

PUBLIC HEARING:

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

Discussion of Town Board decision

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. There were not.

Mr. Hollis was present for the applicant. He thanked the Board for their input and assistance in relation to this application. He added that Rob Aiello and William Kenney were also present for the applicant. Mr. Hollis requested the Board to close the public hearing, make a SEQRA determination and schedule a resolution of approval for the next meeting. He believes that Mr. Fava's letter regarding proposed redevelopment will improve stormwater runoff and eliminate use of public land. Mr. Fava's memo noted that the garden center is expected to improve the appearance of Maple Avenue and that the Conservation Board recommends approval.

The Board requested that the applicant address Mr. Kaufman's outstanding comments. Mr. Kaufman explained that there are many detail-oriented comments, but the most significant outstanding issues is with respect to water consumption on the property and the use of the public water supply for irrigation purposes. Mr. Hollis explained that the most recent estimate of several thousand gallons per day. The Board noted that this was a significant amount to be utilized on a daily basis. Mr. Kaufman informed the Board that the Water Department would be providing a memo regarding the water usage shortly. Mr. Kaufman explained to the Board that this was important information for the Board to review because there is a question as to whether the Town would be able to provide such a large amount of water during the summer months.

Mr. Simonetti recalled a discussion about this at an earlier meeting, and believed that the Water Department would have no problem with this. Mr. Kaufman said that was not true, because at the time there was an estimate of approximately 8,000 gallons and the Board asked the Water Department for feedback, which has not yet been received. Chairman Michelman pointed out that this is an issue that will have a great impact on the project.

The Board asked if the figure incorporated the amount of water that will be needed after the use of the existing wells on the site were discontinued. Mr. Aiello said that it did. He added that for non-irrigation purposes, they would require approximately 1,663 gallons per day and approximately 6,000 per day is needed for irrigation purposes.

Mr. Aiello explained that if there are issues with water restrictions the applicant is willing to bring in water for irrigation. Mr. Adelman was comfortable with this backup plan.

Mr. Simonetti asked if the applicant's expert suggested closing the wells because of the contamination. Mr. Aiello said that their expert suggested it, but informed them that it

would not have impacted the soils, but may have impacted the groundwater. Mr. Simonetti explained that because the applicant was indicated their desire to abandon the existing wells on the site, he too was comfortable.

Dr. Matusow recalled that there was concern that if the well was used the drawdown would induce the plume of contamination to travel.

Chairman Michelman asked the applicant's status with the ARB. Mr. Hollis explained that they received their final approval on January 3rd. Chairman Michelman asked him for a copy of the approval and Mr. Hollis said that he would forward it to the Board.

Chairman Michelman stated that there is an issue with a cluster of trees that are potentially not on the applicant's property, but on the Town's property according to what the Conservation Board determined. She said that this has to be resolved. She opined that the simplest way to resolve the issue is for the applicant to go to the Town Board and get an approval from them indicating that they will take over the trees, because she said that they are not on the applicant's property, but on the Town's property on the corner of Route 22.

Mr. Simonetti stated that the Conservation Board has recommended the trees be moved. Chairman Michelman acknowledged this, and wanted to know if the applicant could come to an agreement in this regard.

Dr. Matusow asked if there was a possible solution for this. Chairman Michelman pointed out that she was offering a solution. She added that there would have to be a written maintenance agreement. Mr. Hollis stated that they would be willing to do a license agreement. Chairman Michelman explained that the Board would not approve the application until this issue has been firmly resolved. Mr. Hollis stated that the applicant would either move the trees immediately, or work out the issues with the Town Attorney within the next few weeks. Mr. Aiello explained that the current plan before the Board shows that they plan to move the trees onto the applicant's property.

Mr. Delano stated that he was still concerned with screening. Dr. Matusow agreed that screening is important, but that there should also be an agreement where the owner of the property agrees to be responsible for the maintenance of the trees, and replacement of same in the event one dies. Mr. Hollis stated that they would be willing to leave the trees where they are, subject to an agreement for maintenance and / or replacement, subject to Town Board approval. If an agreement cannot be reached, they would relocate the trees.

Chairman Michelman pointed out that the Conservation Board memo referenced an issue of the Maple Avenue property line identification. According to the Conservation Board, there is an encroachment of about 15' on one side and 30' on the other side. As far as Chairman Michelman is concerned, they should be moved and put on the applicant's property. Mr. Aiello believed she was talking about the display trees. Dr. Matusow corrected him, and said they were not; that the Conservation Board was referencing the 4x4 posts and irrigation apparatus. Mr. Aiello explained that those posts are the taps used to irrigate the site, and they will be moved. He added that they are currently shown on the plan as inside the property line. He also stated that they have

added 1' high concrete monuments to demarcate the applicant's property line and added that the stone wall will also act as a property line marker.

John Fava suggested that a fence turn the corner along Bedford Road so that it is evident where the line is. Some members of the Board had suggested having a fence constructed along the entire property (not chain link). Mr. Aiello stated that the applicant did not want to have a stone wall turning the corner because it would take away the aesthetics of the site.

Mr. Kenney explained that to do so would go against the approach the applicant has taken for the entire property. They have tried to maintain the existing character and the views into the property. They do not want to create an opaque view, and therefore would prefer the approach of the monuments and the wall on one side. That way, the demarcation is clear and it would not close off the property.

Mr. Schroeder had no comments on this issue.

Mr. Kaufman suggested they finish with the Conservation Board comments. He asked if there was any other location for the dumpster. Mr. Aiello explained that they have considered an alternate location, and indicated it on the plan. He added that it would be amply screened there. He explained that the Board and the applicant have had this discussion in the past, and the applicant still supports the reasons for having it where he wants it. Mr. Adelman asked if there was enough space for a truck to pick up the dumpster in the alternate location. Mr. Aiello said there was. Chairman Michelman liked that location.

