

Chairman Michelman read the public notice for the record. Chairman Michelman asked if there were any neighbors present for the application. There were not.

Mr. Naderman pointed out that this was a re-noticed application that was caused by a procedural error. He said the error had been corrected and now believed the Board was in the position to close the public hearing.

Chairman Michelman asked if Mr. Schroeder or Mr. Kaufman had any issues and they did not. She asked if there were any comments from the members of the Board; there were not. Dr. Matusow moved to close the public hearing. The motion was seconded by Ms. Black and unanimously approved.

Chairman Michelman asked if Mr. Naderman had reviewed the resolution. Mr. Naderman said that he had and that he had no issues with it. Mr. Delano noted that the fourth "whereas" clause on page two refers to site plan approval as opposed to subdivision approval. Additionally, the word "will" needed to be removed from the seventh "whereas" clause.

There were no other issues from the Board. Ms. Black moved to approve the resolution as amended. The motion was seconded by Mr. Delano and unanimously approved.

Mr. Naderman believed that if there are no more changes to the plan, the public hearing might not be necessary. Mr. Kaufman said that was correct.

Ms. Desimone asked how they were supposed to incorporate the minutes from the prior meeting. Mr. Baroni explained that they should be cross-referenced to this meeting.

UNITED METHODIST CHURCH
Site Plan
Section 2, Block 16, Lot 1
Karl Hinrichs
Consideration of approving resolution

Mr. Kaufman explained that the Board had never seen this application. The applicant is proposing to put two identification signs on their property. The application is minor, but if the Board was not comfortable with hearing the application without first conducting a site walk, then they could reschedule. The Board said they were familiar with the site and a site walk was not necessary.

Chairman Michelman read the public notice for the record. Ms. Desimone noted that all paperwork was in order and that 21 out of 22 cards were returned. She asked if there were any neighbors present for the application; there were not.

Karl Hinrichs, the president of the church trustees, was present for the application. He explained that they would like to put up two signs on the church property relating to their 220th anniversary in September. He noted that the trustees have undertaken beautification of the area.

Chairman Michelman asked if there were any questions from the Board, and there were not. Mr. Kaufman and Mr. Schroeder both stated they had no issues. Mr. Kaufman noted that signs are proposed in a reasonable location and will not obstruct vehicles or pedestrians.

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

Chairman Michelman asked if Mr. Hinrichs had reviewed the resolution and he said he had. Chairman Michelman noted that the fifth whereas on page two should be rephrased remove the language that says the Planning Board has reviewed the site.

Mr. Delano noted that they should amend the "whereas" clause that says the Board has reviewed a full form EAF, because only a short form had been completed.

Dr. Matusow moved to approve the resolution. The motion was seconded by Ms. Black and unanimously approved. Mr. Kaufman pointed out that the applicant still needed ARB approval and had to submit plans for final signature.

KIRK
Site Plan
Section 1, Block 7, Lot 5B-3
38 Mianus River Road
Peter Gregory, PE
Consideration of approving resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that all paperwork was in order and that 5 out of 13 cards were returned and one envelope was returned. Chairman Michelman asked if this was acceptable and Mr. Baroni explained that it was. He added that if the Board wanted to they could hold the public hearing open for another meeting. Chairman Michelman asked if there were any neighbors present for the application; there were not.

Mr. Carlos Diaz was present for the application. He explained that he had reviewed the resolution and had no problems with it. He added that they would be able to comply with the conditions. Chairman Michelman asked if there were any issues. Mr. Schroeder and Mr. Kaufman said their issues were dealt with in the resolution. The members of the Board had no issues.

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

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

PUBLIC HEARING & NEIGHBOR NOTIFICATION

BENZIE

Special Use Permit

Section 1, Block 1, Lot 3-5

727 Bedford Road

William Rainford – Gunner Group, Inc.

Consideration of approving resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 6 out of 9 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for this application. There were not.

Mr. Schroeder explained that all of his conditions are dealt with in the resolution, but he still was not sure about access to the rear. Mr. Rainford explained that the neighbor said that he could encroach on his property a foot or two. Mr. Baroni explained that as long as he has permission for construction purposes he would not need an easement. Mr. Rainford will provide a copy of the email granting him permission to Mrs. Desimone

Mr. Kaufman explained that he had no issues with this application and that he had prepared a resolution.

Mr. Adelman moved to close public hearing. The motion was seconded by Ms. Black and unanimously approved. Chairman Michelman asked if the applicant had reviewed the resolution. Mr. Rainford said he had, but pointed out that when she read the public notice, he thought he heard her say the pool was 20x40, and the pool is actually 20x44. Mr. Baroni noted that the difference is insignificant and would not impact the validity of the hearing. Chairman Michelman noted that the first “whereas” clause on page 2 has a spelling error.

There were no other issues. Ms. Black moved to approve the resolution. The motion was seconded by Mr. Delano and unanimously approved.

CONTINUING BUSINESS

ALPS SAUNA & SPA

Site Plan

Section 2, Block 16, Lot 18 A

130 Business Park Drive

William O’Neill, AIA

Discussion of proposed legislation

Mr. O’Neill was present for this application. Chairman Michelman explained that they were present to discuss the proposed draft legislation. The first issue she wanted to address was the issue of the food service. The Town already has a definition of an accessory café, which is permitted in the NB district. She said she would like to use the criteria for establishing an accessory café for establishing a food service in the spa.

Mr. O’Neill pointed out that this situation might be different than Mariani Gardens in that

they have no plan to serve customers that are not already there for the spa services. Chairman Michelman did not feel this was the issue. Mr. O'Neill stated that he was aware of the Board's concerns about this, and they have already reduced the size several times. Chairman Michelman recognized this, but felt that in order to move along, there may need to be some more compromise.

