

CONTINUING BUSINESS:

BRESLIN

Site Plan

Section 1, Block 4, Lot 10-706

11 Long Pond Road

Theodore Strauss – Theodore Strauss & Associates

Consideration of extension of Site Plan Resolution

Ms. Desimone explained that the applicants were directed not to appear for the meeting. Chairman Michelman explained that the applicant experienced some delays with his project, due to some delays with the Westchester Department of Health.

Mr. Delano moved to approve the extension of the site plan resolution. The motion was seconded by Mr. Adelman and unanimously approved.

DAVIS

Site Plan

Section 1, Block 2, Lot 12A.3

26 Hickory Kingdom Road

Carol Kurth, AIA – Architect, P.C.

Discussion

Mr. Allen Pilch, Ms. Carol Kurth, Ms. Christine Lindt and Ms. Susie Davis-Scanlon (applicant) were present for the application.

Mr. Pilch explained that after the last meeting the applicant's team met with the Conservation Board. They have submitted revised plans to this Board, with minor modifications to the proposed driveway. Mr. Pilch added that they submitted information regarding the gross square footages of houses surrounding the lot.

Chairman Michelman asked if the applicant had been before the ARB. Ms. Kurth stated that they are probably going to be on the next agenda.

Chairman Michelman pointed out that the application also had to be referred to the Town's Wetlands Consultant. Mr. Kaufman told her that this was done at the end of February. Chairman Michelman asked Mr. Kaufman if he had any issues with the application. Mr. Kaufman explained that the applicant came in with a reasonable proposal, and the Board has expressed comfort with the plan. He said that the Board would wait for the comments from the Conservation Board, and then they would be prepared to have the public hearing on the gross floor area, land coverage, clearing and grading limit line and the wetlands permit. Mr. Kaufman advised the applicant that they had to revise the plat to show the change in the clearing and grading limit line. The applicant agreed.

Chairman Michelman told the applicant that the Board appreciated the efforts made in responding to its comments and concerns. Ms. Kurth asked if the Board had to wait for the Conservation Board's comments before the public hearing was scheduled. Chairman

Michelman said they did; the Conservation Board had 45 days to respond. She added that public hearings were needed for the four issues: gross floor area, land coverage, clearing and grading limit line and the wetlands permit. Chairman Michelman felt that based upon the site, and the neighbors, she did not see any major issues with the public hearings.

Mr. Kaufman said that the Board could discuss whether they felt the gross land coverage and the size of the house are acceptable.

Chairman Michelman stated that it was within the Board's purview to waive or issue a special permit for the five existing dwellings. She noted that they fall short by a very minimum amount based on the fifty percent. Mr. Adelman stated that, given the size of the property this should not be an issue.

Chairman Michelman asked Mr. Schroeder if he had any issues or comments regarding the application, and he did not.

The Board directed the applicant to provide the additional details that have been requested. Mr. Pilch asked if the change in the issue of clearing and grading limit line could move forward as long as the Board felt that the current proposed location is reasonable, because it is less than what was included in the clearing and grading limit line on this property in the original subdivision. Mr. Kaufman said that this was an issue the Board should discuss.

Mr. Pilch said that he would like to move this forward to the public hearing stage as soon as possible and asked if the plat map could be made a condition of the overall approval. Mr. Kaufman said that the Board should not approve the site plan without the plat plan. The revision should come first, and then the site plan approval.

Ms. Black stated that although she'd not seen the property, the application seemed reasonable.

Mr. Kaufman said that he saw no problem with the proposed clearing and grading limit line change. He felt that it is what is necessary to get the septic for the house.

Mr. Pilch asked when they would be able to schedule a public hearing. Chairman Michelman said that it would be scheduled as soon as possible; the applicant needed to submit the revisions, the Board needed to hear back from the Wetlands Consultant and the Conservation Board.

Mr. Kaufman stated that he and Mr. Schroeder would work with the applicant, and then at that point the Board would be in position to hold the public hearing because the Board is comfortable with the application. Mr. Pilch asked if they would have to come back once more before the public hearing. Chairman Michelman said they would.

SISKIN

Site Plan

Section 1, Block 4, Lots 1-10

53 Hammond Ridge Road

Dan Sherman – Landscape Architect

Discussion

Mr. Howard Siskin, the owner, and his representative Greg Mercurio were present for the application.

