

**TOWN OF NORTH CASTLE**  
**PLANNING BOARD MEETING**  
**17 Bedford Road**  
**Armonk, New York 10504**  
**February 8, 2010**  
**7:00 p.m.**

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**PLANNING BOARD MEMBERS PRESENT:**

Peg Michelman, Chairman  
John Delano  
Steve Sauro  
Jane Black  
Beata Tatka

**ALSO PRESENT:**

Adam Kaufman  
Town Planner

Roland A. Baroni, Jr., Esq. Town Counsel  
Stephens, Baroni, Reilly & Lewis, LLP

John Kellard, P.E.  
Kellard Sessions Consulting, P.C.  
Consulting Town Engineers

Valerie Desimone  
Planning Board Secretary

Louise Gantress Hiramura  
Conservation Board Representative

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

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**APPROVAL OF MINUTES:**

January 25, 2010

Ms. Black moved to approve the minutes from the January 25<sup>th</sup> meeting as amended. The motion was seconded by Mr. Delano and unanimously approved.

**PUBLIC HEARING:**

**MILLER**

**Subdivision**

**Section 1, Block 11, Lot 11-9 & 11-6**

**7 & 9 Ashfields Lane**

**Barry Naderman, PE - Naderman Land Planning & Engineering**

**Discussion**

**Consideration of approving site plan resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 21 out of 23 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present. There were none.

Mr. Barry Naderman was present on behalf of the applicant. The Board stated that since no one was present, no presentation was necessary. Mr. Kaufman explained that this application was for a lot line change and no new lots were being created.

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

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

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

**COLOMBO**

**Special Use Permit**

**Section 1, Block 4, Lot 10.-354**

**40 North Lake Drive**

**Mary Faithhorn Scott, AIA**

**Discussion**

**Consideration of approving Special Use Permit Resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 21 out of 22 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present. There were none.

Ms. Mary Scott was present on behalf of the applicant together with the applicant. Chairman Michelman pointed out that there were a couple of amendments to the resolution. Mr. Kaufman pointed out that this application had never been discussed before the Board. He said that the applicant is proposing to demolish the existing solarium in front of the house, and construct a new porch. This is going to be a significant improvement to the house. In an effort to expedite the application, this was scheduled as a public hearing for the first time before the Board. The end result will be above the basic amounts of the gross floor area

and land coverage.

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

Chairman Michelman noted that they needed to amend the resolution to add a “whereas clause” to include the gross floor area. Mr. Kaufman explained that they would need to chronicle exactly what the FAR and land coverage is and explain how they are above the basic. It will take three whereas clauses to do that.

Chairman Michelman asked Ms. Scott had she reviewed the resolution. She said that she had and had no issues. Ms. Black moved to approve the resolution as amended. The motion was seconded by Mr. Sauro and unanimously approved.

### **OTHER BUSINESS:**

**STOPNIK  
Special Use Permit  
Section 2, Block 17, Lot 2E  
60 North Greenwich Road  
Crisp Architects  
Discussion**

Mr. Jimmy Crisp and Mr. Joe Melito were present on behalf of the applicant.

Chairman Michelman stated that the Board had walked the site, but asked the applicant to present the plan to the Board. Mr. Crisp said that the addition would match the existing house. Mr. Melito said that they would like to extend the house out approximately 7' and add a covered entry on the front of the house.

Chairman Michelman asked if the applicant was putting on a porch and adding the stairs and Mr. Melito said that they were, and that they had prepared details regarding the railing.

Chairman Michelman noted that Mr. Kaufman wanted the wetlands consultant to go and verify the boundaries. If it is what the applicant has depicted, then no wetlands permit will be necessary.

Mr. Delano asked if the applicant had been to the ARB, and Mr. Melito said they had not. Mr. Kaufman explained that was the next step.

Mr. Delano explained that the applicant should address all the general comments from Mr. Kaufman before they come back again. That way, once the applicant came back from the ARB with the approval, then this Board could schedule the public hearing and draft a resolution for approval for the same night.