Mr. Fava suggested that the catch basin depth be expanded to 3' rather than 18." Mr. Aiello said that had already been done. Mr. Fava added that the wetland area along the stream should not be disturbed. Mr. Aiello said that this too has been included.

Mr. Fava added that phase development has been described to the Conservation Board to its satisfaction, and that there were no other issues.

Two members of the public arrived, although they were not noticed neighbors. They reside at 79 Banksville Road.

Chairman Michelman noted that the storage building still shows an overhead garage door as an entry, and the Board has been concerned about the maintenance of trucks there. One of the applicant's representatives explained that this spot was primarily for maintenance for Mariani vehicles. Mr. Aiello noted that there had been discussion as to whether or not maintenance could occur and in the latest letter, the applicant agreed he would not have maintenance there. Mr. Kaufman explained that they want the applicant to use the space in whatever way he has to, and no shelves and storage of cars is acceptable, but maintenance cannot occur in the bay. Mr. Aiello explained that they made those notes to the site plan. Mr. Kaufman was comfortable with that. The applicant's representative said that they would like to keep overhead doors for aesthetic reasons.

Mr. Kaufman stated that a few issues remained, one of which was the existing deed restriction in the parcel closest to Maple Avenue. No structures are to be permitted on

that property. Mr. Kaufman asked Mr. Baroni if the proposed propane storage and the parking itself would be permitted on that location. Mr. Baroni believed that the Town Board wanted to prevent structures with foundations from being placed there.

Mr. Kaufman said that another issue concerned the report from FP Clark on the traffic impacts. There is an issue as to whether the applicant and others should be responsible for improving the intersection on Route 22 and Maple Avenue. There has not been a detailed study in this regard. Mr. Kaufman suggested having the applicant post a bond so that when improvements are made the Town will have guaranteed funding.

Mr. Hollis explained that the applicant would prefer not to post a bond. He explained that they did not have a problem with being recalled to the Board in the event the DOT determines further improvements are necessary, and that it could be made a condition of approval (that they would be responsible to a percentage of that cost). Mr. Kaufman stated that he and Mr. Baroni would have to have further discussions on this issue, and Mr. Baroni agreed.

Dr. Matusow asked if they were "talking about something real here." Mr. Kaufman explained that they were because the DOT could make a determination in the future that road improvements are necessary.

Mr. Baroni added that this had never been a consideration with any of the other recent applications in the area. Mr. Simonetti believed that it was reasonable. He pointed out that the Board is actually encouraging trucks to go and use that intersection, and that alone will increase traffic. Mr. Kaufman pointed out that the question is the mechanism. Mr. Simonetti thought the mechanism suggested by Mr. Hollis was sufficient, especially since they were at such an early stage.

Mr. Aiello said that if the applicant could get the DOT to agree to the traffic light delay adjustment, this would aid with the traffic pattern as well. Mr. Kaufman stated that they would make DOT analysis completion a condition of approval.

Mr. Schroeder explained that he had some issues with the parking. He asked how the applicant accessed the greenhouses and Mr. Aiello explained that there was access on either end. Mr. Schroeder explained that if the parking is up against it, then they'd lose access. Mr. Aiello stated that only one end would be limited, and even that would only be partial limitation because customers would still be able to carry items out; those with larger items would use the other side.

Mr. Delano noted that they have changed the floor plan for the café. He stated that the applicant had previously proposed a fireplace on the interior and now they were showing a dual fireplace that shows inside and out. He also noted that there were physical doors from the interior to the exterior near the fireplace, and nowhere for people to sit outside near that fireplace. He asked how the café interacts with the rest of the uses on the property. If it is the intention for people to have their coffee around the fireplace, this may not work. This seems to enable the café to become a standalone rather than an accessory to the garden center. Mr. Delano stated that if it operates that way, he does not see how it coordinates with site plan.

The applicant's architect explained that they put the exterior fireplace there for visual effect. He added that they recognize there is no room for chairs in that area, and they are not proposing that. Mr. Aiello said that with respect to integration, Mr. Kaufman commented on it in his memo and asked for an interior perspective showing how they connect. He showed interior elevation to the Board.

Mr. Delano, Mr. Simonetti and Mr. Adelman all felt that the fireplace did not make much of a difference. Chairman Michelman was concerned about "opening the door" for other things. She said that, aesthetically she understood the reasoning, but questioned where would it go from here. Dr. Matusow, Mr. Simonetti and Mr. Adelman all felt that this was a design feature.

Mr. Simonetti asked if the applicant would review the number of parking spaces the applicant intends to put in, what relief they are seeking and where the landbanked spaces will go. He also asked what the ULI requirement was in comparison to the Town's. Mr. Aiello said that he thought the Board only wanted the ULI figure if the applicant was requesting a waiver. The Board agreed, and did not want the ULI figure.

In response to Mr. Simonetti's other questions, Mr. Aiello explained that the applicant is currently proposing 122 parking spaces, 5 more permanent spaces than what was previously proposed. Twenty-one spaces are proposed to be landbanked. He indicated locations of the new spaces and the landbanked spaces. He explained that the landbanked spaces will require the removal of one of the storage bins. Twenty-one parking spaces would be striped. If the applicant has to landbank, the tree recovery area would have to be off site. He added that no waiver is being requested.

Mr. Simonetti asked if the applicant was going to put up the bins and then remove them if necessary. Mr. Aiello explained that they will have 8 bins, and if the Town decides they need more parking, one of the bins will be removed.

Mr. Schroeder asked how many spaces are required based upon Town Code for all the uses. Mr. Aiello explained that they needed 143, and that this number included employees. He added that the initial application had a breakdown for all the uses, but then the plans changed. Mr. Aiello said that there is enough parking in front for customers, and they believe that 75 spaces are needed. He pointed out that they exceed that number in the front.