Chairman Michelman stated that the next issue is the definition of the various services. Mr. Kaufman wanted to know how the Board wanted to deal with the restaurant / spa cuisine before moving on to the next issue. Mr. Delano stated that the memo is generally in accordance with the earlier conversation. Mr. Kaufman agreed somewhat; he explained that the last time they talked about size of the restaurant and the salon services, he was directed to reduce the permitted sizes. He explained that he kept the percentages the same in keeping with his initial recommendation. Chairman Michelman recalled that the Board had felt those figures were too large. Mr. Kaufman agreed, but felt they were acceptable. Mr. Kaufman added that he did add the maximum size limit for the restaurant; now it is 10% or 1,000 sq. ft., whichever is less. This would address the very large spas. If the Board decided to term it an accessory café, they would take out the percentage. If there is a 1,500 sq. ft. spa, potentially 1,000 sq. ft. of it could be an accessory café, and that is why he thought it would be better regulated by inclusion of a percentage limitation.

Chairman Michelman said he might be right, but there is legislation in place, and that the Board should consider applying it to more than one issue. She noted that the Mexican restaurant on Main Street is 900+ sq. ft. and it seats 30 customers. She felt they were getting "a little less accessory" with the larger situation. Mr. Kaufman said that if the Board felt that 10% will yield an area that is too big, in proportion to the rest of the uses, then he would suggest lowering the percentage of the permitted spa cuisine.

Dr. Matusow thought that 10% with up to 1,000 sq. ft. maximum would yield too high an area. He recognized that the Board was not crafting a law for this applicant alone, but in this situation the Board would have a 1,000 sq. ft. maximum and felt that would be too large. He said that if the Board wanted to apply a percentage, it would have to be something much less. He suggested 4% and then limit it to a certain number of seats, there would be parameters that he could live with in keeping with what the Town has stated is acceptable for an accessory food use.

Chairman Michelman stated that there should be some continuity. If you are going to use a percentage, she would ask for a lower percentage. Ms. Black asked if they could do something that included a percentage and a cap on seating. Mr. Kaufman said that he would rather the Board address the total number of seats in the site plan and doubted it was appropriate to do so in the definition of the day spa. The Board could include something like 'the Planning Board will determine the number of seats that are acceptable in the space provided' in the definition.

Chairman Michelman wanted to make sure that it is clear that these things were accessory uses for the clients that are there. The Board has to limit that space as well as all of the accessory spaces.

Ms. Black asked if they could put in the definition that you limit the food service in the accessory use to clients only. Mr. Kaufman said that they could. Chairman Michelman

pointed out that would be unenforceable, but it would have to be in there any way. She added that they would still need to limit the actual number.

Mr. O'Neill felt that the Board also needed to consider that this definition is going to apply not only to this applicant, but all through the Town and therefore, perhaps the Board should consider a more liberal definition.

Dr. Matusow thought that this definition was being considered only for the PLI zone. Mr. O'Neill corrected him and that it could potentially apply to other zones as well. Mr. O'Neill stated that the Board has already indicated that the exact number is going to be determined by the Board, and wondered if the Board really needed to set out in this much detail in the definition. Chairman Michelman felt that was what Mr. Kaufman was suggesting; that they should determine an acceptable percentage, and limit the specifics to the site plan. However, she said the percentage will have to be acceptable and she felt 10% is too large. Dr. Matusow suggested 4%. Ms. Black said she considered 5%. Mr. O'Neill stated that 4% would be prohibitive for this applicant. He stated that the most recent revision was 5.19%, and that 5% would not make much of a difference; but 4% would not be workable for him or even for a smaller space. Dr. Matusow indicated he would be comfortable with 5%.

Mr. Adelman stated that the Board's discussion now would shape its decision when it comes time for site plan approval. He felt that the information regarding the Mexican restaurant made sense; the Board does not want the accessory use to be larger than a committed use in another part of Town for a similar purpose. He agreed with 5%. Mr. Delano agreed with Mr. Adelman's sentiment, but did not think tying it to a percentage would be a good idea. He suggested keeping the 10% but also lessen the maximum square footage.

Mr. O'Neill said that this wasn't necessarily relevant to this applicant, but limiting it to 5% in a 3,000 sq. ft. building in the downtown area could likely be prohibitive. Chairman Michelman asked Mr. Kaufman what they had to do to make a recommendation. Mr. Kaufman stated that if 10% is reasonable, but the objection is the total square footage, then they should lower the maximum square footage. That would enable a smaller day spa able to have 10%. He said that if the Board was going to lower the total square footage, then he would even be comfortable with 15% or 20%, because the Town doesn't know what the configuration of other day spas would be.

Chairman Michelman stated that the truth of the matter is that this type of use needs a significant amount of space. She wanted to be able to refer this to the Town Board with an indication of how this Board felt.

Dr. Matusow felt the problem is determining the limitation on the square footage. If we have a full service restaurant existing downtown with 900 sq. ft. he would not like anything like that in the business park. He also felt that the Board might want to consider using a specific cap of chairs like in Mariani, although perhaps it wouldn't be included in the definition.

Mr. Kaufman said that there are many factors, including whether they would be preparing food there and how big the tables would be. Ms. Black noticed that on the Mariani plan they are capped at 16 seats with 1,000 sq. ft. Dr. Matusow felt that was a

lot of space. Ms. Black agreed, but stated that they were now considering 750 sq. ft. Dr. Matusow stated that the real issue is determining the maximum square footage, he said 10 % up to a maximum of 700 sq. ft. and worry about the specific number of seats later. Mr. O'Neill stated that he would like to check on the figures mentioned by Chairman Michelman because he doubted how it could be that small and still have 30 seats. Dr. Matusow asked how the rest of the Board felt about 10% with a maximum of 700 sq. ft. The Board was comfortable with this.

