

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

PLANNING BOARD MEMBERS PRESENT:

Peg Michelman, Chairman
John Delano
Steve Sauro
Jane Black
Beata Tatka (arrived at 7:05)

ALSO PRESENT:

Adam Kaufman
Town Planner

Roland A. Baroni, Jr., Esq. Town Counsel
Stephens, Baroni, Reilly & Lewis, LLP
(Arrived at 7:10)

Ryan Coyne, P.E. (arrived at 7:16)
Kellard Sessions Consulting, P.C.
Consulting Town Engineers

Maggie Pack
Conservation Board Representative

Absent:

Valerie B. Desimone
Planning Board Secretary

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

APPROVAL OF MINUTES:

February 8, 2010

Ms. Black moved to approve the minutes from the February 8th meeting as amended. The motion was seconded by Mr. Delano and unanimously approved by all except Ms. Tatka, who had not yet arrived.

February 22, 2010

Ms. Black moved to approve the minutes from the February 22nd meeting as amended. The motion was seconded by Mr. Delano and unanimously approved, by all except Ms. Tatka, who had not yet arrived.

PUBLIC HEARING:

BARON

Preliminary Subdivision

Section 2, Block 1K, Lot 2

6 Hidden Oak Lane

Barry Naderman, PE – Naderman Land Planning & Engineering

Consideration of preliminary subdivision approval

Mr. Delano recused himself from this application.

Chairman Michelman read the public notice for the record. Ms. Michelman noted that 17 out of 18 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for this application. Mr. Kevin McKenna was present.

Mr. Naderman was present on behalf of the applicant. He indicated the area of the town right of way and where it ended. He explained that the applicant was proposing a two-lot subd where a 2nd access would come off a portion of the private road owned by the applicant (indicated). The applicant is pursuing a full subdivision application, but the owner is currently in contract with the DEP for the purchase of the subdivided parcel.

Mr. McKenna asked where the town road stopped. Mr. Naderman indicated where the town's

right of way stopped. He explained that the applicant had been asked by the Board to construct a small turn around area, because none exists there now.

Mr. McKenna asked whether a 30' or 40' right of way was preferable. Mr. Naderman explained that it is a 30' private road that meets the standards. Mr. Kaufman explained that the applicant has to prove out a town road, and then if the applicant chose to do something smaller, they could do a private road, and that is what the applicant has done. Mr. Kaufman further explained that the environmental impacts of constructing the turnaround are more significant than keeping the existing road as it is. Mr. McKenna asked for a copy of the TR-1. Mr. Naderman said it was on file with the town. Mr. McKenna asked if the applicant was establishing private road M or ignoring it. Mr. Kaufman said that they were using it; that right of way exists now. Mr. McKenna said that he was not objecting to this subdivision, he just had some questions. Mr. McKenna asked if the turnaround would be in a good area if he planned to develop his property in the future. Mr. Kaufman said that it would not prohibit his development.

Chairman Michelman asked if there were any other issues. Mr. Sauro noted that there is a house on the proposed lot and on the IPP it said, "existing;" he said that the applicant might want to change it to "proposed." Mr. Naderman recognized the error and said that he would make that change.

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

Chairman Michelman asked if Mr. Naderman read the resolution. He said that he had, and had a couple of issues. He asked about the condition regarding the plans to be revised to reflect the removal of the shed. Mr. Kaufman said that they need a note saying that it will be removed, and that the applicant had to have it removed before the final plat is signed.

Mr. Naderman pointed out that they had already submitted the exhibit of the lot width calculation for Lot 2; he asked if that condition was mistakenly left in. Mr. Kaufman said that it was not; he believed the calculations submitted were incorrect. He added that he would go over the calculation with Mr. Naderman, and Mr. Naderman agreed.

Mr. Naderman noted that the Town Engineer had acknowledged that prior to issuance of a building permit that Lot 2 would have to provide a SP3. Mr. Naderman asked whether they could make this a note on the plan since they were in contract with the DEP and there was no intent to develop it. Mr. Kaufman thought that was reasonable but since the Town Engineer had not yet arrived, they decided to keep it as is, and then change it later.

Ms. Black moved to approve the resolution. The motion was seconded by Mr. Sauro and

unanimously approved, by all members, except Mr. Delano who had recused himself.

**STOPNIK
Special Use Permit
Section 2. Block 17, Lot 2E
60 North Greenwich Road
Crisp Architects
Consideration of approval**

Chairman Michelman read the public notice for the record. Ms. Michelman noted that 7 out of 12 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for this application. Ms. Nancy Savitch, 1 Palmer Place, was present.

Mr. Joe Melito was present for applicant. He presented a front elevation and explained that the rooflines will remain the same. The applicant proposes to extend a certain area out 8' and change the roof angle. There is an existing entry and they would like to remove that roof area and have it match the existing pitch. They are changing the front door. The applicant is adding a window downstairs on the side per ARB request. The rear elevation would not change nor would the color of the siding.

Chairman Michelman asked if neighbors had any questions. Ms. Savitch said she did not, and said that she thought it looked good.

