



## **PUBLIC HEARING & NEIGHBOR NOTIFICATION**

### **823 MOUNT KISCO ROAD**

#### **Site Plan**

#### **Section 2, Block 2, Lot 7C**

#### **Michael Godbee**

#### **Discussion**

#### **Consideration of site plan resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. Seth Varnhagen of 18 Sunrise Drive, Richard Herbst of 24 Sunrise Drive, Barbara Walsh of 26 Sunrise Drive, Barbara Walsh of 28 Sunrise Drive and Mr. and Mrs. Ramirez of 20 Sunrise Drive were present for the application.

Present for this application was Mr. Chris Patemen, project designer, with Mike McGarvey, the project engineer, on behalf of the applicant. He explained that they are proposing the demolition of an existing one story, 950 sq. ft. residence which fronts on Mt. Kisco Road. The existing residence is approximately 75' off the road, which will be removed. The existing alignment of the driveway will work with some modifications for the new proposal. A new driveway is proposed that will loop around to the back, and the house will be set more in the center of the property. He explained to the public that although the new house is listed as 12,000 sq. ft., that is based upon the calculations for the floor area ratio. It is actually a 9,000 sq. ft. house that includes a finished basement.

They are proposing a typical two-story center hall colonial, with an attached three car basement garage. The property is a sloping property from Sunrise Drive to Mt. Kisco Road. The rear yards of Sunrise are approximately 30' above the rear yard of the new residence. They are approximately 350' – 400' from the back of the proposed residence to the rear of the properties on Sunrise.

The application involves the removal and leveling of the yard through terraced retaining walls in the rear of the property. They are also proposing an in-ground pool on the left side of the residence. The pool will be screened so as not to be visible from the front or the rear. Mr. Pateman explained that the property complies in all respects to the zoning code. However, they have to request a special permit for the gross land coverage and the floor area ratio because they are above the basic, but below the maximum.

Ms. Walsh (neighbor) said that a large home was built behind her home, and that home is extremely close to her house. She felt that there was not an appropriate buffer between her home and that home. She wanted to know what kind of buffer the applicant was proposing. Mr. Pateman was familiar with the home she was talking about, and explained that this house was going to be much further away. The applicant recognized this, but wanted to know about the buffer. Mr. Pateman said that they are proposing a dense row of juniper in the area, which will act more as ground cover – not appropriate screening. He added that the house will be screened by the natural buffer of the sloping lands.

Mr. Kaufman pointed out that the Board is going to approve a site plan that has a clearing and grading limit line, so the area above the retaining wall will remain undisturbed.

Mr. Kaufman suggested the applicant highlight the primary septic distance and the expansion area, which Mr. Pateman did. Mr. Pateman pointed out that they are not proposing the clearing of the area, which will act as further screening. Mr. Adelman explained the expansion area to the public. Mr. Simonetti explained that when you install a new, up-to-date system, the likelihood of failure is unlikely.

Seth Varnhagen asked about the special use permit being sought by the applicant. He wanted to know how much above the applicant was going. Mr. Pateman explained that the permitted basic gross land coverage is 10,941 sq. ft. and the maximum is 16,616 sq. ft. They are proposing 14,787 sq. ft. Chairman Michelman explained that the applicant exceeds the basic area by 3,846 sq. ft., but below the maximum by 1,829 sq. ft.

Richard Herbst asked about the location of the well on the new residence. He feared that the home would affect the neighbors' wells. Mr. Pateman explained that this is an existing residence, so there is already water consumption there. The proposed well is on the middle of the property on the right side. He said that it is 150' from the applicant's property line, and this is a safe distance from the neighbors. Mr. Simonetti asked where the existing well was. Mr. Pateman realized that it was not on the survey.

In response to a question from the Chairman, Mr. Schroeder explained that the Health Department requires a 100' setback from the well for a septic system, and the applicant would have to meet all of the Health Department's codes. Mr. Herbst was aware of this, but was concerned about the water usage.

Mr. Adelman asked Mr. Baroni if the Board has the ability to add a condition "no underground irrigation systems." Mr. Baroni said that it was a question of enforcement. He recalled that the Board tried that once before, and found that it was difficult to enforce. He said that it is a balancing act for the Board, because they want the applicants to plant acceptable landscaping, but at the same time it has to thrive. He doubted you could restrict the water usage in this regard. Mr. Baroni said the Board could insist that draw-down tests be done to ascertain whether the proposed well will have an impact on the other wells. The neighbors stated that there are times that they all experience loss of water pressure.

Mr. Simonetti asked if they have done any testing for the proposed well. Mr. Pateman said they have not done this yet. Mr. Simonetti asked the neighbors if they have raised their problems with the Town. One neighbor has called about it, but never submitted in writing.

The Board asked Mr. Schroeder what the draw-down test would accomplish. He explained that they pump out water and measure how much the level goes down and how much impact it has. It shows how far the impact of the well will reach. Mr. Pateman pointed out that the well has to basically be drilled first. Mr. Herbst was concerned that the applicant's home, and the other new homes will have a great impact. Mr. Schroeder recommended that the applicant's engineer look into this. The Board said this would be made a condition of approval. Mr. Pateman explained that this well is not likely to impact

the neighbors' wells. Mr. Herbst disagreed and said that every one of these neighbors have reduced water pressure as a result of all the houses that are built below them. Mr. Pateman noted for the record that the property already has an existing house with an existing well, and they are adding three bedrooms. Mr. Adelman pointed out that this is a significant addition.

One neighbor stated that they were also concerned about impact from lighting of the new home. Mr. Simonetti pointed out that this was not likely to happen due to the layout of the houses.

Mr. Adelman pointed out that the Board has a prepared resolution. He suggested amending it to include appropriate wording to the satisfaction of the Town Engineer and the Town Planner to assure the neighbors that this water situation is properly handled. Mr. Kaufman suggested waiting until the applicant has the results of the test. Dr. Matusow pointed out that in order to do that, they have to dig the well.

Mr. Simonetti asked what will happen if the applicant drills the test well, and it ends up having a material effect on the neighbors' wells; do they keep asking the applicant to dig wells? Mr. Pateman pointed out that due to the requirements, they are very limited with respect to the location they can have the wells. Mr. Adelman recognized this, but pointed out that the applicant cannot deprive the neighbors of water.

Mr. Simonetti asked if the applicant really believed that the new well would have minimal impact. Mr. Pateman said that in his experience, he did not think it would have much impact. Chairman Michelman pointed out that the neighbors are feeling the cumulative impact, and they are being adversely affected.

Mr. Baroni pointed out that the applicant would not need approval in order to drill the test well. Mr. Schroeder agreed. Mr. Pateman said that although the request seemed rather simple, it was, in fact a major request that has never been done before. The Board corrected him, and said that it has been done before. Mr. Adelman said that in his time on the Board he cannot recall a time when the neighbors came forth with this concern.