Chairman Michelman said that the Board still had issues with the application. Mr. Siskin said that it was his impression that if they established retaining walls on the side, it would take the load off the side of the property, and the Board would be accepting of the proposal.

Chairman Michelman said that the applicant has made some progress, but the disturbance outside of the previously planned clearing and grading limit line remains the problem. She explained that some of this impacts some of what was done at the subdivision stage. Chairman Michelman said that the memoranda from the professionals outlined the issues clearly. The Board had suggested tiered retaining walls to reduce all of the impact and minimize the disturbance outside the clearing and grading limit line.

Mr. Siskin was not sure where the proposal was in relation to the old clearing and grading limit line. Mr. Mercurio indicated the line. Mr. Siskin said that he doubted this proposal was practical if he had to stay 100% within those lines. Mr. Kaufman said that the Board was not saying that; only that the applicant minimize the impact outside the line to the maximum extent possible. The reason the retaining walls were suggested was so that the applicant did not have to grade all the way down the hill to the property line. Mr. Kaufman explained that with this recent change, the applicant is making it worse by making the area flat above the pool, and now they have to grade all the way up. Mr. Mercurio said this has been proposed since the beginning. He explained that the applicant was trying to achieve a level part on his property because currently, there is no flat area on his land. Mr. Kaufman said that this was the one part of this project that the applicant would probably not be permitted to do; the Board does not want the applicant to go much further beyond the original clearing and grading limit line. If they use the retaining walls and not create the flat area, the applicant could get his pool in, and not go too far beyond the original line. However, creating the flat area calls for too much.

Mr. Mercurio explained that by creating this flat area they were also trying to make a balanced rock cut and fill ratio. He stated that they are expecting to find exposed rock in the area. These contours are close together, and they will probably match up with the rock outcroppings. He said that the flat area being proposed would be the only area the applicant has for recreation. Mr. Kaufman said that he understood the applicant's motivation, but this is what creates the significant disturbance. He said that ultimately, it would be the Board's decision.

Mr. Mercurio said that the proposed flat area is the one area they are going least beyond the clearing and grading limit line is in this proposed flat area. Mr. Siskin stated that, in

the very beginning he explained to the Board that it was his desire to create a family friendly property, and has explained that he has have no real flat portion of his land.

Chairman Michelman felt that the professionals' memoranda were very clear, and that they would reduce some of the excessive disturbance. In Mr. Kaufman's memo, he discussed the fact that disturbance beyond the clearing and grading limit line was never evaluated as part of an environmental review.

Mr. Kaufman reiterated that he understood the applicant's dilemma, but due to the slopes and topography on the site the applicant has very little flat area, and little space to put a pool, or a swing set. He added that there are actually deed restrictions on the properties in Hammond Ridge, which prevents homeowners from going beyond clearing and grading limit line without approval by the Planning Board. The Board has agreed in the past to "tweak" the clearing and grading limit lines in order to get some features on the lots in Hammond Ridge, if there is not going to be significant grading or environmental impacts. Mr. Kaufman added that the original plan of this applicant contained significant impacts, and he still believed that there is a significant impact. He added that the Board would need to tell the applicant what it is and is not comfortable with on this site. In his opinion, this could be "tightened up" and still get the applicant his pool.

Chairman Michelman said that she got the same sense from Mr. Schroeder's memo; that with some tweaking, a lot of the excessive issues would be mitigated. Mr. Mercurio felt that the lines have been repeatedly pushed. Chairman Michelman said that she believed the applicant missed the points at the last meeting. Mr. Kaufman pointed out that the typical change to the line that the Board would approve range between 5-10'. Mr. Mercurio said that right now, the clearing and grading limit line is only approximately 35-40' off the back porch. Mr. Kaufman acknowledged this.

Mr. Siskin said that he realized that if he had looked at the papers when I bought the house, he could have avoided the problems he is facing. Chairman Michelman noted that there is some truth there, but there is no need for the applicant to be as negative as he appears to be because the Town professionals are willing to work with the applicant and have suggested alternatives. Chairman Michelman advised that a flat portion of the land might not be possible.

Mr. Mercurio said that the flat area has been a part of the proposal since the beginning of the application, and now at the third meeting, he was hearing that the flat area is a problem. Mr. Kaufman said this was not true.