Chairman Michelman asked if the applicant had received ARB approval, and Mr. Melito said that they had, subject to the addition of a window on the side. Chairman Michelman said that when they receive the final approval, this Board would need a copy.

Chairman Michelman noted that there were many conditions in the resolution, most of which were discussed the last time the applicant was before the Board. She said the Board had hoped that the applicant would have addressed many of them before this point in the process. The Board was a little disappointed in the fact that no effort was made in this regard.

Chairman Michelman pointed out a typo on page 3 in the 2nd whereas down and Mr. Kaufman made a note of the correction.

Chairman Michelman asked if the applicant had reviewed the resolution. Mr. Melito said he had not received a copy. The Board gave him an opportunity to review the resolution. Chairman Michelman asked if there were any issues from the Board and there were none.

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

Upon reading the resolution, Mr. Melito said it was acceptable. Ms. Black moved to approve the resolution as amended. The motion was seconded by Mr. Delano and unanimously approved.

TURET

Preliminary Subdivision

East Lane, West Lane, Nichols Road

Tim Allen, PE – Bibbo Associates

Discussion

Consideration of preliminary subdivision approval

Chairman Michelman noted that this was a continued public hearing. She asked if there were any neighbors present for this application. The following neighbors were present: Dr. Beards, Limestone Road; Mr. Robert Romano, Palmer Place; >>Kischle, Palmer Place; Lee Turet, 14 East Lane; >>>, 3 Palmer Place; Ken Hutter, 6 Palmer Place; Sandra ?, 6 East Lane and Nancy Savitch, 1 Palmer Place.

Mr. Tim Allen was present on behalf of the applicant. He explained that at the last meeting, Mr. Delano made several comments regarding the plan. They have submitted a separate plan, which is a reconciliation of the plans and that is part of the Board's packet now.

He presented an aerial photo to the neighbors and explained that the subdivision involves an existing lot and three lots, two of which are new. He indicated the location of Palmer Place and the location of the neighbors. Mr. Allen said that the closest house is probably the O'Brien residence at 9 Palmer Place. Most of these houses are backed up to the property line.

Mr. Allen stated that most of this was predicated because of the septic being in the front and the house having to be behind the septic. He said that is the way you are allowed to build houses in this zone. The applicant's plan complies with all the zoning. Mr. Allen said that in terms of the neighborhood, it was true that those houses were there first, but their houses are as close as what the applicant is proposing. This is compliant and in keeping with the neighborhood.

Mr. Allen explained that the applicant's previous plan showed four screening trees in the back and that number has been increased to at least twenty Norway spruces. This is only the preliminary subdivision approval so this plan will come back for final approval and then each lot will require individual site plan approval. Mr. Kaufman pointed out that this Board may not see the individual lots; it would depend on the size. Mr. Allen thought that the applicant has addressed all the Board's concerns. This is a one-acre zone, and the applicant felt this plan was appropriate.

Dr. Beards asked the location of Limestone and Nichols Roads and Mr. Allen indicated. Mr. Romano asked the height of the proposed trees and Mr. Allen said that they would be 6-8 feet at a minimum.

Mrs. Ronnie Schwartz, a resident of Palmer Place, said that the week before Mr. Turet "took it upon himself" to drive on her block, let two women out of the car, who started taking pictures, one of whom had a "telephoto lens." She found this to be a violation of privacy and a violation of her rights. She said she felt violated. If children were out playing how was she to know that these people weren't trying to see what children they could take off the street.

Dr. Beards said that it was his understanding that when the applicant built his house that there would be no further subdivision. Additionally, Mr. Turet tends to put out a lot of brush on his

property that is adjacent to Dr. Beards'. He said that he received a notice of violation for too much brush that is out there, even though it was not his property, it was the Turet property. Dr. Beards wanted to know who would be providing services for East Lane. Mr. Kaufman explained that West Lane would not really be affected by this subdivision and East Lane is proposed to be a dedicated street.

Dr. Beards said that there is stream on the Turet property that drains onto and floods his property. He wanted to know what assurances he had that the land / vegetation will be kept the way it is. Mr. Coyne explained that the subject parcel's storm water system has been designed in accord with town code and DEC regulations. Chairman Michelman felt that Dr. Beards' concern seemed to be about Turet's main house. Mr. Allen said that Mr. Turet has put an enormous amount of infiltration systems on his main property. He was not sure why Dr. Beards' property is flooding. Mr. Turet indicated a location of a stream and its flow and explained that Dr. Beards had problems with water way before his construction began. Mr. Turet felt that Dr. Beards' was arguing that because Mr. Turet was here now looking to do something, that it is his fault but that is not the case. The ponds are at a high level; it is clean water that just comes in and out of the pond from the amount of rain and snow.

Mr. Turet said that with respect to the brush removal, the town comes frequently to collect the brush. He puts it out once a month, and he has never been in violation.

