

**TOWN OF NORTH CASTLE
PLANNING BOARD MEETING
15 Bedford Road
Armonk, New York 10504
May 11, 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.

APPROVAL OF MINUTES:

April 13, 2009

Mr. Delano moved to approve the minutes from the April 13th meeting, as amended. The motion was seconded by Ms. Black and unanimously approved.

April 27, 2009

Mr. Delano moved to approve the minutes from the April 27th meeting, as amended. The motion was seconded by Dr. Matusow and unanimously approved.

PUBLIC HEARING:

KESSLER

Special Use

Section 1, Block 1, Lot 17

14 Middle Patent Road

John Slaker

Discussion

Consideration of approving special use resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 19 out of 21 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were neighbors present for the application. Mr. Tony Muntford of 2 Mianus Drive was present.

Mr. Robert Sherwood was present on behalf of the applicant along with Barry Naderman, John Slaker and Mr. and Mrs. Kessler. Mr. Sherwood explained this has been a long process, but the Town's boards have been very supportive. He explained that the applicant has received Town Board approval, ARB approval, and a variance from the ZBA for the size of the structure in relation to the FAR.

The basic allowable gross land coverage is 96,000 sq. ft. and the applicant's proposal, including the stable and driveways, will be at approximately 38,000 sq. ft.

Chairman Michelman asked Mr. Sherwood to go through the development of the site. Mr. Sherwood presented an aerial photo and indicated the proposed barn location, the existing stable that would be removed, and the existing house. He presented the topography plan and indicated these same locations. He indicated the area where the majority of site work would occur (at the driveway location). Mr. Sherwood noted that it will look very rural. The manure storage will be behind the proposed stable. The applicant has also graded a riding ring and Mr. Sherwood indicated the area.

Mr. Sherwood explained that they've mitigated for all the storm water. Some of the storm water will be stored in a cistern that will be used to sprinkle the riding ring (done once a day) and the rest of the storm water will be put into infiltrators.

Approximately 1,800 sq. ft. will be removed as a result of the removal of the stable. Mr. Sherwood noted that this was significantly under in terms of gross land coverage.

Chairman Michelman asked if Mr. Muntford had any questions. Mr. Muntford said that his only concern was the horse manure management, but based upon his review of the submission he presumed that will be well taken care of. He added that this looked like a good project.

Mr. Blake Schulman of 10 Middle Patent Road said he was "110% for this project" and had no issues.

Mr. Coyne said he has some issues with details that are all relevant, but they should be easily addressed. He noted that all his issues are covered in the resolution. Mr. Kaufman said he had nothing to add aside from what is in the resolution.

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

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

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

Mr. Sherwood noted that the applicant made the application to the Health Department, because there is a small sanitary sewer disposal system and a small well too. The applicant would like to do the site work so that they can begin to exercise the horses, and Mr. Sherwood wanted to know if they could begin. Mr. Kaufman said that the applicant should work this out with Mr. Fon; it is up to him.

MARQUIS ASSOCIATES

Site Plan

Section 6, Block 8, Lot 69.A

56 Lafayette Avenue

Meredith Black, Esq. – Zarin & Steinmetz

Discussion

Consideration of approving site plan resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted unfortunately, all paperwork was not in order because one neighbor who should have been noticed was not. Mr. Baroni said that the Board could move forward with this public hearing, but they would have to give notice for that other neighbor (Conway) for the next meeting.

Ms. Meredith Black was present on behalf of the applicant. She explained that they were seeking site plan approval to legalize the parking for the existing building that has been in place since the building was constructed. The parking as the applicant proposes is safe and functional and the applicant's traffic consultant confirmed that. The applicant is also proposing landscaping.

Ms. Black explained that they have received the five necessary variances from the ZBA (allowing them to narrow the parking spaces, reduce the length of the spaces, reduce the aisle width and to back onto Lafayette Avenue). Ms. Black indicated the new spaces and the wheel stops they are now proposing. She explained that they would plant honey locus on the corners and pachysandra as well. She indicated the trash enclosure, and the trash collector has approved this location.

