

TOWN OF NORTH CASTLE

PLANNING BOARD MEETING

15 Bedford Road

Armonk, New York 10504

April 9, 2007, 2007

7:00 p.m.

PLANNING BOARD MEMBERS PRESENT: Peg Michelman, Chairman
Art Adelman
John Delano
Jane Black
Gene Matusow

ALSO PRESENT: Adam Kaufman, AICP
Director of Planning

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

Douglas E. Schroeder, P.E.
Kellard Engineering & Consulting, P.C.
Consulting Town Engineers

Valerie Desimone
Planning Board Secretary

Zenaida Bongaarts
Conservation Board Representative

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

PLANNING BOARD & ARCHITECTURAL REVIEW BOARD WORK SESSION

DISCUSSION:

VALEV
Site Plan
Section 7, Block 04, Lot 1 L
18 Nethermont Avenue
Teodor A. Valev, PE

The following members of the ARB were present: Alex Bacon, Chairman, Karen Gordon and Anthony Calvello.

Mr. Kaufman explained that this was before the Board at the last meeting for a public hearing. At that time, the public and members of the Planning Board were still wrestling with the size of the house and the impact that it may have on the neighborhood. Some of the Planning Board members suggested that the applicant reconsider the possibilities for reducing the height of building. The applicant has since submitted two alternatives to the Board. One reduces the height by 6 feet at the suggestion of a Planning Board member, and the other reduces it by 3 feet. Since they relate to the architectural design of the building the Board felt it appropriate to get input from the ARB.

Chairman Michelman stated that the alternatives were a result of the size and height of the house, compared to the other homes in the area. Chairman Michelman acknowledged that Ms. Ascher has been frustrated with the process, but asked that Ms. Ascher walk the ARB through the changes that have been made.

Ms. Gail Ascher was present on behalf of the applicant. She explained that they have considered two possible options. The first lowered the ridge by 3.' It had been 7' from the peak of the gable to the ridge of the roof. She stated that this is the lowest they would be able to go. This maintains a little bit of a loft but aesthetically it is a big difference. A lot of the mass is removed.

The other option considered the removal of the entire loft area. Ms. Ascher said that this lowers it so low that it changes the complete design of the house and makes it very ugly. She explained that the applicant does not like it, but wanted to show both boards what it would look like.

Ms. Ascher felt that lowering it 3' was a good compromise. It lowers the height significantly, while still maintaining the aesthetics and function as a loft.

Chairman Michelman asked the ARB if they had seen the original. Mr. Bacon said that they had. Mr. Bacon asked if the plan that lowered the roof by 3' was the applicant's preferred plan. Ms. Ascher said that it was. Mr. Bacon asked if anything other than the pitch of the roof was really changing. Ms. Ascher said that nothing else was changing, that the only thing that came down was the height of the ridge. Mr. Bacon noted that it reduced the mass of the house, and pointed out that the dormers on the back of the building were removed. Ms. Ascher agreed. The two dormers that remain provide necessary light to the master bedroom.

Ms. Ascher presented an older 3D rendering to the boards in response to Mr. Bacon's questions. Mr. Bacon asked for the site plan so that they could see the context of the left-hand side elevation as it faces Nethermont Avenue, which she provided. There was some discussion regarding the view from this elevation. Mr. Bacon stated that the higher pitched roofs have become more popular. The 4 1/2 or 6 on 12 pitches are the types that are being torn down and made a steeper pitch. These are often thought to be less appealing.

Chairman Michelman said that aesthetically, the Planning Board understood the ARB's comments, but that they had to deal with topography that is very difficult. The building itself is very high on the ridge, which is the only place on the property that a house can be sited. Mr. Bacon stated that they do not want to see a flat roof here. Chairman Michelman agreed, but said that the issue is the difficulty of the property and how it is

viewed from below. Chairman Michelman recognized that the applicant has been more than cooperative for a long time and has tried to satisfy everyone. She said that it was important to not totally lose the aesthetics of this.

Mr. Valev explained that with respect to the ridge and height, they were originally 10' above the top of the ridge and now, they are no more than 7' above what can be seen on the horizon.

Mr. Bacon asked if there were any photos from the street in relation to the homes next door. Mr. Valev said that there were, and that the house on the left is much higher. Mr. Delano said that the house on the left was the lot that was "hacked out," and the house was inserted into the lot. There is a sheer rock face on the side. He recognized that Mr. Valev's plan works more with the topography. Mr. Delano stated that his concern was more for the neighbors across the street and those driving by. Those people will see the three car garage and when you come from the south to the north, a lot of the house would be seen, and there is nothing that can be done to hide it. Mr. Delano noted that one neighbor at the last meeting commented that he went out of his way to build a 3 on 12 roof to keep the visibility of his house down. He was worried about the light for houses across the street. Ms. Ascher explained that they have established that there will not be any shade cast on the house across the street.

Barry Naderman, the applicant's engineer, stated that this house was specifically designed to work with the land (unlike the neighboring home). He said the ridgeline is only 10' above the grade. The applicant's house is further back from Nethermont Avenue than the neighboring property. They have really tried to make this house work with the land, rather than vice versa.

Mr. Bacon said that alternative "B" drops it three feet, and alternative "A" drops it a total of 6. Mr. Naderman explained that dropping it 3' allows the applicant to keep a loft area. The other alternative eliminates that possibility altogether.

Mr. Bacon said that the calculated height for alternative "B" is 26 1/4 versus 25' 5" on alternative "A." This was only a difference in measured height of about 1' 5 feet. Mr. Bacon felt that this was a lot of house, and he was not concerned with the loft as he was with the image. To lose the effect of the dormers, and to marry the front end with the ridge of the roof and lowering the pitch of the roof creates a mass that will be lower, but is not as architecturally desirable as the other. Mr. Bacon said that for only 1' 5", this may not be the best solution and he doubted this achieved the intended result. Mr. Bacon said that landscaping was also an issue, but recognized that because this rock, it may be difficult. He noted that the proposed motorcourt and driveway will present difficulties, but the applicant has worked with us to create a break up of the glass mass. He stated that, initially the house was essentially a wall of glass. Mr. Bacon added that the stone around the garage would extend up the house, and this may be an area where the ARB can work with the applicant to reduce the appearance.

Ms. Black stated that she liked the way the dormers broke up the roof. Mr. Bacon said that the ARB preferred alternative "B" rather than reducing it 6'.

Chairman Michelman said that from an aesthetic point of view, the 3' reduction is more appealing than the 6'. Mr. Adelman stated that, aesthetically, he liked the dormers; they

break up the mass of the house. He recognized that this was the applicant's preference as well, because he was able to keep the loft area and the light. He felt that it was not too obtrusive for the rest of the neighbors and that the ARB would be able to make it blend better into the background.