Mr. Romano thought that the trees should be 8-10' not 6-8.' The Board explained that this was already required in the resolution. Mr. Romano stated that Mr. Vettoretti, a neighbor who is out of town, asked him to read a letter from him. This letter is set forth in its entirety in italics below:

March 8, 2009

*Town of North Castle
Planning Board
15 Bedford Road
Armonk, N. Y. 10504*

North Castle Planning Board,

Further to my letter dated March 4th, re: the Turet Subdivision I would like to point out that the Board and the Planning Director have been of the opinion that this sub-division should eliminate one Lot, specifically Lot # 2.

This has been highlighted in the following Minutes:

- 1. April 2008: "Ms Black felt the Lot #2 was very constrained....."
"Chairman Michelman agreed with Ms Black about the tightness of Lot #2, and its proximity to the neighbors. "*
- 2. March 2009: "Mr. Kaufman said that the recreational are for Lot #1 versus the front yard of Lot #2 is the real issue". Mr Kaufman said, "... the relationship between Lots #1, 3 and 4 all work, it is Lot #2 that has an issue." " The alternative would be to eliminate Lot #2."*

Chairman Michelman in reference to Lot #2, "..... Board had responsibility to ensure that appropriate spaces were reserved for houses and recreation. She didn't think the Board should approve something that would be impossible to build."

- 3. October 2009: Board recommends removal of Lot # 2. "Mr. Allen stated that without the additional lot, the project is not viable for the applicant and he felt the Board should consider that factor." "Mr. Delano said that the Board DOES NOT consider economic viability of a project."*

Mr. Delano, "One of the CONDITIONS on a wetland permit is that the Board MUST review an alternative to the proposed action." "Mr. Allen said that there is NO alternative other than removing the lot."

It is clear that from the very beginning of this project the recommendation of the Planning Director and the Board was the removal of Lot #2. This should be further explored and studied for this sub-division.

Sincerely,

*Anthony Vettoretti
7 Palmer Place
Armonk, N.Y. 10504*

Mr. Allen explained that the applicant has worked very hard with the Board to minimize wetland impacts. They have received Conservation Board approval and they have worked with the Boards to comply with the zoning requirements. He noted that the other houses on Palmer are situated similarly.

Mr. Kischle asked if the screening was meant to block out the light from the new houses. Mr. Kaufman explained that it was not really intended to be a blackout; it is meant to break up the mass of whatever house will be constructed on that lot. Mr. Kischle asked if this was the maximum amount of screening that will be done there and Mr. Allen noted that there is already a large mass of trees on that corner.

Mr. Kischle thought that at the last meeting there was mention that Greenwich would come in with a report. The Board explained that was incorrect; the applicant had to notify the Town of Greenwich of the public hearing. There had been no indication that they would provide anything.

Mr. Kischle asked if any deference was being given to the wildlife and Mr. Kaufman said that would be considered. Mr. Kischle said that he agreed with concerns from Mr. Vetteretti.

Ms. Black noted that the subdivision has changed since some of the comments in the prior meetings that were referenced in Mr. Vetteretti's email. The design is better now than what it had been.

Chairman Michelman reiterated that this was only the first step. This was just a preliminary subdivision to divide the property. Then the applicant needed to obtain final subdivision approval, and then site plan approval. If the house is too small to come back to this Board, it would go to the RPRC. Mr. Kaufman pointed out that committee would also take screening into

account.

Ms. Savitch asked if there was still a wetlands intrusion and Mr. Allen said that there was and indicated. Ms. Savitch said it was her understanding that they could only make these lots because you bought more than one lot, and although this is a cul-de-sac, the houses are not really on the cul de sac only the driveways are. It is not as nice a development / community as hers is on Palmer Place.

Chairman Michelman said she was not sure she would have used the same argument that Mr. Allen used for presenting this as a positive situation. However, she thought that a lot of hard work went into this. There is a minimum intrusion, and property owners do have the right to develop their property. The Board has done what they could to get the best from this applicant. She was not sure that any of the houses as designed here will be what is built. There will be limitations on each one of the lots. This is just the preliminary subdivision approval.

Chairman Michelman asked if there were any other issues. Dr. Beards asked if these subdivided lots could be subdivided again once this subdivision is done. Mr. Kaufman said that they could not because they do not meet the minimum lot size requirements for further subdivision.

Mr. Romano asked if the setbacks were different for cul-de-sacs and Mr. Kaufman explained that only the frontage requirements were different.

Mr. Turet said that he wanted the Board and the neighbors to understand that there have been a lot of changes on this. He has always tried to hear what was said. A prior member (Dr. Matusow) felt that if Mr. Sessions said that this met all the requirements, then he'd be ok with this plan. In Mr. Turet's opinion, the rest of the Board felt much the same. Mr. Sessions has approved the plan. He said that he has done everything that this Board has asked. He is a neighbor too. He pointed out that he would have to deal with construction in the area too. He thought that the neighbors will be happy with what he does here, and noted that his next-door neighbor submitted a letter in support.

Chairman Michelman asked if Mr. Coyne had any issues and Mr. Coyne said that all his issues were contained in the resolution.