Mr. Kaufman explained that the figure gets complicated because there are several different uses, and off street parking is different based upon each use. The Board acknowledged this. The Board said that with the landbanked spaces this is a compliant plan.

Mr. Kaufman explained that all of his other comments were detail oriented and did not warrant discussion.

Mr. Hollis asked if the Board wanted Mr. Kenney to review any of the landscape / wetlands comments. Mr. Kaufman pointed out that he had discussed these issues in the past, and the Board indicated it was acceptable.

There were no other issues. The Board directed Mr. Kaufman to prepare a resolution with all of the conditions discussed above. Mr. Kaufman added that as part of that resolution the Board would adopt a negative declaration.

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

Mr. Aiello explained that they submitted a revised site plan, based upon Mr. Schroeder's and Mr. Kaufman's recent comments, which address many of the details Mr. Kaufman mentioned.

NEIGHBOR NOTIFICATION:

JOHN JAMES CONSTRUCTION

Site Plan

Section 1, Block 4, Lot 10-395

13 Upland Lane

Bibbo Associates

Discussion

Schedule Public Hearing

Chairman Michelman asked if there were any neighbors present for the application. Mr. Dan Amicucci of 11 Upland Lane was present.

Mr. Tim Allen was present for the applicant. He explained that the applicant is proposing a new house at the property and the removal of the old house. He showed the Board the site plan. He added that since the last meeting, the Town enacted the new zoning regulations regarding FAR and site coverage. Mr. Allen recognized that they would now need a special use permit from this Board for both FAR of the house and the coverage, because this site plan exceeds the maximum allowable coverage.

Mr. Allen explained that they have spent a great deal of time and money on this project, and they'd like to see how the Board wanted them to proceed. He explained that the FAR falls between the maximum and the basic and that the site coverage exceeds the maximum. Mr. Kaufman explained that the Planning Board could not approve anything over the maximum because that was the role of the ZBA.

Mr. Allen said that it was the applicant's preference was to keep the application with this Board and therefore they planned to remove the pool decks, patios and the like. Mr. Kaufman stated, and Chairman Michelman agreed, that there would be a better route for the applicant to take here.

Chairman Michelman asked how much over the applicant was. Mr. Allen explained that site coverage is approximately 3,000 over the maximum allowed. Mr. Kaufman stated that they have alternatives that would address the problem, for example, the applicant could switch the garages. Mr. Kaufman acknowledged that the applicant could reduce the 3,000 anyway he wanted.

Mr. Kaufman urged the applicant to propose realistic patios and pools. Mr. Allen said that they will likely remove the lower terrace of the deck and have a negative edge pool. Mr. Kaufman asked the Board for its opinion on that. The Board said that it was a big adjustment, and would need to see the revised plans.

Mr. Baroni noted that there is nothing to control the installation of a patio at a later date. Mr. Kaufman pointed out that the site plan governs what can and cannot be built on the site

Chairman Michelman asked if the applicant would flip the garage. Mr. Allen said that doing so would alter the turning radius in and out of garage, and make it impractical especially in light of architecture that has already been completed. He stated that the applicant was not willing to pursue that alternative.

For clarification, Mr. Baroni asked if the applicant would remove all decking around the pool and only have grass. Mr. Allen said that yes, because that, and a few other adjustments will make up the 3,000.

Dr. Matusow stated that he liked the application and apologized that the applicant was "getting squeezed by the new regulations" but felt that what the applicant is proposing to do it, is not going to end up in compliance. The grass clippings are going to end up in the pool and it won't be long before someone wants "protection" around the pool. It is likely that they would end up with something against the intent of the regulations. He asked the applicant to take a hard look at what will be reasonable and feasible – and not just play with the numbers.

Mr. Allen explained that they are at the eleventh hour, and faced with the new regulations. Dr. Matusow pointed out that this was not a secret and the applicant knew it was being proposed. He asked that the applicant submit a realistic plan.

Mr. Allen stated that the application would need a recommendation from this Board to proceed to the ZBA, and this Board has already indicated it was not likely to give such a recommendation.

Mr. Allen asked that the Board schedule a public hearing for the permit and stated that they would come back with a plan that complies.

Mr. Simonetti disagreed with Dr. Matusow. He felt there were several ways to go with this application. The applicant could have an "abbreviated" platform that doesn't go all along the pool. He agreed that the applicant has invested a lot of time and money.

Chairman Michelman asked Mr. Kaufman if they could hold a public hearing on plans the Board hadn't seen. Mr. Kaufman explained that it was up to the Board. The Board wanted to see the plans first. Mr. Adelman said that if the applicant would commit that the new plan would only be the removal, then he would be comfortable with having the public hearing without the plans. Mr. Kaufman said that there was no danger in having public hearing without the plans because the Board could continue it if they do not like the plan.

Mr. Kaufman was concerned about not having a deck around pool and pointed out that most homeowners will find grass up to pool unacceptable. He again mentioned flipping the garage, or keeping the garage but removing the motorcourt.

Chairman Michelman advised the applicant to come up with something more creative than simply removal of all of the patio and deck area around pool, because feasibly that "won't fly."

Mr. Kaufman asked if the applicant has taken the credit provided for in the code. Mr. Allen was not familiar with that. Mr. Kaufman explained that the applicant could take a credit of 10 square feet for every foot they are behind the minimum setback, and that the applicant is not going to be penalized for a longer drive. Mr. Kaufman explained that this would give the applicant several hundred more sq feet. Mr. Allen said that he was not aware of that and would look into it.

The Board agreed to schedule a public hearing for February 5th.