Mr. Mercurio said that there is a significant difference between the current plan before the Board, and the one that was initially before them. He said that Mr. Kaufman's memo had suggested the applicant adjust two contours to get a tighter slope near the wall. This would cause them to pull all of the grading 20' back from the property line. Mr. Kaufman stated that Mr. Schroeder's comment was just as valid; the applicant could increase the height of the walls slightly. Mr. Mercurio said that he felt the Board was saying that he was bringing back the same plan from the beginning. Chairman Michelman said that was not the issue; the applicant's changes were just not enough, and they still needed to minimize the amount of disturbance outside the clearing and grading limit line.

Mr. Mercurio said that the Board needed to take into consideration the planting plan as well. He explained that the trees being proposed would make the property more stable than it would ever be without it, even on the steeper areas. He added that on one side of the property near the steep slope, there are no trees and they are proposing all native plantings there. He recognized that they were proposing a significant amount of disturbance, but added that they were attempting to create a balance.

Mr. Mercurio noted that the engineering comments requested that the erosion sediment control plan be included with the next submission. Mr. Mercurio said that it was recently submitted. He also noted that the Engineer requested evidence regarding the mitigation of impervious surfaces has been submitted as well. He felt that the effort he was putting into the plan was not being noticed, and that he kept receiving the same comments he received at the last meeting.

Chairman Michelman believed that the new set of recommendations were based upon the new site plan that came in, which did not meet some of the prior recommendations. There were portions of those memos that were not entirely addressed.

Mr. Mercurio said that the area they went beyond the clearing and grading limit line has come in approximately at 2,000 sq. ft. since the last submission. Chairman Michelman said that, according to both of the professionals' judgments, there is still too much disturbance. She said that both the Town Planner and the Town Engineer gave the applicant recommendations to reduce the disturbance. She asked if the applicant was capable of making those changes. Mr. Mercurio said that they could, but the memos seem to be saying that they should not do any grading in that one area. Both, Mr. Schroeder and Mr. Kaufman said that was exactly the point. Mr. Mercurio stated that this area has been part of the plans since the beginning. Mr. Kaufman and Mr. Schroeder said that the comment regarding reducing the amount of disturbance has been included in their comments from the beginning as well; the applicant chose not to reduce the disturbance on that one side.

Mr. Schroeder said that he would be more than willing to meet with the applicant's professionals and work out these issues. Mr. Kaufman said he would as well. The Board directed the applicant to contact the Planning Board secretary to schedule an appointment to meet with the professionals.

SCOTT
Subdivision
Section 1, Block 07, Lot4
80 Mianus River Road
Section 1, Block 7, Lot 4
Jerry Barrett
Discussion

Mr. Jerry Barrett, landscape architect, Mike Mastragiacommo were present on behalf of the applicants - Scott Kurnit and Andy Heller. Mr. Barrett explained that, since the last time before the Board, they have made several revisions to the proposal as requested by the Board. He said that the applicant met with the Town Engineer and the Town Planner, and together they were able to revise the plans to address those points.

He explained that the project consists of approximately 40 acres on Mianus River Road. There are existing structures on the property, and they are proposing a four-lot subdivision. Mr. Barrett presented the site plan to the Board. He explained that a surveyor completed a preliminary plat, which made the subdivision concept a real plan in order meet the criteria of the Town Engineer. Mr. Barrett recognized that more issues needed to be addressed, but noted that the revisions depict what has been discussed.

Mr. Barrett explained that the distances are on each proposed property line. The applicant attempted to follow the stone walls as best they could. The figures have been adjusted according to the surveyor's results. With respect to the location of the wetland line, the applicant's surveyor and the Town's Wetlands Consultant have verified the lines. He noted that the wetland line is now a surveyor located and verified line.

Mr. Barrett noted that prior to this plan the applicant had proposed an open view shed on the wetland buffer on lot three. He indicated the wetland buffer lines on the plan. The idea was to create a meadow there, however the Board requested this concept be removed from the plan because it would have caused a lot of disturbance in that area. The applicant agreed, and has removed it from the plans, thereby reducing the amount of disturbance significantly.

The artist studio has been removed from lot four, as have the nature trails and paths that would connect it. The footprints of the homes on lots two and four have been revised to depict larger houses, because the lot lines have changed. He noted however, that the applicant had envisioned smaller homes on the lots.

