighbor asked if, with the revised calculations, whether the applicant was still above the basic and below the maximum and the Board said he was. The neighbor asked if any brush would be taken out for the septic or the access road and Mr. Graham said it would not. The neighbor asked additional questions, which were answered to his satisfaction.

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

Mr. Graham said he reviewed the resolution and had no issues. Ms. Black moved to approve resolution. The motion was seconded by Mr. Delano and unanimously approved.

STURINO
Special Use Permit
Section 3, Block 7, Lot 10.E01
75 Nethermont Avenue
Steven Basini, PE, Petruccelli Engineering
Consideration of approving special use resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 17 out of 23 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. There were none.

Mr. Steven Basini was present on behalf of the applicant. The applicant was seeking legalization of existing residence to a two-family house in a two-family zone. They were over the maximum on the FAR and over the basic on gross land coverage. He revised the plan and showed the new parking spot (indicated the spaces, and explained the layout). The applicant has the four required spaces. They are sized according to town code and it meets and exceeds the parking aisle requirement. Mr. Basini said that he has addressed the Town Engineer's comments and submitted the revised calculations because there were some changes.

Mr. Delano said that the Board would need some confirmation of the square footage of livable area (either graphic or otherwise). Mr. Kaufman said that would be added to the conditions. Mr. Delano said that when he did the calculations he thought the livable area was deficient, and if that was the case, the applicant would need a variance from the ZBA. Mr. Delano also noted a typo on the 2nd page in the 4th whereas – the permit was for gross floor area not coverage.

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

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

CONTINUING BUSINESS:

LOWREY
Referral from Town Board
Section 1, Block 12, Lot 8
7 Round House Road
Mark Miller, Esq. Veneziano & Associates
Discussion

Mr. Mark Miller, Mr. John Meyer and Mr. Anthony Nester were present on behalf of the applicant. He explained that they were before the Board two meetings ago and the Board was discussing its recommendation to the Town Board regarding the special use permit. The Board had directed the Town Planner to prepare two recommendations expressing the views of the Board. At the last meeting the issue of legality of outdoor storage was raised. This issue was referred to the Building Inspector for an interpretation. Mr. Miller explained that based upon discussions with the applicant that issue has been taken off the table.

Mr. Miller explained that the applicant's initial application was for site plan approval only based upon the fact that they were a private garage with no outdoor storage. Despite the fact that nothing was outdoor, the applicant was told he would still need a special permit. Based upon Mr. Miller's review and interpretation of the code, since they needed a special use permit anyway, they decided to include outdoor storage, but it is no longer part of the plan. In addition to removing the outdoor storage the applicant recognized the Board and the neighbors were concerned about the outdoor furnace and so that has been removed as well.

Mr. Miller also recognized that Mr. Delano had asked the applicant to look into lowering the pitch of the roof, and they have done that. Mr. Miller knew the Board had received the traffic report and the applicant believes that there are some serious flaws in that report, but that is ultimately an issue for the Town Board acting as lead agency. The applicant had no issue with the Board making a recommendation with that concern raised.

Mr. Miller pointed out that once the application gets to the Town Board, a public hearing could be scheduled for the special se permit. That would give all the neighbors the chance to be heard on the record.

Chairman Michelman thanked the applicant and said that the Board appreciated all the efforts that have been made, but she was confused because at one point, Mr. Lowrey was asked if he could function without the outdoor storage and the answer was "no." She recognized that anyone could adjust their thinking and that a complete turnaround was acceptable, but she wanted to be assured that the applicant really could function with out this use rather than this just being a way to get the application to move along.

Mr. Miller explained that the first application had everything kept in the garage. When they were told that they would need a special use permit anyway, there was a change in the proposed operation which required outdoor storage. Based upon the removal, the applicant has adjusted his operations, and the items that would have been kept outdoors would no longer be kept outdoors. He pointed out that the enforcement should be easier in many cases because it will be easy enough to tell whether we are keeping materials outside.

Ms. Black asked what specifically would be indoors now and wanted to know if it included all that was proposed to be outdoors before. Mr. Miller said that very small quantities would be kept in the backs of trucks and driven into the garage. Ms. Black asked about the log storage that would be outdoors. Mr. Miller said that the original plan had that in an enclosed shed, and that is what is proposed again.