Dr. Matusow said that he would reserve his comments until the regular meeting; he recognized that there was a consensus forming.

Mr. Schroeder stated that all of the engineering issues have been addressed and that alternative "B" was acceptable to him.

Mr. Kaufman explained that there is no right or wrong answer for this application. The Board has looked at all the options and articulated the positive and negatives for all the alternatives. He did not think the Board missed anything.

Mr. Bacon appreciated the opportunity for input.

REGULAR MEETNIG

Approval of Minutes:

March 12, 2007

Mr. Adelman moved to approve the minutes of the March 12th meeting, as amended. The motion was seconded by Mr. Delano and unanimously approved, with the exception of Ms. Black, who abstained.

March 26, 2007

Ms. Black stated that she had some corrections. Ms. Desimone suggested she provide her with the corrections after the meeting. Ms. Black moved to approve the minutes, as amended. The motion was seconded by Mr. Adelman and unanimously approved with the exception of Dr. Matusow, who abstained.

NEIGHBOR NOTIFICATION

FURIO

Site Plan

Section 1, Block 9, Lot 13-1

113 Round Hill Road

Chris Yaroscak, Legacy Development

Discussion

Consideration of approving resolution

Chairman Michelman asked if there were any neighbors present. There were none. Ms. Desimone noted that 13 out of 16 cards were returned and that all paperwork was in order.

Chris Yaroscak was present on behalf of the applicant. Chairman Michelman asked if he had reviewed the resolution. Mr. Yaroscak said that he had, and had no issues. Most of the comments have been already been addressed, but have not yet been submitted.

Chairman Michelman asked if there were any comments from Board. There were none. Dr. Matusow said that he was abstaining from this vote.

Ms. Black moved to approve the resolution. The motion was seconded by Mr. Delano and unanimously approved with the exception of Dr. Matusow.

PUBLIC HEARING & NEIGHBOR NOTIFICATION

823 MOUNT KISCO ROAD

Site Plan

Section 2, Block 2, Lot 7C

Michael Godbee

Discussion

Consideration of approving resolution

Chris Pateman, project designer for the project, was present for the applicant. He explained that at the last meeting, everything was resolved with the exception of the neighbors' concerns over the proposed well location.

Chairman Michelman asked if there were any neighbors present for the public hearing. Richard and Linda Herbst of 24 Sunrise Drive and Seth Varnhagen, 18 Sunrise Drive were present for the application.

Mr. Pateman explained that they have included a memo prepared by Russ Slayback, discussing potential impacts to the groundwater. Russ Slayback was present as well. He explained that he has walked the property and reviewed the distances to neighboring wells, as well as having reviewed the well records that indicate the depths of the wells and their reported uses. He said that he considered the hydrogeology of the bedrock and aquifer in the area.

Mr. Slayback stated that this is a fairly steep hillside and the rock underneath is metamorphic rock that is common in the area. It is a rock type that supports the steeper hills. The area has been studied by the US geological survey and the average rate of groundwater recharge into the bedrock has been reviewed. They estimate that the average is about 9 inches per year, out of approximately 46 inches per year. Mr. Slayback stated that this is approximately 670 gallons per day and on this three-acre site, that translates to about 2,000 gallons a day. He explained that the applicant is proposing a 5 bedroom house and the rule of thumb for a 5 bedroom house is that there may be 6 people living there using 75 gallons per day for a total of 450 gpd. The applicant is proposing a pool and a spa in the southerly yard that will require some seasonal makeup water. The total is approximately 130 gpd, and they will lose approximately 1/4 inch of water on very hot days due to evaporation.

Mr. Slayback explained that the applicant is also proposing to install in ground irrigation system strictly around the house. This amounts to two-tenths to a quarter of an acre of irrigation. The rule of thumb in this area is that you need about an inch of water per week

(from natural or manmade sources), which is approximately 500 gallons per day. If there was a rainless period of 2-3 weeks, it could use as much as 1,000 gpd, which is still within the budget of the site.

The proposed well for this residence is on the northern boundary of this property, as far as they can get from the neighbors. The applicant is actually closer to the neighbor on Mt. Kisco Road, but that well is very strong and produces more than 20 gallons per minute. Mr. Slayback said that he could not rule out the potential that there is a direct fracture connection between the new well proposed and any other well in the area. However, he felt that the distances are very significant and the likelihood is very small.

Mr. Slayback said that when you consider how a household well works, it operates perhaps 6-12 cycles per day in the morning and in the evening for about 10-12 minutes at a time. For wells to interfere with each other, they have to be functioning at the same time, which further reduces the likelihood of impacts. He recognized that it couldn't be totally ruled out, but the best that can be said at this time without the well being drilled.

Mr. Schroeder agreed; he said that the applicant has provided the study and he concurs with everything in the report.

Chairman Michelman asked if any Board members had any questions. They did not. She asked if the neighbors had any comments or questions. The neighbors agreed that the report was well done, and very professional. Chairman Michelman asked if they had copies and they did not. Chairman Michelman said that the Board would provide them with copies.

One neighbor Linda Herbst said that she has lived on that hill most of her life, and although the report is "entertaining," water is very precious. They have been very careful and conservative about how they use it. The size of the proposed home is very large in comparison to those around it. She thought that the Board was supposed to try and keep things within similar size. She is not sure that the report answers her question.

There were no other comments or questions. Mr. Delano moved to close the public hearing. The motion was seconded by Mr. Adelman and unanimously approved.

Mr. Kaufman said that there is a correction on page four of the resolution and explained it to the Board. Chairman Michelman asked if the applicant has reviewed the resolution. Mr. Pateman said that he had, and the only comment was regarding the New York State DOT. He said that he has been back and forth with them for 6 months and asked if this could be moved to the closing or issuance of a C.O. Mr. Kaufman said that it could be moved past the point of the signing of the site plans, but would be more appropriate prior to the issuance of the building permit. Mr. Pateman stated that they have not received any indication that the DOT would not agree.

Mr. Kaufman suggested moving it to prior to the issuance of the building permit. The Board agreed. Mr. Adelman moved to approve the resolution as amended. The motion was seconded by Dr. Matusow and unanimously approved.

CONTINUING BUSINESS:

VALEV

Site Plan

Section 7, Block 04, Lot 1 L

18 Nethermont Avenue

Teodor A. Valev, PE

Consideration of approving resolution

Mr. Barry Naderman and Ms. Gail Ascher were present for the application, along with the applicant himself.

Mr. Naderman stated that he wanted to address the staging issues raised at the previous meeting. Chairman Michelman pointed out that the Board is looking for a written plan on this issue because this will be the most important issue for the neighbors. Mr. Naderman explained that they have developed a preliminary staging plan. They are looking to use the clearing along the road frontage (that has to be cleared anyway for the drainage) and to put in concrete barriers along the edge of the road and create an initial staging area behind them. This would protect the site from traffic. A certain portion of the drive will be usable and deemed staging area 2. This will allow vehicles to come up further and remove material. Once the area for the parking and garage is created, staging area 3 will be created, and that will enable equipment to be stored there.