Mr. Barrett explained that the driveway from lot two previously intersected at lots two and three. There was a concern that this would create traffic conflicts and light disturbance, so this has been revised so that it separates quicker, and provides privacy between the lots. Mr. Barrett explained that the driveway that services lot four and the house could create problems if the properties end up in separate ownership, because the drive would be in the front yard of the homes. Therefore, the plans have been revised to depict a continuous 3' wall on lot three along the driveway. They would keep as many trees as they could, and where the wall would be open, the applicant proposes a hedgerow to provide privacy between these lots. Mr. Kaufman appreciated the simplicity of this solution. Mr. Barrett added that sufficient space for emergency vehicles has been provided for. Large trucks are able to enter and back out without a problem.

The applicant has compiled a preliminary easement plan and has asked the project attorney to draft something for discussion purposes. Mr. Barrett explained that an easement would be required to maintain driveways and stormwater facilities. An easement would be necessary along lot two in order to allow lots three and four to get to their house. A vehicular easement over lot three is necessary to serve lot four. Additionally, an easement would be required in order for lot three to access the boathouse. These will be developed further.

Mr. Barrett noted that the applicant has revised the engineering base sheets and site plans are now on the same plan and everyone's info should comport. He explained that he had reviewed the consultants' memos, and while more things need to be addressed, nothing is insurmountable. Mr. Kaufman agreed, and felt that the applicant clearly understood the issues and comments from the last meeting and addressed them well.

Mr. Kaufman noted that the fire department still needed to review the common drive in order to determine if fire protection is adequate for the lots. Mr. Kaufman noted that this was his biggest concern. Mr. Kaufman stated that there is minimal disturbance to the wetlands and that a surprisingly few number of trees (approximately 40) would need to be removed.

Mr. Kaufman explained that there is still the issue of further subdivision of the property. It was suggested to the applicant that a deed restriction be put in place on lot three in order to prevent further subdivision. He noted that the other lots are unable to be subdivided because of their size. Mr. Kaufman recognized that, under the current plan, the lot could not be subdivided, but it is the Board's responsibility to review the potential. He said that if a deed restriction was not secured, the Board would need to spend more time reviewing the potential impacts of further development. One of the applicant's representatives suggested that further subdivision be denied if or when it came back to the Board. Mr. Kaufman explained that SEQRA requires the evaluation of the impacts now.

Mr. Kaufman said that if the cottage on lot one was going to be an accessory use as it is proposed, the applicant needed to demonstrate that they comport with the Code for accessory uses. If they did not meet the requirements, they would have to seek a variance.

Mr. Kaufman stated it would be nice if the Town could secure conservation easements, but the Board cannot compel the applicant to do that. Chairman Michelman explained that, since the plan has changed, and the Conservation Board has not been to the site in a few years, the Board would like the Conservation Board to walk the site again based upon the new plans. Mr. Kaufman said that he would make this referral. Chairman Michelman explained that this Board would await the comments, and if necessary, hold a joint work session.

Chairman Michelman agreed with Mr. Kaufman's concerns, and felt that the fire department needed to review the IPP for safety. The applicant agreed.

Mr. Schroeder noted that the applicant was proposing a 12' wide driveway. He was under the impression that the Board was in favor of this, but felt that it was too narrow for this subdivision. Mr. Barrett explained that there had been a discussion on this driveway years ago; the applicant desires to make it look like a farm path as much as possible. The driveway itself would be 12' but they would have 2' stabilized shoulders on either side to make it appear narrower. There would be pull-off areas as well. The idea was to make it look like a farm road, but have the shoulders stabilized in case of someone needed to swerve.

The Board asked Mr. Schroeder if this was acceptable. Mr. Schroeder said that he simply thought it was too narrow, and that the applicant may regret it in the future. Mr. Schroeder pointed out that the fire department might determine it is too narrow, and then the discussion is moot. He recommended that the applicant's engineer meet with him to discuss issues in his memo. Mr. Mastragiacomo agreed.

Chairman Michelman felt that lot three was still an issue. Mr. Kaufman said that it was and it was an issue the Board had to deal with. He said that the easiest way this could

be dealt with is through a deed restriction against further subdivision. The next easiest would be for the Board to review the future build-out potential. The applicant stated that he was not ready to entertain deed restrictions. He felt that if the Board pushed him to do this then he would be prompted to develop the property quicker.

