

TOWN OF NORTH CASTLE

PLANNING BOARD MEETING

15 Bedford Road

Armonk, New York 10504

March 22, 2010

7:00 p.m.

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

Ryan Coyne, P.E.

Kellard Sessions Consulting, P.C.

Consulting Town Engineers

Valerie Desimone

Planning Board Secretary

Maggie Pack

Conservation Board Representative

The meeting was called to order at 7:02 p.m.

Chairman Michelman noted that Byram Ridge Road subdivision application had been withdrawn from this agenda and adjourned until April 12th. The MJ Lacav applicant failed to complete the process, so that application was postponed to April 12th as well.

PUBLIC HEARING:

THOMPSON

Special Use Permit

Section 2, Block 1, Lot 12.A

13 Whippoorwill Road

Robert Schweitzer, AIA – Lasting Impressions Landscape Architecture

Discussion & Consideration of approving Special Use Permit Resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 10 out of 13 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for this application. There were none.

Mr. Robert Schweitzer and Mr. Chris Carthy were present on behalf of the applicant. Mr. Schweitzer said that they had made some minor changes to the plan, mainly to the sewer discharge system. He noted that the Board has those details.

Chairman Michelman asked if the applicant had reviewed the resolution. Mr. Schweitzer said he had not. The Board gave him an opportunity to do so.

While Mr. Carthy and Mr. Schweitzer were reading, Chairman Michelman noted that this was for a steep slope permit and not a tree removal permit. Mr. Kaufman made that correction. Chairman Michelman asked if there were any comments from the Board or the professionals. Mr. Coyne noted that with respect to the storm water design, there is some bedrock that is a little shallower than what the cultech model the applicant is proposing should be used. He did not think it would be a problem to change the model and suggested making it a condition. The Board agreed. Mr. Kaufman made a note of this.

Mr. Carthy said there was no problem with the resolution. Ms. Black 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.

9 BEDFORD BANKSVILLE ROAD
Site Plan
Section 1, Block 11, Lot 10A
9 Bedford Banksville Road
Anthony Nestor, PE – John Meyer Consulting, PC
Discussion

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

Mr. Bob Roth and Mr. Paul Sizeck were present on behalf of the applicants together with the applicants themselves.

Chairman Michelman said that a presentation was not necessary since no neighbors were present. Mr. Roth presented an architectural rendering that the Board had not seen. The Board thought it was very attractive.

Chairman Michelman noted a typo in the resolution and Mr. Kaufman made a note of it. He pointed out that there would be eight spaces in the front and one landbanked space. The applicant had received a wetland permit from the DEC and both the ARB and the town's wetland consultant has approved this.

Chairman Michelman asked if there were any issues from the professionals or the Board. There were none.

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

Mr. Roth said he has reviewed the resolution and had no issues.

Ms. Black moved to approve the resolution as amended. The motion was seconded by Mr. Sauro and approved by all except for Mr. Delano, who voted against approval.

BENNIS (adjourned from October 26, 2009 meeting)
Special Use Permit
Section 1, Block 3, Lot 6.B
250 East Middle Patent Road
Teo Siguenza, Architect PLLC
Jerry Barrett, J.D. Barrett & Assoc. LLC
Discussion

Chairman Michelman noted that this was a continued public hearing. She asked if there were any neighbors present for this application. Dr. Jean Paul Valles, chairman of the Mianus River Gorge and Mr. Stanley McGuigan of 244 East Middle Patent Road were present.

Mr. Jerry Barrett and Mr. Teo Siguenza were present for the application. Mr. Barrett indicated the locations of East Middle Patent Road, the applicant's house, the proposed structure location, the initial proposed location for the barn and the setbacks for the property.

Mr. Barrett explained that in the fall, this Board pointed out that, technically the proposed structure was in the front yard, and that would have required a variance. After the meeting, the applicant considered other locations, and now they are proposing the building back further so it is behind the front plane of the house and will technically be in the side yard. This is a code compliant plan; however, it involves more buffer disturbance. Mr. Barrett stated that he had reviewed the memos from the Town Engineer and the Town Planner, and he recognizes that there is a supplemental wetland buffer. He indicated the buffer that he showed the Board in the fall, and pointed out that the new buffer line follows a new course but it was not that big of a difference.