He recognized that there may be times when vehicle will be sitting at the end of drive to load material, but there will not be any trucks along Nethermont Avenue waiting. He said that subcontractors are going to be encouraged to meet their employees down at the shopping center where they can commute in fewer vehicles. Mr. Naderman said that they are going to try to minimize the parking along the road to the greatest extent possible. He acknowledged this is a difficult situation but this is the nature of building a house in this area. The applicant is going to try and keep everything on the site as much as possible. He added that the barriers would help alleviate concerns regarding debris coming off the site.

Mr. Adelman asked what method would be used for rock removal. Mr. Naderman said that they would like to chip, but if there comes a point that they have to drill and blast, they would apply for the necessary permits. He assured the Board, however, that they would not put themselves in a position where they would be chipping for months on end.

Chairman Michelman pointed out that chipping takes longer, but one of the objectives is for the disruption in the neighborhood to be as minimal as it could be. She said that she would prefer the applicant take an expeditious approach. Mr. Naderman reiterated that if chipping is not viable, they will apply for the necessary permits to blast. Mr. Delano stated that the applicant might find that the drilling and blasting is more cost effective and that it might protect the owner better. Mr. Naderman said this would be considered.

Mr. Delano said that he wanted to see the formal staging plan along with a narrative and a sequencing of erosion control that had been reviewed by the Town Engineer, along with details regarding lighting on the site plan. The Chairman agreed.

Mr. Delano pointed out that the Board had received communication from a resident expressing concerns, many of which would probably be addressed in these formalized plans. Chairman Michelman said that the Board wanted to have it all laid out to see, so that they could address the concerns beforehand.

Mr. Naderman asked if there was anything regarding staging that the Board members wished him to expand upon. The Board said that they needed to see it first and have the Town Engineer's input.

Mr. Kaufman explained that the next step was for the Board to talk about the architectural drawings to give definitive advice to the applicant (i.e. revisions to the site plan, sequencing plans) and then at that point the Board could discuss a resolution. Ms. Ascher requested that a preliminary approval be granted based upon the formalized sequencing plan so that they could move ahead and permit the applicant to apply for the loan. Chairman Michelman said that they could give the applicant a consensus regarding the two alternatives that were presented.

Dr. Matusow said that the revised proposal that drops the roof 3' satisfies the applicant's needs and the desires of the Board and therefore, he would be ready to approve it. Mr. Delano said that he was not "on board" with Alternate B. He would rather go with Alternate A and deal with any aesthetic issues that arise.

Mr. Adelman said that he was comfortable with the alternative the ARB prefers. He asked if the professionals would be comfortable with a resolution at this point with all of the caveats that would be included. Chairman Michelman said that the Board was not going to draft a resolution at this point. Mr. Adelman pointed out that the applicant had asked for one.

Mr. Delano noted that the ARB chose from the options they were presented; it was not like all options have been investigated. Mr. Adelman said that the ARB members have basically stated that they would not do anything more other than tweak this plan.

Mr. Kaufman said that, ultimately, it comes down to a decision of this Board and what they are comfortable with. Both alternatives are viable. Mr. Adelman recognized this, but asked the point of sending them back to the drawing board was to show the Board they could reduce the impact on the neighbors any more. The applicant has shown that they could reduce it a little bit, but not a lot. He felt that the Board has heard from the ARB that nothing is going to change. He asked again if the professionals would be comfortable with a resolution with their conditions. Mr. Kaufman said that he and Mr. Schroeder could review the construction-sequencing plan and get it to a satisfactory point. He thought, however that the Board wanted to see that plan. Chairman Michelman said that they did.

Mr. Naderman said that the applicant would like to have some degree of certainty on this plan regarding whether the house was satisfactory. The Board was of the opinion that he could be somewhat certain of this. Dr. Matusow was not certain that this was a

guarantee. Chairman Michelman explained that the Board was not going to segment this application. She said that they could give the applicant a consensus of the Board and the professionals could work out the remaining details. She explained to the applicant that the consensus was that most of the Board was satisfied with Alternative B with a drop of 3.'

Mr. Kaufman stated that if the Board was going with alternative "B", then the applicant needed to submit updated numbers so that when the resolution is prepared, the correct figures are used.

Mr. Kaufman asked if they were reducing it by 150 sq. ft., and Ms. Ascher said that it might be a little less because they were going to try and get a little more space in the dormers. She said she would provide the details.

Ms. Ascher asked if it would it be wise for Mr. Naderman to meet with Mr. Kaufman prior to the next formal meeting before the Board. Mr. Kaufman said they could do this.

MARIANI

Site Plan & Wetland Permit

Section 2, Block 16, Lot 3.A – 45 Bedford Road

Section 2, Block 16, Lot 9-2 – 49 Bedford Road

Dan Hollis, Esq. Shamberg, Marwell, Hollis & Davis

Discussion

Mr. Dan Hollis, Esq. Was present for the application. He explained that the plan currently before the Board had been discussed in great detail at the prior meeting. There have been no further reports from the Engineer or the Planner. He explained that there is a public hearing on May 7th but they are still waiting for the official public notices to go out. He stated that the Board was concerned that certain anticipated work has already been begun. Mr. Hollis explained that the anticipatory work has been reversed, and the applicant will await further Board review on May 7th.

Chairman Michelman added that they were also waiting for the SEQRA process to begin. She asked Mr. Schroeder if he was satisfied with the change in the parking spaces. Mr. Schroeder said that he was because they were going back to what was previously approved. Mr. Kaufman said that the fountain area will not have landbanked parking, the dumpster will be relocated, there are no spaces for the former dumpster area, and two spaces have been added along the tree recovery area. Mr. Schroeder had no issues.

HOSSAIN

Site Plan

Section 2, Block 17, Lot 2G1

46 North Greenwich Road

Jeri D. Barrett & JD Barret & Associates

Discussion

Mr. Jeri Barrett and applicant were present for the application. Mr. Barrett explained that, since the last meeting, he has reviewed the comments from the Planner and Engineer. The site plan has been revised to address the overall issues. He noted that they have not addressed all of the comments yet, primarily because the applicant is working with

the architect to reduce the size of the home and change the style. Mr. Barrett explained that the process has just begun and they will go to the ARB soon for their comments. He explained that this is the reason why they held off on submitting some of the requested calculations (i.e. FAR) because they would probably change.

Mr. Barrett explained that the site plan has changed; the driveway now consists of a single curb cut. The exact location is not yet finalized because they are working on obtaining the best sight distance. He added that the current proposed location provides "pretty good" sight distance.