Chairman Michelman noted that the Board should declare its intent to be lead agency. Mr. Adelman made the motion to declare intent to be lead agency. The motion was seconded by Ms. Black and unanimously approved.

Mr. Kaufman and the Board noted that there was a lot of positive progress in this application.

DISCUSSION:

CARRY-OUT RESTAURANT Draft regulations

Mr. Kaufman explained that, as a follow up to the Café Norma application from the previous meeting, the Board asked him to resurrect draft regulations regarding carryout restaurants. The way the Town Code is drafted, there is a two tiered system for evaluating food establishments: there are fast food restaurants and traditional restaurants with wait-service. However there are some food establishments in Town that are designated as strictly retail (i.e. a deli with no seats) and those with limited seating with no wait-service. He called them, for lack of better term, "carry out" restaurants. He stated that the draft regulation takes into consideration these types of restaurants, permits them in the central business district and creates parking requirements for them.

Mr. Kaufman stated that, based upon his analysis, the parking requirement he would recommend is 1 parking space for every 100 sq. ft. of gross floor area, as opposed to the current restaurant requirement, which is 1 space for every 75 sq. ft. This requires less parking than a restaurant. He noted that he surveyed how other towns' deal with this issue, and found that towns' requirements range from 1 space for every 60 square feet to 1 space for every 125-200 square feet. He stated that given this Town and the Town's situation, he recommended 1 per 100 or maybe 1 per 125. He said that he would not be comfortable with anything more than that.

Mr. Adelman asked how this would work out for the Café Norma applicant. Chairman Michelman noted for the record that although the Café Norma application raised this issue, the draft regulation was not being created solely for Café Norma. Mr. Kaufman said that he specifically did not analyze that data because he did not want it to have an impact on his evaluation. Mr. Adelman felt that information would have been helpful in order to determine if and how these regulations would actually help.

Mr. Delano asked Mr. Kaufman if there was any reason he preferred to stay with gross floor area, rather than the useable customer service area. Mr. Kaufman said he considered using that calculation, but in terms of enforcement, it is much simpler to use the gross floor area, without trying to determine what part of the store is the customer area. Mr. Kaufman said that if the 50/50 calculation were used, then it would reach the lower end of the parking requirement.

Chairman Michelman asked if the Board needed to refer this to the Town Board with a recommendation. Mr. Kaufman said that they could, but they would first need to determine what parking requirement they were comfortable with.

Chairman Michelman noticed there were people in the audience that wanted to comment, but advised that this had nothing to do with any specific application. She explained that this was a business matter for the Board, and that this was not a public hearing. She permitted a brief opportunity to speak, on the broad issue of the legislation – not a particular application.

Mr. Bill O'Neill was present. He explained that he represents the Café Norma applicants. He noticed that Mr. Kaufman used a 25% floor area restriction for seating areas, and agreed with Mr. Delano's suggestion, that different parking requirements be established based upon useable customer space adding one space for every three seats in addition to the typical restaurant requirement.

Mrs. Becker, owner of Café Norma, explained that the legislation as put forth should be looked at in conjunction with what the Board is trying to do and how it will or will not affect the restaurants in the area. Mr. Kaufman stated that he knew how it would affect the parking requirements. Mrs. Becker stated that she did not know how it would affect the compliance of the restaurant. She wanted to know how it would help. Mr. Kaufman explained that it would help because she would be permitted to have seats in her café; right now she is not allowed to do that. He stated that, currently the applicant has 12 seats illegally, and their application proposes 16. Under this law, it is as yet unknown how many they would be allowed to have. In his professional opinion, his recommendation is appropriate for these types of use and the Town itself.

Chairman Michelman asked if the Board had opinions regarding 1 per 100 or 1 per 125. Mr. Kaufman noted that the Board could go higher if they wanted to. Mr. Adelman opined that it would be easier to size this relative to the neighbors, and to see what the actual impact would be. Since it is 1,421 sq. ft., if we stay with the 75 requirement, that would require 19 spaces; if it is 100 then 14 spaces would be required. He said he did not know if that would be good, bad or indifferent. Mr. O'Neill stated that this would not help Café Norma at all. Chairman Michelman repeated that this was not a public hearing and this legislation was not being created for Café Norma.