Chairman Michelman asked what kind of heat was being proposed in lieu of the wood burning stove. Mr. Miller said it would probably be some kind of oil heat, but that would be addressed more in the site plan approval stage.

Chairman Michelman explained that upon receipt of the traffic study, the Planning Department referred it to their own consultant and they anticipate that they would get a full review and report as they always do; however, this will take some time. Chairman Michelman said that it seemed appropriate for the Board to evaluate the Galante report as to its seriousness and the impact it would have on the community. Her opinion was that the Board wait for that report. Mr. Galante expects to have his report to us in approximately one month.

Mr. Miller said he was aware of this and while he respected the Chairman's opinion on this issue, he respectfully disagreed. He said that this Board has expressed traffic as a concern and he did not think that waiting for that report would hinder this Board's ability to refer the application to the Town Board. This is something he felt could be more properly addressed in the Town Board venue. He requested that this Board make its recommendation to the Town Board, noting its concerns about the traffic.

Chairman Michelman disagreed. She said that this was a very large issue that should not be used as a condition for something else. The applicant's own reports showed that the trucks would have to go out into ongoing traffic. Mr. Miller pointed out that all the school buses that have to use the road now do the same thing.

Mr. Kaufman thought that based upon the report, it would be wise for the Board to have some sort of information to give to the Town Board. When the Board has its own consultant's review, they would be able to point to the significant and insignificant issues.

Dr. Matusow agreed that the Board should get the consultant's report, but he didn't think there was any reason why it should take a month. He felt the Board was beating this to death and they have gotten almost all the information they were going to get. He thought the Board was awfully close to knowing how they feel about this application and it shouldn't take a month. Chairman Michelman said they could call and get it expedited. Dr. Matusow said he would like the report before the next meeting.

Ms. Black said she appreciated the applicant's efforts, but she too wanted to hear the traffic consultant's input.

Mr. Miller asked if it would it be possible to have a draft recommendation with "moveable parts" prepared for that meeting so that it could be addressed at the same time. Chairman Michelman said that if the Board received the comments, they could.

Chairman Michelman noted that all of the recent correspondence would be made a part of the record as would a list of the neighbors in attendance:

Denise & Steve O'Connor	5 Round House Court
Jerry March	43 Round House Road
Ed Saggese	13 Hobby Farm Drive
Nancy & Eric Birnbaum	1 Round House Court
Frank and Raphael Leone	3 Hobby Farm Drive
Paul Jacobs	1 Hobby Farm Drive
Perry Freedman	4 Hobby Lane
Aimee Marcus	2 Hobby Farm Drive
Doris Chance	2 Piping Brook Lane
Mark Lazarus	7 Round House Court
Steven Gage	4 Round House Court
Louis Sm _____ [illegible]	45 The Avenue, Conn.
Harvey Kaminski	6 Hobby Lane
Leah Ann L _____ [illegible]	14 Banksville Road
David Jacobs	6 Round House Court

Jeff Brown "Bedford Banksville Road "no # given"
R_____ [illegible] Gunzelman and "Debbie Gunzelman." 6 Zygmont Lane

530 MAIN STREET

Site Plan Waiver

Section 2, Block 13, Lot 3.B

Discussion

Consideration of approving site plan waiver

Jim Ryan, RLA John Meyer Consulting

Mr. Jim Ryan was present on behalf of the applicant. He explained the applicant was seeking a waiver of site plan approval. More than 1½ years ago there was a site walk. There had been a limo company on the site. There was no site plan at the time, and there was an issue of legality.

The limo company has left the site and the applicant plans to change it into a medical office use. This is permitted in this zone. The applicant was not going to be changing the site at all. The applicant has a contract waiting for this decision. This is a one story building with a basement. Mr. Ryan indicated the tenants that are there currently. There is a physical therapy office, a vacant professional office and common spaces. The lower area was more for mechanical and access. It also has an appliance repair business that has been there for 20 years.

Chairman Michelman asked if there was a dentist in the building and Mr. Ryan said that there was a dentist upstairs.

Ms. Black asked what was changing to medical office and Mr. Ryan said that the second level was changing. The site exceeds parking requirement; it requires 21 and the applicant has 26 spaces that are all striped.