He stated that they have tried to locate the house as far away from the wetland as possible, and he indicated the wetland and the buffer line. Mr. Barrett stated that right now, the house falls within that area. The front setback is 50' and there is room to push forward. At the time, they felt that the mass of the house was too large to push toward the road.

Mr. Barrett stated that they were going to try to improve the function of the wetland. Currently there are a lot of invasive species and appears to be disturbed. He recognized they need a 2:1 mitigation and that they are approaching 35,000 sq. ft. but said he was not sure where he would find that much mitigation. Mr. Kaufman explained that they don't have to mitigate the buffer disturbance. Mr. Barrett explained that the main disturbance comes from pulling out the invasive species. Mr. Kaufman stated that this needed to be discussed because that is mitigation in itself. He pointed out that the applicant is not proposing any structures in the buffer, and that the structure that was in the buffer has been removed.

Mr. Barrett added that they have also tried to create a low stone wall along the road to create more separation. He said that they have tried to keep the house as low as possible so that when they graded the property to make the house lower. They will try to lower that and add landscaping to screen the house. Parking would be in the lower level. Mr. Barrett stated that they have set the house so that the lower level of the house will come right out onto grade, thus eliminating the amount of work necessary in that area.

With respect to the drainage, Mr. Barrett said that they are going to try to take all the house drainage and the drainage from the driveway and take it to a series of infiltrators that will be worked out once site plan moves further along.

He added that they would comply with all of the things in the memos, but that they need to move forward with respect to where they are going with the house. Chairman Michelman said that the applicant has made great progress since the last submission but that the applicant should review the size. Given the lot and the surrounding sizes of homes, this is relatively large for the area. So, as long as the applicant is considering redesigning the house they should consider reduction in size. The rest of the Board agreed.

Mr. Kaufman agreed that this proposal is significantly larger than the adjoining properties. He added that the house not being set back that far from the street compounds the mass. He said that one of his comments about pulling the house closer to the road to increase the distance between the house and wetland increases the appearance of the mass, making the reduction important. This is a difficult lot, and they

are stuck dealing with it. However, the town is receiving benefits; the applicant is improving the wetland and improving impervious surfaces.

Mr. Delano suggested that the applicant decide on driveway location early on in the process. He said that this is a 45mph state road and the sight distance may have bearing on circulation and the garage and location of the house itself. The septic area is a concern for him as well.

Dr. Matusow said that the Board was talking about 35,000 sq. ft. of buffer disturbance, and the problem is that the house is more than 10,000 sq. ft. in size, and therefore, of course there would be disturbance to the buffer. He felt that the applicant needed to take a closer look at what kind of house can be supported by the property, not just what the applicant wants. He said that reducing it a little is not enough; it needs to be reduced substantially. Dr. Matusow pointed out that the applicant is using a lot of buildable property for a motorcourt and he felt this was not necessary.

Mr. Barrett said he would speak with his client and work on these issues.

REFERRAL FROM TOWN BOARD

ALPS SAUNA & SPA

Site Plan

Section 2, Block 16, Lot 18 A

130 Business Park Drive

Discussion

William O'Neill, AIA

Mr. William O'Neill was present for applicant, along with the applicant and other representatives. Mr. O'Neill explained that he had reviewed Mr. Kaufman's memo, and was concerned about the proposed definition of "day spa" which would not include the kind of activity that are in area spas. He brought a brochure from Elizabeth Arden Day Spa for the Board to review.

Chairman Michelman was of the opinion that the Board was concerned about the location; Red Door spas are in retail sections. She reminded the applicant that, at the site walk, she felt that the nail salon and hairdresser would be an inappropriate use for a corporate park. She said that the day spas that she has looked into do not offer any nail or hair services in their packages.

Mr. O'Neill said that he has looked at Elizabeth Arden in White Plains and another spa in Stamford and both offer these types of services. Chairman Michelman asked where they were located and Mr. O'Neill said that one of them was located in the Westchester mall. Chairman Michelman pointed out that this would qualify as a retail center and Mr. O'Neill agreed, but noted that there was no suitably sized property in Armonk for the scale of the proposed application (15,000 sq. ft.).

Mr. O'Neill said that it was important to note that this building is empty and has been for some time. The owner has had difficulty renting that space for approved uses in that zone. Mr. O'Neill said that the applicant would be willing to restrict the spa to some type of membership only use. He said that they were not interested in having a retail use or

catering to walk-ins. The applicant's goal is to serve by appointment only, and deliver a package of services that takes several hours.

Mr. Adelman felt that the business park would be a good place for this type of business. There would be little traffic in that area and no other area in Armonk is available for this. He added that the Board had recently approved a large gym in that area, and that does not create a problem with traffic or parking. He felt that this was no different than a gym. Chairman Michelman was of the opinion that the gym was a more appropriate for a corporate park because the employees and visitors would be able to use it. Chairman Michelman said that she was not saying that the Town should not have a spa; she just questioned whether it should include nail and hair services.

Mr. Adelman said that if that was the only problem then the Board should be having a different conversation. Dr. Matusow felt that Mr. O'Neill had joined the two issues. Mr. O'Neill said that he was not trying to be inflexible but Mr. Kaufman's proposed definition would prohibit those uses, and that would be a plan that does not match the applicant's business plan. Mr. O'Neill explained that they were proposing more space than what is typical for a salon.

Dr. Matusow suggested that the Board move ahead and talk more about the reasons why Mr. Kaufman wants to preclude those activities in this spot. He felt that the Board was not discussing the correct issues. He said that it probably doesn't matter to the Town Planner whether a hair / nail salon is located in the corporate park; but that it could have a significant impact on downtown Armonk and those businesses in that area. He said that this proposal could remove patrons from the downtown Armonk area.

Mr. Kaufman said Dr. Matusow's statements were part of it but that the other part is what uses are appropriate and compatible in a business park. There is justification in saying that the business park is appropriate for offices, or a gym, or a hotel; but a day spa is an extension of that use and it needs a lot of floor area. Mr. Kaufman disagreed with the applicant's position that the day spa includes salon services. Mr. Kaufman believed that there are spas that include salons, but the reverse is not necessarily true. The issue is whether the combined use is appropriate for the business park. He said that he was concerned with taking the traditional downtown use and putting it in the business park. He said that he was not convinced the applicant could segregate the hair/nail services from the day spa.

Mr. Adelman pointed out that there is also the issue of the 57-seat restaurant. Mr. Kaufman stated that he believed traditional day spas included food services of some sort. He read his proposed definition of a day spa. Mr. Adelman said that he had no problem with hair/nails/makeup in the day spa; he thought that the business park is underutilized and this will be a good use for it.

Mr. O'Neill explained that the applicant does not intend to draw business away from downtown Armonk. He envisions a much larger service area than just Armonk who will come into town, and hopefully use the other services in the town.