Mr. Adelman felt that the Board should not make a recommendation to the Town Board that leaves an unresolved situation. Mr. Kaufman asked what analysis he should do. Mr. Adelman asked that he look at the other establishments, what their square footage is, what their requirements would be and what the existing provisions are. He felt that this would help the Board make a more rational recommendation.

Mr. Delano stated that, short of getting the data, and looking at the entire situation downtown, he would recommend going to 1 per 200. He said that he believed that all the business owners are in the same position and if the gross floor area were used for the calculations, a higher number would provide needed relief.

Ms. Black pointed out that 200 feet is the current restaurant requirement. Mr. Kaufman agreed. Ms. Black felt that this figure would not be imposing any new conditions for a carry out versus a retail.

Mr. Kaufman stated that he would try to look at the other establishments, but the Town does have site plans for every business downtown.

NEW BUSINESS:

FURIO

Site Plan

Section 1, Block 9, Lot13-1

113 Round Hill Road

Chris Yaroscak – Legacy Development

Discussion

Chris Yaroscak was present for the applicants. He explained that the application was proposing an addition of 2,100 sq. ft. and the deletion of a 600 sq. ft. pre-existing, nonconforming garage on the northerly property, which is approximately 15' from the property line, in an area where a 30' setback required.

He explained that the new addition would contain a garage with a mudroom on the first floor connecting the first floor to the main house. It would have a recreation room with a bathroom. This has been defined by the Health Department as a bedroom. Mr. Yaroscak noted that the existing septic is approved for a four-bedroom home, and the existing house has three bedrooms. He stated that the Board of Health has approved this.

Mr. Yaroscak explained that the site walk was conducted last week, and the plan was reviewed with the Town Engineer earlier that day for comments. Chairman Michelman asked if the application has been to the ARB. Mr. Yaroscak said that it has been approved, and would provide a copy of the approval to the Board upon receipt.

Chairman Michelman asked Mr. Baroni if the lot for this proposal does not meet minimum lot width requirement would be grandfathered or if it had to go to ZBA. Mr. Baroni asked if it already has an existing structure. Mr. Yaroscak stated that they are removing the existing structure and putting the new structure within the setback line. A minimum lot width by today's standards would be 200' and this lot is 170' wide. The existing garage has been there for some time. Chairman Michelman stated that she was talking about the entire piece of property, not the garage. Mr. Baroni stated that it is grandfathered for that purpose, but wanted to know about the garage that was being removed. Mr. Yaroscak explained the plan to Mr. Baroni. Mr. Baroni confirmed that they would not need a new variance.

Chairman Michelman asked if there were any other comments. Mr. Schroeder said he had no issues; he had gone over them with the applicant earlier. Mr. Kaufman had no issues. There were no issues from the Board.

Chairman Michelman asked Mr. Kaufman if they were ready to schedule neighbor notification. Mr. Kaufman said they were. The Board directed the applicant to call the Planning Board secretary for dates.

C&H PROPERTIES, LLC

Site Plan

Section 1, Block 2, Lot 1

336 Bedford Banksville Road

Peter Gregory – Keane Coppelman Engineers, P.C.

Discussion

Mr. Brad Schwartz, Esq., Mr. Mark Hatch, Mr. Jason Colbe, Mr. Nick Pouder, and Peter Gregory were present for the application. Mr. Schwartz noted that the Board conducted the site walk the week before, and this was the first appearance before the Board for presentation.

Mr. Pouder explained the site plan; he indicated the locations of the existing driveway and the small barn. He said they plan to bring the driveway to current standards, and indicated the proposed new locations. He stated that they were going to retain the existing historic core of the building but remove the later additions. The vintage building will remain.

Mr. Pouder said that they were able to confirm that the driveway can be shifted to save some of the significant trees. He added that the calculations comply with the floor area and lot coverage. He said that lot one is well within the basic, and lot two complies, but would need a special use permit.

Chairman Michelman asked if the applicant had met with the landmarks preservation committee. Mr. Pouder said that they had, and the Board did not need to refer anything in this regard. Mr. Pouder stated that they had talked about offering the property as a landmark. Mr. Kaufman suggested that the Board send a letter as well, recommending that it be a landmark. The Board agreed.