Mr. Pateman requested that the Board moved forward with the resolution subject to them providing documentation that they will provide a minimal disturbance to the other wells.

Mr. Kaufman recommended that the Board not adopt the resolution until the Board knows the situation is acceptable. Mr. Schroeder offered to work with the applicant in this regard. Mr. Simonetti agreed that the applicant should sit with the Town Engineer and attempt to work out a solution. Mr. Simonetti was in favor of putting off the adoption of the resolution. Chairman Michelman agreed.

Mr. Pateman asked if there were any more issues so that they could be addressed by the next meeting. One neighbor asked about the distance between the homes. Mr. Pateman explained the distances from the applicant and each neighbor. Mr. Herbst stated that he was concerned that this house was larger than the home that went up near him recently. Mr. Pateman explained that this house was almost exactly the same footprint as the house that was just built.

One neighbor was concerned about the trees that were marked with tape on the property. Mr. Pateman said that those are the trees that are to be removed, and they total 178 trees. The applicant's representative showed the neighbors the disturbed area. Chairman Michelman pointed out that this number included 68 Town-regulated trees. He explained that they are not disturbing anything closer than 107' from the rear property line. There was some confusion as to what trees the neighbor was talking about, as some of the tape might not be from the applicant. The Board wanted the applicant to confirm exactly what trees were to be removed, and any trees that were not supposed to be cut have the tape removed.

Mr. Pateman noted for the record that this application was not being proposed for profit and the applicant was just as interested in maintaining a buffer.

One neighbor asked how high the proposed retaining walls would be, and Mr. Pateman explained that there will be two 6' walls. The same neighbor asked if there was going to be any lighting in the back. Mr. Pateman said that nothing intense is proposed; if anything, it would be an uplight on the back of the building.

Chairman Michelman explained to the public that the public hearing was being kept open, and the public was welcome to attend the next meeting.

## **JOHN JAMES CONSTRUCTION**

### **Site Plan**

#### **Section 1, Block 4, Lot 10-395**

#### **13 Upland Lane**

#### **Bibbo Associates**

### **Discussion**

#### **Consideration of site plan resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 17 out of 24 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application, and there were not. Chairman Michelman said that because there were no neighbors present, it was unnecessary for the applicant to go over the site plan.

Mark Weston, 17 Upland Lane came in after the meeting started.

Mr. Allen was present on behalf of the applicant. He explained that they were able to re-work the total lot coverage, which now meets the lot coverage requirements and they do have a pool deck. Chairman Michelman said that they are only under one square foot, and this bothers her. Mr. Allen said that this bothers the applicant as well, but this application was well into the application process by the time the new regulations were enacted, and he asked the Board to consider this. Chairman Michelman asked if there was any way for the applicant to change the plan to increase the number of feet for the lot coverage. Mr. Allen explained that this plan has been revised several times according to the Board's desires. Chairman Michelman recognized this, but wanted more. She asked if the applicant would flip the garage. Mr. Allen pointed out that this has already been discussed. The turning radius would not make sense in that situation. The applicant would then have to go back and redesign the entire site.

Chairman Michelman was concerned that they would not be able to enforce this plan when they are only under the maximum lot coverage by one square foot. Mr. Allen pointed out that they would have to submit as-built plans.

Dr. Matusow asked the applicant to indicate the location of the pool deck. Mr. Allen did so. Dr. Matusow asked what the width was around the pool, and Mr. Allen said that it is 4 feet.

Mark Weston, a neighbor at 17 Upland Lane just arrived at the meeting. He explained that he was not here to contest the application. He pointed out that there are no trees at 15 Upland Lane in the back yard. He requested that the Board direct the applicant to plant trees along the property line. He suggested planting white pines because they grow quickly. Mr. Simonetti asked Mr. Westin where his house was in relation to the applicant's. He pointed out his house location.

Chairman Michelman asked Mr. Kaufman if he had any comments. Mr. Kaufman explained that, as requested, he prepared a resolution. Mr. Schroeder recalled that they had discussed moving the driveway to the other side of the lot. Mr. Allen said that this had been reviewed some time ago, and that was not part of the submission. Mr. Schroeder asked about the width of the driveway, and Mr. Allen said that it is 12'. Mr. Schroeder asked if he could cut the width to ten feet, and Mr. Allen said no because the town standard is 10'.

There were no other comments from the Board. Chairman Michelman asked if Mr. Allen had reviewed the resolution. Mr. Allen said he had no issues with the resolution. He did direct the Board's attention to the landscaping plan and pointed out that there are trees being planted in the rear. Items one and two of the resolution call for planting on the neighbors property; this was discussed with that neighbor, and he said that he did not want an easement on his property for the planting. Additionally, the neighbor sent an email to the Board stating that the planting was satisfactory the way it was, and if needed, he would plant himself. Mr. Allen requested that condition numbers one and two be combined into one condition subject to getting a second letter from the neighbor indicating that he did not want plantings or an easement on his property.

Dr. Matusow asked if the applicant would satisfy the request of the neighbor, Mr. Westin. Mr. Allen said that they have planting in the rear proposed, and they could add one or two white pines. Mr. Allen explained that the neighbor's comments were different to from what the Board has been talking about all along. Mr. Simonetti asked if the applicant would agree to a condition which stops at the words "subject lot." Mr. Kaufman said that there is not a lot of room left for planting without the neighbor's lot. Then the Board would have to determine that this planting plan is acceptable, or that the application has to revise the site plan so that there is enough room for screening. Mr. Allen reminded the Board that in the beginning there was a question as to whether there had to be a 10' buffer. That was when they discussed approaching the neighbor, but the neighbor did not want it. Right now there is 6 – 7' buffer. Dr. Matusow said that normally they require 10'. Mr. Kaufman said that the reason the condition is in the resolution was because the applicant expressed that the neighbor (Ken Levene, 15 Upland Lane) would be amenable to this.

Dr. Matusow pointed out that the application should be able to stand on its own without considering the neighbor. If the application does not stand on its own, then the applicant should have to revise the plan. Mr. Kaufman said that was why they talked about flipping the garage and having a motorcourt. Chairman Michelman agreed, this property should meet the standards in the absence of an agreement with the neighbor. Mr. Allen pointed out that there is no 10' buffer requirement in the code, and that is something that is not enforceable. He recognized that it was the Board's policy, but the neighbors do not object. The policy should be lenient. Chairman Michelman said that the neighbors were not the ones that directed the development. She added that the policy has been relatively successful for some time and the Board would not change it just because the neighbors had no objection. Mr. Kaufman pointed out that the code talks about the visual impacts and the Board is there to review the site plan, and while there is no specific 10' requirement, the Board is permitted to request that.

Mr. Allen said that they already have arborvitae planted in the area. Mr. Kaufman suggested a compromise of the arborvitae plantings, the fence and blocking the lights. Dr. Matusow said that if the arborvitae are really acting as a wall, then he would be ok with that, but he wants proof of that.