**MJ LACAV**

**Site Plan**

**Section 2, Block 16, Lot II.B05**

**125 Business Park Drive**

**Barry Naderman, PE - Naderman Land Planning & Engineering**

**Discussion**

Chairman Michelman explained that all the approvals had expired for this application. The issue was whether they had to go back to the ARB and the Conservation Board, but this was a legal issue for the attorney. The applicant was not sure if the ZBA approvals were still valid.

Mr. Michael Labriola was present on his own behalf. He explained that he was seeking site plan approval. Mr. Kaufman pointed out that this was really only a re-approval of the site plan that the Board had previously approved. The Board had issued some renewals, but they have since expired. He did not think there were going to be any substantive issues, but since there were other approvals that went along with this, this is the issue.

Mr. Labriola asked if there was any way that they could forgo a public hearing. Mr. Kaufman did not think that was possible. He said that this Board could refer the application to the Conservation Board, and get the information from the ZBA as to whether those approvals are still valid. Hopefully those Boards will also say that this won't be a problem.

Chairman Michelman suggested the applicant get on agendas for both the ARB and the Conservation Board, who will likely say this has already been approved, and simply reissue their approvals. She said the Board would like to get this moving.

Mr. Naderman, the applicant's engineer, said that the site work commenced and the building permit was secured. Mr. Kaufman explained that the Building Department had indicated that not enough work had occurred on the site to continue the approval and that was why the applicant was here.

Mr. Naderman asked if the Board would tentatively schedule a public hearing. Mr. Kaufman said that whenever the issues were resolved, they could schedule a public hearing right away. The applicant would not have to come back here just to schedule a public hearing.

Mr. Baroni arrived at 7:30, and the Board asked him his opinion on these issues. Mr. Baroni said that the Board could merely incorporate the prior recommendation into their resolution. He added that the issue of the ZBA is a timing question; those approvals remain valid for two years. Ms. Black noted that they were issued in 2004. Mr. Labriola pointed out that there were extensions beyond 2004. Mr. Baroni said it was a determination for the Building Inspector; he can determine whether the site work was sufficient for the variances to survive. Once he makes that determination, it would be permanently effective.

Mr. Kaufman said that he would work with the Building Inspector and see what he says; either way, next step is to schedule a public hearing. The applicant does not have to go to the Conservation Board or the ARB.

## **170 BEDFORD ROAD**

### **Referral from the Town Board**

#### **Section 2, Block 13, Lot 27**

#### **170 Bedford Road**

#### **John Kirkpatrick, Esq. – Oxman, Tulis, Kirkpatrick Whyatt & Geiger LLP**

#### **Discussion**

Mr. Michael Fareri was present for his application. He explained that this was an application regarding the old lumberyard site. He explained that the site currently has an approval that was granted by this Board. He presented an architectural rendering to the Board, consisting of 7,000 sq. ft. of retail on the 1<sup>st</sup> floor and 3,000 sq. ft. of office space on the second floor. It could be a single or multi tenant building.

Mr. Fareri presented a site plan to the Board. He explained that he had torn down one of the three structures on the site. He said there is parking for 45 cars and indicated the parking areas. He said he had received the necessary approvals and resolutions from the Town Engineer and the Planning Board. However, this is not what he wants to build.

He feels that there is enough retail space in downtown Armonk, and this is not a good location for retail or office spaces, and the market conditions do not lend itself to the current market conditions.

The applicant is now proposing to build a residential development. He has hired Mr. Kirkpatrick's office, who has met with the Town Board, Town Attorney and Town Planner. He has provided a memo to the Board. This application was referred to this Board from the Town Board to determine whether the rezoning would be appropriate. If this Board finds that it would be, then the applicant would need a recommendation from the Board to the Town Board, who would then enact the necessary rezoning. After that, then the applicant would have to come back to this Board for site approval.

The applicant is proposing 16 units with all necessary parking and garages in the rear of the property. This is very similar in footprint to the prior commercial plan. Mr. Fareri presented a proposed architectural rendering. He said it would be very similar in character to the Boies building on Main Street.

The property would have one underground parking space for each unit, supplied by two elevators. There will be storage areas in each of the four corners. The first floor will have a lobby and will be handicapped accessible. There will be six units on the first floor, six on the second and two on the roof. The site would supply guest parking in the front.