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

Chairman Michelman recognized that there were some concerns about the number of trees coming down. She explained that when the Conservation Board made their recommendation, they noted that the quality of the trees that were coming down were mediocre to poor. The Conservation Board's recommendations are taken very seriously by this Board.

Chairman Michelman asked if Mr. Allen had read the resolution. He said that he had and had a couple of minor comments. He recognized that this was a six -month approval and asked if the Board had any leeway in that regard. Mr. Kaufman said they did not, it could only be six months, but the applicant could get extensions. Mr. Allen asked if they could insert the words "if necessary" on condition #15 regarding the MS4 requirements. The Board agreed. Mr. Coyne

noted that there was a typo in the general permit number. Mr. Kaufman made a note of that change. Mr. Allen pointed out that with respect to the recreation fee, it is one less lot than what is being considered in the resolution. Mr. Kaufman said he would check that.

Mr. Baroni asked if the Board wanted to include the minimum number of spruces that must be planted. Mr. Kaufman said that he would revise it to reflect that it would be no less than 20.

Mr. Delano pointed out a couple of typos and Mr. Kaufman made the corrections.

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

BUCHBINDER
Special Use Permit
Section 2, Block 5, Lot 2.D-16
28 Sarles Street
Pete Gregory, PE – Keane Coppelman Engineers, PC
Brad Schwartz, Esq. – Zarin & Steinmetz
Discussion

Chairman Michelman noted that this was a continued public hearing. She asked if there were any neighbors present for this application. There were none.

Mr. Schwartz, Mr. Bernie Grossfield and Mr. Peter Gregory were present on behalf of the applicant. He explained that they were before the Board to answer any outstanding technical questions. They have reviewed the memos from the Town Engineer and the Town Planner and they are willing to meet the conditions, which were mainly a list of the Conservation Board's comments. Mr. Schwartz asked that they be made conditions of approval. Mr. Kaufman said that the Board hoped to have a revised plan submitted that addresses the issues, so that they don't have to be conditions of approval. Mr. Schwartz agreed.

Chairman Michelman said that there were concerns about feasibility, but she recognized that a lot of work went into the feasibility report from a very reputable firm. The town's own engineers did not approve of the methods that were used, but they did indicate that the methods were feasible. The process of this development and project is very disruptive to the neighbors and has the potential for problems.

Mr. Grossfield said that he did the feasibility study and he was not sure what risks the Chairman was concerned with. His study involved the geotechnical area, where he supervised and examined the soils on the site. They took them back to the lab and subjected them to tests and determined the nature of the soils on the site. From 7-14' of the existing soils behind the house are fill. They were put in in an uncontrolled manor and they are not suitable to support a structure. However, below that fill are the original soils, which are extremely competent bearing soils. They are more than suitable to support a structure. The applicant plans to take this down to the original soil. They found no groundwater in the area, and most of the existing fill can be reused on the site. This is a very buildable site. Mr. Grossfield said that the grades do present a problem.

He said that he also designed the walls and the pool was intended to go between those two walls. He designed the walls to be stable. These will be concrete, steel reinforced walls. The calculations show that the steel and concrete has the ability to withstand all of the loads. Based upon these analyses, this is a feasible structure.

Chairman Michelman asked the guarantees that the original house was stable. Mr. Grossfield said that he didn't believe any one would have built a house on the fill. There would have been signs of that (i.e. cracks etc.).

Mr. Grossfield said that they have to be careful with our methods of construction so as not to undermine the integrity of the structure.

Chairman Michelman thanked him for answering her concerns. She asked him if he or someone from his office would be on the site constantly. Mr. Grossfield said that they would not, but they have discussed that there should be conditions that this site be subject to engineering inspections of all the work either by his firm or the geotechnical group or both of them.

Mr. Sauro asked about the construction method and what the applicant plan to do about the existing upper deck. Mr. Grossfield said that they are in disagreement about that right now. He shared Mr. Sauro's concern regarding the cantilever. They have spent a lot of time talking about that. Mr. Grossfield said that it could be shored up or taken down in pieces and put back up again. At this stage, it is too premature to say which way they are going to do that.

Ms. Black said she was encouraged by the comment from the Conservation Board that the wetland mitigation might offer an overall benefit to the wetland. She asked whether there was adequate buffer screening. Mr. Gregory said that he spoke to the landscape architect and there is a proposal for landscaping to be proposed along the side property line that will supplement what is already there (indicated). There is a row of existing pines (indicated) and they are also proposing range of plantings from shrubs to trees. They will submit a landscaping plan.

Mr. Kaufman noted that this site plan has come a long way. Initially, he doubted that this could ever be built; but the applicant has gone through the process and explained how this could be built and how the wetlands would be improved.

Chairman Michelman asked what else needed to be done. Mr. Kaufman said that it was outlined in the memos. Mr. Schwartz said there were no issues with the memos.

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

Mr. Kaufman was directed to prepare a resolution based upon the applicant's new plans.