Dr. Matusow asked who owned the white vans that are parked there. Mr. Ryan said he was not sure but thought they probably belonged to the owner of the property. Mr. Hollis agreed. Dr. Matusow asked if overnight parking of commercial vehicles was permitted in this zone, or if the Board would have to approve that. Mr. Kaufman explained that if it was accessory to a permitted use, then it was allowed, and the applicant needed to have it depicted on the site plan. Dr. Matusow asked if that was something that would require a site plan to permit it and pointed out that if it was, the Board probably shouldn't grant the site plan waiver. Chairman Michelman asked if the vans were there during the day, if there would still be adequate parking and Mr. Ryan said they would.

Dr. Matusow thought that a waiver might not be advisable if there were issues that a site plan could clear up. Mr. Hollis explained that the purpose of the waiver is to ensure that there is adequate parking. Dr. Matusow said that the Board has received a letter from the Building Inspector indicating that was not an issue. Mr. Hollis said the applicant wants to cooperate and would not object to a condition.

Mr. Hollis thought this was a slippery slope because there were so many issues on this old property and if a site plan was required, there would be problems.

Mr. Delano thought the applicant had a nice basic site plan, so the Board could waive all other

basic site plan requirements with the understanding that the applicant submits the plan to limit the commercial parking on the site. Mr. Kaufman said he'd address this issue in the resolution.

The Board agreed they would approve the site plan waiver with the conditions as discussed.

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

BYRAM RIDGE ROAD SUBDIVISION
Preliminary Subdivision
Byram Ridge Road & Hunter Drive
Section 2, Block 5C, Lot 10
Jim Ryan, RLA Senior Associates
Discussion

Mr. Dan Hollis was present for the application, along with Ms. Megan Smith, Mr. Jim Ryan and the owners of the LLC.

Mr. Hollis said that the applicants have made revisions to the alternative #6 which was the conservation alternative. Then they reviewed the memos from the professionals and some of the same concerns remain. He said that the applicants have said that if the Board is not interested in the conservation proposal, they are ok with that, but they still want to move forward with the five-lot subdivision. That is what they'd like to pursue. Mr. Hollis said that they would like to begin the SEQRA process.

Mr. Hollis thought that the Board should take a look at the neighborhood. The conservation plan differs only a little from an "as of right 5 lot subdivision." This plan will not change the characteristics of the neighborhood.

Mr. Ryan said that at the last meeting the Board asked the applicant to consider two alternatives. One was alternative #7 and had the lots facing inwards. There were potential safety issues and concerns over the lot shapes and sizes and how they'd integrate into the neighborhood. The preferred plan was alternative #6. The applicant was able to demonstrate the adequate sight lines. Mr. Coyne had commented that he wanted the applicant to look at another alternative, which they have done and it too complies with the sight lines.

The question was about lots 4 and 5 and the applicant was directed to look at a plan that eliminated one of those lots. This was discussed with the applicant, but the applicant still feels that the preferred plan meets the characteristics of the neighborhood. He presented an aerial photo that was superimposed with the tax map and explained it to the Board. On Hunter Drive there are five other houses that don't have the minimum required frontage. He recognized that Mr. Kaufman had indicated that the Board may not be able to reduce the minimum required frontage, but here, the applicant thought they could.

Mr. Ryan explained that they also looked at some of the other issues with regard to drainage and they are ready to deal with the drainage. This is a unique site, and it is the applicant's hope that the Board would move this along so that they could begin to address the finer points.

With respect to the bus stop, the school district said there was no issue with safety. They pull up to the intersection of Hunter Drive and therefore, the applicant did not think it would be necessary to include a pull off. Mr. Hollis said that even if the school district wanted to do this he was not sure of how they go about that legally; he would not want a person to buy a lot that has a school bus stop on it. Given the fact that neither he nor the school district was crazy about the idea, he hoped the Board wouldn't require it

With respect to the access easement, the applicant disagrees with Mr. Kaufman, who feels that this doesn't meet requirement of conservation subdivision. The applicant is proposing a

conservation area on the steep slope. There is a wetland, but that is more of a conveyance channel. The applicant submitted information from its wetlands consultant and they brought an access easement right out to Hunter Drive. Mr. Ryan added that the applicant has provided additional information about the stone wall they planned to construct.

As Mr. Hollis had indicated, the applicant was willing to reconsider the original subdivision plan that has minor encroachment into a wetland with a minimum function. They have heard from the Conservation Board and they said they'd consider that plan.