Ms. Black said that one thing that struck her in reviewing the plans is the large number of hair stations and manicure pedicure stations that are proposed. They seem to be a primary function of the spa. Mr. O'Neill said that was not the case; they have 10 chairs

for hair styling and there are a total of 6 manicure and 6 pedicure chairs. He explained that the applicant wanted to be able to serve a larger group at one time; however, if this was a problem for the Board, they would reconsider.

Mr. Delano said that he noticed the 57-seat restaurant too and felt there was a lot of space in the salon area. He said that he did not have an issue with the magnitude or with it being there and that it does make some sense to have it in the business park. He pointed out that in his opinion, it was not just a spa, but a salon and spa. He asked if there was a definition of a salon. Mr. O'Neill said they did not have one and that they haven't asked for "personal services" definition to apply in this area. He said that he was fairly certain that would not be permitted. He did not understand the logic of why Mr. Kaufman permitted all the other uses for the spa, but precluded those two. He said that it was not the applicant's intention to have a 15,000 sq. ft. hair / nail salon; that they were trying to do something different. He said that they would be able to segregate the uses; if someone called for an appointment for just a hair or nail session, they would be turned down.

Mr. Adelman stated that he did not think the applicant needed to develop some kind of membership plan. He said that he had no objection to the salon being included in the draft definition.

Mr. Delano asked how much nail/hair is being done downtown currently. Mr. Adelman pointed out that the salons were busy all the time. Ms. Black stated that there are approximately 4 or 5 salons in the downtown area.

Dr. Matusow said that he was not saying no, but that he was not convinced that the Board was doing the right thing by taking what he viewed as retail, and taking it out of downtown area and putting it into corporate park. He said that it was not just that there is enough space; he thought that it could hamper the businesses in the downtown area.

Ms. Black said that she was struggling with the issue. She recognized that there is just not enough space in town for this type of business. She stated, however, that if she went to a day spa, she might also want to have her hair done. She did not want the salon to be the primary function. Mr. O'Neill said that it would not be a primary function; the focus is on the spa. He added that if the square footage of the salon area is a problem, they would revise it. He said that the applicant was requesting that the Board change the wording of the definition and refer the application to the Town Board.

Dr. Matusow asked Mr. Kaufman if the hair/nail services would be limited to a certain percentage of the space in order to control that it would only be ancillary to the day spa concept. Mr. Kaufman said that was an option, but he was concerned about regulating that. He suggested that if it was going to be changed that it read that the hair/nail services 'may be provided as additional services.' Ultimately, the Board would be approving the site plan and the floor plan that goes with it.

Mr. Delano suggested expanding the day spa to include salons by special use permit. Dr. Matusow felt that it should be a Planning Board special use permit. Mr. Kaufman said that typically, the Town Board issues special use permits. Dr. Matusow felt that the Town Board would not want this type of application. Mr. Kaufman asked if Dr. Matusow wanted the Board to have special permit "power" over that portion of an application in the event

that it is appropriate or not. Mr. Kaufman noted that, because they were only dealing with this one zone, it might be acceptable. However, he stated that he would rather set up a percentage of the gross floor area devoted to those accessory uses. Mr. O'Neill said that he would prefer that the Board not do it that way. He felt that the Board would come up with an arbitrary number at this point, and it seems premature to come up with for the definition. Dr. Matusow suggested setting up the number as a maximum and work that way. Mr. O'Neill still felt that it was too specific for a definition and that it needs to be accessory to the primary use.

Mr. Kaufman said that if the applicant was saying that it must be an accessory, that is included in the definition, and ultimately, the Board would decide what is accessory. Dr. Matusow said that the Board was not just talking about one application because there is the potential that one of these operations would want to establish themselves in every business in the business park. He said that the Board would have to add the controls to prevent that. The Board needed to be sure that we can deal with any situation that can arise.

Mr. Delano suggested adding some type of qualifying words. Mr. Kaufman said that he'd work on it, but in the meantime, he'd remove "shall not" and say "may be provided as additional accessory services as determined appropriate to the Planning Board." This satisfied the Board and the applicant. Mr. Baroni said the term "accessory use" should be used instead of "accessory services" because it is a term of art that everyone would understand. Mr. O'Neill asked if they would have to amend the list of accessory uses in that case because currently, they are only proposing to amend the list of the principal permitted uses. Mr. Kaufman said that they would not have to do that because it wouldn't be called a separate accessory use if the Board is putting it in the definition as part of the day spa definition, which would be a principal permitted use. Mr. O'Neill understood. The Board would refer this to the Town Board as revised.

MODERN BARN

Referral from Town Board - rezoning

Section 2, Block 13, Lot 39E

430 Bedford Road / 19 Cox Avenue

Dan Hollis, Esq. Shamberg Marwell Davis & Hollis

Rob Aiello, PE John Meyer Consulting

Mr. Dan Hollis, Bob Roth, Rob Aiello, and Lucio Deleo were present for the applicants, along with the applicants themselves.

Mr. Hollis explained that he had received Mr. Kaufman's memo. He said that they have come up with a plan for the Yellow Barn to turn it into a 5,000 sq. ft. restaurant, approximately 6,000 sq. ft. of retail and approximately 11,000 sq. ft. of office on the second floor.

He said that Mr. Kaufman's memo referenced SEQRA. Mr. Hollis recognized that this process has to begin, and then a referral to the Town Board was necessary regarding the rezoning of the rear of the lot from the current residential district to the RB district, making the entire lot universal. He added that the application needed referrals to the county, the ARB and to the Conservation Board because of the wetlands permit. They

need a public hearing for site plan approval and the wetlands permit. They would add the obligatory reference to the police and fire departments. Additionally, due to the proximity to Smith's Tavern, the applicant would need to work with the NYS Parks, Recreation and Historical Preservation Department. He noted that they have completed a traffic analysis and this would be discussed later.

Mr. Hollis noted that Mr. Kaufman's memo talks about a referral to the ZBA. The site plan has an existing building that is too close to Route 22, so an area variance is required for the setback in order to have site plan approved in proper fashion. Mr. Hollis said that he disagreed with Mr. Kaufman's comments regarding the parking allocation and ratio vis a vis the storage. He said that the Board should keep in mind that this property was the creation of a "force-fed variance." A parking variance, an accessory use, was granted in a residential zone when there was no principal use in that residential zone. There was a use variance for an accessory use in a residential zone where there was no principal use. Mr. Hollis said that the applicant was asking the Board to coordinate the property and have it coalesce into one compliant property.

Mr. Hollis said that there is a problem if the storage areas are not treated as they would be if they were on separate floors. In that situation, they would have to appear before the ZBA for a variance with regard to the parking. He said that this would not necessarily be an area variance, but more likely an interpretation. He noted that although interpretations are provided for in the code, it would be an interpretation of a policy which is not covered anywhere in the law.