CONTINUING BUSINESS:

WYMAN

Final Subdivision

Section 2, Block 1, Lot 7

93 Whippoorwill Road

Brad Schwartz, Esq. – Zarin & Steinmetz

Consideration of extension of time subdivision resolution

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

Mr. Kaufman noted that there was only one more extension of time available in light of this most recent extension. Mr. Schwartz recognized this.

700 NO. BROADWAY

Site Plan

Section 7, Block 4, Lot 1A

700 North Broadway

James Flemming, RA, AIA

Discussion

Mr. Flemming was present for the applicant together with the owners of the proposed restaurant. He explained that he just received the memos from the Town Engineer and the Town Planner. He submitted a written response to those comments to the Board. They are trying to install a restaurant in this small building. The site has been through various transformations over a period of approximately twenty years. In 2006 there was a major redo of the parking lot. The applicant is asking for a parking reduction that would be necessary as well as a change of use for the site. It used to be two lots, and now it is considered just one by the town.

The police department report is very concerned with North Broadway, and the nature of pulling off in front of the building. This concern is repeated in the memos from Mr. Kaufman and Mr. Coyne. The applicant shares that concern. It happens on some other properties on North Broadway. The applicant has proposed seven spaces with a handicapped accessible space in the front. That is pretty much what is there now. They have made some changes to the plans. He discussed the parking as it exists on the site now. There was a portion of the property that had been designated on the 1979 plan as compact car spaces.

Mr. Flemming recognized that at the last meeting the Board wanted to know what the applicant was going to seek from the ZBA. He explained that the applicant needs to get the highest

number of parking spaces on this property. They have gone through what the restaurant would need and what the building would need. The applicant needs 90 spaces by code and they have 77 on the site now. They would be allowed 26 compact spaces and they have 25.

The applicant is proposing a wood guardrail to deal with the overhang requirement and Mr. Flemming presented a detail to the Board.

With respect to the comments from Mr. Kaufman and Mr. Coyne, the applicant recognizes that the traffic consultant might take a look at this issue. As for the dumpster, the applicant would be ok with 90 degree parking and pulling back out. They would be able to compress the dumpster back and keep it in the same area. With respect to the proposed loading space, Mr. Flemming shows it as a regular space in the rear of the building because most of the deliveries come in a van and not delivery trucks. Mr. Flemming noted that deliveries take no more than 10 minutes. With respect to the existing wood staircase, Mr. Flemming thought it should be rebuilt and pushed back a foot or so. He did not have the topo info at the meeting, but a guardrail would be able to be stepped along the grade, and still be effective. He recognized that one of the issues was how far it should extend and the applicant is willing to go as far as it needs to. Mr. Kaufman said that was one of his concerns, and that was why he needed the topo; to see how far back it needed to go.

Mr. Flemming said they can add to the plantings on the site to get closer to the 10% planting coverage. He asked where Mr. Kaufman thought they should go. Mr. Kaufman recognized that they had a difficult site and if the applicant can't meet the 10%, then they might want to consider asking for a variance from the ZBA for that too.

Mr. Flemming said there would be no freestanding signs in the parking lot. Mr. Kaufman said that he only meant whether there would be any on North Broadway.

Mr. Kaufman thought there was a list of what variances the applicant needs. He thought they should include the 10% planting as well. Mr. Flemming said that there was also the issue of having the several spaces in the front or eliminating them entirely. Mr. Kaufman asked if the applicant was going to go to the ZBA with a backup plan. Mr. Flemming said that only if it was necessary would the applicant eliminate the spaces in the front.

Mr. Kaufman said that in order to move this expeditiously the Board could send this to the traffic consultant tonight and if the applicant knows exactly what they are going to ask from the ZBA, then the Board could make that referral as well. Mr. Flemming said they would like to ask for approval for 77 spaces. Mr. Kaufman said that it would be the Planning Board that will ultimately determine whether there is enough room there to turn around in those spaces.

Chairman Michelman thought that the diner had plenty of maneuvering room to get the cars out and she thought that the applicant either needed fewer spaces, or more maneuvering room so that cars can pull out and turn enough so that they could pull out head on. Chairman Michelman said that the applicant should look at what they need up front before going to the ZBA.

Mr. Coyne thought that the elimination of all the spaces in the front was a little impractical. He asked if there was enough room for them to park them perpendicularly; he recognized that the applicant would lose spaces by doing this, but they were likely to lose spaces anyway. Mr. Flemming thought that would work. Chairman Michelman said the Board needed to know exactly what the applicant would need variances for before they could make the referral to the ZBA. She suggested that he meet with Mr. Kaufman to discuss this.

Mr. Flemming asked if the Board could refer the application to the ZBA that night. Chairman Michelman said she was not comfortable with making this referral without more detail on this issue. She advised the applicant to sit down with Mr. Kaufman so that they could work out exactly what they needed to go to the ZBA for.

GLAT
Special Use Permit
22 Woodcrest Drive
Section 1, Block 1, Lot 4-22
Frank Branca – New Dimensions Remodeling Inc.
Discussion

Mr. Vince Fasio present on behalf of the applicant. Chairman Michelman noted that the Board had a site walk. She asked if the applicant has seen the memoranda from the professionals. Mr. Fasio said that they had and that they have hired engineers for the storm water and soil analyses.