Mr. Barrett explained that they have taken a portion of the driveway out, but added a portion in another area. There will be a retaining wall with grading. The rest of the plan basically remained the same.

Another comment from the previous meeting concerned the buffer in the back. Mr. Christie had been concerned about the impacts of this project on the wetland. The applicant's representatives had been looking for opportunities to improve the buffer. The buffer now is really sparse grass and there is not a lot of buffer there in terms of shrub or ground cover. When it rains, the runoff is unimpeded. The applicant came up with an extensive planting plan all along the southern property line and in another area (indicated). Mr. Barrett explained his plan for mitigation planting. The end result would be a planted buffer that would slow down runoff before it got to the wetland. This would better protect the wetland.

Mr. Barrett noted that there had also been questions about whether the plantings would survive. He believed that they could make some substitutions that would do better in this shady area. The applicant also planned to install a deer fence around it and keep it there for five years to insure the plants grow.

Mr. Barrett explained there had been a question about why the barn couldn't go behind the drive and he said that was not something that the applicant would consider. They enjoy the view they get of the wooded area from that side of the house, and they don't want to obstruct that. Additionally, the barn would end up shading a large area. Technically they would be able to get the barn out of the buffer, but that is not where the applicant wants it. He added that would require grading that would have to take place in the buffer and they would still need a wetland permit for that. In terms of disturbance, the two plans are similar.

Although there is an alternative that allows the applicant to build the barn outside the buffer, it would still require a wetland permit because of all the work that would have to be done in the buffer and the applicant's representatives don't feel that this would be beneficial.

Chairman Michelman pointed out that the Board has been informed that there is a powder room as part of this plan but it is not on the plans she has seen. Mr. Barrett said that it is included as part of this proposal, the Board just didn't have the most recent plans. The footprint hasn't

changed.

Chairman Michelman asked if there were any issues from the Board or the professionals. Mr. Kaufman explained that they have tried to mitigate some of the aesthetic issues about the grade change. The applicant will include some terraced walls that will be planted. Mr. Kaufman said that in his opinion, the applicant has dealt with that issue successfully. The proposed mitigation plan seems to be an improvement of what is there now. In terms of steep slope, the proposed revised location doesn't significantly change the calculations. He added that the benefit is that this plan complies with the zoning code.

Dr. Valles, a resident of East Middle Patent Road and Chairman of the Mianus River Gorge Preserve read from a letter dated March 22, 2010, that is part of the Planning Board file. He explained that the Mianus River Gorge strenuously objects to this proposal. He noted that the site is completely within the regulated buffer. Both the site and the septic are on a steep slope that will drain to the wetland below, and cause significant disturbance to the wetland below. This leads to the reservoir that is drinking water for 130,000 people. The proposed remediation is destined to fail. Additionally, a fence is required to prevent deer from eating. He suggested the Board consider the approval of 10 Hopes Farm; in that situation the fence was taken down within six months, and all the plantings were eaten by deer. It was his understanding that the building would be used as an art studio. He was concerned that paint and solvent will be washed down the drains. Additionally, there was no guarantee that this building would not be used for any other purposes that what is proposed. He felt that a great number of wetland permits have come to this Board and the Town Engineer and they are rarely denied. It is the opinion of the Gorge that this Board is entitled to deny this permit, and the Gorge thinks that they should deny it.

Mr. Barrett recognized that the Gorge was concerned with the wetland and it being used for amphibians, and it might be, but after this project is constructed, there will be a better buffer than what is there is now. Currently there is mowed lawn directly to the wall. The buffer is designed to slow down the water and trap it to filter some of the pollutants.

Someone (applicant? did not identify himself) pointed out that in one area there is a gap in the stonewall. All summer long, the water and garbage from the street collects all along the stonewall. Mr. Barrett noted that the street runoff would contain oil and gas from cars.

Mr. Barrett said that the septic system will not drain into or pollute the wetland. It is out of the 100' buffer. The applicant's engineer has received approval from the County Health Department. This is a state of the art system designed to current code.