Ms. Black said that the applicant was asking for a reduction in number of loading spaces (they only show one instead of two). The building doesn't require two loading spaces and the applicant thinks it is more important to provide additional parking as opposed to additional loading area.

Ms. Black explained that the parking on the site is consistent with what exists in the neighborhood. It will not impact the safety of the community. The visitors and tenants of the building are very familiar with how this site operates.

Chairman Michelman asked Mr. Coyne if he had issues and he said he did not. Mr. Coyne said that though he didn't have a problem with the wheel stops, it was up to the Board. Mr. Kaufman recognized that the Board generally does not like wheel stops, but for this site it is reasonable.

The Board also felt that one loading area was sufficient and they agreed they wouldn't require the second one.

Mr. Delano moved to adjourn the public hearing so that the other neighbor could receive the notice. The motion was seconded by Mrs. Black and unanimously approved.

Mr. Kaufman advised the applicant to notice Metro North and the Conways.

OTHER BUSINESS:

MACKEY

Amended Site Plan Approval

Section 2, Block 4, Lot 1-9

5 Dellwood Farm Way

Frank Guiliano, RLA

Discussion

Consideration of amended site plan approval

Mr. Guiliano was present on behalf of the applicant. He explained that most issues had been addressed at the last meeting, but Mr. Delano had requested to see a copy of the soil report, which the applicant has submitted. Mr. Guiliano noted that there were no issues with that. He said that the plan hasn't changed since last submission and he had no problem with providing the additional details requested.

With respect to the 2' stonewall, Mr. Guiliano said that since that no longer makes any sense, they would be removing that from the plan.

Chairman Michelman noted that in the "other conditions" section, the Board needed to add the phrases relating to the filling of the pool. She asked if there were any other issues and there were none.

Chairman Michelman asked if the applicant had read the resolution, and Mr. Guiliano said that he had and he had no issues.

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

CALDER CENTER – FORDHAM UNIVERSITY

Site Plan

Section 2, Block 1, Lot 8

31 Whippoorwill Road

Dr. John W. Wehr, Director

David Rigney, Office of the General Counsel

Discussion

Mr. David Rigney was present on behalf of the applicant. He explained that since the last meeting the applicant's consultant submitted detailed responses to the professionals' memos and they have since received the additional memos from Mr. Kaufman and Mr. Coyne. He said that the comments were helpful and they seem to indicate a strong convergence of views as to the basic viability and strength of the proposed plan. He said they would be glad to discuss any issues with the Board.

Mr. Joe Modafferi, the applicant's consultant from John Meyer Consulting, said that based upon the comments they have revised the plans. With respect to Mr. Kaufman's comment that we reference more than 12 students he confirmed that there will only be 12 students on the site. There were some typos that indicated some guest and employee housing as student and that was the reason for the error.

The applicant has added the steep slope disturbance to the plan (12,245 sq. ft.). They have added the tree identification chart, Bollard lighting throughout the parking area and in the vicinity of the cabins, the underground phone and electric service to the buildings and signage for the one-way circulation. The applicant is proposing the signs on wood posts, with the exception of the handicapped signs.

With respect to Mr. Coyne's comments, the applicant clarified whether the island will be striped or curbed. They have showed the existing septic and wells on the overall site plan. Mr. Modafferi indicated these areas on the plan. He explained that the water service for the greenhouses was shown, and he confirmed that there was no septic there. They have created the SWPPP and provided details for the wall on the plan. They have also included notes relating to sidewalk construction and addressed the parking details.

Mr. Modafferi said that they have also revised the parking to show angled spaces in accordance with the Conservation Board's request and updated the wetlands in accordance with the request of the Town's Wetland Consultant. The applicant's representative spoke to the Town's Wetland consultant and it is the applicant's understanding that he has confirmed the boundaries in a phone conversation.

Because of the reconfirmed wetlands, the applicant's wetland buffer disturbance has increased, and the total is now approximately 17,500 sq. ft. One of the wetlands had plant species and one had some soil species, but they are marginal at best because they had been previously disturbed.