Each unit would have two bedrooms of approximately 1,100 sq. ft. except for the two on the roof. The applicant chose two-bedroom units because he thought this market would be for the newlyweds or the older empty nesters.

Ms. Black asked if there would be elevators in the building, and Mr. Fareri said that each floor is elevator accessible.

Mr. Fareri said that of the two units on the roof, he hopes to build one for himself. There will be an outside space on the roof for a patio or garden space. The two roof units will be approximately 3,000 sq. ft.

Mr. Fareri said that he read the memo from Mr. Kaufman, and this plan is in agreement with the Comprehensive Master Plan. The Master Plan indicates that the town needs additional residential units, of a different kind that currently exists. This plan accomplishes that. With regard to traffic, he's discussed this with Mr. Kaufman. The proposed commercial plan required 45 parking spaces, so the trip counts with sixteen units, even if there are two cars per unit, would be 32 cars, and the trip count would likely be less.

With regard to sewer and water, this was discussed when the town conducted its sewer task force meeting. There is no sewer or water issues with regard to this development at this location.

Mr. Fareri noted that Mr. Kaufman had made a comment that at the rear property line have a buffer for planting, but Mr. Fareri did not think that was necessary. There is a block wall and a school behind there. If it had to be planted, Mr. Fareri thought it should be planted with ivy so that it becomes green and can't be graffitied.

Mr. Fareri added that in addition to the underground space, and the guest parking, there would also be a garage for one car for each unit.

Mr. Fareri explained that he has engineered this site, and it was reviewed by the Town Engineer. They are approximately 95% there, but a few more details that have to be worked out in terms of storm water management and environmental concerns.

Mr. Fareri thought that everyone is tired of seeing the dilapidated lumberyard, and the commercial construction is not feasible at this time. This is the chance the town has to improve this site.

Of the 16 units, two will be middle-income units. This will be built as a condominium, but they will be rented out. That way, somewhere down the road, he would be able to sell individual units.

Mr. Kaufman said that the analysis for having residential units on this piece of property is consistent with the plan and it makes sense for this to be residential. The issues he has mainly concern height and density. Those are what the Board needs to consider, that and whether they think it should be zoned residential.

Chairman Michelman agreed that this is better as a residential property. The density issue is what she thought the Board needed to address because the applicant was asking for an FAR of 1.0 versus what the remainder of the community has, which is 0.6%. Mr. Fareri

recognized this, but asked if the Board thought that Whippoorwill Commons was dense and Chairman Michelman pointed out that property was less than 1.0.

Mr. Fareri said that this proposal is the same size as that, but that was put on two acres, as opposed to this being on one acre. With this property, there is a schoolyard behind them. This is compromised because Route 684 is right there. Economically, this won't work any other way. It had been his intention to move all the middle income housing to this location. He has paid approximately \$2.4 million for this site since he purchased it. He can't make this work for anything less than 16 units. It is on a dead end cul-de-sac. When it was a lumberyard, it required 8 variances, and they were permitted to park approximately 26 cars in the cul-de-sac. Although it may appear to be denser than the Board would like it to be, the footprint for this is the same as the commercial property, and less than the lumberyard.

Chairman Michelman was concerned that if the Board opened up the change of zoning to one applicant, then the zoning change could be applied to many other places. Mr. Fareri said that when his attorney drafted the proposed zoning, he did it in conjunction with Mr. Baroni and Mr. Kaufman. Mr. Kaufman stated that the amendment was limited to the hamlet area, and limited the maximum building size, so it will never get to be a humongous building. However, it is true that the zoning could be applied to some other property in the hamlet.

Mr. Delano said that several topics would need to be discussed during the SEQRA process, including emergency services, recreational needs and impacts on schools. Mr. Fareri said that those were all important and recognized that he would need to address those issues, but they were all part of the site plan stage and not the zoning change.

Mr. Delano asked if there were any other properties in town that would be able to avail itself of this change. Mr. Kaufman said it was a possibility. Mr. Fareri thought that those that might qualify would be on the MacDonald Avenue strip, and he thought that would be beneficial to the town.