Mr. Ryan said that final placement of the position of the homes on the properties would require individual site plan approval. If there is some restriction the Board felt strongly about, the applicant would be willing to work with the Board on those issues for the individual lots.

Ms. Black asked if the applicant would present the original 5 lot subdivision and Mr. Ryan did so.

Chairman Michelman explained that compliant lots and functional lots were not really the same thing. Mr. Ryan said that the Board could see that the plan was not inconsistent with the neighborhood. Mr. Kaufman said that the character of this compared to Byram Ridge Road and Skyview is that there is some topography and the applicant has some lots that are nice lots – but one lot they are talking about creating is an estate lot. However, lots 2 and 4 on the original plan, has rear yard on rear yard, with only up to 60' between the houses. That is relatively close.

Mr. Ryan thought that one way to address that is to turn the house. Mr. Kaufman agreed, but said that they have already talked about how it is essential to preserve as much of a buffer along the road. In that case, the applicant would have to push the house to the rear as much as possible and then the other one would have to be pushed away from the buffer as much as possible.

Mr. Ryan thought that Lot 5 was the best lot on the subdivision because it has a unique character. Architecturally, they could address the character issues. Mr. Kaufman said they would not have to go that far for the subdivision phase, but they would eventually.

Chairman Michelman said that she would be concerned with the items listed in Mr. Coyne's memo if the applicant went with the conservation subdivision proposal. The issue whether this subdivision actually works in this location. Mr. Coyne's memo is really the focus, because in his opinion, in this conservation plan, the applicant may not physically be able to make this work.

Mr. Ryan said that they know where the septics would be and they have indicated the wells and they know they could fit. They have even taken into consideration the neighbors' concern over increasing their property. They have provided all the necessary information and they have no question that this is workable.

Mr. Kellard explained that the applicant has not addressed the stormwater concerns, and that is the big issue. Mr. Hollis said that they planned to address that as they got further along in the process. Mr. Kellard thought that it should be done sooner rather than later because they can't get much further in this project without knowing that the stormwater would work. Mr. Kellard said that because the applicant knows the approximate size, the location of the driveways, and the proposed amenities the applicant would be able to get very close to what they would need. Mr.

Ryan said that they have done that. Mr. Kellard said that they have not yet shown his office the drainage calculations and Mr. Ryan said that he would.

Mr. Kaufman said that, from the planning perspective, he talks about developing the lots so that they are functional, but from the engineering perspective it is another issue. It comes down to whether this is appropriate. Mr. Ryan said that they thought that it was, and they would provide the calculations and show that it all fits.

Mr. Kaufman asked which plan the applicant wanted circulated for SEQRA and Mr. Hollis said that circulating the conventional "as of right" subdivision would make the most sense because it has the most potential impact.

Mr. Delano thought the conservation subdivision would probably be abandoned because smaller won't work on this site; that has been Mr. Coyne's point all along. He thought that it should be abandoned and they should move forward with the conventional plan. Mr. Delano asked if the applicant had submitted a full EAF, part one and Mr. Kaufman said that they had and it has been reviewed already. There was a discussion about SEQRA and the time periods involved.

Dr. Matusow said he was not convinced that he'd approve a five lot subdivision. He did not agree that this was really "as of right" like Mr. Hollis claimed. While lot 5 might be a wonderful lot, the frontage is an issue and it is entirely in the buffer. In order to do that, the applicant would have to have driveway through the buffer and the wetlands itself – for more than 280'. Dr. Matusow did not like the idea of the common driveway. If the applicant eliminated the lot in the rear, then they would be able to reconfigure everything, and he thought that would make for a better development for the town. He thought lot 5 should be removed.

Mr. Hollis said he understood Dr. Matusow's comments, but said that the applicant was still going to move ahead with this plan, and hopefully they would be able to change Dr. Matusow's mind.

Mr. Delano moved to declare intent to be lead agency for the original conventional five lot subdivision. The motion was seconded by Mr. Sauro and approved by all but Dr. Matusow.

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. Pete Gregory and Mr. Rich Morgante were present for the application. Mr. Gregory explained that the applicant was seeking approval to develop lot 20 and they were also considering relocating access to lot #19, which would be required in order to develop lot 20 as proposed. Lot 20 is approximately two acres in size, and is rectangular shaped. There is a band of steep slope in the rear. They are trying to minimize impact. Mr. Morgante said that they have the ability to expand the septic into the lower portion of the property and create a reasonable lawn area and avoid impact to steep slope if we remove the easement.