Mr. Simonetti pointed out that the house is very large, and this policy has been used in the past for applications like this one. The screening is needed here.

Mr. Schroeder asked how much backup area was proposed for the garage. Mr. Allen said it was about 30'.

Mr. Simonetti said that the screening we've been talking about does not appear to be in the direct line of the neighbor, and the screening would not be effective to screen that house.

Mr. Allen explained that there is a 6' wall of arborvitae that is proposed as well. Chairman Michelman pointed out that this would make up the extra footage for the screening. Dr. Matusow said that the arborvitae would likely be eaten by deer, and suggested the applicant consider another type of screening. Mr. Allen said that he would.

Mr. Simonetti felt that given the distance between the two houses, and the applicant's willingness to find a more deer resistant hedge in sufficient density, should be acceptable to the board. There would not be any meaningful impact on the neighbor. Dr. Matusow would agree, with the proviso that this be made a condition and done to the satisfaction of the Town Planner.

Mr. Adelman asked what the applicant could do if the Board insisted upon the 10'. Mr. Schroeder said that they could relocate the garage, but the backup area is tight already. He said that given the width of the house, there is no other way to do it. Mr. Allen agreed, but said that the applicant was trying to avoid redesigning the entire plan. Mr. Adelman agreed with Mr. Simonetti about the planting and the impact on the neighbor's home.

Dr. Matusow pointed out that if the applicant did not satisfy the Town Planner they could end up back before the Board. Mr. Kaufman pointed out that there is only a 6' planting

area, so there is only so much that can be done. Dr. Matusow felt that the Town Planner should not approve the planting if it does not satisfy the requirement. Mr. Kaufman advised against adopting the resolution in that case, because Dr. Matusow's stance would put Mr. Kaufman in a very difficult position. Chairman Michelman agreed; if the Board approves a six foot buffer, then whatever the planting is would be what Mr. Kaufman deems as best for that 6' space. Dr. Matusow said that if that was the Board's interpretation then he would not support it. Mr. Simonetti pointed out that as you get closer to the neighbors property from the space in issue, there is ten feet in that area. He suggested that that area be landscaped more.

Mr. Allen felt that Dr. Matusow was asking for a deer-resistant substitution of the arborvitae in the 6' space. Chairman Michelman asked if they could do half the planting in the 6' space and half in the 10' space. Mr. Kaufman said that the planting plan already has that space being planted.

Chairman Michelman noted for the record that she was still uncomfortable with the size of the house and the "envelope pushing of the one square foot under the maximum allowed." She asked for a motion.

Mr. Adelman moved to close the public hearing. The motion was seconded by Dr. Matusow and unanimously approved.

Mr. Adelman moved to approve the resolution as amended per the above discussion. The motion was seconded by Mr. Simonetti and approved by the Board. Chairman Michelman voted against approval.

## **VALEV**

### **Site Plan**

#### **Section 7, Block 04, Lot 1 L**

#### **18 Nethermont Avenue**

#### **Teodor A. Valev, PE**

### **Discussion**

#### **Consideration of site plan resolution**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 14 out of 18 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the meeting. Doris and Harry Bunker of 42 Grove Road were present, as was Kristen Von Donop of 15Grove Road, and Richard Sosnovy of 15 Nethermont Avenue.

Gail Ascher, architect was present with this application. She presented the site plan for the applicant. The house is 3,984 sq. ft.; they adjusted the plan since the last meeting. The gross floor area of the building is 5,498 sq. ft. and the gross land coverage is 5,623 sq. ft. She added that this was above the basic and below the maximum. Ms. Ascher explained that they have submitted supplemental information that was required by Mr. Kaufman. She said that they were proposing a four-bedroom house, and they have worked consistently to reduce the scale and mass of the project. The applicant was trying to work within the constraints of the property by working with the slopes and not blocking the views. Ms. Ascher stated that it was important for the applicant to maintain light to the bedrooms, which are located in the back.

Mr. Adelman suggested showing the neighbors where the neighbors' homes were located, which Mr. Valev did to the best of his ability. Mr. Kaufman asked that the applicant show the neighbors the elevations. Ms. Ascher explained that this house was significantly back from the road. Chairman Michelman asked the applicant to explain the proposed house to the neighbors. Ms. Ascher explained that it was a vertical shingle home, with an asphalt dimensional shingle roof. They plan to use stone as a base, and assured the neighbors that they were not skimping on materials. Ms. Ascher said that there would be a garage, the height of which has been reduced from two stories to one and one half stories. She added that this was done based upon input from both the Planning Board and the ARB. Ms. Ascher presented the elevation of the garage. Ms. Ascher stated that they are only 10' higher than the top of the ridge.

For clarification, Mr. Simonetti asked if the peak of the applicant's roof was lower than the peak of the neighbor's roof, Mr. Valev said that was the case. Chairman Michelman asked if the neighbors had any comments or questions. Mr. Sosnovy had a number of questions about this property. He recalled that when this property went up for sale, he doubted that anyone would be able to build upon it. After this, he contacted the Building Inspector about that concern. He said that Mr. Fon looked at the site and recognized that this was a challenging site. Mr. Sosnovy realized that Mr. Valev has worked this property to some point, but questioned just what could work on this property. He felt that the size of the home on this lot was large. He felt that the normal size home for North White Plains was approximately 2,300-2,500 sq. ft., and this was significantly larger than that, despite the fact that it was within the guidelines.

Chairman Michelman pointed out that this site actually consisted of two lots, and that made a difference. Mr. Sosnovy recognized this. He also pointed out that the applicant's site was comprised of a lot of steep slopes. He also doubted the accuracy of the calculations regarding the gross land coverage and floor area coverage. He was concerned about retaining walls and lights on the property. He also questioned how, or if, the special use permit for the accessory apartment was still being considered.

Mr. Kaufman explained that there are two separate laws that involve steep slopes. Mr. Sosnovy stated that he has no problem with this house on this lot if the slope was reasonable, but this lot has too steep of a slope. Mr. Sosnovy was concerned about the size of this house. Mr. Kaufman reiterated that the environmental subtractions do not apply here, but the size and bulk of this house is the same issue that the Board has been struggling with this application for the past year. With respect to the size of the house in respect to the neighbors' properties, that is why there are special permits in place. The 50% marker is supposed to act as a red flag, and that is something the Board will have to discuss.

Mr. Simonetti suggested that the neighbor ask his questions one at a time, so that the applicant may address each one. Mr. Sosnovy asked if, given the nature of the steep slope if the size of the house is within the discretion of the Board. The Board said that it was. Mr. Simonetti said that, personally, his decision is colored by the fact that this house is being proposed on Nethermont Avenue in North White Plains and that many of those homes are built in unusual formations.