Chairman Michelman noted that this application needed a public hearing and asked if Mr. Kaufman wanted to see the information before scheduling the public hearing. Mr. Kaufman said that was not necessary; there were no outstanding issues.

Chairman Michelman pointed out that the applicant received ARB approval in February. This application would be placed on the next available agenda.

IBM
Final Subdivision & Amended Site Plan
Section 2, Block 16, Lot 4 – 1 New Orchard Road
Section 2, Block 16, Lot 4-1 – 1 North Castle Drive
Mark Gratz – Divney Tung Schwalbe
Discussion

Mr. Edward Dolan, Mr. Mark Gratz and Mr. Tony Cannonaco were present for the application. Mr. Dolan explained that the applicant was requesting that the Board waive the public hearing for final subdivision and that they adopt the resolution for the amended site plan.

Mr. Kaufman explained that the final subdivision plat is in substantial conformance with the preliminary plat, and there were no outstanding issues. He suggested the Board make some minor changes to the resolution to correct some typos. If the Board was inclined, they could adopt the final subdivision plat resolution as amended.

Mr. Dolan stated that the resolutions were satisfactory to us.

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

Mr. Kaufman said that with respect to the site plan resolution there were a couple of changes. The most significant was that the prior draft included all of IBM's holdings as one site plan, and the newly created lot was deemed a new vacant lot. IBM wanted to exclude the new lot from this, and require that lot to require its own separate site plan approval if in the future that site is developed. The Board did not object. Chairman Michelman pointed out several other typos and Mr. Kaufman made a note of them.

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

KOLTON
Special Use – Accessory Apartment
Section 1, Block 4, Lot 10-38
16 Windmill Road
Robert Kolton, Dennis Lowes – Ralph MacDonald Company
Discussion

Mr. Kolton was present for his application. Chairman Michelman noted that there were two issues that need to be addressed. The Board needed to refer this to the Building Inspector and have him make his recommendation. That can be done tomorrow. Once the Board gets his recommendation, they can schedule a public hearing and have a resolution prepared for the same night. Mr. Kaufman explained that the Building Inspector's office would contact the applicant to set up an appointment to go to the site.

VERIZON WIRELESS
Site Plan
Section 1, Block 4, Lot 10.GP1
Long Pond Road
Discussion
Leslie J. Snyder, Esq. – Snyder & Snyder

Mr. Michael Sheridan, Esq. was present on behalf of the applicant. He explained that the applicant is proposing the construction of a 120' monopole with antennas and related equipment on Long Pond Road, on town owned property. The facility would be on previously disturbed land. The applicant has received the comments from Mr. Kaufman and Mr. Coyne, and they are in the process of addressing those comments, which seem to be minor. He asked that the Board schedule a public hearing.

Chairman Michelman said that the main issue is the pole location. Mr. Sheridan pointed out that this pole was designed to be big enough for collocation. At this point, they are not sure who else would be on that tower. Chairman Michelman said that the Board wanted to be sure that what is being built can accommodate additional carriers. She asked if there was a way the applicant could tell the Board how many more could be on there.

Mr. Kaufman noted that this went beyond the structural integrity; it goes to the height of the pole as well. His inclination is that it might not be tall enough as proposed. Mr. Baroni noted that the tower at the sewer plant started at 150 and increased to 160. He said that once they knew the height needed, the Town Board would like a balloon test done before the trees bloom again.

Mr. Kaufman said that the other items were not significant. The main issues are the height and structural integrity.

Mr. Sheridan said this applicant could not speak to the height required for other carriers, only what they have a need for. They can speak to the engineers about the minimum height required. Mr. Kaufman thought that a way to do it would be to figure out the minimum height required and add 10' per colocator.

Mr. Coyne suggested that they did the balloon test at 120' and then the highest that the code allows because the trees would be blooming soon.

Mr. Sheridan said that there could be co-locators on a pole of 120'. He pointed out that the applicant did not want to be negatively impacted by a tower that is larger than what they are asking for. The applicant is not looking for approval to build a 150' tower only a 120'.

Mr. Kaufman noted that the Board might ask the applicant to build a 150' tower. He felt the Board would be remiss not to study the co-locator issue.

The Board asked the applicant to notify them when they planned to do the balloon test. A public hearing could be scheduled after the Board receives this information.

ARMONK SHOPPING CENTER

Referral from Town Board

450 Main Street & Maple Avenue

Section 2, Block 13, Lots 7.A & 10.A

Al DelBello, Esq. – Delbello Donnellan Weingarten Wise & Wiederkehr, LLP

Discussion

Mr. Al DelBello, Mr. Bob Roth, and Mr. Rick Pierson were present for this application. Mr. DelBello explained that the applicant has listened to the Boards and professionals' comments and they have filed petition with the Town Board for a parking provision in a CB district in a shopping center that contains a supermarket.