INCOMPLETE NEIGHBOR NOTIFICATION

S&S BUILDING

Site Plan

37 Washington Place East

Section 6, Block 3, Lot 6

Bipin Shah

Discussion

Chairman Michelman asked if there were any neighbors present, and there were not. She advised Mr. Baroni that neighbor notification was not complete because only 11 neighbors were noticed and 37 were supposed to be.

The applicant's representative explained that the applicant was under the impression he was doing it right.

Chairman Michelman noted that the applicant made changes to the basement. The applicant's representative explained that they did, namely that there are now two laundry rooms, storage areas and added stairs so that both occupants will have access to the basement. The representative asked if this was acceptable to the Board. Chairman Michelman did not think that they could separate the two. Mr. Kaufman recalled that the Board wanted to remove the exterior access.

Chairman Michelman explained that the efforts made by the applicant are appreciated. Dr. Matusow agreed. However, due to the new regulations, the applicant faced new problems.

Mr. Simonetti stated that the steps as presented are acceptable to him. Mr. Adelman and the rest of Board agreed.

Mr. Kaufman recalled that the Board recommended reducing the height by 3-5' by placing foundation underground. The applicant's representative believed this had been resolved. Chairman Michelman agreed because the Board "took half a loaf" and decided

that it was consistent with other houses in neighborhood. This issue is resolved for the Board.

The applicant's representative pointed out that the new regulations were never brought up nor were they ever discussed throughout these 8 months and asked if this application was bound to them. The Board said that it was and explained that the key to being exempted is an approved resolution. The Board explained that no matter how long the project has been pending, it is subject to the new laws if it has not received a resolution.

The applicant's representative pointed out that they had received numerous comments about the project (i.e. north arrow being inaccurate, plumbing, risers on stairs etc.). She was annoyed that there was never any word that they might have problem with the lot coverage and wanted to know why this was never discussed. Chairman Michelman explained that even though she could not document it, the Board has mentioned it again and again. Mr. Adelman pointed out that it is public knowledge. Chairman Michelman said that it may not have been specifically mentioned to the applicant, but the applicant has been sitting here through meetings where it has been mentioned and that public hearings went on for months on the subject.

Dr. Matusow warned the applicant's representative that she was having a discussion that would not get her anywhere. The applicant's representative commented that many of the discussions before this Board go nowhere.

Dr. Matusow asked if the applicant would suggest this Board adopt a resolution contrary to the law. The representative said no. Dr. Matusow stated that the process of redefining the laws have been in the public eye for more than a year and someone would have to be asleep or unconscious not to know what is going on with this law.

Chairman Michelman stated that the Board couldn't approve this application until the applicant meets the new regulations. The applicant's representative felt that they should have been specifically advised of this. She said that she has to dig through the Town's laws to figure out impervious surfaces and parking and that is pushing the application over the acceptable amount. She asked if grass-crete would be acceptable. Mr. Kaufman explained that grass-crete and gravel is treated as impervious surface. He further suggested that if the site plan currently does not comply with the Town Code, that the Applicant should explore the utilization of under-building parking or reconfiguring the entire parking area in order to reduce the total amount of gross land coverage. The applicant's representative said that might be difficult to get that in there.

The applicant stated that this was submitted, but the Board did not like that plan. He asked if they now go back to the original plan. Mr. Kaufman said they should because the Board simply cannot approve more than the maximum, and alternatives could be underbuilding parking or reduce off street parking demand by making it a one-family house.

The applicant's representative believed they were over 480 feet and Mr. Kaufman stated that this was not excessive. The applicant's representative asked if they could simply remove the walkway and just have grass in that are. Mr. Kaufman said that was a possibility.

The applicant's representative wanted definite guidance from the Board. Dr. Matusow explained that the Board is not in position to develop a plan and the applicant has to find the most practical way to do it – especially since there is not much to reduce.

Chairman Michelman stated that as the applicant is working through the options they should consult with Mr. Kaufman and Mr. Schroeder.

The applicant's representative asked if the issue they were dealing with was the coverage, and the Board felt that this was the only remaining issue. Mr. Simonetti asked if they were ok on the FAR. Mr. Kaufman said they were.

The Board explained that when they resubmit the plan, the Board would schedule a public hearing and neighbor notification for the same meeting. Mr. Baroni advised the applicant that the public hearing has to be published in the local paper, in addition to mailing.

CONTINUING BUSINESS:

51 BANKSVILLE, LLC
Site Plan
Section 1, Block 9, Lot 5
51 Banksville Road
John Tartaglia
Discussion

John Tartaglia was present on behalf of the applicant. He explained that they received the posting at the end of last week, and the landscape architect and the engineer needed more time to formally respond; however they will be able to do everything that has been suggested, and will do so at the next meeting.

Mr. Tartaglia explained that there were three things from Mr. Kaufman's memo that he would be able to discuss, and he submitted a letter in response to the Board. He explained that there is a small crosshatch on the west side of the property, and the road is technically on the applicant's property. It has been indicated that the applicant would give it to the town.

Chairman Michelman asked about the issue of soil testing because this has been a primary issue. Mr. Tartaglia explained that they had done the deep hole tests, and marked them on the map and provided the Board with the results.

Mr. Schroeder asked about the septic tests. Mr. Tartaglia said that the Board asked for deep-hole testing with respect to the septic. Mr. Schroeder recalled asking about the infiltration system. Mr. Tartaglia stated that they did not do the perc tests yet. He added that he was asked to provide deep hole testing and that is what his engineers did. He stated that he was in the process of having an application prepared for the Health Department for the septic. He said that this will not be ready for some time, but that he would conduct any tests that the Board may require.

Mr. Schroeder stated that until that information is received, he did not believe it was advisable to move forward with the application because the site could change significantly. Mr. Tartaglia asked if he had to have Health Department approval first. Mr. Kaufman said that he did not, but they did need to make sure that the system laid on the plan is workable, so the applicant should do his own perc tests – not necessarily those of the Health Department.