This change would require site plan approval. The Health Department has been out to the site. Mr. Gregory explained that they haven't presented any plans because they were waiting until they had an idea of the plan they were going to move forward with. The applicant has taken some preliminary measurements and they have a conceptual layout plan. The access off of Ridgeview would be removed and the driveway would come in off of northern part of ppty. The applicant has sufficient sight distance in each direction although some minor grading and removal of brush might be required. Mr. Gregory said that there would be some disturbance to the steep slope and wetland buffer indicated on plans. He said that, depending on the Board's input, the applicant could fully develop the plans for lot 20 and then get Health Department involved.

Chairman Michelman said that the Board was on the site and they considered Sarles Street in their review. The Board does not like the idea of going against a finalized site plan that specifically did not want an entrance from Sarles Street, but based upon the topography and the layout it made good sense.

Chairman Michelman asked about removing the easement on the property and Mr. Baroni said that they could just rescind it and file that document. Mr. Gregory said that they would prepare a legal description and a survey and file that. Mr. Baroni asked if the easement was a legal document or whether it was just shown on a map. Mr. Gregory thought it was just shown on a map. Mr. Baroni said that the applicant should make sure of this, and then they would know how to go about rescinding it. If there is no document, the applicant would not need to file a document rescinding it – just a new map.

Chairman Michelman asked if the access from Sarles was better and Mr. Kaufman said that there is less of a disturbance compared to the access on the IPP. He said he would still like to see what grading and clearing would be required because it is important to maintain the rural character on that street. Mr. Gregory noted that he might want to send the surveyors out sooner rather than later to document the exact sight distance.

Mr. Kaufman said he had no issues with the lot the applicant wanted to develop right now. Mr. Delano said that they just needed to make sure that the plans for the other lot would work. Mr. Kaufman said that was exactly the issue; the Board needs to get the information on the record.

Mr. Gregory said that there is a wide right of way that exists on the southern side of Sarles Street and there is a natural buffer that will remain. The applicant will finalize the layout for the septic system for Lot 20, address the Town Engineer's memo, and get an updated survey for Lot #19 to show the sight distance.

Mr. Kellard asked if they were keeping the same septic for Lot 19 and Mr. Gregory said that they were. Mr. Kellard asked about stormwater for that lot and Mr. Gregory said that they were considering a certain area for stormwater that would have an overflow line to the cul-de-sac.

69 ROUND HILL ROAD LOT #1, 2 and 3
Special Use Permit
Section 1, Block 9, Lots 4-2, 4-2A, 4-2B
69 Round Hill Road
Susan Fasnacht, PE WSP Sells
Discussion

Ms. Susan Fasnacht was present on behalf of the applicant. She explained the applicant was seeking three special use permits for the proposed subdivision on the property. She said that there are three lots proposed and on each lot, the FAR and gross land coverage falls between the basic and the maximum. On lot one there was an error in the calculations so they will amend the plan so that it falls between the basic and the maximum.

On lot one there is an existing six-bedroom house and the applicant is trying to get special use permit for a potential pool. They want to be able to get a pool there when the subdivision is created.

Lot two is the only lot that has no building on it now, but will have a house in the future. The applicant proposes a pool and a tennis court on that lot. She recognized the comment that the tennis court was below regulation size, and she explained that was done so that they could meet the coverage requirements. The applicant would like to wait to make revisions until it is time for site plan review. Whoever goes to develop this might have a smaller house or pool etc.

Mr. Kaufman thought it would make more sense if they reduced the size of something else (i.e. smaller driveway or pool etc.) in order to get the court regulation size, because the average person may not recognize that it is nonstandard size. He suggested that the alternative would be to call it a sport court. Ms. Fasnacht said that this is what the client wanted for the layout, but that she would approach the applicant about either changing the size or renaming it a sport court. Chairman Michelman said that they wanted to be cautious because they wanted to protect the seller and this Board from future issues.

Dr. Matusow said he was not really sure what the applicant was asking for. They were not here for a special use permit, because they were not planning to build a house at this time. Ms. Fasnacht agreed. Dr. Matusow wanted to know what is it that the applicant wanted that they did not already have based upon the IPP. Ms. Fasnacht said that the applicant wanted to have the approval to go over the basic FAR and land coverage.