Chairman Michelman stated that the next issue concerned the services that are being offered according to the memorandum. She questioned the tanning stations and did not see them on the plan. Mr. O'Neill stated that they have been part of the proposal since the beginning, and he indicated the two tanning stations. Mr. O'Neill explained it had been reduced from four stations. Chairman Michelman had concerns about this potentially dangerous type of service being offered. Mr. Adelman stated that this was a legal service, and he had no problem with including it in the spa. Mr. O'Neill pointed out that the spa would have liability insurance. Dr. Matusow agreed with the Chairman's concerns; there is evidence that tanning is very dangerous and perhaps the Town should not permit it.

Mr. O'Neill pointed out that this is a legal business, and the state health department doesn't prohibit it. He added that this is the first time he has heard that the tanning might be an issue for the Board. Mr. Baroni stated that if tanning is not subject to licensure from the state, then the Town could not prohibit it.

Chairman Michelman stated that the remaining issue was that of the 15% for the accessory services. Mr. Kaufman explained that 15% in a real world example seems reasonable. This is the same number that he included in his last memo. Chairman Michelman agreed, but felt that the Board determined that percentage was too large at the last meeting. Mr. Kaufman explained that the Board could reduce that figure if they felt the amount of square footage in relation to the rest of the day spa uses would be too great. Chairman Michelman asked if they could take another approach to identifying it, like one seat for every 2,000 sq. ft., not to exceed 8 seats.

Mr. Kaufman said that they could do something like that, and asked if the Board would like it tied to a square footage in an addition to a percentage. Dr. Matusow felt that the Board was suggesting that they do something similar to what they did for the restaurant: percentage and maximum square footage, and ultimately the number of stations. Mr. Kaufman stated that in that situation, the Board would be forced to define stations and we don't know how a future day spa would like to allocate their stations. Chairman Michelman stated that the Board would not attempt to identify how many of each type of stations they could have; they can divide them anyway they want. Mr. Kaufman asked what would happen if there was a salon personal service that does not require a chair. The Board wanted to know what that would consist of and Mr. Kaufman said he was not sure. He said he was very wary of micromanaging this business. Mr. Adelman agreed. Mr. Kaufman stated that the Board is not in the position to create a business model, and although it is appropriate for the Board to regulate the principal use and accessory use but beyond that is not practical.

Dr. Matusow recognized that this Board is trying to get to the point where they could unanimously recommend a definition to the Town Board that recognizes they do not

want to see retail uses creeping into the PLI zone. He is looking for a compromise that would allow it in such a way that it would be ancillary to the spa use, and only utilized for those people who are there for the spa services, and not for someone who simply wanted their hair or nails done. He would also suggest it be limited in its scope either in terms of square footage or number of stations.

Mr. Kaufman felt they were doing that with the 15% he has suggested. He said that the real concern is that it be clearly subsidiary to the day spa use. Dr. Matusow wanted to make sure that it is subsidiary to the day spa use, and the way he wanted to do that is to limit the number of stations that can be used as hair/manicure/pedicure/makeup stations. In this plan, he thought there were eight stations. Mr. O'Neill said that there are three manicure stations, three pedicure stations, four hair stations, one of which is washing and then there are also makeup stations.

Mr. O'Neill explained that the applicant has reduced this proposal significantly. Even at 15% this is clearly subsidiary to the day use. They have reduced it from what they originally wanted to do, and there is no way this could be considered a principal use. All of the things the Board said they wanted to do are being done through this definition. He added that 15% is a small portion of the total square footage. Dr. Matusow stated that it was not a lot when you're talking about a building of this size, but not when the Board is faced with a smaller building. He repeated that this definition is not being created for the sole benefit of this applicant. Mr. O'Neill recognized this, but still felt that 15% is still minimal when you have a smaller building. Dr. Matusow was also concerned about protecting the PLI zone and the downtown businesses.

Mr. Kaufman suggested limiting the size of a day spa. For instance, downtown in the CB district, all stores are limited to 5,000 sq. ft. or you need a special permit from the Town Board. Mr. O'Neill stated that this spa would be 14,165 sq. ft. Mr. Kaufman stated that the Town could limit it to 15,000 sq. ft. Mr. Adelman asked what basis the Town had to do that. Mr. Kaufman stated that the Board could do that; by having a day spa that is larger than 15,000 sq. ft. would create an impact that is too great for the Town of North Castle. Mr. Adelman stated that didn't seem to be the Board's concern. Instead, the Board was having problems with the hair / nail etc stations in a day spa. He felt the owner should have the flexibility. Chairman Michelman stated that her and Dr. Matusow's concern is to maintain these services as an accessory to the day spa.

Mr. O'Neill stated that by limiting the total square footage to 15% for those services no one could run a business; it is a small percentage. He stated that they have made significant compromises, and it is already significantly limited from what was originally proposed.

Mr. Delano stated that 15% is not unreasonable for this, and even if he went to the full number, it is only 25% of the business, which is certainly less than a majority of the business. It might be more than what some of the members of the Board envisioned, but it is not unreasonable. He felt that 10% and 700 sq. ft. for the restaurant and 15% for the other accessory uses was acceptable.