Mr. Schroeder requested information regarding what the applicant was basing the septic layout on. Mr. Tartaglia asked if he could have his engineer call Mr. Schroeder, and Mr. Schroeder said yes, but pointed out that his letter was clear. Mr. Schroeder suggested having the Health Department there even though there was no requirement for that in the code.

Chairman Michelman stated that until there is some evidence from either the applicant's engineer or the Health Department, the Board could not make any determinations as to where the house is sited or where the septic location would be. Chairman Michelman agreed that Mr. Schroeder's letter was clear, and until the information requested is presented, the application could not move forward.

Mr. Schroeder pointed out that the sight distance issue had never been resolved. Mr. Tartaglia thought they were marked on the plan. Mr. Schroeder said that he wanted them flagged and then he'd meet the engineer there.

Mr. Tartaglia stated that among the requests from the Board was for the applicant to show different types of three bedroom houses. He explained that they requested Westchester Modular Homes to show them floor plans for three bedroom, 2,000 sq. ft. split ranches. The only things they had available were smaller capes that can have a 2nd floor added and none of those were desirable to the applicant. He asked that they be excused from any further exploration on this subject.

Mr. Tartaglia explained that there was a question of whether Mr. Mint is the owner. He explained that it was always deeded to a company and that the survey, deed, and legal description were previously provided to the Board. That survey, when laid out on the site plan, shows that the Town's road is on the owner's property, and reiterated that the owner will give it to the Town. He explained that it consists of 80-100 sq. ft. and that he needed to meet with the Town Attorney to work out the details. Mr. Baroni advised the applicant to make sure that gifting that piece of land would not make the lot nonconforming.

KAHN

Site Plan

Section 2, Block 11B, Lot 8

14 Half Mile Road

Nicholas Pouder, Pouder Design Group

Discussion

Consideration of approving resolution

Chairman Michelman asked the applicant if he had reviewed the resolution. Mr. Pouder said that he had, and had two items to discuss. He explained that he went through the new regulations, and it was discovered that they do not comply with FAR, but that they do comply with lot coverage. He explained that because of the noncompliance with the code, he had eliminated some of the floor area to comply. Mr. Pouder suggested modifying item one to read "by at least 31'" because they are actually cutting more.

Additionally, they provided a draft of the easement in October, and he hoped that it was satisfactory because that is the easement they are moving forward with.

Mr. Schroeder pointed out that item three can be removed because he is satisfied that it is a four-bedroom house.

Mr. Kaufman had no issues. Mr. Schroeder explained that his only issue is the well. The applicant explained that the Health Department has received the application and they are currently processing it. It was pointed out that final well approval is a condition of approval.

Mr. Simonetti stated that at the previous meeting, they were not sure of code concerning parking of trucks overnight. He recalled that the Board established that the bays were too small for commercial trucks. The applicant explained that he had a truck that he uses as a personal vehicle. At the time, the "problem truck" was a commercial truck that he used to plow, and he assured the Board that that truck is not going to be stored on the property. The applicant said that he would find out the weight limit with the Building Department, but said that none of his business vehicles will be on the property.

Mr. Adelman moved to approve the resolution as amended. Dr. Matusow seconded the motion and it was unanimously approved.

WOLFE

Subdivision

Section 1, Block 2, Lot 12

10 Hickory Kingdom Road

James DeLalla, DeLalla & Von Ohlsen, LLC

Discussion

Present for this application was Mr. James DeLalla for the applicant. At the last meeting, the Board asked the applicant to look at alternatives for the driveway. The Board felt he responded well to that request.

Mr. DeLalla explained that they have submitted "alternative 4" which has both lots accessed off of the existing driveway. He stated that the applicants are not anxious to have a shared drive, but this shows lot two and three being serviced by one drive.

Mr. DeLalla added that another alternative, was to create a new access point on Hickory Kingdom Road, somewhat parallel to the existing driveway. The drive would enter the site, turn to the east slightly and stay on top of the steep slope. This would allow for separation, because of the ridge between. The applicant feels that this access on Hickory Kingdom Road is viable. The grade there is only 6%, there is adequate sight distance, they are coming in at grade and they are not directly across from driveways across the street.

This plan avoids all disturbances to the wetlands or buffer. It also has the least impact on steep slope, whereas option four impacts approximately 7,200 sq. ft., this option is about 500' less.

The length of drive increases, but it allows the applicants to develop the site to their desire, and to maintain their separate access. Mr. DeLalla opined that one additional drive on Hickory Kingdom Road would not overburden the road.

Mr. DeLalla added that they have also submitted a compliance plan proving that they comply with the new regulations. The only difference is that the lots got bigger. The applicant is able to show the buildable areas on each of the lots. They extended to a 150' setback, and they do comply with the new regulations.

Chairman Michelman stated that though both professionals opted for alternative 4, it was not the applicant's choice. Mr. DeLalla felt that option 5 was a compromise. He pointed out that there is a significant amount of road frontage and to say that there is nowhere to establish a second access is a harsh result, and to force the applicants to share with two proposed lots is unfair.

Mr. Simoinetti asked how far the applicants' house would be to the drive. Mr. DeLalla said it was approximately 150-200 sq. ft. The applicant was desirous to retain their privacy.

Chairman Michelman said that she thought the applicant was planning to use the two lots for his children. Mr. DeLalla said that they were, but they do not want to share driveways.

Mr. Kaufman stated that this was a tough balancing act for the Board because there are several different competing interests. He recognized that the applicant wanted to have a single driveway of his own, but the issue is whether the curb cut and the impervious surface is worth the applicants' interests. He pointed out that having a common drive is the way to eliminate the impacts, however reminded the Board it was up to them. In Mr. Kaufman's opinion, alternative 4 was the best option and he felt that it was redundant to have a parallel drive.