Ms. Black pointed out that if the Board approved what was being requested, whoever purchased this property would not need to apply for special use permit.

Mr. Baroni pointed out that the committee could deal with the site plan. Mr. Kaufman said that it would be appropriate for this Board to retain site plan approval and include that as a condition. Dr. Matusow said that if this was approved on that basis, that would be fine, but he did not see how that is any different from an IPP. Mr. Kaufman agreed, but said that, but the applicant has expressed concern over the fact that the amount would be questioned and if this was done, those issues would be resolved.

Dr. Matusow asked if the IPP was based upon basic figures and Mr. Kaufman said that it was not and noted that the IPP has no regulatory function. Dr. Matusow said that it shows what

could be there. Mr. Kaufman agreed, but pointed out that this plan would show what is definitely allowed there. Mr. Kaufman added that they have had very few new lots the Board has approved subject to special use permits.

Dr. Matusow thought that the Board was putting the cart before the horse. It seemed like they would be implementing a procedure that would carry forward with this Board, and he did not think that it was as simple as it may appear. Mr. Kaufman said that it was similar to what the Board did for Rolling Hills. During that subdivision the Board decided to limit the footprints of the buildings to what was shown on the IPP. That is almost the same as what the Board was considering here.

Dr. Matusow thought that if the Board was going to approve a special use permit, it seems that they should have a plan before them. It is like writing a blank check. He did not see a benefit to the town, though he did see one for the applicant. It seems like the Board would be "giving away part of the deal before they see the deal."

Ms. Black thought the Board could still have oversight over the project if they maintain site plan approval. Ms. Fasnacht explained that the applicant was seeking these approvals so the seller could present the subdivision in a manner that is more beneficial.

Chairman Michelman noted that these three lots were all different. The gross land coverage is the only approval the applicant would need for lot one. Ms. Fasnacht asked whether the Board would consider FAR if the applicant was coming in for the pool and Mr. Kaufman said that if it was an existing lot, with an existing house, they wouldn't need the FAR; however the applicant was creating a new lot so the FAR would be an issue for that reason.

Chairman Michelman said that Lots two and three were based upon assumptions. She agreed with Dr. Matusow that this is essentially a policy change. However, her concern is the FAR's on houses that don't exist on lots where they may decide they don't want what is proposed. (i.e. art studio). Even though everything requires them to come back for site plan approval, the buyers won't understand this. The Board would be approving something they don't know anything about.

Dr. Matusow thought that if the Board moved ahead with this, they would be giving up certain leverage they have in order to get things we want on sites. He did not see why this was different than any other lot that has existed from time in memoriam. He did not see why the Board should change its entire policy.

Ms. Fasnacht said that the plans show houses on the lots and she did not see how this was any different than what the Board usually did. Chairman Michelman said that the Board usually only issued permits for things they know of. Mr. Kaufman said that the Board had essentially all the same information they would have for a special use permit.

Ms. Black thought that Lot 2 could conceivably hold a much larger house. She thought that anything that varies from the Board's approval would require the applicant to come back. It would have to come back regardless because of the site plan approval.

Chairman Michelman recognized this, but wanted to know what would happen if the buyer came back and said they did not want any of what was approved. Then what was the point of all this.

Ms. Fasnacht said that the applicant did not want to be locked into the Board saying that they would not allow applicant from going above the basic. Dr. Matusow said the Board would not be allowed to do that. Chairman Michelman said that the Code would not allow this. Mr. Kaufman said the Board has never done that.

Mr. Sauro said that he recognized the value of the applicant being able to say that a particular site has been approved for certain things in a climate where codes are changing.

Chairman Michelman said that this was a charade that the Board was being asked to support. She said she understood the applicant thought he needed this approval in order to sell the lots, but she thought that buyers who had to return to the Board would resent this whether it was done for the right or wrong reasons. Ms. Fasnacht pointed out that the Board could specifically state that the buyers would have to come back for site plan approval.

Chairman Michelman thought that this would be taking on a policy that is a very large step in what will be going on in the future. Dr. Matusow agreed. Chairman Michelman did not know that it is a policy that would benefit the town – or even the purchaser.