Ms. Black felt that 15% was discussed at the last meeting, and that the Board felt it was too large. Dr. Matusow agreed. Dr. Matusow asked if the Board could include a provision prohibiting the accessory uses being provided as individual services, that they can only

be included as part of the overall spa experience. Mr. Kaufman stated that the language in the draft code currently reads that "it may be provided as additional accessory services" and asked if this was strong enough. Dr. Matusow wanted it to be more specific. Chairman Michelman questioned whether it should be more specific. Ms. Black suggested "as accessory services for the day spa clients." Mr. Kaufman stated that they were talking with accessory services in the definition for a day spa.

Mr. Adelman stated that he agreed with Mr. Delano and that he was comfortable with 15%.

Ms. Black asked if the Board would still have jurisdiction at the site plan approval stage to deal with the specific numbers in the space for stations / seats. Mr. Kaufman said that they would; the code talks in terms of maximums and site plan review would be able to limit those numbers further.

Chairman Michelman stated that she still had a problem with all of this in terms of enforcement. She suggested that the Board ask the Town Board to consider this as a special use permit, so that if there are any infractions, there is some power to enforce. Mr. Kaufman said that they could do that. Dr. Matusow suggested making it a Planning Board special use permit. Mr. Kaufman pointed out that they have very few Planning Board special use permits but that in making it a special use permit, the Town has some more power. Dr. Matusow and Ms. Black were in favor of that.

Chairman Michelman polled the Board on the 15%: Ms. Black stated that, with the inclusion of the special use permit she would be in favor of this. Mr. Adelman stated that he was conformable with the proposed draft without the special use permit. Mr. Delano was comfortable with the 15% and did not feel the special use permit addition was necessary.

Mr. O'Neill stated that he would prefer the Board not ask for anything they did not really want, because the Town Board will seriously consider this Board's recommendation. Chairman Michelman stated that if there needed to be further discussion on the special use permit, then they should do it, but if the Board was comfortable with the 15% and the 10% + 700 sq. ft. then they should vote. Chairman Michelman said she would be comfortable with this with the special use permit, Dr. Matusow agreed with her, although he was still concerned about the protection of the PLI zone. Mr. Adelman and Mr. Delano stated that they would agree with the inclusion of the special use permit in order to move this along.

Chairman Michelman stated that this would be forwarded to the Board with 15% and special use permit for the accessory uses, and 10% with a 700 sq. ft. cap for the spa cuisine. There would also be the further limitation that the spa cuisine would not be open to the general public. Mr. Kaufman compared it to the IBM center. Dr. Matusow wanted the same restriction for the accessory uses; he wanted to be sure that someone would not be able to make an appointment for a haircut or manicure. Mr. Kaufman agreed and stated that the language would be along the lines of: "Spa cuisine and the salon services are only available to the day spa clients." He said he would amend the definition in keeping with this discussion, and would send it to the Board the next day.

MARIANI

Site Plan & Wetland Permit

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

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

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

Discussion

Mr. Dan Hollis and Mr. Aiello were present for this application regarding minor amendments to the site plan, including changes to the lighting fixtures, a slightly larger sign footprint, curbing along Bedford Road, relocation of the dumpster, relocation of the propane storage, construction of additional parallel parking spaces adjacent to the new propane storage area and construction of additional customer parking space in the central island. Mr. Hollis explained that the sign has ARB approval and they were present to answer this Board's questions regarding the plan. Mr. Hollis added that they were hoping to be scheduled for a public hearing on August 13th.

Chairman Michelman stated that the issues, aside from the lighting, are those that were previously before the Board, but had been taken off. She explained that the Board has seen the plan and the changes, but were having trouble keeping track of them because all the changes.

Chairman Michelman asked how the site was currently being lit. Mr. Aiello explained that the lights were installed in the locations previously approved in the site plan, but the fixtures that were installed were the alternative fixtures that had been submitted to the Board. Chairman Michelman asked if the applicant was asking the Board to approve what has been in place for at least 6 weeks. Mr. Aiello said that they were. Chairman Michelman noted that this was in keeping with this applicant's history. Mr. Aiello explained that the wrong light was installed, and they were seeking to correct that. Chairman Michelman asked if there was ARB approval on the new lighting fixture and Mr. Aiello said there was not. Mr. Kaufman noted that, typically the ARB does not get involved in that type of detail unless there is an aesthetic question. Chairman Michelman felt that this was an aesthetic issue; the light that was approved was very colonial, the new one is contemporary.

Mr. Schroeder asked where the dumpster was now located. Mr. Aiello explained where it had been located and where it had been relocated. Mr. Kaufman explained that it was in the same location that was depicted on the plan the Board was about to approve the last time this was before the Board.

Mr. Aiello explained that there were also three interior changes, and he indicated the several parking spaces. He stated that two new parking spaces required shifting the propane exchange area approximately 10-15'. The freestanding sign was in the same location as it was in the approved site plan and they've provided additional detail. The building sign location is in the front, and indicated its location. He added that there would be new curbing along the entire frontage of Bedford Road.

Chairman Michelman asked if the size of the sign was the same size and only the footprint is larger. Mr. Aiello said that was correct; now it is in a planter that is several inches larger. He noted that this was still within the code requirements and outside the

sight distance. Mr. Kaufman asked if the applicant went back to the ARB for the sign. Mr. Aiello explained that this was the sign that was originally approved by the ARB.

Neither Mr. Schroeder nor Mr. Kaufman had any issues. The Board had no issues with those aspects of the plan. The Board did have comments about the lighting. Mr. Delano stated that there might be a concern about refractive light upwards. Mr. Kaufman asked if Mr. Delano was referring to the slats that reflect light out horizontally, and Mr. Delano said that he was. Mr. Kaufman explained that there is a note on the detail that indicated it was for decorative purposes, but there is no quantification as to how bright it would be. Mr. Aiello explained that these are downward facing lights, and the approved lights would have an upward direction. Therefore, there may actually be less light from the alternative fixtures.