Chairman Michelman said that there seemed to be a question about the access road and the storm management features; she wanted to know if they were located in the town wetland buffer. Mr. Kaufman and Mr. Modafferi said that they were. Mr. Kaufman explained that the

Board only had preliminary comments from the Conservation Board and they need to get the final comments. The applicant is required to provide 2:1 mitigation for any disturbance in the buffer. That should be discussed with the Conservation Board. Chairman Michelman added that the applicant would still have to go to the ARB. The applicant recognized this.

Chairman Michelman said that those were the only things that were outstanding. Mr. Modafferi asked if the Board could schedule the public hearing. Mr. Kaufman said that the Board shouldn't set the date, but if they were comfortable with this plan, this could be scheduled for the next meeting once the applicant met with the other boards. This Board agreed, and said that a resolution could be prepared for the same night.

The Conservation Board's representative asked Mr. Modafferi to point out two "marginal" wetlands and Mr. Modafferi did so.

Mr. Coyne asked if the applicant had submitted the plans to the Health Department and Mr. Modafferi said they had not, but now that they know the Town Engineer finds the plans acceptable they will do so.

99 LAFAYETTE LLC
Amended Site Plan
Section 6, Block 9, Lot 34
99 Lafayette Avenue
Dennis Noskin – Dennis Noskin, Architect, PC

Mr. Dennis Noskin was present on behalf of the applicant. He explained that at the last meeting he was referred to the ZBA and have received a variance for an additional 11 spots, providing that the applicant changes the site plan as discussed, which they did. The applicant's originally proposed plan showed 7 spots on the site, and no others. The original site plan had 4 spaces that were tucked under the building in the back. The applicant has agreed to convert those back spaces to parking spaces.

Mr. Kaufman suggested that the applicant eliminate the loading zone shown, so that the applicant can meet the 11 spaces. Mr. Noskin said they could do that. Mr. Kaufman said this would mean that there would be no loading area on the site. The Board understood this and thought that it was acceptable for this site.

Mr. Kaufman noted that the lights that are proposed are not the type of fixture the Board generally approves; typically they use down lit box lights. Mr. Noskin said they would agree to a condition in that regard. Mr. Kaufman said this was acceptable.

Mr. Kaufman said that the site plan should show how the applicant plans to handle garbage on the site. Mr. Noskin said he took out a substantial amount of space to put back the 4 spaces so he was not sure where to deal with the trash. Mr. Kaufman said that they might be able to shift things around and fit it in on the top of the site.

Chairman Michelman noted that the code requires 20' access drives but this one is smaller. Mr. Baroni explained that this was preexisting nonconforming.

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

FRISOLI

Site Plan

Section 3, Block 7, Lot 6-26

7 Kensico Knoll Place

Kory Salomone, Esq. – Veneziano & Associates

Discussion

Mr. Joe Eriole present on behalf of the applicant. He explained that they were last before the Board in October. The applicant has resubmitted the plans, and addressed the technical issues. He has received the professionals' memos and recognized that couple a of things would need to be shown on the plans.

Chairman Michelman asked if the fence and light pole that are in the right of way were still there. Mr. Eriole recognized that they would have to be moved or removed. Those were the most substantive comments they had received; the others were pretty minor.

Mr. Delano said that it was not clear to him that the dwelling unit in the basement was 800 sq. ft., which is the required size under the code. He knows that with the basement, it is in excess of 800 sq ft, but it is not all part of the dwelling unit. He had mentioned this at the last meeting. Mr. Eriole said that the square footage was delineated on the plan but he did not know that it was clear how the measurement was to be done. Mr. Delano said that it was done around the entire foundation. There was discussion over the plans regarding this issue. Mr. Delano said that the applicant needed to look into this issue because if they do not comply, they might need to go to the ZBA. Mr. Kaufman said that he would talk to the Building Department about the issue. If it doesn't meet the requirements, then the applicant would either have to get a variance or reconfigure the plans. Mr. Eriole agreed.

Mr. Coyne noted that there are four spaces (three in the driveway and one in garage) that would have to back onto the street and they are tandem. He said that this was not ideal and he wanted the Board to be aware of the situation. Mr. Delano said that this was pretty standard for the area. Dr. Matusow said that they have accepted this situation in other areas that are similar to this.