Ms. Black said she did not know that other people have really been confronted with this issue. She did not know that the Board would be treating them any differently to applicants prior to the legislation. Chairman Michelman said that they would be – they would be offered tools. The applicant wanted the special use permits to market something that would already be on the plan.

Dr. Matusow said that the Board has repeatedly stated that financial considerations of the applicant are not cause for concern of the Board. The Board's only concern is planning. They are being asked to modify the planning considerations in order to make it more financially feasible for the applicant and he did not see how this would benefit the town. Ms. Black recognized this but asked whether there was any detriment. Dr. Matusow said that there could be – depending on what happens in the future. He said that he could state that no one else has ever gotten this kind of consideration from the Planning Board.

Mr. Delano asked whether this was a proper application (i.e. whether there was something that allows this applicant to present this application) and Mr. Kaufman thought that it was. He said it was really no different than the Gilead application. Mr. Delano said that the difference was that this is specifically a special use permit application and not a site plan application. Mr. Baroni asked whether Mr. Delano was asking whether it was permissible to have the permit request without a site plan approval at the same time and Mr. Delano said that he was. Mr. Baroni said that there was nothing in the code to prohibit it; the Board just is not used to it because they have never seen it.

Mr. Delano said that in that case, it is not for the Board to determine whether it benefits the town or not; it is for the Board to evaluate this as they normally would and make a decision. Mr. Baroni and Mr. Kaufman agreed.

Ms. Fasnacht said that they would need three public hearings, and that should be the next step. The applicant planned on submitting an application for final subdivision approval. There is someone interested in purchasing the properties so the applicant would like to move this along.

Mr. Kaufman said that he did not remember how many issues there were from the preliminary approval, but the Board could handle this at the final subdivision stage. He recalled that one issue was the cistern versus dry hydrant. Ms. Fasnacht said that she would like this to be handled by saying that prior to the development of the individual lots, the applicant would either install cistern or a dry hydrant system.

Dr. Matusow recalled that Mr. Delaurentis was to provide the Board with studies that were being done on the pond across the road and the Board has not received that information. Mr. Kaufman agreed with his recollection. Dr. Matusow felt that without that information, the Board did not really have an option. Ms. Fasnacht said that she could show the cistern on the plan, but if, in the future, a dry hydrant could be installed, they would do that. Mr. Kaufman agreed and said that the note would have to say that "installation of cistern would be required unless the applicant demonstrates to the Town Engineer and fire dept that a dry hydrant would function."

Mr. Baroni thought that this was the type of condition that, when some future purchaser comes in, they may not have read the fine print on the plan. Mr. Kellard said that it is his opinion that the applicant designs the tank on the plans, so that it functions.

Dr. Matusow said that the details of how the maintenance of the cistern or the dry hydrant would be maintained would have to be on the plan. Ms. Fasnacht said that it would have to be the responsibility of the fire department. Mr. Baroni said there would have to be an easement to the fire company. Ms. Fasnacht thought one had been drafted, but Mr. Baroni said that he had not yet seen one.

Dr. Matusow asked if the prior resolution settled on the size of the cistern and Ms. Fasnacht said that it had (20,000 gallons).

Ms. Fasnacht said that the only other issues were the license agreements and she would work with Mr. Baroni on them. Mr. Kaufman said that getting the final agreements could be a condition of approval.

Mr. Kaufman thought it was important to have the right size tennis court and also show where the pool fence would be. He noted that screening was an issue too. Those were the most significant issues he saw. Ms. Fasnacht said that they would like to hold off on screening until final site plan. Mr. Kaufman said that the Board could either get a landscaping plan now or say explicitly that landscaping would be dealt with at site plan stage.

Mr. Delano thought that note on the plat that informed purchasers that they would be subject to site plan review would be sufficient but Mr. Kaufman disagreed because site plan approval was not necessarily required as the committee could handle it. Mr. Kaufman said it could be added as a note. That would ensure buyers know they would have to come here.

Public hearings for the three applications would be scheduled for June 22nd.

TURET
Site Plan
Section 2, Block 16, Lot 18D
14 West Lane
Philippe Manuel, Manuel Design & Assoc. Inc.
Consideration of approving extension of time site resolution

Mr. Delano asked if the applicant's permits were current and he was told that they were. Mr. Kaufman explained that this Board had to issue its extension earlier because the building department permits would expire sooner than the Planning Board's approval.

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

The meeting was adjourned at 10:18 p.m.