Mr. Simonetti pointed out that this house has been significantly reduced since it began, and the roofline has been lowered, it has been repositioned, the interior square footage has been reduced, and the situation with respect to the accessory apartment has changed. Additionally, Mr. Simonetti pointed out that Mr. Valev has considered the five nearest houses, and especially considered the neighboring house. Mr. Sosnovy felt that the neighboring house was offensive and the Board should not use that as a guideline. Mr. Simonetti said they were not, and the Board tried to make Mr. Valev's house less intrusive than that house. He felt that given this was two lots, the fact that this had to be economically viable to the applicant and that the Board has been able to reduce the application significantly, this application was acceptable. Mr. Adelman agreed with Mr. Simonetti. The application made sense for this property, and the project has been going on for some time.

Mr. Sosnovy stated that, while he was sure the house would be aesthetically pleasing, he felt it was too large for the site. He asked if the garage was two levels. Mr. Simonetti explained that it was a garage with a space above the garage. Ms. Ascher explained that it was being proposed as storage. Mr. Sosnovy asked how high the storage area was. Mr. Simonetti explained that the height is such that, in the future if the applicant wanted to convert it to an accessory apartment, he would be able to subject to the approval of the Board. Mr. Sosnovy felt that if everyone was concerned about the size of the house, they should not permit the construction of that portion of the project. The Board stated that this was due to economics; the applicant had originally come before the Board with two lots, upon which he wanted to construct both lots. The Board convinced him to move away from that aspect, which immediately caused an economic hardship for the applicant. Mr. Sosnovy pointed out that there was a moratorium in effect at that time, and the applicant took a risk. Mr. Simonetti recognized this, but pointed out that the moratorium would have gone away eventually. Mr. Simonetti added that the applicant worked with the Board by eliminating one lot, although he had two building lots, and this would have increased the neighbors' concerns. Mr. Sosnovy recognized this, but felt that the applicant was pushing the envelope with respect to this property. Ms. Ascher said this was not true, as they have reduced this application significantly.

Mr. Sosnovy stated that he also had concerns with respect to the lights, the retaining walls, the tree removal, the hydraulic elevator, and the noise associated therewith. The Board said that there would not be a hydraulic elevator.

Mr. Simonetti asked to take each issue in turn. He asked what Mr. Sosnovy meant about the lights. Mr. Sosnovy was concerned about the general light that emanates from the house. Mr. Simonetti said that there is a neighboring house, and asked if that impacted the neighbor. Chairman Michelman stated that she agreed with the neighbor about the size of the house, but pointed out that the applicant worked very hard to make it as unobtrusive as possible. Lighting would be something that would be taken into consideration at the site plan approval level. She appreciated the neighbors concerns regarding lighting. She assured that the calculations regarding the gross land coverage and floor area ratio are accurate and have been checked by the Town's professionals. Additionally, the tree removal will be limited. Chairman Michelman added that if there were some way to reduce this house somewhat, she would be in favor of the application.

Dr. Matusow recognized that this application has come a long way, but suggested this application be tabled until the next meeting because Mr. Delano was not present, and he

is an engineer who resides in North White Plains, who has a lot to say about this application. He did not want to vote on this application until Mr. Delano was present. Mr. Simonetti pointed out that Mr. Delano has had one year to comment on this application and the applicant should not be penalized simply because one member of the Board was absent. Mr. Adelman agreed with Dr. Matusow. Dr. Matusow was unwilling to cast his vote in the absence of Mr. Delano. Mr. Adelman felt that Mr. Delano, as an engineer, would be able to address many of the issues raised by Mr. Sosnovy. Mr. Simonetti pointed out that the Board has heard from the Town Engineer and the applicant's engineer. Mr. Adelman felt that Mr. Delano, as a resident would add more.

Mr. Valev stated that most of the questions raised by Mr. Sosnovy deal with aesthetic issues rather than engineering. Mr. Adelman explains that one of the main engineering issues that Mr. Delano could answer was the issue regarding the steep slopes. Mr. Naderman explained that they have addressed this issue.

Dr. Matusow felt that the real issue was the mass of the house, and the rest of the "stuff" was less important. It is not so much that the house is large, but this house is sitting high on a hill and will loom over the neighboring houses. Dr. Matusow knows for a fact that he and Mr. Delano are concerned with the massive house on the neighbors. He questioned whether they would ever see the sun again. He pointed out that this house has a three-car garage, and that this was likely because the applicant would have an accessory apartment in the future. He thought that perhaps, the accessory apartment was what was adding to the bulk of the house. He felt that as a resident of the area, Mr. Delano should be present to speak on this matter. Mr. Simonetti stated that he could not disagree more. He felt that the applicant has been through the process for some time, and the Board has a draft resolution before them. All of Dr. Matusow's concerns have been discussed previously, and this is the eleventh hour. It is not fair to the applicant to say that the issue is the size of the house. Mr. Simonetti also did not feel that this was an engineering issue.

Mr. Adelman felt that this has been taken far through the process, and that he is likely to approve it, but he would move to adjourn it because the neighbors deserved to have their concerns addressed, and that Mr. Delano would be able to provide answers to make the neighbors comfortable.

Ms. Von Donop was also shocked that a house could be built on this lot, that the proposed house was significant in size and would include a three-car garage. She is not against rental apartments. She was most concerned about what kind of drill would be used on the property. Mr. Naderman explained that there is a lot of technology that makes rock removal more neighborhood friendly. There are lighter charges that are done in a series. He explained that this was far less offensive than several weeks of rock hammering.

Chairman Michelman recognized that this is a very difficult piece of property, but the applicant has proven that it is buildable. Now that this issue is behind us, the Board is faced with what can be built there. She recognized that the neighbors' concerns regarding the size of the house is valid, and now they have to move forward.

Dr. Matusow doubted whether the reducing the size of the house would impact the topography significantly. He doubted whether reducing the size of the house would reduce the impact upon the neighbors.

Mr. Bunker stated that the geology of the hill is bedrock, which is exposed on almost every property on that side, and they had a blasting issue a few years ago. In his opinion blasting could not be done without great risk. Mr. Simonetti assured them that there is a code that the applicant would have to meet, and that no one would be put at risk. Mr. Naderman assured the neighbor that there are also pre-blast surveys that would occur. Mr. Bunker was also concerned with the size of the structure.

Mr. Simonetti reminded everyone that there is a motion to adjourn on the table. He said that he was uncomfortable with this motion, which would enable another member of the Board, who was absent tonight, to further hold up the decision. He felt there was enough information for the Board to make a decision. Chairman Michelman felt that there were valid reasons that had been raised that should be addressed. Dr. Matusow seconded the motion, and it was approved by the Board with the exception of Mr. Simonetti, who voted against adjournment.

Mr. Schroeder highly recommended that the applicant meet with the Water & Sewer Department.

Ms. Ascher noted for the record that, on the resolution that was drafted, the plans that were referred to as January 7<sup>th</sup> were the last issue date. This issue date was February 7<sup>th</sup> and she wanted to make sure this was updated. Mr. Kaufman said that he would look into it.

Mr. Valev pointed out that every house near him exceeded the basic lot coverage and the gross floor area.