Dr. Matusow shared the Chairman's concern that these light fixtures create a very different look between the two lighting fixtures. This is not this Board's area and perhaps it should be referred to the ARB for their opinion before this Board makes a determination. These lights that were not approved were installed anyway and this is not the first time the Board has had this problem with this applicant, and each time it happens, the applicant assures the Board that things will be done the right way from that point forward. He said that he understood this was not the biggest issue that ever happened in Town, but it shows a lack of respect for this Board and the Town. He asked why the lights were installed before they were approved. Mr. Hollis said that he did not have that answer.

Chairman Michelman asked how the Board felt about asking the ARB for their opinion regarding the lights in context with the rest of the construction. Ms. Black agreed that it would be a good idea to refer this. Chairman Michelman said that she would recommend that. Dr. Matusow said that had his support. Chairman Michelman moved to refer this to the ARB. The motion was seconded by Dr. Matusow and unanimously approved.

Mr. Kaufman asked if the Board wanted to schedule the public hearing and approve it with the condition that they get approval. The Board said that because there is no room on the next agenda for the public hearing, they could wait for ARB approval. If, by September, the applicant had not received ARB approval, then it could be a condition.

Mr. Kaufman said he would prepare the referral to the ARB.

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

Cami Lupino was present for the application. She explained that she was present to request that the Board set a date for the public hearing for the pool. She added that at that meeting, her design professionals would attend and make the presentation for the public hearing. Chairman Michelman stated that prior to the public hearing, several issues remain, including the amount of gross land coverage that is exceeded, the

wetland issue, and the recommendation from the Conservation Board. The Board said they could schedule the public hearing, but it would not be at least until September. The entire discussion could be had then.

Mr. Kaufman asked if the Board wanted to have the Town's Wetland Consultant at the public hearing and the Board said yes.

BAIRD

Lot Line Change

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

Jason Lepro – Jay Fain & Associates

Referral to Town Board

Jason Lepro was present for the application. He explained that the Board is familiar with the project, and the applicant is seeking referral to the Town Board for permission to shift the lot line.

Mr. Kaufman explained that the Planning Board had previously granted approval to allow the lot line change; however, both lots combined had a special use permit from 1986, which permitted 18 horses on the lot. Once the lot line was moved, all the horses wound up on one lot, and now they need to go to the Town Board to amend the special use permit to apply to this new lot. This was essentially required in the preliminary subdivision approval, and this is just the next step in the process. He noted that nothing is changing in terms of horse facilities and he recommended that the Board refer this to the Town Board. The Board said that he could refer this.

Mr. Kaufman explained that one issue the Board did not talk about was the timing. The Board granted the preliminary approval, and there are several conditions in that approval that have not yet been met. Some of them are very basic and he had no doubt the applicant would be able to comply with the conditions of approval. Mr. Lepro stated they were working on it, but didn't realize the Board wanted it done right away. Mr. Lepro said they could complete it that week if they had to. The Board decided that Mr. Kaufman's letter would indicate that the applicant is working on meeting the conditions.

Dr. Matusow moved to recommend the amendment for the special use permit. Ms. Black seconded the motion and it was unanimously approved.

TOLZ / NAGLE

Lot Line Change

Section 2, Block 5C, Lot 5C (Tolz)

Section 3, Block 5C, Lot 4 (Nagle)

104 & 92 Byram Ridge Road

Discussion

Darren Tolz was present, representing himself for the application. Chairman Michelman noted that there were a couple of issues that still needed to be completed. Mr. Kaufman's points were relatively clear in that there are recalculations that have to be done.

Mr. Kaufman stated that originally, this was a lot line change between two pieces of

property and the first submission did not completely show how the two lots were changing, so the applicant revised this. Now, because the Town Code has changed some additional information is required; specifically the size in terms of gross floor area for both houses, and that the lots will conform after the transfer. The information on the new plan received by the Board is based upon a 1997 map, and they are unsure if this information is still accurate. Therefore, the applicant needs to demonstrate the information is current. Mr. Tolz explained that nothing has changed since then and he has the signed 1997 map. Mr. Kaufman stated that the surveyor could probably just acknowledge that the conditions on the site are the same as they existed in 1997 in a note on the survey. Mr. Baroni agreed with Mr. Kaufman. Mr. Kaufman stated that I don't know what the surveyor's comfort level would be. Mr. Schroeder stated that he would be surprised if the surveyor would just accept that nothing has changed; the surveyor is going to want to verify the information.

Mr. Baroni suggested just brining the plan up to date by inspection. Mr. Tolz stated that the only reason why this occurred was because the Town Law now required the two surveys to be placed on one plan. Mr. Baroni explained that they just need to recertify that the information on the survey is correct not get a new survey. Mr. Tolz said he was ok with that.

Mr. Kaufman stated that the Board also needed to know the gross floor area of the two lots. He noted that some of the entries on the forms, in terms of the basement and attic space were filled in as unknown, but the Board needs to know. They may or may not count, but they still needed to be completed. Mr. Kaufman noted that it depended on whether the basement is exposed and the percentage and the height of the attic. Chairman Michelman suggested walking through the issues with Mr. Kaufman. Mr. Tolz said that he doubted this would be a problem. Mr. Kaufman stated that even if the applicant needed a special use permit, they would cross that bridge when they come to it. He did not think it was going to be an issue.

Mr. Kaufman noted that the Planning Board had indicated that the location of the well, and how the property line goes around it is acceptable as depicted. Dr. Matusow noted the proposed lot line does not appear to be 10' from the well. Mr. Tolz said that he thought it was, but he would confirm it, and if it wasn't he'd enlarge it.