Mr. DeLalla reminded the Board that the applicants' true preference is to have a second access off Bedford Banksville Road, but they provided the alternatives to show that we

can do it, and still have two cuts. Chairman Michelman asked how far apart the two curb cuts were, and Mr. DeLalla said that they were 125' apart.

Dr. Matusow thought that alternatives 1, 3 or 5 were workable. He thought that using alternative 4 could save impervious surface, but that is an imposition on whoever will own the house. He felt that the one alternative that has not been considered is to do something like alternative 5, but to avoid a second curb cut. The applicant's drive is 3/10 of a mile long before house. The gate is right at the road. He suggested moving the gate and relocating the drive. This would not take up more than 50' of the existing drive.

Mr. DeLalla pointed out that this would be a combination of four and five. Dr. Matusow agreed, and felt that it would provide privacy for the applicant and eliminate curb cuts. Mr. DeLalla still was bothered by the fact that the applicant had 24 acres and could not have a second curb cut. Dr. Matusow pointed out that was because they did not do a second cut.

Mr. Kaufman said that he agreed with the applicant. If there can be a safe second curb cut on Hickory Kingdom Road, then there is really no objection to having a second cut. He did say that a curb cut on Bedford Banksville is precluded because it is a county road and they cannot permit additional curb cuts unless absolutely necessary.

Dr. Matusow felt that if the Board could avoid a cut, then it should. He said that the applicant "only wants it because he wants it." Mr. Simonetti felt that if there are no reasons to preclude the cut, then we are shifting the want from applicant to this Board.

Chairman Michelman was not convinced that it would be safe, and Mr. DeLalla pointed out that this was one of the better sections of the road. Dr. Matusow felt that safety was not the only issue. If the applicant can access the lots, and avoid the cut, then why not take the opportunity to prevent the cut. Mr. Simonetti felt that there was nothing inviolate about a curb cut.

Mr. Schroeder recommended the applicant stake out the proposed drive, and let everyone take a look.

Dr. Matusow said that he was there and Mr. DeLalla is right; this section is considerably more level. He thought that it could be built, but that it shouldn't be.

Mr. DeLalla explained that the applicants have taken many steps to restrict this property. They have agreed to restrict it to 3 lots, with no further development permitted and there will be 13 1/2 acres of conservation easement. The applicants feel they are doing the right thing by the Town and for the property by developing it in a sensible way.

Mr. DeLalla asked if the Board wanted just the driveway entry staked, or the whole length, and the Board said they just wanted to see the proposed cut.

MUCKELL
Preliminary Subdivision
Section 5, Block 19, Lot 1
3 Morningside Place
Susan Fasnacht, PE
Discussion

Present for the application was Susan Fasnacht for the applicant. She explained that they have modified the submission based upon the last letters, the most recent from Mr. Kaufman and Mr. Schroeder.

She explained that with respect to the easement, she and Mr. Baroni have worked out the language, and they are only waiting for the metes and bounds.

With respect to the sight distance, they will need to go to the ZBA. Ms. Fasnacht stated that they would like to have SEQRA before they go to the ZBA because that Board cannot make a decision without it. Mr. Kaufman said that was acceptable, but asked if there was any way to maximize sight distance to avoid going to the ZBA. Ms. Fasnacht said there was not due to the dead end; they doubted they would be able to clear back enough. The applicant explained that there are several large trees in the area and they cannot be removed.

Mr. Kaufman said that there is a very good case the Board could make for this application, and saw no reason for them not to grant the variance. He asked if the Board wanted to write a recommendation letter to the ZBA, and the Board agreed. Ms. Fasnacht recalled that this Board already decided to make a positive recommendation to the ZBA.

Ms. Fasnacht recognized that she had to provide the information regarding the new regulations. She stated that she did not foresee a problem, but would submit the actual calculations.

Mr. Kaufman pointed out that the only issues the Board really needed to discuss were the variance and the easement, both of which have been somewhat resolved. He added that the Conservation Board has recommended approval.

Chairman Michelman asked if the Board could adopt a negative declaration. Mr. Kaufman said that because he did not see any other issues, they could. Mr. Kaufman read a potential motion for the record, which adopted a negative declaration. Mr. Simonetti moved to approve. The motion was seconded by Mr. Adelman and unanimously approved. The Board directed Mr. Kaufman send a letter to the ZBA recommending approval.

STOBSKY (formerly known as Mack)

Site Plan

Section 2, Block 17, Lot 4J01

20 Sterling Road South

Consideration of extension of time

No one was present for this application. Ms. Desimone explained that she had told the applicant that he did not have to be present for this meeting because it was a simple extension of time.

Chairman Michelman wanted it postponed because she had issues with the request. She wanted to speak with the applicant because it is unusual that he bought the plan from the previous owner, and is not planning to make any changes, substantive or otherwise. She felt that to casually give him another year to do whatever he wants to do would be dangerous. She wanted to see the applicant before the Board.

Mr. Kaufman asked if the Board had to grant a one-year extension, or if it could be for a shorter time. Mr. Baroni said that did not have to grant one year. Mr. Kaufman suggested giving the applicant two months because if the Board did not adopt extension that night, the permit would expire. Extending for one month would require the applicant to come to the Board with any plans. The Board agreed to this limited extension.

Mr. Kaufman explained that he had preliminary discussions with the new applicant and that he is looking for significant changes to the plans. One member of the Board felt that in that case, he would rather let the permit expire. Mr. Kaufman requested the Board grant the limited extension because he did not want to make any representations on behalf of the applicant.

Mr. Adelman moved to grant a two-month extension for the permit. The motion was seconded by Mr. Simonetti and unanimously approved.