Mr. Baroni noted that at the Town Board meeting, Mr. Fareri had mentioned that it might still be possible to move the 8 Middle Income Units ("MIU's") from Cider Mill; if it was, then that separates this property from the rest that might otherwise qualify for the zoning change. Mr. Kaufman said that if the applicant did that, then the concern of this applying to other properties would be greatly diminished. If the zoning said that half of the units would be MIU's, or that MIU's would be transferred from other site, it is unlikely that many other sites would comply.

Mr. Fareri said that he has been trying to do this for years. He no longer owns the Cider Mill property, and he has been trying to make an amicable business decision with the current owners of that property. It is a possibility, but he has been in negotiations for four years.

Mr. Sauro said he liked the idea of this. He asked if 9 out of the 16 would be appropriate and Mr. Fareri said that there were 27 units approved at Cider Mill. Under the code, 3 of those 27 would have had to be MIU's. At that time, he owned the Cochrane property and he

figured he would put all of those units on that property. He received approval for 10 MIU's. His approvals at Cider Mill were tied to the construction of the MIU's. The town developed a formula relating to the MIU's. Therefore, if he was to move them over here where the units are a proper size, he thought that he should only have to transfer six MIU's. Mr. Kaufman said that was already built into code, and it was called a density unit. He would like to make it 8 MIU's and 8 market units.

Mr. Baroni said that this could be a triple win for the town. This would be built, the Smith-Cochrane property would be rezoned back to commercial and the two Cider Mill units would be built.

Mr. Fareri said that, ideally, that is what he would like to do. Mr. Baroni said that in order to make this zoning go easier, he would like to be able to say that there 8 MIU's are required. Mr. Fareri said that if he got the approval, and can't sell the Cider Mill people anything, then he was stuck with having to build 8 MIU's when he didn't previously have an obligation to do that.

Mr. Cory Salomone, the attorney for Cider Mill, said that his clients liked the lumberyard property and they are willing to work with applicant on this.

Mr. Fareri said that there is a large gap between the MIU and the market rate. He did not know that they were that close to making a deal. If he received his approval, then he'd have something with which to negotiate.

Mr. Baroni asked what would happen if the town accepted the argument, that on a transfer basis, the number is six MIU's instead of eight and Mr. Fareri said then the gap was less, and they were a lot closer to a deal.

Mr. Fareri said that he would like a recommendation from this Board on the rezoning. There is a lot of time to have this deal worked out. Chairman Michelman recognized this, but the issue is that the change of zoning is easily recommended based upon the fact that it would be limited to 50 / 50 split between market value and MIU units. Mr. Fareri did not think they could do it that way. If he was not able to reach a deal with Cider Mill he'd be stuck. Chairman Michelman said that in that situation, they would have to reduce the density. Mr. Fareri said that if that occurred, then he was going to come back and say that it wouldn't work from a business point of view, and the property would sit. He would ultimately have to continue on with the approved project. He said he was not trying to threaten the Board, he was just trying to be practical.

Chairman Michelman said that the Board understood. She asked if there could be some kind of meeting that established that the town would accept a reduced number of six MIU's instead of eight. Mr. Fareri said that he'd be willing to meet with whomever the Board thought would be helpful. However, whatever the case may be, he has to get the property rezoned. Chairman Michelman said that the zoning is the issue.

Mr. Fareri said that the net result is that everyone in this town is tired of seeing the

lumberyard in its current condition.

Mr. Kaufman said that the Board would have to articulate the reason why they were going up to such a high density. The MIU transfer is a reason to permit going up to 1.0. Mr. Fareri said he could not make any kind of promise regarding Cider Mill because what would happen if he couldn't do that. Mr. Kaufman said that in that situation, he thought that the Board would make a recommendation in favor of rezoning at a different FAR.

Mr. Delano said that it either has to have a lower FAR, or more MIU's. Mr. Fareri said that he would need to hear that number before he could agree to anything.

Mr. Baroni suggested that this Board declare its intent to be lead agency, in accordance with the Town Board's request, and in the meantime, they could find out if the Supervisor and Chairman Michelman could attend meeting with Cider Mill people, and himself to see if a package could be put together so that we could get the zoning right the first time.