## **PUBLIC HEARING & NEIGHBOR NOTIFICATION**

### **HAVRANIAK**

#### **Site Plan**

#### **Section 2, Block 16, Lot 14N**

#### **6 Byram Brook Place**

#### **Mr. Havraniak**

#### **Discussion**

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 24 out of 29 green cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. There were none. Chairman Michelman said that a presentation was unnecessary. Mr. Havraniak presented a rendering that was approved by the ARB, which the Board found to be nice.

Chairman Michelman asked if the applicant had reviewed the most recent memos from the professionals, and Mr. Havraniak said that he had. Mr. Havraniak said that one of Mr. Kaufman's requests was the comparison of the homes around him. Mr. Havraniak explained that there is a 30,000 sq. ft. office building that is approximately 30' off his

property, so when he did the calculations he included that building. He noted that the Board rejected the use of this figure.

He explained that the house would be somewhat larger than the existing home. The way that the gross floor area is different than what the accessory has in her records. Mr. Kaufman explained that the applicant should use the gross land coverage as the guide, and comparing it to the neighboring houses. He added that the applicant's method was fine.

Mr. Havraniak explained that the staff engineering drawing was 3,148 sq. ft., not including the garage. Mr. Kaufman said that this was not an accurate representation because the code requires the inclusion of the garage. Mr. Havraniak stated that was in the tables already. Chairman Michelman explained that the applicant has shown the Board a picture of the house, and based upon the guidelines, the applicant is well within the limits of the minimum and maximum guidelines. Therefore, although they need to understand how this house fits in with the surrounding houses, they do not have to go over each house.

Mr. Kaufman stated that the Board has not indicated that they were concerned about the size of the house, so there was no need for the applicant to defend the size. Mr. Havraniak asked why a special permit would be needed, and the Board said that one was not needed for this application.

Mr. Kaufman stated that the comments in the resolution were not major issues. Mr. Havraniak agreed and said that he'd address the comment about the fence. He noted that the Conservation Board made several recommendations as well. The Conservation Board was concerned that a pipe from the pond may have broken, and Mr. Havraniak explained that he was not sure, but would look into it when they did the infiltration system and if it was broken he would repair it.

Chairman Michelman asked Mr. Havraniak if there were any conditions in the resolution or comments from the Conservation Board that he would not be able to satisfy. Mr. Havraniak said that there was not, but he had some comments. He said that with respect to the Conservation's Board comment regarding the tree drip line; he said that he'd try to follow that, but it may not be feasible at all times. Chairman Michelman stated that everyone understood the applicant could not dig near the septic.

Mr. Havraniak stated that the Conservation Board requested the applicant plant trees on the side of the driveway opposite from where they are removing trees. He said that there are already mature trees there, and there would be no purpose in planting more.

Mr. Schroeder stated that the applicant's engineer informed him he would address all of his concerns, and he had no other comments. Mr. Kaufman had no other comments.

Mr. Adelman moved to close the public hearing. The motion was seconded by Mr. Simonetti and unanimously approved.

Mr. Kaufman was directed to prepare a resolution.

**CONTINUING BUSINESS:**

**HAMMOND RIDGE LOT #21**

**Amended Site Plan**

**Section 2, Block 4, Lot 1-19**

**61 Sarles Street**

**Consideration of amended site plan approval**

**Frank Arturi, VP Bayswater Dev. LLC**

Mr. Kaufman explained that at the last meeting, the Board determined that this was an insignificant change to the site plan so that no public notification was required. The Board made the required notification to the County and a resolution has been prepared.

Mr. Frank Arturi was present on behalf of the applicant. He explained that he has seen the resolution and is satisfied with it. Chairman Michelman said that there was one minor correction on number one in the section "prior to the issuance of a building permit," the fifth word is being deleted.

There were no other comments. Dr. Matusow moved to adopt the resolution. The motion was seconded by Mr. Adelman and unanimously approved.

**S & S BUILDING**

**Site Plan**

**37 Washington Place East**

**Section 6, Block 3, Lot 6**

**Bipin Shah**

**Consideration of amended site plan approval**

Present for the application was Alexandra Hofgardner. Chairman Michelman asked Ms. Hofgardner if she had reviewed the resolution, and she said they have. She added that many of the comments have already been addressed. The site plan was reevaluated, and the numbers are a little different, but they are still within the required range for the lot coverage and the FAR.

Chairman Michelman noted that many of the conditions were engineering issues. Mr. Schroeder acknowledged this, and stated that many of his issues have been raised repeatedly. Mr. Kaufman stated that some of the conditions may have been addressed already because he received Mr. Schroeder's memo after he had prepared the resolution. Chairman Michelman stated that this did not seem to be the case. Ms. Hofgardner asked if Mr. Schroeder had seen the engineering details. Mr. Schroeder said that he saw the drawing with some of the engineering details. He noted that the utility trench detail references a city in California. Ms. Hofgardner said that this was a standard detail. Mr. Schroeder said that may be true, but the drawing should reference the correct locale.

Dr. Matusow asked if the applicant had any problems with the resolution. Chairman Michelman said that before the applicant answers, Mr. Schroeder still felt that many of his issues have been ignored. Ms. Hofgardner did not understand why Mr. Schroeder felt that his issues were not addressed. Mr. Schroeder stated that the site of the existing

water main is not indicated on the plan at all. Ms. Hofgardner said that she had written that on the plan.

Mr. Schroeder was comfortable with his issues being made conditions of the resolution. Chairman Michelman said that the applicant should meet with the engineer and prove that his conditions have been met. She said that the conditions need to be met before the resolution is signed. Mr. Simonetti said that the Board could vote on the resolution, subject to the applicant satisfying the engineer. Ms. Hofgardner repeated that she felt all the conditions have been addressed. Chairman Michelman asked Ms. Hofgardner if she wanted the Board to vote on the resolution that night. Ms. Hofgardner said that she did. Chairman Michelman explained to her that, in that case, the applicant has to understand that the resolution would contain conditions that have to be proven to be satisfied prior to the applicant being able to begin construction.

Dr. Matusow again asked if the applicant had any issues or problems with the resolution. She said that 'to her knowledge she had no issues with the resolution.' The Board asked her if she wanted the Board to pass the resolution as it was written, and advised her that she will be held to the contents of the resolution.

Dr. Matusow moved to adopt the resolution. The motion was seconded by Mr. Adelman and unanimously approved.

Mr. Kaufman recognized that as many as ten conditions may have been met, and the applicant only had to meet with the Town Engineer to clear up the issues.

**WOLFE**  
**Subdivision**  
**Section 1, Block 2, Lot 12**  
**10 Hickory Kingdom Road**  
**James DeLalla, DeLalla & Von Ohlsen, LLC**  
**Discussion of alternative driveway location**

Jim DeLalla was present on behalf of the applicants. He explained that the Board had conducted its site walk in January, and he was there to discuss that.