Mr. Bob Roth presented the site plan. He explained that after last meeting the applicant met with Mr. Coyne and Mr. Kaufman and then went back to A&P because some of the changes required their approval. He explained that the applicant is proposing the construction of a larger supermarket and another retail area. He indicated the parking areas. The applicant was asked to look at the access point to the rear parking between the two buildings and they have been able to design a two-way access point for that parking area because the A&P has agreed to chop off the corner of the building. Additionally, they are now proposing two-way access behind

the supermarket itself.

Mr. Roth explained that they also discussed how to make the landscaping islands wider. They are really confined by the property line on the north and south. To get a driveway and three isles of parking would allow for two 4' islands. There is one area that they are going to be able to do an 8' wide island. At the junction of 4 spaces, they will plant a tree. This does comply with the landscaping requirement in terms of the 10% figure. It does have the requisite number of parking as based upon the petition with the Town Board.

Mr. Rich Pierson, the applicant's traffic consultant, explained that he prepared a parking / traffic study that was last revised on January 22, 2010. The applicant is proposing 156 spaces. They were originally proposing 157, but due to building modifications, one space was lost. He explained that he has been a customer of this shopping center for many years and he was very familiar with the site. He has never had any concern with parking on the site. As part of the study, they included a chart based upon an analysis they had done. The peak on a Friday was 82 occupied spaces and 66 on a Saturday in January. They also did a count on the Wednesday before Thanksgiving and there were 106 occupied spaces. That is one of, if not the busiest days of the year. Even with the projection of increased parking demand, they are looking at 111 on a typical weekday and 114 on a typical Saturday. That means there is 1/3 -30% surplus capacity based upon projected figures.

Mr. Pierson noted that Mr. Galante thought they needed more spaces, but the applicant thinks that is far more than what would be appropriate for this site. Mr. Galante wanted the applicant to look at ITE and ULI numbers. ITE has very limited number of studies for supermarket sites nationwide. The applicant felt that it was far more appropriate to do a site-specific study. Based upon this site, even with the expansion, it will serve the local area. The neighboring towns all have their own supermarket so it is not likely that this will become a destination center. The ULI data indicated an average demand of 3.3 spaces per gross floor area, and 4 / 1,000 sq. ft. of floor area. Based upon the ULI data, they'd have to have 168 spaces and the applicant is at 98% of what ULI would recommend without even looking at the site specifics.

Chairman Michelman noted that Mr. Galante concurred that a great deal of what the applicant has proposed is workable. The only real issue seems to be the mezzanine area. Mr. Kaufman said that is insignificant. Whether it should be based on gross floor area or retail floor area is the issue.

Chairman Michelman noted that the applicant did not address whether there or not there is going to be increased traffic. Mr. Kaufman pointed out that was addressed in Mr. Galante's report. Mr. Galante felt that it was likely that the parking demand now is below typical conditions due to the nature of the site as it exists today. Mr. Pierson said that they have a 30% surplus

that would be available for the potential additional demand. That is not a small number.

Chairman Michelman asked if there were any issues. Mr. Kaufman suggested the Board use the ULI numbers. Mr. Pierson noted that the ULI is a nationwide analysis based upon 12 studies. It is not site specific and doesn't take into consideration that the neighboring towns have their own stores. Mr. Kaufman said he could see the ULI numbers as a compromise. Mr. DelBello asked why they needed to compromise at all. The Board knows the shopping center and they know whether it has been at capacity. Mr. DelBello thought that the applicant had proven that there is more than enough parking for this type of A&P. Mr. Kaufman disagreed and said that Mr. Galante's memo specifically said that any assessment of current conditions may not be appropriate. Mr. DelBello noted that was only one man's report.

Ms. Tatka thought that the applicant should analyze the percentage that would be shopping there on the busiest day. She noted that she, personally, never shops there on busy days (i.e. the day before Thanksgiving) she goes elsewhere.

Mr. Kaufman said that the issue is whether the 30% surplus is adequate. They don't know what the additional demand will be. They have to use the national studies, and the local shopping center in North White Plains. The ULI numbers seem to be a good compromise.

Ms. Black said that based upon her experience, in the current supermarket parking is not an issue. However, with an upgraded supermarket, it may regain some of the town residents who currently go elsewhere. Chairman Michelman thought that many of the town's residents do go elsewhere, and she thought a great number of them would be coming back, thereby increasing the amount of traffic and cars.

Mr. Pierson said that there are on street parking spaces in downtown Armonk and the spaces all along the frontage that are never used. Mr. DelBello said that there is no more room on site for additional parking

Mr. Roth said that, for argument's sake, say the 168 parking is the real number. That means that it is really only for one hour on the busiest day of the year where the math would work out to be that there is not a space for every single person coming onto the site. Mr. Roth said that if they could put more parking spaces on this site, then they would but they cannot. They are dealing with a finite set of facts. The A&P has approved this plan and they know what it takes to do business and they are satisfied with the number of parking spaces on this site.