NEW BUSINESS:

GERSTER ELECTRIC

Site Plan

Section 3, Block 8, Lot 12.C01

785 North Broadway

Discussion

Basil Delacruz was present for the applicant. He apologized to the Board because his engineer could not make it. The Board is familiar with the property and had already conducted their site walk. Mr. Delacruz stated that the plan has been submitted to the Board.

The biggest issue raised at the site walk was the parking. According to the engineer, the applicant needed 12 parking spaces. The issue that seemed to be raised at the site walk, were the three spaces in the back, and more particularly space number 11. The applicant's engineer said that they could eliminate number 11 if the Board wanted and

could shift the parking spaces on the side closer to the property line. Mr. Delacruz said that they have approximately 9', so they can bring it closer.

Mr. Delacruz explained that the concrete sidewalk is on the applicant's property. There are two spaces on the right side of the plan that existed when the building was built. There is an apartment upstairs, and the applicant wants to leave the spaces as they are.

One issue that was raised was the reversing of cars in these spots. The applicant's engineer has informed him that they back onto McDougal. Mr. Delacruz presented an aerial. He added that other houses in the area also back onto the road, and that they have little other choice. Dr. Matusow pointed out that these particular spaces not only back up onto the road, but they backup into the intersection. Mr. Delacruz stated that the cars don't actually back into the intersection, that it is more onto McDougal. He added that there has not been an accident at the location since it was built in 1948.

Mr. Simonetti asked if either of those spaces were the right of way. Mr. Delacruz said that none of them are. Mr. Delacruz added that all of the issues raised in Mr. Kaufman's and Mr. Schroeder's memos would be addressed in a letter from the applicant's engineer.

Mr. Kaufman asked if he went over all these issues with the engineer, and if he could address them. Mr. Delacruz said he did go over them, and believed he could address them. Mr. Kaufman explained that the real issue is the number of spaces and getting it all to work. He said that when they were at the site, there were a number of commercial trucks there and asked if they were related to the retail customers or related to the business. Mr. Delacruz said that they were related to the business.

Mr. Kaufman asked about the plan to convert retail to business. Mr. Delacruz said that they are anticipating converting some of the space to retail, but the commercial trucks are off site during the day. Mr. Kaufman stated that this was what the Board needed to get a handle on; if there is a truck or car there from an employee – there is no space for the retail customer.

Mr. Delacruz explained that there are six trucks parked on one side, and that leaves six spots on the other side. Mr. Kaufman asked what the parking requirement was for the retail. Mr. Delacruz believes it is 12.1. They will reduce the retail space somewhat, and increase the warehouse space somewhat, so that it comes to exactly 6/6. Chairman Michelman felt that was an option, but wanted to see it. Mr. Kaufman stated that, assuming 12 spaces are required; the applicant would have to pay attention to the retail component because 6 spaces are required for the business, and 2 are required for the apartment, there are only 4 left and there are not enough. The applicant's calculations provide for 15 spaces. Mr. Kaufman warned Mr. Delacruz that once he reviews the memo, more spaces will be lost.

Mr. Kaufman explained that, as an alternative, the applicant could take the rear area, and instead of using it for storage, it could be designated back-to-back employee parking. The applicant said this could be considered.

Mr. Kaufman pointed out that the applicant will have to show 12 spaces in order to meet the minimum requirement, and whatever is beyond that could be employee stacked

parking, storage, or whatever because it is beyond what code requires. Those "extra" spaces should not be numbered.

Dr. Matusow asked if the apartment has a front door. Mr. Delacruz said it did. Dr. Matusow asked if there was any other egress, and Mr. Delacruz said that there was a door onto the roof. Dr. Matusow had a concern about fire safety; if fire equipment ever needed to access the rear of the apartment, the stacked spaces in the rear would prevent that.

Mr. Delano stated that the Building Department should be made aware of this, and see if there were any issues regarding the safety, prior to the Board signing off on parking in the rear. Mr. Kaufman said that he would refer this to the Building Department and the Fire Marshall.

Mr. Delano asked the applicant to provide the location of the stop sign and stop bar on the plans so the Board can see if cars stop far enough back on McDougal to accommodate depicted apartment parking. Mr. Delano said that there is gravel parking adjacent to space number 15 and that it is on the public right of way and could be a sight distance impediment. There is also a pavement encroachment; McDougal drive is on the applicant's property. Mr. Delano pointed out that there are other encroachments –as well. The Panetta property is one. Mr. Delacruz stated that the applicant has sent Mr. Panetta a letter and put him on notice.

Mr. Delano said that there is also the question of the use of the garage door. Mr. Kaufman said that he was concerned about the garage door fronting on Route 22 / North Broadway. He added that at the site walk, there was a car parked in front of the building, and this is dangerous. No cars should be parked there and the Board has to make sure there will be no parking in front of the building. Mr. Delacruz recalled that planting might solve this problem. Mr. Kaufman agreed. Mr. Delacruz pointed out that the salt in the winter will harm the plants and Mr. Delano advised planting annuals.

Mr. Delano pointed out that there is an exposed rock at the corner of the building and the plans indicate that they plan to "remove rock as necessary." He felt that the Board should take a more serious look at this before they sign off on the plan. Mr. Delacruz stated that rock removal would probably not be necessary anymore. Mr. Delano said that if it is necessary, the Board needed to know where it is. If it is not a rock, the applicant should reflect the actual existing conditions.

Mr. Delacruz suggested moving spaces closer to Route 22, giving the applicant more turning area in the back. Mr. Kaufman said this could be reviewed if plans were provide depicting the proposed condition.

Mr. Simonetti asked if the garage door was operational. Mr. Delacruz said that it was, but it is not used to store things. There is a plow truck there and stays in until they are called by county police department to plow. The Board advised that no planters would be placed there.