Mr. Hollis indicated the storage areas on the plan and noted that the Board always considered storage separate from the main use. However, in this building, there are two fronts and therefore, no "back room" for storage. Additionally, the elevator (that this applicant was required to install) takes away from some of the area that they would otherwise be able to use for storage. Mr. Hollis thought that the policy that the storage has to be on a separate floor in order to have the storage area treated appropriately for parking ratio calculations is harsh, especially in this situation, where the building already exists and they are not dealing with new construction. Mr. Hollis said that another distinguishing factor was that this would bring a nonconforming parcel into conformity. Therefore, the applicant was asking that the Board rethink Mr. Kaufman's proposal requiring them to treat the storage areas as either the retail, office or restaurant uses. If the Board went with Mr. Kaufman's suggestion the property would be short 12 spaces, whereas currently they comply with 136 spaces.

Mr. Hollis added that there is no requirement in the ordinance that the storage area be on a separate floor. The building setup is not conducive to storage, and there is no other place to put the storage. To not take advantage of the area that is not being used as one of the main uses would put the applicant at a disadvantage in terms of the ZBA variance. The front yard variance would be easier to obtain. The parking variance is a question of how we match up to the criteria.

Mr. Kaufman said that, in his view, the parking requirement is based upon use and the applicant has three specific uses in the building. Whenever the Town approves a restaurant, it does not approve a portion of the building at the restaurant rate, and the other portion at a different rate. The same is true with an office building; the Board does not take into consideration things like closets and bathrooms. On occasion where the

Board has applied storage use, it is not necessarily associated with the main use (i.e. 1 Hunter Avenue). Mr. Kaufman said that he would prefer that everyone agree parking is adequate and get a variance for those 12 spaces rather than trying to apply a very unusual method of determining parking.

Mr. Hollis said that there is no reason for this. He said that he would agree if there was not a provision in the code for a different ratio for storage. Mr. Kaufman said that this did not constitute separate accessory use for storage. Mr. Hollis stated that the way this building was constructed makes it difficult. Part of the first floor had been storage, but morphed into the showroom. The fact that the storage is in different places throughout the building is the only difference.

Mr. Baroni was concerned because the Town has interpreted the code in the way Mr. Kaufman has suggested for many years, and now, to alter that would be blatantly inconsistent. Mr. Hollis pointed out that the code has to be construed against the municipality and as it is written (not how it has been interpreted) and the code does not make that distinction. In this instance, there are sufficient distinctive criteria to set forth so as not to establish a precedent that would be in violation of the Town's past policy. Mr. Kaufman stated that the use is restaurant, retail and office. Mr. Hollis said that the use of the spaces in question is dedicated storage, which is no different than if it were in the basement. Mr. Kaufman disagreed. Mr. Delano agreed with the applicant. Mr. Kaufman said that if the basement were being used as an office, the Board would not necessarily apply the storage just because it was in the basement. Only if it is significantly connected to the proposed use would the Board say it is the main use. With this application, they were talking about situations where there is storage on a completely different level and not directly related to the use above it that they would apply the storage ratio.

Mr. Hollis said that if the Board looked at other towns that distinguish between storage ratios there is either specificity that it has to be in an attic or a basement. He reiterated that it has to be construed against the town. He pointed out that he was not trying to create an illegal use. Chairman Michelman said that she understood what Mr. Hollis was saying, but wanted to move on to the other aspects of the application.

Bob Roth talked about site plan. He presented the site plan to the Board and explained that the site is approximately two acres, with the front being zoned RB, and the rear parking lot in a residential district. Under the code, the Town's requirements for parking are for each individual use as if they were on separate pieces of property. In that case, it would be appropriate to have the parking ratio as the code details. However, here all three uses are on one site. There is an inherent sharing of parking spaces: people who shop in the retail will eat in the restaurant, people that work in the office are going to shop in the retail and eat in the restaurant, people who eat in the restaurant will shop in the retail. Therefore, there is going to be plenty of parking on the site from a practical standpoint. If the Town had a homogenized parking ratio, the site would require somewhere between 100-115 spaces versus the 136 that exist. Additionally, although the applicant took the storage areas and reduced the parking requirement, they did put in a stairwell to allow emergency egress from the second floor (required by the code), which required the applicant to provide parking for the stairwell. He assured the Board there would be more than adequate parking on the site.

Mr. Roth said that the layout was designed to maintain the existing driveway off of Route 22, but would be improved by creating a larger radius. The parking spaces in the rear were never really used, but the applicant realized that the proposed uses would require more spaces. They have designed a road to come around the side of the building so that if someone comes in the front and there is no parking in that area, they could get to the back without having to exit the site.

Additionally, the plan has made some traffic improvements. For example, a left turn out off the site onto Route 22 would no longer be permissible. The present entrance on Cox Avenue that serves the rear of the property and they would shift it to the rear to share it with the fire department. They would exit by the new driveway.

Mr. Roth explained that a traffic study was conducted, and it was determined that a traffic signal in the area is warranted. A wire analysis was conducted and New York State has acknowledged this. The applicant requested that the State write a letter for the applicant to submit to the Town that provides that the warrants were met and the state will do further review. The originally letter indicated that they are denying the request at this time but would reconsider later. The applicant went back and requested a "less harsh" letter, which they have received. The State letter now provides that they are deferring its decision at this time until the property is reoccupied.

Mr. Roth explained that the applicant is going to "handsomely landscape the site." They have buffer plantings to separate parking lot from the fire department. He recognized that some proposed planting is in Town and State right of way, and they would seek the necessary approvals.

He thanked the professionals for their comprehensive memos and explained that they have met with Mr. Schroeder, and have almost satisfied his concerns. Some comments are simple acknowledgments, and some are duplicated in Mr. Kaufman's memo. Mr. Roth stated that Mr. Schroeder has recommended that the access driveway around the side of building be increased to 15' wide. Mr. Roth said that he agreed with that comment. Additionally, with respect to the radius for the trucks, there will not be tractor-trailer types of trucks but rather smaller, delivery-type trucks, although an occasional trailer may be required for deliveries. With respect to loading, Mr. Roth explained that there are three loading areas required for the code: one in the front left, one in the rear left side and one on the right side of the building. Delivery vehicles will come around the side of the building and the applicant would erect a fence in the area. The number of catch basins has been discussed with Mr. Schroeder, and the applicant will provide additional drainage for runoff from the fire department to Cox Avenue. Mr. Roth added that the drainage calculations have been submitted.

Mr. Roth said that, with respect to Mr. Kaufman's memo, the application still needed to go to ARB. The Board will refer to the county. He added that the applicant needed the Board to determine lead agency status to commence SEQRA and that they need to go to Conservation Board because there is a wetland associated with the ravine and the watercourse on the far side of Cox Avenue. Mr. Roth also noted that the fire and police departments needed to review the plans. Mr. Kaufman said that he would refer it to them. Mr. Roth added that they do not object to the Planner's suggestion to go to the state historic committee.

