

**NORTH CASTLE PLANNING BOARD MEETING  
15 BEDFORD ROAD – COURT ROOM**

**7:00 p.m.  
October 25, 2010**

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**PLANNING BOARD MEMBERS PRESENT:** Peg Michelman, Chairman  
John Delano,  
Jane Black  
Steve Sauro  
Beata Tatka

**ALSO PRESENT:** Adam R. Kaufman, AICP  
Direction of Planning  
  
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 B. Desimone  
Planning Board Secretary  
Recording Secretary  
  
John Stamatov, Conservation Board Representative

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

**APPROVAL OF MINUTES:**

October 13, 2010

Ms. Michelman asked for a motion to approve the October 13, 2010 Planning Board minutes as amended. Ms. Black made a motion to approve the minutes as amended. Mr. Delano second the motion and the minutes were approved with four ayes. Mr. Sauro abstained from the vote.

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**KESSLER**

**Special Use**

**Section 1, Block 1, Lot 17**

**14 Middle Patent Road**

**Robert Sherwood, Landscape Architect LLC**

**Consideration of approving special use permit resolution**

Ms. Michelman read the affidavit of publication for the record. Ms. Desimone noted that 17/23 green cards were returned and all paperwork was in order for this application. There were no noticed neighbors present for this application.

Present for this applicant was Chuck Banks, Esq. and Rob Sherwood Landscape Architect.

Mr. Banks stated that all inspections had been done and all necessary approvals for the apartment had been done to date.

Ms. Michelman asked for a motion to close the Kessler Accessory Apartment public hearing. Ms. Black made motion to close the public hearing. Mr. Delano second the motion and it was approved with five Ayes.

Ms. Michelman asked the applicants professionals if they had any questions or comments regarding the Kessler Accessory Apartment resolution. Mr. Banks had no comments regarding the resolution. The board and professionals had no additional comments. Ms. Michelman asked for a motion to approve the Kessler Accessory Apartment resolution. Mr. Delano made a motion to approve. Ms. Black second the motion and it was approved with five Ayes.

**BYRAM RIDGE ROAD SUBDIVISION**

**Preliminary Subdivision**

**Byram Ridge Road & Hunter Drive**

**Section 2, Block 5C, Lot 10**

**Jim Ryan, RLA Senior Associate, John Meyer Consulting**

**Discussion**

Ms. Michelman asked if there were any noticed neighbors present for this continued public hearing. No noticed neighbors were present this evening.

Present for this application was Dan Hollis, Esq. and Megan Smith from Shamberg, Marwell Davis and Hollis. Also present was Jim Ryan from John Meyer Consulting and Beth Evans from Evans Associates.

Mr. Hollis stated that the Conservation Board has responded to the Planning Board's request and he has reviewed that memo. He would like the Public hearing closed this evening and the board to consider a resolution at the next meeting.

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Mr. Delano noted that there has been a big underlying tone for a four lot subdivision with this application. Mr. Delano then reviewed and handed out some notes regarding this application to the board and the professionals, see attached. Mr. Delano concluded that there are a lot of items referenced in the minutes and in the memos from the Conservation Board (CB), Director of Planning and the Town Engineer supporting a four lot subdivision.

Ms. Michelman noted that it has been evident from the very beginning the C.B. and the Town's Professionals were in favor of a 4 lot subdivision and the applicant was equally in favor of a five lot subdivision.

Mr. Hollis stated that he does not agree with the board and a five lot subdivision meets the zoning criteria and Beth Evans wetland mitigation plan is sensible and a betterment of the project. It may be the opinion that a four lot subdivision is better, but the record shows zoning compliance of a five lot subdivision. Ms. Michelman stated that when you are reviewing all of the information that this board has been reviewing, the long term effectiveness of the land is with a four lot subdivision. There are many Planning issues that would be better served on a four lot subdivision.

Mr. Delano, the ordinance states "if intrusion is avoidable", intrusion is avoidable with a four lot subdivision and the mitigation plan would not be necessary. Mr. Hollis noted that if there are four lots, there would be no improvement to the dysfunctional wetlands and the wetlands will continue that way. There would also be no work done on the dam and there is a lot of work proposed on the dam with a five lot subdivision. Mr. Delano stated that he felt there was enough information in the record to support a four lot subdivision. Mr. Hollis stated there is nothing in the record that supports the denial of this 5 lot subdivision application. Ms. Evans made sure the plan is not harmful to the wetlands and is enhancing to the wetland.