Mr. Barrett disagreed with Dr. Valles' statement that the remediation is destined to fail. There is some light in that area, or the grass that is there wouldn't grow. They believe that their plantings, which are shade tolerant, will grow. Yes, deer are a problem, but if the fence is left there for 5 years, as proposed, it shouldn't be a problem. Additionally, the applicant is proposing a great deal of ferns, which deer do not eat and grow in shady areas. Some towns require applicants to post a bond and issue a monitoring schedule to ensure that the buffer plantings will work. He thought that was reasonable if that is something the town is willing to do. The applicant's representatives do not think this is destined to fail. Mr. Barrett pointed out that he does this all the time, and they are successful.

The applicant (? did not identify himself) explained that the art studio is really going to be more of a writing sanctuary for his wife. HE added that since they don't have a garage, and they needed one, they are using the additional space as a loft. They are calling it an "artist's loft" for semantics. She is not a big painter. He stated that he has never questioned the honesty or integrity of the Board or the process, and until now his hasn't been questioned either. He pointed out that no one from the Mianus Preserve had reached out to him or talked to him in the intervening year and a half. It is offensive for them to make the comments they did. They said that they don't know what this will be used for but no one knows what any use will end up being. This is not going to be an apartment; he is not renting it out.

Mr. McGuigan noted that if there is runoff from the road, the applicant should address the fact that runoff is coming onto his septic fields.

Mr. Barrett suggested that the Town Engineer look at the runoff from the road, but noted that just closing the gap in the wall might cause a problem for someone else. Mr. McGuigan asked about the applicant's driveway runoff. Mr. Barrett indicated and noted that there will be no additional runoff as a result of this project. He indicated the storm water chambers and infiltrators. He noted that by putting the buffer in, they would be slowing down the runoff.

Ms. Black said that one concern the Board had was the view coming up the road from East Middle Patent Road; she wanted to know how the new location changed the view. The applicant said that they did not have any elevations but is harder to see now because it is further back. Mr. Barrett agreed and noted that they would still be planting along the back of it and at the base. The Board thought that this was a better fit.

Mr. Kaufman noted that the Board still didn't have the final comments from the Conservation Board. The applicant said that they had not been there yet. Mr. Barrett said that they were going to go, but were derailed by the zoning issue. He asked that this Board make that referral.

Mr. Delano suggested that Mr. Coyne accompany the Conservation Board on their site walk.

Mr. Kaufman said that he would send a letter to the Conservation Board the next day, but the applicant should follow up to schedule a meeting.

The Board decided to keep the public hearing open until they receive the final Conservation Board comments. If there were no issues, a resolution could be prepared for the same night.

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

CONTINUING BUSINESS:

823 MOUNT KISCO ROAD

Site Plan

Section 2, Block 2, Lot 7C

James Sahagian

Discussion

Consideration of approving 3rd extension of time

Given the economic situation, the applicant has requested an extension of time.

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

700 NO. BROADWAY

Site Plan

Section 7, Block 4, Lot 1A

700 North Broadway

James Flemming, RA, AIA

Discussion

Mr. James Flemming was present for the application together with the applicants themselves. He submitted a letter to the Board.

Mr. Flemming explained that the applicant was proposing a restaurant for this site. There are existing conditions in terms of parking, some of which they will salvage and some they will correct. He recognized that all of the consultants were concerned about coming off Route 22 to straight-in parking. He pointed out that this has been this way for years.

Chairman Michelman said that the main issue that has to be addressed, and has been raised by the consultants, is the parking. Either the applicant should reduce the number of parking spaces in the front to allow for turnaround or should there be no parking in the front. That issue has to be determined before this could be referred to the ZBA, because the Board needed to know what they were referring. She realized this was a tough issue to decide. If the applicant determined that they could reduce the number of spaces in the front, one of those spots will have to be handicapped, otherwise they wouldn't comply with the law. No matter how many spaces are allowed up front, in reality, people will overuse them.

Mr. Kaufman thought that Mr. Coyne's suggestion regarding rotating the spaces 90 degrees was a good one. He explained that this was sent to the traffic consultant for his opinion, and his concern was the increase in intensity of use. Currently, there is not that much volume but the proposed use will cause demand to exceed the number of spaces. He suggested the reduction of spaces in that lot. Mr. Galante's report recommended that they would still require people to back out. Mr. Kaufman said that if the Board believes that would happen, then it seems the only

alternative would be not to allow parking on North Broadway, and only have parking in rear. That could impact viability of the business.