Mr. Tolz stated that he would like to have the public hearing scheduled for the next meeting. Chairman Michelman said that they wouldn't be able to because it was full. Mr. Kaufman stated that the applicant needs time to submit the material and once submitted, he would review it to make sure it is accurate. There is probably room in the September meeting.

CINE MAGNETICS
Subdivision
100 Business Park Drive
Section 2, Block, 16, Lot 11B-4
Bob Peake, PE – John Meyer Consulting
Discussion

Mr. Bob Peake, Mr. John Kirkpatrick and the applicant were present for the application.

Mr. Kirkpatrick explained that the last time this was before the Board, they were close to getting a negative declaration. They were referred to the ZBA, but that Board Could not act until SEQRA was completed. The only reason the applicant was held up previously was because the submission and review of the traffic study had not occurred. This has since been done, and Clark Associates has reviewed it, and the recommendation is essentially the same as what the applicant said in its traffic study: namely that there are a few improvements that could be made to the intersection, but the best of all is beyond the capability of this application but that the applicant is willing to commit to pay for and / or participate in their fair share of those improvements. Clark Associates also felt that if the signal improvements would not work, the next level ought to be improvements to Maple Avenue as opposed to Business Park Drive.

Mr. Kirkpatrick felt that the Board could issue the negative declaration and go back to the Zoning Board. Mr. Kaufman explained that the Board has received a letter from the County about the variance that was sent to the ZBA. Mr. Kirkpatrick stated the letter raised many good points, but these were already raised and addressed at this level.

Mr. Kaufman explained that this was never formally referred to the county. Mr. Kirkpatrick explained that it was referred by the ZBA. Mr. Baroni stated that it was adequate, because it is unlikely this Board would receive any different information than what was given to the ZBA.

Mr. Kaufman suggested that Mr. Schroeder go through the letter. Mr. Schroeder explained that the Town Engineer's office had many of the same concerns raised by the County. The Town Code didn't require compensatory storage area at all and the Town Engineer and the applicant's engineer met and eventually agreed upon the compensatory storage area. Mr. Schroeder stated that he has seen this type of provision in other areas, and now the Town is currently revising the code to include compensatory storage. He said that he had no issues with the compensatory storage area.

Mr. Schroeder stated that with respect to the County's second comment, there would be an outlet to let the water out, so it will not stand and create a pond. As the flood comes in, it would fill it up and flow back into the river. He noted that the pipe is already there. Mr. Schroeder stated that he does not have many issues with what they are proposing.

Mr. Schroeder stated that he was concerned about the stormwater and how it would work in the floodplain, which has not yet been resolved. Mr. Peake thought this would be a design issue, and Mr. Schroeder agreed but pointed out that the stormwater being below the floodplain elevation is a concern to him.

Mr. Schroeder added that with respect to the remaining comments from the County, although the Town Engineers shared the same concerns, a majority of them have been resolved.

Mr. Baroni asked Mr. Kaufman to clarify the reference in the County's letter regarding the landbanked parking spaces. He recognized that it was a site plan issue, and did not need to be addressed at this time, but wanted it clarified for the ZBA. Mr. Kaufman explained that it was not 52%, that it was 52 / 177 spaces. Mr. Kaufman explained that there are landbanked spaces that will need to be approved. Mr. Kaufman stated that under Section 213.44 of the Town Code, the Board cannot waive more than 50% of the

spaces. Mr. Baroni suggested that if the Board did adopt a negative declaration, Mr. Kaufman should send a memo to ZBA explaining these issues raised by the County.

Chairman Michelman asked that if the Board was prepared to issue the negative declaration. Mr. Kaufman stated that the traffic comment has been received; there is a satisfactory solution. The other issues are mainly site plan and subdivision related. He stated if the Board was comfortable with it, they could vote on the negative declaration.

Mr. Kaufman stated that, based upon review of EAF, the Board has determined that there will be no significant environmental impacts, and the Board can adopt a negative declaration. Ms. Black moved to approve. The motion was seconded by Mr. Adelman and unanimously approved.

**A&P Shopping Center
Concept Plan Discussion
Maple Avenue
David Weber
Discussion**

This item was removed from the agenda.

NEW BUSINESS:

**BIALSKY
Amended Site Plan
Section 2, Block 3, Lot 205
4 Wrights Mill Road
Barry Naderman, P.E.**

This application will be on the next agenda at the prior request of the applicant.

**HARRISON
Site Plan
Section 2, Block 1D, Lot 17-1 and 17-2
36 Whippoorwill Crossing
Paul Sysak – John Meyer Consulting
Discussion**

Mr. Paul Sysak was present on behalf of the applicant. He explained that this application proposes a two-car detached garage. The site plan approval requires two special use permits, for gross floor area and gross land area. They are below the maximum but exceed the minimum on both.

The site plan proposes a 795 sq. ft. garage with approximately 660 sq. ft of additional pavement on the site. They are proposing Belgium block curbing along the side with a small 2-2.5' stone retaining wall roughly 15' long to provide access to the left of it. They are also proposing a drywell to take care of any additional stormwater runoff created by additional impervious surfaces.

Chairman Michelman asked if there were any issues from the Board or the

professionals. Mr. Kaufman said that he had none. The proposal fits in nicely and the site is well screened. The applicant explained that the architect is working on a submission for the ARB. He asked if this needed to go to the Conservation Board and Mr. Kaufman said it did not, that the wetlands consultant would deal with it.

The applicant's representative stated that they would be able to address all of Mr. Schroeder and Mr. Kaufman's comments.