Ms. Evans noted that the four lot subdivision does not necessarily avoid all areas of encroachment into the wetlands, the stormwater basin encroaches into the wetlands and it is a marginal wetland at best. Even with the removal of Lot #5 driveway, there is still encroachment in to the wetland, primarily with the stormwater basin which is located at the lowest point of the property.

Mr. Sauro stated that this application has been going on since before his arrival 2 ½ years ago. When an applicant has met all of the setbacks and zoning requirements and has demonstrated what is necessary for a five lot subdivision, it is hard to deny. The dam and mitigation of the entire wetland will be improved. The applicant has demonstrated successfully all of the things the board has requested of the applicant. Mr. Delano stated that according to the zoning they have met the requirements but he did not feel the applicant had addressed the wetlands properly. Ms. Michelman did not agree with Mr. Sauro.

Mr. Sauro stated that the board follows the code to the letter of the law and the board works together to get the best project they can, the project is better today with all of our work than it was two years ago. Mr. Delano felt that Mr. Sauro's comment applied more to the wetlands for a

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residential application and not for subdivisions.

Mr. Hollis referred to his letter submitted, attached, to the board and spoke about Chapter 209.7.A He also referenced the Turet Preliminary Subdivision resolution, that was previously approved by this board. The Turet application has as many, if not more wetland intrusions than the Byram Ridge Road Subdivision and how could this board grant approval for the Turet application and not this application, which would put us in a place that we would not want to be.

Ms. Tatka asked Ms. Evan, in her professional opinion, would the wetland be jeopardized by this residential subdivision. Ms. Evans stated that the proposed improvements to this project do not impact the wetlands or the wetland buffer. The wetland buffer is compromised by invasive species and the wetlands itself was not a sensitive feature. The subdivision would not alter or impact the wetlands by a residential use.

Ms. Michelman asked for the professionals comments. Mr. Kaufman stated that his comments have been consistent throughout the project.

Ms. Black stated that former board member, Gene Matusow, about a year ago, proposed a compromise with a conservation easement lot and although a four lot subdivision is preferable by all of the professionals - we have been over this many times. Ms. Black stated that she had reviewed the application, the recent Conservation Board memo, Mr. Hollis's memo and the ordinance. The applicant has met the objective criteria. The Planning Board does have some discretion as well as the advice from the professionals that a four lot subdivision is better. The Conservation Board recommended approval for a five lot subdivision, while saying a four lot subdivision is better, which put the Planning Board in a funny position. The applicant has shown improvement to the wetland, wetland buffer, dam and the easement to help with the on site mitigation and she was inclined to go with the five lot subdivision.

Ms. Michelman asked for a motion to close the Byram Ridge Road subdivision public hearing. Mr. Delano made a motion to close the public hearing. It was second by Ms. Tatka and approved with five Ayes.

Mr. Delano made a motion to direct staff to prepare a four lot preliminary subdivision resolution along with the improvements to the wetland that the Conservation Board requested. No one second the motion.

Mr. Baroni stated that this discussion was not necessary and Mr. Kaufman has direction on what to prepare.

Mr. Kaufman was directed to prepare a resolution for the November 8, 2010 Planning Board meeting.

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### **ZENG**

#### **Site Plan**

**Section 2, Block 17, Lot 2G-1**

**46 N. Greenwich Road**

**Walter Nestler, Landscape Architect, ASLA**

#### **Discussion**

Present for this application was John Woodruff and Mr. Zeng, Mr. Nestler was not present.

Mr. Woodruff stated that he has re engineered the septic system which enabled his client to move his house 12' south and 15' to the west which will pull the entire house out of the wetland buffer. The Conservation Board liked this plan. Ms. Michelman noted that the patio, deck and portion of the driveway are still in the buffer. It was discussed at the last meeting that the applicant's professionals were going to try and redesign the house to fit the property better. Ms. Tatka had suggested a smaller house to keep it further out of the wetlands. Mr. Zeng will not reduce the size of the house because he needs to have space for his parents to live as well as his wife and children.