Mr. Coyne agreed that from practical situation, the handicapped isle could be moved closest to the building. So the two spaces on the right would be safe to back out. That would really only constrain the bottom left space. He suggested an alternative for those spaces, but said that would not prevent the phenomenon that Galante is concerned about and it might require a curb.

Mr. Sauro said he was not sure this was the best way to go about this. If someone is coming north on Route 22, they might not be able to see the spots the way they're proposed. If they were head in spots, people would be able to see if they're occupied. He preferred the head on parking with perhaps a fewer number of spaces. Mr. Flemming said that the proposal would leave a lot of room for turning around, but he understood the concern.

Mr. Kaufman noted that the calculations seemed to be off and thought that the applicant should submit an as built of what is there now. Mr. Flemming said that they were working on that.

Mr. Flemming said that the applicant still needed a referral to the ZBA on the parking. Chairman Michelman repeated that the Board could not send this to the ZBA yet because they didn't know what the applicant was asking for. Mr. Flemming said they were asking for everything in his letter.

Chairman Michelman asked how, regardless of the number of spaces in front, people would know to go to the rear for additional parking. Mr. Flemming suggested a sign that says additional parking in rear.'

Chairman Michelman said that the changes that are listed in the reports are indicative that just because they're there now, doesn't mean that they meet the current standard. If the applicant was going to the ZBA, that issue had to go too. Mr. Flemming realized that was elaborated in the planning report. Chairman Michelman said that was correct, but the applicant's answer was only that they are already existing. Because they are seeking approval for a plan, these other issues have to be addressed.

Mr. Flemming indicated the spaces and the variances they were asking for. Chairman Michelman said that each one of those, despite whether or not they are existing, need to be addressed by the ZBA. Just because they are there now, doesn't mean they'd be automatically approved.

Mr. Flemming said that if they were to eliminate those types of spaces, they'd be facing a drastic reduction in spaces. Chairman Michelman noted that all of this was a result of the application for a change of use.

Mr. Sauro said that because this was going to be a deli/restaurant, a lot of deliveries would be made, and he wondered whether there be enough room. Mr. Flemming indicated and said there would only be one van early in the morning. The applicant said that many of his deliveries would be hand selected by him, so he would not be using common deliveries. He goes to the markets and picks up the fresh items, and brings them in around 5:00 a.m. before anyone is there. He would estimate that more than 80% of his deliveries would be brought in by him personally.

Mr. Flemming added that the dumpster pick up is by private company. The applicant hires dumpsters as they need them. There will be a smaller container on the site with an enclosure, but if the applicant needs more they can call and have it picked up.

Chairman Michelman asked if the applicant would be serving breakfasts and Mr. Campolong said they did not intend to. They plan to serve lunches, but their concentration will be on quality dinners.

Mr. Sauro asked if the applicant would have enough room to turn around within that little area and Mr. Flemming said they would. Mr. Coyne said that cars would have to pull into the handicapped isle and then use a broken turn to turn around and get out, but that it could be done.

Mr. Delano asked if the applicant was going to consider restricting the entrance. Mr. Kaufman thought that was the best idea. He said that the applicant would have to obtain a DOT permit. He did not know that they could do any better than five spaces there, but he believed the DOT would want to reduce the size of the driveway. Mr. Coyne pointed out that there was a wide-open randomness, without a sidewalk. He would imagine that the DOT would also want the sidewalk extended.

For clarification, Mr. Coyne noted that there seems to be four options on the table: (1) the plan as currently shown; (2) eliminate the parking space on bottom left, and leave four remaining; (3) leave it as it is today; (4) eliminate all parking in front. Ms. Black noted that if they eliminated all parking in the front, there would not be any handicapped accessible space and they would not be compliant.

Mr. Flemming suggested bollards prior to the sidewalk being installed. Mr. Kaufman said that was not being considered; they were talking about requiring sidewalks as a condition if / when this is approved. Mr. Flemming said that to do that they would have to know where our entrance is. Mr. Kaufman agreed, and pointed out that they would need a state permit to determine that.

Mr. Delano noted that human nature is that people are going to run in and over park in order to do that.