Chairman Michelman pointed out that Mr. Kaufman's memo mentioned the planters and design of the parking lot and asked Mr. Roth to address these issues. Mr. Roth explained that they have discussed this with Mr. Kaufman and they cannot plant trees on top of the subsurface septic system under the parking lot. He stated that this was not parking lot where cars are going to be riding through the parking lot diagonally. So, they suggested one median in the middle. He said that they would not be able to plant trees, but they could "berm it up" by planting shrubbery without roots that will not interfere with the septic system. This will give some green to the parking area. The shade will come from the end islands. The applicant is comfortable with the layout, and if they have to add islands, they will have a bigger parking issue. Chairman Michelman recognized this, but felt it needed to be addressed. Mr. Kaufman said that it was ultimately up to the Board, and said that the application could be approved it this way.

Mr. Roth stated that the light poles in the parking lot do not have to be in raised islands. The 18" diameter foundation goes in the striped crosses, and it would not take up any spaces because it is the space that is left between the parked cars. Mr. Kaufman recognized that this could be done, but he does not favor that method. However, he said that this is more aesthetic, and it would be up to the Board.

Mr. Roth explained that nothing more than 3' in height can be placed in "the second triangle." He said that they currently propose a small retaining wall that is only 2' however, as Mr. Schroeder pointed out, when there is a car parked there it could obscure the sight distance. Therefore they are going to reconfigure that area to get everything out of the triangle.

Mr. Roth noted that Mr. Kaufman's memo suggested removing one of the three loading spaces and using that space for landscaping and the applicant is comfortable with this. Mr. Roth said that this would even add two spaces, and they would also be able to get approximately 400 sq. ft. for additional planting.

Lastly, with respect to the Michael Galante, F.P. Clark Associates, review of the traffic study, it all comes down to the traffic signal and he felt that it was denied. Mr. Roth said that he was looking at the analysis as if there was no signal there. In two years, the "no-go" will go from a 53 second delay to a 63 second delay. Then, when you add the traffic light, it will go to a 73 second delay, which is the equivalent to waiting two more years with nothing happening. So in four years, you will have the equivalent of a 73 second delay without a traffic signal. Mr. Roth believed that they had a good case with the state to allow the signal. Chairman Michelman said that everyone agreed that a light was needed there.

Chairman Michelman asked if there were any questions from the Board or the professionals. Ms. Black asked if those people coming down Route 22 towards the Town would have to go in [*inaudible*]. Mr. Roth said that they could make a right, or coming from Town they could make a left. The only thing that would be eliminated is left turns when leaving the site.

Chairman Michelman said that she wanted to start with the issue regarding the rezoning the lot from residential to RB. She asked if any members had a problem with that. No one did. She felt that it was highly unlikely that anything residential would go in that area.

Dr. Matusow asked how the Town would benefit from the rezoning. Mr. Kaufman said that there would be no real benefit but there would be no harm either. Mr. Kaufman noted that if there is a new building in the future there is the potential that it could be sited further back. Mr. Hollis suspected that the assessment might go up as well but the biggest legal benefit would be to remove the anomaly.

Chairman asked if the Board was ready to send a recommendation to the Town Board to rezone the property. Dr. Matusow was not sure. Chairman Michelman asked why and Dr. Matusow said that he was "not so sure who wins and who loses yet." He wanted to know the potential in the future. Mr. Kaufman explained that the Town could not have any more buildings there because they are already at the max FAR, so the Board would not be creating the potential for more buildings. It only created the potential for any future replacement structure be located further back. Dr. Matusow asked Mr. Kaufman if he was convinced that rezoning would create a better situation for planning in the future. Mr. Kaufman said that he was and there are not really any surrounding residents.

Mr. Delano moved to positively recommend this to the Town Board; Mr. Adelman seconded, and unanimously approved.

Mr. Baroni said that the Board should consider lead agency. He also asked Mr. Roth if he was coming north to south and wanted to go to the restaurant he would enter one way, but to go back north, he would have to go south and turn around, and Mr. Roth said that was true.

Mr. Hollis said that he could arrange for the bonding of the light for the future time.

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

Dr. Matusow pointed out that the Board had not talked about the larger issues raised by this application. The application essentially seeks to create retail in an area that is removed from the downtown area and there has been no discussion on this. Mr. Kaufman said this is different from the prior application because they were talking about adding uses in the business park, versus uses that are already permitted. Dr. Matusow said that he was not only talking about whether the use is permitted or not, just whether the Board liked the idea. He pointed out that is across from a business area that is not going to be what it is now in the near future. There is a traffic problem in the area, which the Board is presuming will be solved by the light on Cox Avenue. He said that he thought the Board needed to consider this. Mr. Kaufman explained that the Town Board has enumerated all the uses that are permitted in the district, so if the applicant meets those requirements there is no basis to say that a use is not permitted there. Dr. Matusow felt that there is no guarantee that the Town will look the same way in the next few years. Mr. Adelman said that this cannot all be downtown because there is no room. This application does not put any burden on the existing parking problem.

NEW BUSINESS:

VESUVIO

Site Plan

Section 2, Block 13, Lot 17-31

34 Wampus Avenue

Dennis Lowes, Ralph MacDonald Co.

Discussion

Mr. Frank Vesuvio was present for the application. Mr. Vesuvio explained that his professionals were not present, but that he would answer any questions he could. He believed the main issue was the garage. Mr. Kaufman said that he had reviewed this today, and there is no zoning setback issue.

Dr. Matusow asked if subdivision was appropriate, and Chairman Michelman said that Mr. Kaufman had reviewed it, and determined that it was.

Mr. Kaufman said that the other significant issue is what to do with the addition that is in the DEC wetlands buffer, and how much of the existing lawn area should be reclaimed as buffer. He suggested that the rear 40' that is currently maintained lawn up to the point of the shed be reclaimed. Mr. Vesuvio said that he had a letter from the Conservation Board on this issue which recommended that he continue the stone wall to the fence and that area has to be [*inaudible*]. Chairman Michelman said that the Board had not seen that letter. Mr. Kaufman said that it sounded like they were on the same page.

Mr. Schroeder said that he had no real issues, but that there was some confusion about the flood plain line. He said that he was going to look at it again.

Chairman said that they would move forward once they review the Conservation Board memo and Mr. Schroeder has had the opportunity to review the flood plain issue.