Chairman Michelman stated that her issue is the two curb cuts on Hickory Kingdom Road. The second cut as identified by the applicant is less dangerous than others on Hickory Kingdom. She would prefer not to have two curb cuts, and would rather utilize the original driveway.

Mr. Simonetti was in favor of the two cuts and felt that the applicant had a right to his privacy.

Dr. Matusow stated that he has been very much against two curb cuts from the beginning. He does not think a second curb cut is necessary to enhance the access to the new lot; nor is it necessary to preserve the privacy of the owner. The original curb cut could provide very good access. He felt that in any town, there should be a policy against many curb cuts, and if it was not necessary, one should not be made. He felt that this application was somewhat unique and that the Board should be wary about how they approach this subdivision plan. He pointed out that there is a restriction on this

property that prevents development for sixteen more years, and that in all likelihood, Hickory Kingdom Road would have a different traffic pattern. A decision by this Board to allow an additional curb cut on this road, may seem "very silly to a Planning Board" in the future.

Mr. Simonetti questioned what Dr. Matusow meant by necessary. Dr. Matusow felt that it meant "required." Mr. Simonetti pointed out that the owner wants this on his land, and unless this poses a safety hazard, it should be permitted. Dr. Matusow said that the Board could approve one cut now, and then sixteen years from now, if they still wanted a second curb cut, they could submit an application for one. Mr. Simonetti said that if the Board was to consider what the conditions might be like sixteen years from now for every application before the Board, everything would be different. He did not see what made this application any different. Chairman Michelman and Dr. Matusow felt that it was because the applicant was restricted from building at all until that time.

Mr. DeLalla felt that because this was a private agreement, that the Board should not be considering it at all. Dr. Matusow stated that, aside from the fact that the applicant wants it, he has not heard any cogent argument as to why it would not be a good idea to preserve the single curb cut. Mr. DeLalla stated that other subdivisions have come before the Board, and they are not required to have one common driveway. He pointed out that this property is 23 acres and there is approximately 1,900 feet of road frontage, and to have two cuts on this size is not significant. The applicant has a preference, but he has also established that two curb cuts could be made safely.

Dr. Matusow felt that the applicant could get what he wanted by having a common driveway for approximately 40 feet. He asked the applicant how many times he wanted to come back before the Board and try and get exactly what he wanted. Mr. Simonetti disagreed with this comment, and felt that the owner of a large piece of land should be able to have two curb cuts so long as it does not impact the Town. Mr. Simonetti stated that there are no safety issues here. Dr. Matusow felt that the Town is better off with fewer curb cuts, rather than more.

Mr. DeLalla noted for the record that the applicant has voluntarily restricted this large property to only three lots. Additionally he dedicated 13 acres to the Town (and possibly two more).

Chairman Michelman asked if the lots would have to come back for site plan approval. The applicant said yes. She wanted to address the possibility of the applicant coming back for the second curb cut when he came back for site plan approval. Mr. Simonetti pointed out that doing this would require a future Board to contradict a finding of this Board. Mr. Kaufman agreed with Mr. Simonetti; however he said that a note could be added that indicated the Board's position. Chairman Michelman had reservations about approving the second curb cut because it could cause problems in the future. She was comfortable with approving the subdivision because the applicant would have to come back for site plan approval. Mr. Kaufman said that the Board could not approve the subdivision without any reference to access.

Mr. DeLalla felt that through the process, the applicant and the Board had reached a reasonable compromise with respect to the driveways. They have shifted the driveways so that they are totally out of the wetland buffers; they minimized the disturbance to the

steep slopes to the maximum extent possible. This plan has the least impact to the steep slopes and the buffer. He did not think that having a second driveway is something the Board should deny the applicant.

Mr. Kaufman explained that the purpose of this application being before the Board was to give the applicant some feedback. Mr. DeLalla requested they be permitted to prepare a plat to present to the Board and attempt to resolve this issue.

Mr. Simonetti pointed out that it was not clear how the entire Board felt. Mr. Adelman asked about Chairman Michelman's suggestion to leave the second cut to the site plan approval phase. Mr. Kaufman said that the Board could approve one now, and place a note indicating that the future Board could look into a second. Mr. Adelman was in support of this option.

Mr. Kaufman would rather the Board decide now whether or not it was appropriate to have a second curb cut. In that case, Chairman Michelman asked for the Board members opinions regarding the applicant getting one curb cut or two as part of the subdivision approval. Mr. Simonetti and Mr. Adelman were in favor of two curb cuts. Dr. Matusow and Chairman Michelman were in favor of one curb cut. The applicant would have to appear again in order to hear Mr. Delano's opinion.

**MASSARO**  
**Subdivision**  
**Section 6, Block 5, Lot 2-3**  
**54 Custis Avenue**  
**Jim Vanoli, P.E.**  
**Discussion**

Mr. Vanoli was present on behalf of the applicant. He explained that the applicant is proposing a three-lot subdivision. He said that they had not been before the Board for some time because of the private road standard. Mr. Vanoli wanted to present the plan to the Board. Chairman Michelman asked if the plan was different from the plan the Board had seen previously. Mr. Simonetti pointed out that they hadn't seen the plan in a long time. Mr. Vanoli did not think it had changed. He showed the Board the subdivision plat; they have a substantial right of way that meets the Town's standards. A 16' wide private road would be constructed in that right of way. It would terminate at an 80' diameter. There is one somewhat triangular parcel of land, that they have labeled lot #5 conservation easement, "only because the lack of what the final decision for disposition of that land would be. It is intended to remain that whether it is privately owned or dedicated to the Town." Mr. Vanoli indicated where Mr. Massaro plans to construct his home. Mr. Massaro would retain ownership of lot 4, which is the right of way.

Mr. Vanoli presented the Board with the integrated plot plan showing the proposed two-family homes and the driveway leading up to the Massaro residence. He presented the Board with the surveyor's calculations, which are shown with the proposed homes on the lots. He also showed the Board one with the existing conditions.

Mr. Vanoli then presented the Board with the tree survey, which depicted the existing trees. The trees are all listed and numbered, and those that are to be removed are crossed out. The grading plan shows the elimination of any walls within the right of way.

The drainage structures are shown as well, and they are proposing to install a drainage system down to the existing drain on Washington Avenue. There will be a stormwater detention treatment facilities with an overflow to a new catch basin and storm drain system.

He presented the utility system, which shows sanitary sewer and public water mains coming off Costas Avenue and servicing the site. They will submit the plan to fire department for the fire hydrant locations. Chairman Michelman asked if they have submitted it to the Water & Sewer Department. Mr. Vanoli said that it has not been done yet, but it will be. He added that the stormwater detention system consists of two large diameter pipes with two hydraulic equalizers on each side. There is also a metering wall on one side, which allows for zero increase in the amount of runoff. He said that one part of the road would not be subject to stormwater detention, but there will still be a net decrease in water out to Costas Avenue. The storm drainage system is oversized, and one of the engineering comments was for drywells for a nearby house. Mr. Vanoli said that this had been proposed based upon conversations several years ago by the Town Engineer because it was in a different drainage shed. However, if they find the soil or the slopes are not suitable to drywells, they would be able to take the roof leaders and the footing drains back down into the storm drain system. Because they are oversized, it could handle the additional runoff.