Mr. Kaufman asked what the Board wanted to do next assuming that the applicant could resolve the minimum dwelling size issue. Chairman Michelman asked if there was a need for a public hearing if it meets all requirements. Mr. Baroni noted that they had briefly talked about this at the last meeting, and Mr. Kaufman said that he did not find any requirement in the code. Mr. Eriole did not think the town code dealt with this. Mr. Baroni said that it may be that they have only required the site plan review and not public hearings. Mr. Eriole said that section 213-35(1) deals with public hearings and he couldn't find references for this situation anywhere. Mr. Baroni said that he would need to look into this further. He suggested the Board set a date, and then if it is not necessary, they could just consider a resolution for that night.

BUCHBINDER

Special Use Permit

Section 2, Block 5, Lot 2.D16

28 Sarles Street

Peter Gregory, P.E. – Keane Coppelman Engineers, P.C.

Discussion

Mr. Brad Schwartz of Zarin & Steinmetz was present on behalf of the applicant along with Pete Gregory and the applicants. Mr. Schwartz explained that they have submitted an application and there have been some revisions since the last time before the Board. They have also received the wetlands report. He said that they would ultimately like a referral to the Conservation Board.

Mr. Gregory explained that this was a 2-acre property fronting along Sarles Street. He indicated the driveway access to the house and the septic. There is a deck off the main level in the rear and a walkout basement at a lower level. There is also a concrete enforced retaining wall. The applicant is proposing a new pool and terrace. He indicated the wetlands on the property.

Mr. Gregory explained that all of the work to be done is entirely in the buffer area with a small exception. Within the buffer area, there is a band of town regulated steep slopes, of approximately 3,100 sq. ft.

Since last time before the Board the applicant has studied the alternatives. They have looked into minimizing the impact to buffer. There was a study done on the location of the pool but that alternative has been ruled out due to the fact that it would require more of an impact. Therefore the applicant tried to come up with a different configuration and it came down to how they would access the terrace area from the basement. Mr. Gregory said that they have developed a plan that would allow access from the sides rather than the center. It allowed us to pull the pool and terrace closer to the house. They were also able to reduce the size of the terrace. The applicant reduced the amount of disturbance within the buffer. It is now 5,300 sq. ft. but it was approximately 7,000 sq. ft. before.

Mr. Gregory said that the original plan showed one large wall, and by shifting the pool, they were able to tier the wall and use two walls rather than one large one. There would still be some area below the pool where they would have to install the equipment, but this did allow for a gentler transition.

They have been working to develop a mitigation plan and he thought they would be able to do the 2:1 mitigation required. It takes place in buffer and wetlands. The applicant was able to reduce the amount of impervious surface but they would still need a special use permit for the gross land coverage.

Mr. Kaufman asked how much was already disturbed toward the end of the riprap slope and Mr. Gregory said it was approximately 10' and that area was all part of the area to be disturbed when the house was constructed originally.

Mr. Kaufman asked how many feet the proposed retaining wall extended beyond the existing disturbance and Mr. Gregory said that it does not; they are within the originally approved limit.

Mr. Gregory added that they were proposing a third tree to be removed.

Mr. Kaufman said that, in general, the Planning Board and Conservation Board will work closely to evaluate these impacts. The Conservation Board has not walked the site yet. Mr. Kaufman said that his other concern was access and how the applicant was actually going to build this and what impacts that would have. Mr. Gregory said they would use a small machine that would go down to the lower level. Once down there the steelwork would have to be carried down by hand. Concrete would be delivered at the top, pumped over, and brought to the location. Everything that was carried in by hand, would have to be carried out by hand. That includes trees. Mr. Gregory noted that this was similar to how the house was constructed.

The Conservation Board representative asked how much the impervious surface has been reduced and Mr. Gregory said that it was reduced by approximately 75 sq. ft.