The Board agreed.

Ms. Black moved to declare intent to be lead agency. The motion was seconded by Mr. Sauro and unanimously approved.

**FARERI**  
**Subdivision**  
**Section 1, Block 9, Lot 4-2**  
**69 Round Hill Road**  
**Michael Fareri**  
**Discussion**

Mr. Michael Fareri was present on behalf of his application. He presented a site plan to the Board dated June 2007. He explained that he owned this property at 69 Round Hill Road. The site is approximately 12 acres in a two-acre zone. The final subdivision plat was signed. The area in the rear is a 2½-acre conservation easement and he has done all the improvements and got necessary approvals and permits and he had been ready to file the plat.

Mr. Fareri listed the benefits of this proposal for the town, including the conservation easement and the new structures.

He explained that the Fire Department wanted him to provide a 30,000-gallon underground tank and upon review, the Fire Department found they only needed a 20,000-gallon tank.

Across the street there is a pond, and that was where he determined would be the best place for a source of water for fire protection, not only for these houses, but also for the entire surrounding area. That is still possible.

Mr. Fareri said that when he went to purchase the cistern tank, the price for purchase and installation was \$100,000. He felt that for him to incur that cost when he was only creating one additional lot and one additional structure, was exorbitant. He went back to the Fire Department and talked to them about other possibilities, and one suggestion was for them to use the pool as a source of water. Mr. Fareri said that the hydrology works on this site to use the pool. However, the Fire Chief was then concerned with who would bear the responsibility for having to refill the pool if the Fire Department took the water out. This became more of an issue than it was worth.

Mr. Fareri explained that there is a note on the plat that is incorrect. He noticed this after everyone had signed it. The resolution and the plat are not in conformity. The discrepancy is that the cistern did not have to be put in place until there was a C.O. on "this" lot. He also had the choice of using the pond if that was possible, but that was not what the plat says. The plat requires him to install the cistern.

Mr. Fareri pointed out that the cistern presents a maintenance issue too in terms of servicing and refilling. The pond would require no maintenance. So, since he had to come back, he wanted to ask the Board to eliminate the cistern requirement. He understood that the cistern would benefit the entire community, but questioned how much he should be required to contribute for one lot.

He would like the Board to permit him to use the swimming pool. Mr. Kaufman pointed out that the Fire Marshal would prefer the applicant didn't do that.

Mr. Kaufman thought that the pond was the easiest and most logical and Mr. Fareri said that it was, but explained that he did not own that property. He said that he has approached that owner. He'd like the Board to give him the choice to do either the pool, the cistern or the pond prior to the issuance of the C.O. Chairman Michelman said she did not agree with the use of a pool. She would require either the cistern, the pond or sprinklers.

Mr. Kaufman said that the negative possibility of the pool is the negative implications of using someone's pool for fire protection.

Mr. Fareri asked what would have happened if he didn't come in for a subdivision application; the town would not have gotten the conservation land, or the \$20,000 recreation fee, and there still wouldn't be any fire protection.

Chairman Michelman thought that the issue of utilization of a private pool seems impractical. Mr. Fareri said that the Board has done it in Conyers Farms many times. Mr. Kaufman said that was done by the homeowners, not this Board.

Chairman Michelman said that the issue becomes who refills the pool and she felt that was a major issue. If this is postponed to the issuance of a C.O., then the three choices are the cistern, then the pond, and then sprinklers in the new structures. Mr. Kaufman said that the only downside to the sprinkler system, is that they would not get the community benefit of the cistern or pond. Mr. Fareri said that he would prefer to use the pond and that he would if he is able to.

Mr. Kaufman suggested that condition #4 be amended to read that the fire protection choices will be either dry hydrant, draft hydrant or sprinklers for the new principal structures, and this will have to be installed prior to the issuance of a C.O. The Board agreed. Mr. Fareri said he would provide a new plat.

Ms. Black moved to amend condition #4 in the resolution in keeping with this discussion. The motion was seconded by Mr. Delano and unanimously approved.

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The meeting was adjourned at 8:32 p.m.

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