Mr. Kaufman stated that since the last time this was before the Board, there have been some changes to the Town Code. He said that his memo has identified some of the issues the applicant has to address in the next submission. Some of the issues that the Board was concerned with in the past had to do with the location of the main house on the ridge. The Board was concerned about the screening as well. Mr. Vanoli stated that the landscape plan was submitted for review. Mr. Kaufman stated that the Board discussed the potential future subdivision of lot #3 and whether or not the applicant would be willing to deed restrict that lot. Mr. Vanoli said that it would not be a problem.

Mr. Vanoli asked about the comment requiring the submission of a homeowners' agreement. He said that a declaration of covenants, easements and restrictions was submitted in May 2006 and asked if that was a homeowners' agreement. Mr. Kaufman said that he would have to look at it; but if not, this could be made a condition of approval. Mr. Baroni said he would review it as well.

Mr. Vanoli said that there was some discussion regarding the ownership of lot #4, the right of way, and Mr. Massaro retaining ownership and being required to maintain same, including the roadway and the stormwater systems. Mr. Baroni pointed out that the obligation should be successive and it should run with the lot, not the owner.

Mr. Vanoli stated that he did not see a problem with the clearing and grading limit line. Mr. Kaufman explained that this was merely a line on the plat map that shows the extent of disturbance on the site. Mr. Vanoli advised against having an irregularly shaped line on the plat because it is unenforceable. Mr. Kaufman said that there could be a note on the plat that refers to the IPP and the clearing and grading limit line.

Mr. Kaufman asked if the Board wanted to visit the site again. Dr. Matusow felt that it would be good for the Board to walk the site again, because this site is going to have to

be evaluated under the hilltops and ridges law. He felt that the house was very large, above the other houses, and comes up on a significant ridge line. He felt that the size and positioning of this house was going to be an issue.

Dr. Matusow noted that the memo states that there are 98 Town-regulated trees on the property; eight of which are significant and seventy-eight of which are scheduled to be removed. He felt this is an issue that needs to be reviewed. Mr. Kaufman said that this could be looked at, but this is not excessive tree removal – this is tree removal that is necessary for the house construction.

Dr. Matusow recalled that in looking at the site and the position where the house on lot #1 will be, it seems that it will tower over the houses below. Mr. Simonetti explained that this had been discussed previously, and the Board had the applicant move those houses. The house on lot one has been moved back as far as it can go into the hillside.

Dr. Matusow asked if the drainage from the site goes into the Bronx River Drainage Basin. The applicant believed that it did. Dr. Matusow asked if there were federal, state, county or other regulations that need to be considered. Mr. Vanoli said that he is on the Bronx River Advisory Coalition and the site is controlled by the NYS DEC based upon stormwater regulations. He said that they have addressed those regulations with the stormceptor and the stormwater detention. Dr. Matusow wanted Mr. Schroeder to look into this as well.

Mr. Vanoli stated that, with respect to concerns regarding the elevation on lot #3, the intent was to place it generally on elevation of 140. There are some peaks (the ground is 138) but generally the grading is 140. The house on the neighboring property is at an elevation 148. Dr. Matusow said that he was not concerned with the neighboring property as much as he was about allowing development of the ridge and the visual impacts from points below.

Dr. Matusow said that he was certain there was a ridge line issue, and although there were no regulations when this application was initially before the Board, there is one now. Mr. Vanoli acknowledged this, and said that “this one would be lower than the existing and that planting was not a problem.” Dr. Matusow pointed out that the ridge line does not necessarily mean the top of the hill.

The Board directed the applicant to meet with the Town Engineer. Mr. Vanoli said that there is a 2% difference of slope over 80 feet, which is approximately 12 inches.

**SISKIN**  
**Amended Site Plan**  
**Section 2, Block 4, Lot 1-10**  
**53 Hammond Ridge Road**  
**Dan Sherman, Landscape Architect**  
**Discussion**

Mr. Greg Ofurio was present on behalf of the applicant, also present was the applicant himself. He stated that the Board had conducted the site walk, and the feedback was to concentrate mostly on the back. The Board had advised the applicant to bring it in and

make it smaller. They brought it in and made it smaller by approximately 10,000 square feet in terms of disturbance.

Mr. Ofurio explained that the general idea was to decrease the steep slope and overall site disturbance. They brought the pool closer to the house. He explained that he has submitted three revised plans. His initial submission included the erosion and sediment control. The first submittal was the tree removals. Because they brought in the disturbance line, the one area of trees would not have to be removed. Originally they were proposing to remove 33 trees, and now they are only going to remove 19.

Additionally approximately 10,000 sq. ft. of areas will not need to be graded. The pool itself was moved somewhat closer to the house, and the coy pond's width was reduced. The steep slope disturbance decreased as well. They have significantly increased the amount of native, meadow-type planting in the front of the property that will act as a buffer.

Mr. Ofurio stated that he had received the memos from the professionals, but he did not have a chance to address them in time for the meeting. From what he understood, the Board is looking for more retaining walls in one area. Mr. Ofurio felt that if they were to do that, a lot of the tighter contours and steeper slopes will be eliminated with one or two more retaining walls. Mr. Kaufman agreed, and noted that the plan has improved significantly, but could be improved further, with significantly less disturbance with those retaining walls. With that revision, the Board would have a reasonable plan.

Mr. Ofurio said that he would return with a revised plan that addresses all the professionals' comments.

Dr. Matusow would like to see the peak area reduced.

### **NEW BUSINESS:**

#### **SEGATTI**

#### **Site Plan**

#### **Section 2, Block 2, Lot 9-7**

#### **33 Sunrise Drive**

#### **Michael Campbell, PE Campbell Engineering**

#### **Discussion**

Present for this application was Mr. Michael Campbell on behalf of the applicant. He explained that the applicants are proposing an addition to their existing home. The Board conducted a site walk, and the applicant has received the comments from the professionals. He explained that the plans have not yet been changed.

At the site walk, the Board first looked at the septic area. Mr. Campbell indicated the area and the expansion area, and explained that the only tree that is in the field area is #13. He said that it is not worth moving, and it is perfectly fine there. The existing gas tank that is in the area is in the expansion area, and if they ever had to expand, they would have to move the tank. Absent expansion, there is no reason to move the tank. He explained that the four-bedroom system is working well. They will provide the

information for the drywell and remove the retaining wall detail. He said that the elevations would be easy to place on the plans. Mr. Campbell said that they do have silt fence, and more could be added. There are overhead utility wires, and they will be added to the plan. Mr. Kaufman said that the issue for the Board is whether they should be placed underground. Mr. Campbell explained that the wires connect to a pole that is across the street. Mr. Kaufman said that in this case it was not an option.