GILEAD CONSTRUCTION

Site Plan

Section 2, Block 5, Lot 2D-1

5 Ridgeview Circle

Peter Gregory, PE Keane Coppelman Engineers

Discussion

Mr. Peter Gregory was present for the application. He explained that the application was for a site plan approval for the construction of a new home. Mr. Gregory explained the location of the site and that they are referring to this as lot #21, of the phase 2 subdivision A. they are proposing a five-bedroom home to be located in the mid-portion of the property. Access to the site will come from a driveway that will come at the center of the property and climb to the garage on the left side of the home.

They are proposing to collect the stormwater runoff as generated from the roof and driveway and discharge into a subsurface infiltration system in the front of the property. The overflow will be tied into the drainage system that currently exists on the street.

In order to create useable area in the back yard, there is a 3' high retaining wall being proposed. Based upon comments at the site walk, they eliminated a portion of the wall that is in the steep slope area. This amounts to approximately 50' and they will be able to resolve some of the grade in that area and reduce the amount of disturbance in that area. Mr. Kaufman noted that it was not a large area to begin with. The applicant's representative acknowledged this, and said that they reduced it further to approximately 330 sq. ft. Mr. Kaufman felt this was a reasonable application.

Mr. Gregory stated that they looked at the five closest homes to the proposal. He said that there had been a comment that the home was shown as larger than what was originally proposed on the IPP. He said that it is larger, but that they have been able to reconfigure some things on the property. Originally the septic was in the front, which forced the house to the back. They were able to bring it further forward by relocating the septic to the south. In doing so, they minimized the disturbance in the south. The gross floor area appears to be high because when you look at the five closest homes, and our living space, we are comparable, if not smaller. Mr. Kaufman agreed.

Chairman Michelman asked about the ARB and Mr. Gregory said that they have received ARB as well as Health Department approval. Chairman Michelman asked if the applicant would provide the Board with a copy. Mr. Gregory agreed and added that he would do the rest of the changes as requested.

Dr. Matusow asked where the pool was proposed. The applicant said that they are not proposing a pool. Dr. Matusow knew this but felt that one would be proposed eventually and that there was no room for one. Mr. Kaufman said that regardless, it is not proposed now, and if the resident desires one in the future, they would have to come before the board. He doubted the Board would approve significant steep slope disturbances to get a pool in there.

Chairman Michelman said that if there were any potential for a pool, the Board would want to consider the size of the house and the reduction of it, if appropriate. Mr. Kaufman said that was why it is acceptable to ask. Chairman Michelman recognized this, but said that the applicant needed to realize this now.

Dr. Matusow pointed out that if the Board knew this amenity would be added, the Board should consider the size of the house now. Chairman Michelman understood his position, but pointed out that this was being proposed without a pool. Mr. Gregory asked if it would be appropriate to look at the site coverage calculation to see what would happen if there was a pool on the site. The Board said that would be helpful.

The applicant asked if he needed to go to the Conservation Board and Mr. Kaufman said that he did not because there were no wetlands on the site.

LUPINO
Amended Site Plan
Section 2, Block 17, Lot 5.J01
6 Hadley Road
Discussion
Cami Fareri Lupino

Cami Fareri Lupino was present to discuss her request to amend the site plan approval. She explained that in 2004, they were the first group of applicants to go through the revised legislation requiring any greater than 1,500 sq. ft. required Planning Board approval. The house that was approved was a ranch and they added 4 linear feet in the back of the house and the garage. Ms. Lupino indicated the existing home and the wetland line.

Ms. Lupino said that they noticed on plans that there was a difference in what the Board saw on the site but explained that the flags on the site walk are correct. The wetland line on the Board's plan is incorrect, but it has been revised and will be submitted.

The majority of the house falls within the 100' wetland buffer. The failing septic system has been moved to the front of the property and the well has been moved to the rear of the property. Now, there is only the expansion area in the back. The site is 2.1793 acres. And 0.88 acres were given to the Town as a conservation easement; leaving the applicant with 1.2993 acres.

Ms. Lupino explained that in November 2006, the applicant came in because someone was interested in buying the house, who insisted on having a pool. Although their house was not on the market at that time, the applicants decided to determine what had to be done to install a pool. After the process was started, the legislation changed again. They decided to go forward. The only change would have been based upon the fact that they would fall between the permitted and maximum gross land coverage. Ms. Lupino explained that her house is now on the market and every potential buyer finds it "necessary" to have a pool for a house of this size and stature.

She said that they are tightly confined on the site because of the expansion area in the rear and the county Health Department's standards. A pool would need to be 20' from leading edge of the side of the expansion area and if they located it downhill from the expansion area, 50' would be required. Therefore, due to the County Health Department regulations, the size of the site is reduced significantly. When you add the fact that there is a wetlands on the site, it reduces the size of the site even more.

The applicant is proposing a pool that is 18 wide by 36' long. Due to grades in the area, it would require a 4' high stone retaining wall with a 2' high picket fence on the top. The fence would connect from the end of the retaining wall to the stone wall in the rear of the property that the Conservation Board had requested as part of the original application.

She said that there would be advantages to having the pool in the proposed location: it is close to the house, it still allows access to the basement where there is a changing room and a bathroom and basically limits the activity to that area. Ms. Lupino said that, after careful review, she met with Kellard-Sessions and considered relocating pool in other

“pocket” that was created by the Health Department (referenced triangle shaped area) but the pool would have to be very irregular in shape. Additionally, that would be far back on the site in an area where they put a lot of time and money installing a culvert for the stream there. From winter to early spring there is water there. This needs to remain open in case anyone needs to get back there. Further, no surround could be put in if the pool was in that area.

The retaining wall and the pool would be close to the wetland. Ms. Lupino said that she understood the concerns of the Board, but the wall and the change of grade would act as a divider between the controlled area and the recreation area. It would make it very difficult to get into the wetland area. In that way, it would serve to better protect the wetland and reduce the amount of lawn.

In terms of mitigation, the applicant is proposing approximately 1,950 sq. ft. of new surface, and approximately 5,650 sq. ft. of new wetland buffer plantings. This is a 3:1 mitigation ratio. This will not have any impact on the neighbors as there is substantial screening on both sides. Ms. Lupino noted that this is in keeping of the surrounding homes and that 70% of all the homes on the street have pools.

Ms. Lupino explained that they were going to be on the Conservation Board agenda and requested the Board’s comments.

Chairman Michelman said that the Board would wait to hear the Conservation Board’s recommendation. The issue is that the pool sits in the buffer and regardless of the mitigation, and the other factors that may improve it the Board would still have to approve a recreation area in the buffer.

Chairman Michelman asked if the Board members or professionals had any comments. She felt that at this point they couldn’t really do anything without the Conservation Board’s recommendation.

Ms. Lupino said that she had received both professionals’ memos, and asked if it would make sense for her to address those issues now. Chairman Michelman explained that there will be a heavy weight given to the Conservation Board’s recommendation and recommended waiting.

The meeting was adjourned at 10:40 p.m.