Dr. Matusow asked if the applicant was going to slightly reconfigure the angle of the garage. The representative stated that they were still working on that. Chairman Michelman explained that the applicant still had time to get the revisions in before the public hearing is scheduled. A resolution would be prepared for at the same time.

GIFFORD LAKE ESTATES (Rolling Hills Lot #1)

Site Plan

Section 1, Block 9, Lot 13-10

Gifford Lake Drive

Tim Allen, PE – Bibbo Associates

Discussion

Mr. Tim Allen was present on behalf of the applicant. He explained that this application concerns the development of lot #1. They have received the memos from the professionals and have no problems with them. The Board had requested that the landscape architect appear at the meeting, but he was out of town and could not be present, but he would be at the public hearing. Mr. Allen stated that the Board seemed comfortable with the layout of the lot. The backyard is oriented more toward Gifford Lake Road. The screening plan discussed at the site walk focused on the Conrad property and he indicated the location. They had also discussed whether a berm was appropriate but the landscape architect felt that saving the existing trees and bringing in landscaping there was the best solution in terms of falsely creating something. He noted that they have a large row of Norway spruces with understory proposed for that property line. The house itself is larger than what the subdivision approval showed but it fits on the site and the applicant is requesting the Board to consider granting this.

He explained that they are requesting approval for a 4,800 sq. ft footprint, and 4,200 sq. ft footprint was on the approved subdivision approval. Mr. Kaufman pointed out that in terms of square footage, this would double the amount; there would be 1,200 sq. ft. more if there were two stories.

Chairman Michelman believed that the applicant was requesting a 4,875 sq. ft. footprint not 4,800 and that 4,206 sq. ft. is what was approved. Ms. Black agreed and pointed out that in terms of square footage it is an additional 1,350 sq. ft.

Dr. Matusow asked what the other issues were aside from the size. Mr. Kaufman explained that in general the site plan looks good. There are some slight modifications in terms of *[inaudible]* for the integrated plot plan. Access is now being derived off of a common drive off of a common drive but that relationship seems to work for the property.

Mr. Schroeder stated that the driveway appears to be too steep, and that it might exceed the maximum allowed. Mr. Allen stated that he did not think that it did, but would check.

Dr. Matusow asked if there was any feeling that the increase in the footprint as requested by the applicant would impact the neighbors on either side any more than the original approval would have. Mr. Kaufman said that the neighbors are all going to be similarly sized, and that regardless, it would look like a big house. However, in terms of square footage it would be more massive. If you're looking at that house, and the difference between these two, there would be no difference. Dr. Matusow felt that if the Conrad property was properly screened, reducing the size might not make a difference. Mr. Kaufman stated that it was all perception and that they would probably be able to see the difference in the mass. Mr. Allen stated that if the house was to get smaller, you would only gain approximately 5-10' on the back line and he doubted there would be an appreciable difference. Chairman Michelman pointed out that it was doubtful there would be an appreciable difference in the smaller house.

Ms. Black asked if a larger house would impact subsequent lot development. Mr. Kaufman explained that the subdivision approval said that the maximum is "x," and the Planning Board could make it smaller. Ms. Black believed that if the Board allowed a larger home here, by the time lot 5 got built, it would have to be smaller.

Chairman Michelman felt that the Board struggled in establishing the maximum footprints in the initial approval, and that the Board should leave it as it stands. Ms. Black agreed. Mr. Adelman stated that it is always a 'best guess' at the time and things could always change. Dr. Matusow asked why the applicant wanted to increase the footprint. Mr. Allen stated that there is a potential buyer; this is how they developed the floor plan with the architect. Dr. Matusow felt that was not an answer, but Mr. Allen said it was the best answer he had.

Mr. Allen stated that they needed to schedule a public hearing and neighbor notification. Dr. Matusow asked which neighbors were present. Mr. Feuer and Mr. Conrad were in the audience. Mr. Delano asked whether the Board set the footprints in the plot or the resolution. Mr. Kaufman stated that they were definitely in the resolution and probably not on the plot. Mr. Delano asked if the Board would have to go back and amend the resolution if they agreed to allow more square footage. Mr. Baroni stated that if the Board feels it's a substantial change to the resolution, they might have to do an amended subdivision and another public hearing. The Board did not want to do that. Mr. Allen explained that they would consider making the house smaller if that is what the Board wanted. The Board felt the applicant should consider it.

Mr. Kaufman read from the original approval, condition number 2: "the final subdivision and resolution of approval states that the building coverage for lots 1-5 inclusive, shall not exceed the figure identified on the integrated plot plan and shall represent a maximum development potential which may be reduced by the Planning Board during the site plan review. Based upon prior representations the house footprint shall be revised to be no larger than 4,206 sq. ft." Mr. Baroni stated that the language was clear, and they should keep it that way.

Mr. Allen asked if the Board would schedule the public hearing. The Board said that they would schedule it for September, if the applicant submits a plan that is in conformity with the previously approved resolution.

CONSTANTINO

Site Plan

Section 2, Block 2, Lot 13-10

2 Meadow Hill Place

R. Barry Goewey, AIA

Discussion

Mr. Whitney Singleton and Mr. Barry Goewey were present for the application. Mr. Singleton explained that they were before the Board because of a proposed modification to the applicant's house. An issue arose because of the longtime existing curving pea gravel driveway has caused this application to be over the gross land coverage count. The building being proposed, including the pool, is within the parameters of the code, even as most recently modified. What is artificially making the figure larger is the tremendous amount of square footage from both driveways. He explained that the proportions of the house improvement are not really that significant. He presented an aerial photo and stated that, as proposed, this is in balance with the rest of the neighborhood.