Mr. Campbell explained that he quickly went through the calculations for the gross land coverage and the floor area ratio, and in both cases they are between the basic and the maximum, which means that they will need the special permit in both cases.

Mr. Campbell stated that the residence is only one story high, with a finished basement. There is only 23 1/2 feet, which is well below the 36' and will be provided on a chart. Another item in the memo is the backup area, and this will have to be reconfigured.

Mr. Kaufman stated that for the most part, these are the issues that need to be addressed. He did not have any real issues with the proposed addition, its size or its location. He did notice that there was no interior connection from the garage to the house. Mr. Campbell said that there was and pointed it out to the board.

Chairman Michelman asked if the applicant was planning to move the driveway and why. Mr. Campbell said that the applicant felt that it was the best time to do it and that aesthetically, the driveway would be more pleasing. Chairman Michelman asked if that would be a second cut, and the applicant said that it was not. Mr. Adelman did not feel that moving the driveway would make a difference. Mr. Schroeder said that it had slightly better sight distance in the proposed location. Mr. Adelman accepted this.

Mr. Simonetti asked if this would result in an increase impervious surface. Mr. Campbell said that it was a slight increase and nothing that couldn't be corrected by the dry wells.

Mr. Kaufman stated that the applicant needed to submit revised plans and then neighbor notification would be scheduled. Mr. Kaufman reminded the Board that a public hearing would be required as well because of the special permits.

**DAVIS**  
**Site Plan**  
**Section 1, Block 2, Lot 12-A -3**  
**22 Hickory Kingdom Road**  
**Carol Kurth, AIA, Architect, PC**  
**Discussion**

Present for this application was Alan Pilch and Christie Lynn of Carol Kurth's office and the future homeowner on behalf of the applicant. Chairman Michelman noted that the applicant had made great progress with the changes, and she asked the applicant to address the professionals' comments.

Mr. Kaufman said that there were two areas that the Board should focus on. First, understanding exactly where this plan differs from the previously approved clearing and grading limit line (i.e. exactly what the delta is). He said that in looking at it, it appears very close. In terms of wetland impacts the applicant is staying out of the buffer, with the

exception of a slight intrusion into the buffer for the stormwater impacts. Second, he wanted to know what is being proposed for the area adjacent to the pond. Based upon Ms. Kurth's letter, it seems that is going to be used for active recreation and possibly maintained as lawn. For the most part, the Board would like to see the buffer area remain in a natural condition, recognizing that there had to be access to the pond, but it should not be lawn and maintained area for the whole buffer.

Ms. Lynn stated that the comment about the recreation area pertained more to the basement walkout area where fishing and tackle equipment would be stored. There would then be a trail to the lake, with access that way. Mr. Kaufman was comfortable with this, but wanted the applicant to update the plan to show exactly where the maintained lawn area, naturalized area and the trails are going to be located.

Mr. Kaufman noted that the size of the house is relatively large, but the size of the lot is rather large, and for the most part, this will not impact any neighbors. He felt that the size of the house was reasonable.

Mr. Kaufman stated that the wetland buffer would be disturbed by 1,400 sq. ft. which is not that significant. There are 60 Town-regulated trees to be removed, which is not excessive for this.

Chairman Michelman asked if Mr. Kaufman wanted clarification as to what the proposed offices are. Mr. Kaufman said he would. The applicant explained that she was an attorney who worked from home approximately 20 hours / week. Although she was a member of a law firm, she does not work from the firm's office. She does not have employees and does not plan to. The upstairs den would be used as a computer room for her husband and her children.

Mr. Schroeder said that there were drainage issues, but the issues could be worked out directly with the applicant's representatives. The applicant agreed.

There were no other issues. Mr. Kaufman said that he would refer this to the Conservation Board and the Wetlands Consultant.

**STOBSKY (formerly known as Mack)**  
**Amended Tree Removal**  
**Section 2, Block 17, Lot 4J01**  
**20 Sterling Road South**  
**Adam Stobsky**  
**Discussion**

Mr. & Mrs. Stobsky were present on their own behalf. Mr. Kaufman explained that the Board needed to put on the record a summary of the site walk conducted by the site walk.

Chairman Michelman stated that the issue was that there was a stop work order issued for the removal of the trees in the back, because it was not part of the original site plan. The applicants were concerned about the dead trees in the rear, and therefore removed them. The applicants maintain that no live trees were removed. Chairman Michelman

noted that the dead trees were in the area that was to remain untouched pursuant to the site plan. Dr. Matusow pointed out that dead trees are not regulated.

The applicant stated that they obtained a permit. Mr. Kaufman explained that the Building Department requires people to fill out permit application so that they can keep track of the property. That way, if a neighbor calls and says "my neighbor is cutting down trees," the Building Department can look it up easily and explain that they are only removing dead trees. Mr. Kaufman said that in reality, it is not really a permit.

Dr. Matusow said that he had reviewed the code, and it clearly defines a tree as "a living wooden plant."

Chairman Michelman stated that the Board looked at the site, and it was determined that the applicant could continue to remove dead trees, and dead trees only. This was conveyed to the Building Inspector. Making this record was really the purpose of having the applicants appear before the Board.

Mr. Simonetti noted for the record the reason why the Board was sensitive to what happened: that area was technically supposed to be preserved in a "wooded state" and when it seemed to be violated, the Board visited the site. Once the Board realized what was really happening, they gave the applicants permission to continue the removal of the dead trees.

Mr. Stobsky was concerned about the site plan approval that will be expiring on March 1<sup>st</sup>. He was not sure what needed to be done in this regard. The applicants are planning on making changes to the site, and if the Board feels that they should dismiss the site plan approval, he would like to know.

Mr. Simonetti asked how much different the changes would be from the proposed site plan. Mr. Stobsky felt that it would be the same. Mrs. Stobsky said that it will be several hundred feet larger. Dr. Matusow recalled having this conversation before, and believed that the Board determined that the changes would be substantial enough to require a new site plan. Mr. Kaufman noted that any change would require an amendment to the site plan.

Mrs. Stobsky asked Mr. Kaufman if she and her architect could meet with Mr. Kaufman the following week. Mr. Kaufman said she could.

Chairman Michelman stated that the question was whether the Board was amending an old site plan, which then has to be extended. Mr. Kaufman said that the procedure for amending a site plan is not different from starting new. One way or another the new plan will be subject to the new regulations, so extending the site plan approval is irrelevant.

Mr. Stobsky asked the time frame for obtaining site plan approval. Chairman Michelman explained that as long as the applicants consider the Board's and the professionals' comments and suggestions, it is likely to move through quicker.

**Cider Mill Bond**

Mr. Adelman moved to make a recommendation to the Town Board to reduce the bond as recommended by the Town Engineer. The motion was seconded by Dr. Matusow and unanimously approved.

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The meeting was adjourned at 11:00 p.m.

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