Mr. Kaufman asked the applicant to explain the use being proposed. Mr. Vin Campolong explained that although it had been frequently referred to as a deli, it was not going to be a deli. It was going to be a café / restaurant. Customers would be able to get wraps and things like that, but there are no displays that would serve for people who would come in quickly and run out. There will be servers to serve customers that will sit at a table. There will be no coolers with cases of soda or beer. They will not sell cigarettes. Mr. Kaufman said this was an important distinction because as described, it would not have the characteristics of the high turnover previously anticipated. Mr. Campolong said that was not how they were planning it; most people are going to come and eat in. Although they will serve lunch, they will focus mainly on dinner.

Mr. Kaufman asked the applicant to explain the difference between a café and a restaurant. Mr. Campolong said that it would really function as a restaurant, but he liked the name better as a café. It will be more casual, very reasonable, and they will serve light fare.

Ms. Black said that this might lend itself to the parking in the rear because people were not likely to just want to run in and run out. Mr. Campolong said that he did not like the idea of not having parking in the front entirely. He believed that it would be very damaging to the business not to have parking in the front. The signage will be important to direct people to parking in rear.

Ms. Black asked if the applicant would accept four spaces. Mr. Campolong said that they would ideally like more, but wanted to make the Board happy. Mr. Campolong said that they were investing a great deal into this business, so they would like to have as much as we can up front. He noted again that this would be as far from a deli as they could imagine.

Mr. Kaufman said that if the Board is going to proceed with the parking area as proposed, than they have everything we need to send this to the ZBA. If the Board wanted to modify, than they needed to adjust the numbers before they referred it. The applicant is showing four regular and one handicapped space in front. Mr. Kaufman noted that the Board might want to get an additional comment from the traffic consultant now that we know this is not going to be a deli.

Multiple discussions were had regarding the parking. Chairman Michelman noted that the timing of the volume of the business would be important. That the applicant thought that dinner would be their busiest time was important to know.

Ms. Tatka asked the traffic consultant's opinion on the initial proposal for seven spots in the front. Mr. Kaufman explained that the traffic consultant did not look at that because this Board didn't refer that to him. Ms. Tatka thought that he should review that plan because if neither scenario was perfect, then maybe it would be better for the applicant to have seven. There were multiple discussions regarding this issue.

Ms. Tatka asked how the police department felt about this plan, noting that they had objected to the seven spaces. Mr. Kaufman explained that the police department had not seen this plan.

Mr. Kaufman noted that if the as built revealed there was something wrong on the site plan, the applicant would need another variance. That would create a cycle of the applicant having to keep going back. He cautioned the applicant to be careful.

Ms. Black said she was concerned with the accuracy of the front area. It did not look like it has the 37' required. Mr. Flemming showed her the survey. Multiple discussions were had relating to the parking.

The Board didn't have a problem with five spaces in the front as long as the applicant had the space that he is saying he has.

Mr. Kaufman asked if the Board wanted to have the traffic consultant look at the straight in parking as well and the Board said they did.

The Board said they would refer the application to the ZBA without any comments.

GILEAD CONSTRUCTION
Special Use Permit
Section 2, Block 5, Lot 2D-20
7 Ridgeview Circle
Peter Gregory, PE – Keane Coppelman Engineers
Discussion

Mr. Peter Gregory was present on behalf of the applicant. He explained that the applicant was seeking approval for a special use permit for the land coverage for a proposed pool on an existing lot. Mr. Gregory explained the applicant was looking to build pool near the rear of the existing house and terrace. This will be approximately 50-60' from property line. The proposed pool size is approximately 20 x 25. They are not planning to remove any additional trees and they are staying within original line of disturbance. Mr. Gregory added that he did not see any problems in responding to the comments from Mr. Coyne and Mr. Kaufman.

Mr. Gregory noted that Mr. Kaufman had commented that the land coverage exceeded the maximum permitted. Mr. Kaufman stated that was a typo. Mr. Gregory explained that they would be 560 sq. ft. below the maximum. Mr. Kaufman said that he calculated it to be 202 below the maximum. Mr. Gregory said he would go over that with Mr. Kaufman. Mr. Kaufman noted that even under his calculations, the applicant would still be below the maximum, so it was not a real issue.

The Board said the next step was to schedule public hearing and they would prepare a resolution for the same night.

Ms. Black moved to adjourn the meeting into executive session to discuss a personnel matter at 8:46 p.m. The motion was seconded by Mr. Delano and unanimously approved.