Discussions were had about orienting the garage as a court yard and having the garage door face the road. Mr. Zeng does not like the look of the garage door in front of the house.

Mr. Woodruff reminded everyone that when this application first began, there was 4,000 square feet of intrusion into the wetland buffer and the application today, only proposes 1,500 square feet of intrusion. This is a very difficult site; the applicant has been very accommodating and is proposing tremendous mitigation on site. The applicant is concerned with being too close to the road, due to the noise factor and the appearance of the mass of the house.

Ms. Michelman stated that since the applicant will not reduce the size of the house, which was Ms. Tatka's suggestion. We need to keep in mind this is a five bedroom house and it is proposed on a limited area. Lets see if we can get a plan together that will get more of the house, patio and driveway out of the wetland buffer area.

Mr. Zeng stated that this was his dream house and he felt as if he is giving up so much as it is and if he has to give up any more, he will throw in the flag on the entire project.

Ms. Tatka asked Mr. Zeng if he was aware of the constraints of the property and that it was restricted when he purchased the lot. Mr. Zeng stated that he spoke with the Town's professionals and he had the impression after meeting with them, that he would be able to build his house, although he had nothing in writing. He stated that the main house was 10' in the buffer area and now the whole house is out of the buffer. He also noted that he had Board of Health approval.

Ms. Tatka inquired if the septic system were redesigned could the house be tucked behind the septic system. Mr. Coyne had suggested that the septic expansion area be located in the buffer area and the Board Health said no to that suggestion.

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Mr. Coyne stated that the rain garden and stormwater have not been shown on the last few submissions. He understood this was not done because the house location was not finalized, but now that it is finalized, the applicant will need to submit a full set of plans regarding the stormwater and the rain garden.

Discussions were had regarding what type of materials will be used for the driveway and patio areas.

Continued discussions were had regarding the location of the garage and the movement of the garage. Mr. Zeng is happy with the location of the garage and does not want it moved.

Mr. Zeng stated that he has Architectural Review Board approval.

The board discussed permeable surface in the driveway and patio areas. Mr. Sauro and Ms. Black liked this idea.

Ms. Michelman asked the applicant to submit a full set of plans for the board's and professionals review.

Ms. Tatka was concerned about the precedent this would set for the board granting this type of approval. Mr. Kaufman stated that it is a balancing act. There was more development in the past in this wetland. No matter what the circumstances each application is reviewed on its own merits.

The Board was comfortable with the application as presented which was accommodating the Conservation Board comments as much as possible.

### **SANTOMERO BUILDING**

#### **Site Plan**

**868 North Broadway**

**Section 3, Block 7, Lot 9.A**

**Michael Piccirillo, AIA**

#### **Discussion**

Present for this application was Dan Hollis and Megan Smith from Shamberg, Marwell, Davis and Hollis as well as Stephen Lopez - Landscape Architect, Michael Piccirillo - Architect and Rod Leigh.

Mr. Hollis stated that the applicant has received all four variances from the ZBA and he is presently preparing the declaration of restriction for Roland Baroni.

Mr. Hollis stated that his client would prefer to keep the gate and the fence on site. There will be employee parking only in the gated area. All employees will have a remote control and the first

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one there in the morning will open the gate and the last one to leave at night will close the gate. Mr. Delano requested that a Knox Box be left on site for emergency purposes. The applicant was in agreement to this request.

Ms. Michelman stated that the Zoning Board of Appeals had some concerns regarding the public transportation bus stop at the site. It was noted that the existing bus stop located at the northern end of the property creates traffic difficulties due to the stop's proximity to the North Broadway/Route 22 intersection (approximately 300 feet) and the fact that the bus must get into the far left lane in order to proceed toward the Kensico Dam. During peak times, when the far left lane is queued beyond the bus stop, the bus blocks both lanes of travel on North Broadway. The board directed Mr. Kaufman to prepare a letter and send it out to Westchester County Transportation.

Ms. Michelman also stated that the board would like a no left turn out of the site and would like Mr. Galante to take a look at that option. The applicant agreed to no left turns out of the site.

Mr. Hollis also noted that the ZBA approved the dumpster being tied to this building, to this use and this owner which is not typically done.