Mr. Singleton stated that in his opinion, the definition regarding gross land coverage does not cover this type of situation. However, the Town Planner has interpreted it to the contrary and they are trying to find common ground. They are hoping to take the pervious drive, cut the width as necessary, and branch it earlier to the impervious driveway, thus eliminating an entire arm of the pervious driveway.

They would still need a variance, but by eliminating that portion, they could get to a much more reasonable number instead of approximately 5,000 sq. ft. in excess of the maximum. They hope to get closer to 2,000 sq. ft. in excess. The applicant would be willing to make that change as well as potentially other modifications, but hoped the Board would recognize the longstanding condition, and make a positive recommendation to the ZBA.

Chairman Michelman thought that although the circumstances were unfortunate, the definitions, as supported by the Town's professionals, include this driveway. She said she would appreciate the efforts to try and address the issue to try and come to a compromise, but was not sure there was a difference between 5,000 sq. ft. in excess or 2,000 sq. ft. excess. She asked if the Board could refer it to the ZBA. Mr. Baroni explained that this Board has to refer the application in order for the ZBA to gain jurisdiction, but they don't have to make a recommendation.

Mr. Baroni stated that his recollection as to why the definition was strengthened the way it was, was the fear that with the laws concerning tear downs and new constructions, in order to achieve a larger home, people would propose to install gravel driveways, and that was what the Town was trying to prevent. He did not believe it was meant to make it difficult for people in this type of situation where the driveway had existed approximately 30 years.

Mr. Singleton explained that absent this issue, there are no others. The applicant is willing to remove a significant portion of the driveway. The other option is come straight up, which would require the removal of significant mature trees.

Dr. Matusow said that he did not see a branch of the drive circling around to the back of the garage depicted on the plan. Mr. Singleton stated that he couldn't see it from there, but it was and he's considered this in his calculations.

Mr. Singleton said that they were also prepared to submit an application that would cut "the space" down to half of what is there. They are trying to remove every bit of impervious surface they can and still maintain integrity of the site. Mr. Baroni pointed out that there is also an issue of how many garages the applicant could have. Mr. Kaufman stated that he spoke to the Building Inspector, and he said that he considers that to be a parking space. If it is considered a parking space, then there are 5 parking bays in the structure and the code limits it to 4. Mr. Kaufman said that it limits it to four bays in each structure (213-19 of the Code, note 7). Mr. Singleton stated that if that was the case, then when the plan was modified, it would be that much less impervious surface.

Mr. Singleton asked if this was something the Board could favorably refer to the ZBA, if they can reduce it enough. Chairman Michelman stated that the Board needed to see the next step. Dr. Matusow stated that historically, the Board has declined to take a stance one way or another unless they have found there was a substantial benefit to be gained by the Town. Chairman Michelman pointed out that there is some uniqueness, and with some effort, the Board may consider doing it.

Mr. Adelman felt that this was a different situation because it was an existing condition, so assuming that the applicant complies, he felt the Board could break tradition and make a positive referral assuming the applicant compromises with the Board.

Barry Goewey asked about the note on the chart of the code and whether people were prevented from having a 6-car garage. Mr. Baroni said that they were prevented from doing so in one structure. Mr. Goewey didn't understand the reason for that because it would seem more prudent to have less of a footprint by utilizing the same structure. Mr. Kaufman pointed out that it was a very good rationale for granting a variance.

ARMONK PROFESSIONAL CENTER
Site Plan
Section 2, Block 11, Lot 7-1
355 Main Street
Discussion site plan waiver (dental office)
Consideration of site plan waiver

No one was present for this application. Ms. Desimone explained that she had spoken with the applicant's professional that day, and he was waiting to see if the applicant wanted him to appear.

Mr. Kaufman stated that it was up to the Board whether they wanted to waive the site plan or not. Chairman Michelman stated that there are issues with this site aside from the waiver.

Mr. Kaufman explained that there are two office buildings on this one parcel of land: 355 Main Street and 357 Main Street one of the buildings has a violation on the site plan. They have installed air conditioning units on the roof in violation of the approval. He

believed that was 357 Main Street. Chairman Michelman stated that everything up until the recent submissions had 355 Main Street. Mr. Kaufman explained that this was probably because there are two buildings on one lot and there has to be a number that corresponds to the section block and lot number.

The applicant is requesting a change of use from professional office to a medical office. The building is approximately 1,500 sq. ft. and 1 parking space for every 250 sq. ft. is required for a professional office. The medical office requires 4 spaces per practitioner and 1 space per employee. Here, this would require a total of 6 spaces, which makes it a wash with the parking that was previously required. The Planning Board has a memo from the Building Inspector that reflected this, and that the Planning Board has the ability to waive site plan approval if it desires.

Chairman Michelman asked why the Board wouldn't waive the site plan approval. Mr. Kaufman said that because the parking is a wash, there is no real need to have the site plan approval. Mr. Adelman asked how compliant the other applicant has been in terms of correcting the air conditioning issue. Mr. Kaufman explained that there is nothing that can be done by the applicant at this point. The Town Board agreed to hire an engineer, and the Town is still waiting for the engineer to prepare the report. One request the Town made to the applicant was to create an escrow account with \$5,000 and that has been done.

Chairman Michelman noted that this might be the same owner. Mr. Baroni said that it might be a different corporation. Chairman Michelman asked if the Board should act on this when no one was present. Mr. Kaufman said that they could, and that they had a resolution that memorializes the waiving of the site plan.

One member pointed out that there is a typo on page one: it should be "employ" and not "employee."

Mr. Adelman moved to approve the resolution. The motion seconded by Chairman Michelman and unanimously approved.

The meeting was adjourned at 9:48 p.m.