BAIRD

Lot Line Change

Section 1, Block 11, Lots 11-6 & 11-15

Jason Lepro – Jay Fain & Associates

Discussion

Present for the applicant was Mr. Jay Fain. He explained that this is an existing 10-acre parcel with a primary residence and an existing 40 +/- acre parcel that constitutes an existing single-family house and a horse facility. The applicants want to redraw the interior lot line to more equally distribute lot acreage.

In order to accomplish this, the primary residence on the 10-acre lot will become the primary residence for the horse facility, and the primary residence that was associated with the horse facility will stand on its own.

Mr. Fain added that he has read the comments from the professionals and has no objection to any of them.

Mr. Kaufman said that although he has no problem with the lot line adjustment, the Board should be aware that they are now creating two 25-acre lots, which will make the property eligible for more horses. Additionally, the subdividability of those lots is a potential. He wanted assurances from the applicant that there will be no further subdivision. He pointed out that the way the lot is set up, with frontage on Round Hill Road, there is potential for the lot to be subdivided again.

Mr. Fain stated that at this point, there are no plans to further subdivide. There would be covenants that would provide the maximum yield would be five lots. Originally there were 5 lots here. Mr. Kaufman explained that in the past, the Planning Board had reviewed this site's future potential and it was approved for five lots. However, the right of way is shorter.

Dr. Matusow said that those five lots were supposed to be off of Ashfields Road and now they would be coming off of Round Hill Road. Mr. Kaufman pointed out that if the property was further subdivided, it would more likely be three lots, not five. Mr. Fain doubted that this would be subdivided in the near future.

Dr. Matusow questioned the purpose of the "leg" along Round Hill Road. Mr. Fain explained that he is a planner and he always leaves options open. Mr. Kaufman explained that there is no downside from a planning perspective. He neither liked it nor disliked it. Mr. Fain repeated that, essentially, it preserves options.

Chairman Michelman asked if the small main house would be removed. Mr. Fain was not sure. He pointed out that it is a fantastic structure and that it was brought down from Vermont stick by stick. He added that there is a possibility there will be another structure built on the property.

Mr. Kaufman explained that the applicant needed to submit an analysis of the lots showing that they comply with the environmental subtractions. He noted that he does not foresee a problem with the size of the lots, but calculations still need to be done.

Mr. Kaufman added that the Planning Board has looked at, and understands, the impact of future development of the lots. Mr. Kaufman explained that a public hearing would be needed and if the Board wanted, it could send this to ARB. He did not think that would be necessary, and the Board agreed.

Mr. Fava asked if this application had to go to the Conservation Board because it was a subdivision over 10 acres. Mr. Kaufman did not believe that this application triggered that requirement because they were not creating a new lot. He said he would look into it.

Mr. Fain asked when the application should go to the Town Board. Mr. Kaufman explained to Mr. Baroni that there is an existing special permit but because of the lot line change, the horse facility will be transferred. In his opinion, this required a new permit. Mr. Baroni opined that it would be a new application and not an amendment, and therefore, it cannot be done until the lot exists. Mr. Baroni suggested making it a condition of approval to go back for special permit.

A&P SHOPPING CENTER
Concept Plan Discussion
Maple Avenue
David Werber
Discussion

This application was removed from the agenda.

UNGER
Consideration for reduction of bond
Section 1, Block 4, Lot 10-415
30 Thornwood Road
Recommendation to Town Board

Chairman Michelman asked if everyone had received Mr. Schroeder's revised letter. Everyone had.

Dr. Matusow asked if either Mr. Kaufman or Mr. Schroeder had gone to the site to ensure the applicant had complied with all the requirements set by the Board. Mr. Kaufman explained that was the responsibility of the Building Department. Dr. Matusow was hesitant to reduce the bond without that knowledge.

Mr. Schroeder explained that he had been to the site and the wall has been certified by an engineer. Dr. Matusow stated that he was not worried about the wall, but about the other problems, like the fill. Mr. Kaufman repeated that was the responsibility of the Building Department, and that he would get a letter from the Building Inspector in this regard.

Mr. Simonetti stated that it is documented that its been done; all items have been addressed and there is confirmation from the Town Engineer. Chairman Michelman noted that the town engineer only looked at his issues, and that the Board wanted a letter from the Building Inspector too.

Dr. Matusow moved to reduce bond as advised by Town Engineer, so long as the Board received confirmation that all conditions had been met. The motion was seconded by Mr. Simonetti and unanimously approved.

16 North Lake Road

It was determined that most of the trees are on 16 North Lake. Mr. Kaufman noted that he explained to Mr. Fareri that if the trees were dead or dangerous, he would not need to come to the Board for approval. In fact, if the trees are dangerous no permit is needed for removal.

Mr. Fava stated that at the site walk the applicant expressed their desire to move the house slightly closer to the wall by approximately 10-15'. It was suggested that they draw up new plans and come to the Board. Mr. Kaufman stated that if the Board wanted to see it, they could. The Board stated that they wanted to see this type of change.

Mr. Kaufman explained that the applicant showed him the plans, and that he now proposes to rotate the house and move it about 10'. This does not create any additional disturbance and there is no significant impact. Mr. Kaufman asked if the Board would consider this a field change, or do if they want an amendment to the site plan.

Mr. Simonetti asked if there was any potential impact. There would not be. The house would be shifted further away, and the limits of disturbance would be the same.

The Board changed its mind, and decided to make it a field change resolution. Mr. Baroni was concerned that if the Town Engineer's plan was not changed, nothing will make sense. Mr. Kaufman suggested requiring the applicant to submit a revised plan and the Board agreed with that.

Mr. Kaufman noted that the trees can be removed and the Building Department would make determination.

The meeting was adjourned at 10:05p.m.