A public hearing and resolution for this site were scheduled for November 22, 2010.

### **MANOS**

#### **Special Use Permit**

#### **10 Lyons Court**

#### **Section 1, Block 4, Lot 1-10**

#### **Dennis Lowes, Ralph MacDonald Company**

#### **Discussion**

Mr. Manos and Dennis Lowes were present for this application.

Mr. Manos is proposing to renovate the existing house and put on a small addition. The existing pool will be demolished and a new one will be built. The driveway will be repaved and two rain gardens are proposed for driveway and roof runoff. There is a pond in front of the house which puts basically the entire site in the wetland buffer. Mr. Janig has prepared a 14,000 square foot mitigation plan.

Ms. Tatka left the meeting at this time.

Mr. Lowes stated that the Board of Health (BOH) has some concerns with the septic system which was built in 1968. The BOH suggested abandoning two laterals and replacing them with new ones and to provide a reserve area which would be pumped up hill. Unfortunately, the test to pump up hill failed.

There are five laterals all together and the board would like the applicant to replace all of them.

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They suggested putting a new septic in where the reserve would go. Mr. Manos was in agreement to replace all five laterals. Mr. Coyne suggested the applicant speak with the BOH regarding all five laterals and locating the new septic where the reserve would go.

This application was referred to the Conservation Board (CB) and the Zoning Board of Appeals. Mr. Lowes stated that he would get some direction from the Board of Health regarding the septic before going to the CB. He also stated that he would try to get on the next available ZBA agenda.

**SCOTT**

**Subdivision**

**80 Mianus River Road**

**Section 1, Block 7, Lot 4**

**Jerry Barrett, RLA J.D Barrett & Associates**

**Discussion**

Present for this application was Jerry Barret, Landscape Architect as well as the applicant's attorney, John Arrons.

There was an in house meeting with Mr. Kaufman, Mr. Baroni, Mr. Barrett and Mr. Arrons. They concluded that they could resolve the "boot" lot issue with a note on the plan with a covenant regarding the common driveway for lots 2,3,4. The note would only permit three homes to be accessed off of the common driveway which serves lots 2,3,4.

Steve Coleman confirmed on site and off site wetlands.

Ms. Michelman reminded the applicant that Mr. Coyne stated in his memo that he has some concerns about the engineering issues and they all need to be addressed before going to public hearing. Mr. Barrett will set up an appointment with the Town Engineer.

There is also a zoning issue with Lot #1, the applicant wants a workshop and to legalize the apartment. In order for this to happen the property owner would have to live on site. Mr. Arrons inquired if we could leave the flexibility to a future owner as an accessory structure vs. a workshop. Mr. Kaufman stated as long as you can prove it was built prior to 1984 that should not be a problem.

The applicant will return to the Conservation Board.

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**FEIT**

**Wetland Permit**

**114 Cox Avenue**

**Section 2, Block 5, Lot 20.D01**

**Jerry Barrett, RLA J.D Barrett & Associates**

**Discussion**

Mr. Barrett stated that he was before the Conservation Board and the restoration site was alright. A stone check dam is proposed for the drainage area near the pipe on site. The applicant will do whatever is necessary offsite regarding the mitigation plan. A value needs to be determined. A letter will be sent to the Town Board regarding the off site mitigation.

**BERGER**

**Site Plan**

**29 Carolyn Place**

**Section 2, Block 2, Lot 3.D-11**

**Mark Miller, Esq. Veneziano & Associates**

**Consideration of approving 2<sup>nd</sup> extension of time site plan resolution**

Ms. Michelman asked the board and the professional, if they had any questions or comments regarding the Berger gross floor area and gross land coverage special use permit and tree removal permit approvals extension of time resolution regarding the reconstruction of the existing house to include a new three-car attached garage with storage space, the conversion of the existing garage into an exercise room and study, the construction of a new mud room with laundry, construction of a new second story hallway, construction of a new addition to hold a billiard room with a gazebo on the second story, the construction of a new pool house and the reconfiguration of a portion of the existing driveway. The board and professionals had no comments. Ms. Black made a motion to approve the Berger extension of time resolution. Mr. Delano second the motion and it was approved with four Ayes. Ms. Tatka was not present for the vote.

Meeting adjourned at 8:46 p.m.