Ms. Black asked what the percentage of the parking was for the other retail / restaurant. Mr. Pierson believed it was 36 spaces, or approximately 25%. Mr. Pierson noted that the two uses are not peaking at the same time.

Chairman Michelman asked if Mr. Coyne had any issues and Mr. Coyne said that his concerns have been discussed already.

Chairman Michelman thought that everyone agreed that the 1/150 in the existing code now is not appropriate and would require way in excess of what is required. The 1/200 of gross floor area is what exists now in North White Plains. That was the applicant's original application and now the applicant is asking for 1/200 sq. ft .of sales area.

Ms. Black thought that the North White Plains store was more of a destination center, and it is larger that what is being proposed here.

Mr. Sauro pointed out that the number of cars passing the North White Plains supermarket is huge and that can't be compared to this application. He thought the applicant demonstrated legitimate arguments for their case.

Chairman Michelman thought that, having viewed this personally, she did not think there has ever been a parking problem on this site. Her concern is the increased number of people parking there, and they hope that it will be many. However, she would hate to approve something that a few years from now would be inadequate.

Mr. Kaufman said that under any scenario he did not think the Board would be in the position to approve something that is unreasonable. This proposal is reasonable. Other communities determine their parking count in this way. He thought that the conservative estimate would be 1/200. The applicant's request is reasonable, but is more aggressive. Chairman Michelman asked the percentage less between what Mr. Kaufman is suggesting and what the applicant is proposing. Mr. Kaufman said that it was approximately 25%. He pointed out that the ULI numbers are in the middle of the two.

Mr. Delano noted that the applicant was not far from the ULI numbers and they can't do better than this on this site. The issue comes down to whether the Board wanted this in downtown Armonk. The applicant has done a good job in trying to get his point across and if the Board wanted to see A&P back in town, this is the best bet.

Mr. Sauro asked if the applicant had any indication on what would go in the second building. The applicant said that they would like to keep the same tenants they have now. They are limited in terms of who they can rent to because the A&P doesn't want tenants that would compete with them.

Ms. Black recognized that the ULI data is very similar to what the applicant is proposing. She

agreed that it came down to whether they wanted to keep a supermarket here. There just isn't any more space on this land.

Ms. Tatka thought that it looked great on paper, but she was not sure how it will work out.

Mr. Kaufman pointed out that the Town Board was looking for the Board's thoughts on this petition. Chairman Michelman asked what the town code would state and Mr. Kaufman explained that it would provide an off street parking requirement for the use within the CB zone. Chairman Michelman said that it was the consensus of the Board that the applicant has done the best possible job they can do.

Mr. Delano thought they could make a positive recommendation to support a change in zoning using the applicant's own language.

Ms. Tatka said that she supported using the ULI numbers. The rest of the Board members supported using the applicant's figures.

OUTDOOR DINING

Referral from Town Board

Mr. Kaufman explained that the Town Board was looking to streamline the approval process for outdoor dining. Chairman Michelman thought they wanted to streamline process for everything.

Mr. Kaufman said that the outdoor dining is currently regulated by special permit from the Town Board. They refer the application to this Board and the ARB for comment. In a way to expedite this process, they are proposing a new section to the Town Code. Applications for outdoor dining would be referred to the Building Department. In that section there would be certain requirements and restrictions. Then they could be issued a building permit.

There was also an application to amend the local law to change the areas where outdoor dining is permitted to include the NB zoning district.

Mr. Delano recalled that the Board spent a lot of time trying to keep that very thing from happening. Chairman Michelman recalled that too. There was a lot of conversation and concern about the size of the establishment. That was put in to allow Mariani to have outdoor dining. She thought that it was terrible in that zone and not what was intended.

Mr. Baroni asked if this would happen automatically as part of the law change. Mr. Kaufman said that Mariani would just need to apply for the permit

Chairman Michelman said that another concern of hers is the elimination of the ARB entirely. Some of the places might be aesthetically inappropriate.

Mr. Baroni agreed and said that the ARB would look at things like the size and color of the umbrellas. Chairman Michelman thought that ARB review would ensure uniformity. If the Boards are going to improve the downtown area, then there should be some aesthetic eye looking at it. The Board agreed that ARB oversight would be beneficial.

Ms. Black moved to recommend to the Town Board that the ARB stay involved in the process of approving outdoor dining. The motion was seconded by Mr. Delano and unanimously approved.

Mr. Delano noted that the more real estate someone has, then the more outdoor dining they can have. After flower season there was potential for the Mariani property to turn into a large dining center. Mr. Baroni thought that it would really be limited by the size of the kitchen and to change the kitchen would require site plan approval.

Mr. Baroni said he was sure that Mariani would want the same treatment of those on Main Street. Chairman Michelman thought that would change their permit and they would need approval for that. Mr. Kaufman said he would have to check to see that their specific approval was to make sure that the resolution requires them to close at 6:00 p.m.

The outdoor dining within the NB district has to be in accordance with the terms and conditions of the site plan approval, and whatever restrictions were placed in their resolution. The Board would include that in the report back to the Town Board.

The meeting was adjourned at 10:14 p.m.