Dr. Matusow said he was concerned about the neighbor to the south. Ms. Black and Chairman Michelman agreed. That neighbor is much higher and they wanted to know how the applicant proposed to protect that neighbor from the construction and ultimately the visual and auditory screening for the pool. Dr. Matusow did not see how they would be able to provide that. Mr. Gregory agreed that it would be difficult. There is a row that was proposed during the construction of the house. He said that he has been in that neighbor's house and they will see the pool from the second floor. From the deck they will probably be able to see over the tops of the trees. They wouldn't be able to see it if they were in their lawn. Noise would be able to be heard on both sides. He did not know that the applicant would be able to screen the pool from the second floor. Dr. Matusow said that type of screening was always a consideration for him. The applicant said that he would continue to look into this.

Chairman Michelman asked how close that house was to the applicant's property line and Mr. Gregory said it was approximately 32 feet. Chairman Michelman asked if that was the route they would take to get the equipment in and Mr. Gregory said that it was. Chairman Michelman said that these might be significant enough concerns for the Board to go and take another look at the site.

Mr. Delano thought that a section through the house and pool and deck would be appropriate. He also thought they should review the Town Wetland ordinance and go through the points for the Board to consider. Mr. Schwartz thought they had done this, but if not they would certainly do so.

Chairman Michelman asked if Mr. Coyne had any issues. Mr. Coyne said that they needed to show, graphically, where the staging area will be and where the soil stockpile will be. There isn't much room to stockpile given the location of the septic system. It will probably have to be done one truckload at a time. Mr. Gregory recognized that the septic has to be protected; there is no other room for the septic on the site.

Mr. Kaufman said that the wetlands, access, and screening were the main issues of concern.

Jonathan Maybloom said that the applicant's backyard is his front yard. He said he did not necessarily object but he wanted an understanding of what exactly what is going on because this was basically his front yard. He expressed concern over the runoff and the 16' wall. He

knows that this was better than what was originally proposed (at 26'). He also wanted an idea as to where the pool equipment was going.

Dr. Kramer, 12 Ridgeview Circle, said that he had a 4,500 sq. ft. retention basin, but there is tremendous runoff from this property. The Board and the applicant should talk to the builder of the houses there to discuss the difficulties of the property.

SZCZESNIAK

Site Plan

Section 1, Block 4, Lot 10-512

35 Evergreen Row

Fred Rucker, AIA

Discussion

Consideration of extension of time site plan resolution

Chairman Michelman noted that the applicant was seeking an extension of time. No one was present for the application because they were told it was not necessary. The Board was comfortable with the extension.

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

LOWREY

Referral from Town Board

Section 1, Block 12, Lot 8

7 Round House Road

Mark Miller, Esq. - Veneziano & Associates

Discussion

Chairman Michelman noted that an issue was raised in a letter from Mr. O'Connor discussing the legal zoning issues. The Board asked Mr. Baroni to comment on this and then, based upon what she heard, the Board was going to seek an official determination from the Building Department.

Mr. Baroni explained that the way to get at this issue was for the Planning Board to request a determination from the Building Inspector since he is the first source of authority on an interpretation. He will issue an opinion in writing. The party that is aggrieved by that interpretation can petition the ZBA for an appeal. In his opinion, the Town has a long history of interpreting storage of contractor's equipment as both indoor and outdoor. He cited another situation where they limited equipment storage to indoor storage only (if both indoor storage and outdoor storage were not allowed, the board would not have felt the need to limit it to indoor storage only). He repeated that it was not his opinion that governs; it is up to Building Inspector.

The Board would request an official interpretation from the Building Department and then go from there. There will be no recommendation to the Town Board until this issue is ultimately resolved.

A neighbor asked if the question of interpretation would also include outdoor storage of equipment, materials and vehicles. Chairman Michelman said that they would make it as specific as possible.

FUTIA
Lot Line Change
Section 6, Block 5, Lot 9A
34 Custis Avenue
Dennis Lowes – Ralph MacDonald Company
Consideration of approving preliminary subdivision resolution 2nd extension of time

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

FOTI – 19 HADLEY ROAD
Special Use Permit
Section 2, Block 17, Lot 6-3
19 Hadley Road
Stefan Karlson, President – Arborscape, Inc.
Discussion
Consideration of approving extension of time resolution

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

The meeting was adjourned at 8:24 p.m.