Chairman Michelman noted that the driveway was one of Mr. Kaufman's main concerns. She wanted to know how this looked from Bedford Banksville Road. Mr. Pouder stated that they discussed grading the driveway, and pitching it uphill, so there will be a berm, and it could not be seen from road. He added that all of the plants on top of the stone wall would stay as well as the fairly large forest area in the front. He said that there would not be a straight view of the house. He offered to provide the Board with a rendering to see the view. He noted that with respect to the slope, they do not know what it will look like until the drilling starts. He said that if anything other than stable rock is struck, then they would construct planted, terraced walls. He said that this was the worst-case scenario. He was doubtful the grading would be anything near what is proposed.

Mr. Kaufman stated that the visual impacts were the most significant. He said that the plan was well designed however, the Board still needed to deal with the servants' quarters. One of the applicant's representatives stated that this structure has been proposed as servants' quarters and therefore designated as an accessory use, however at the site walk, someone suggested that the applicant might want it as an accessory

apartment. The applicant's professionals are reviewing the code to determine if they could meet the standards for an accessory apartment. He said that this would be known at the time of the next meeting.

Mr. Kaufman explained that the applicant still needed to respond to the technical issues (i.e. address the sight distance, the quantification of the steep slope impacts and the landscaping plan). He added that the Board should discuss the size of the proposed house and the idea of the accessory use versus the accessory apartment.

Chairman Michelman asked if the Board had any comments. Mr. Adelman stated he would not have a problem with the applicant proposing an accessory apartment. Chairman Michelman stated that she was open to whichever way flows.

Mr. Delano stated that there are two structures on the front lot and asked if the historic house would not count against the applicant; there is one lot, and there is the principal residence and the servants' quarters. Mr. Kaufman thought that only one structure was remaining. Mr. Delano stated that two are remaining. Mr. Kaufman stated that, in that case, if the structure is over 800 sq. ft. the applicant would need a special permit. Mr. Poudier determined that the structure is 777 sq. ft., so the permit would not be required. Mr. Colte added that there is no bathroom or plumbing in that area; it is a wide-open space. The fact we had to remove the existing garage to create the ability to get the driveway to the front, they mimicked what was diminished on the other side. He explained that many of the limitations they are facing are due to the fact that they are trying to maintain the original footprint of the historic building. Mr. Kaufman explained that if there is a reason the applicant could not comply with the requirements in the code, he could make an application to the ZBA.

There were no other comments. The applicant stated that they would respond to both memos and appear again.

KWITTKEN

Site Plan

Section 2, Block 10, Lot 2-1

732 Bedford Road

Kate Foster, AIA – Kate Foster Architect, P.C.

Discussion

Kate Foster was present on behalf of the applicant. The applicant, Aaron Kwittken was present as well. Chairman Michelman stated that there were some comments that were raised as a result of the site walk.

Ms. Foster stated that one of the comments was for the applicant to go to the ZBA for a variance for being in the front yard, and the accessory building larger than 25% of the existing house. Ms. Foster asked if standing room lower than 7.5 feet in the inside eaves was not counted. Mr. Kaufman stated this was correct. Ms. Foster said that she did it at 5', and it still did not make a difference. She noted that it is only in excess by 38 sq. ft. Mr. Kaufman noted that this was a very small variance.

Ms. Foster stated that, contrary to the comments, there is no maple tree to be removed. She added that she has received Westchester County Planning Board approval. She

asked if she needed to do anything in this regard because it was a state road. Mr. Kaufman explained that this is something the Board takes care of, and there is nothing the applicant needs to do. He added that this application is so minor, that the Board just needs to send it to the ZBA and that meets their requirements.

Chairman Michelman asked if the professionals had any issues. Mr. Schroeder said he did not, but stated that the applicant was going to look at the driveway grades again.

Chairman Michelman stated that the Board needed to make a referral to the ZBA with a recommendation. In the Board's judgment the front yard issues will not impact the neighbors, or anything else. The Board will refer this to the ZBA with a positive recommendation on both issues.

Ms. Foster asked if she would come back to the Board after the ZBA. Mr. Kaufman said she would. She then asked about erosion, and Mr. Kaufman said that the Town Engineer takes care of that issue.

Ms. Foster explained that they have addressed Mr. Schroeder's issues. Mr. Schroeder asked about the flood plaining, and Ms. Foster stated this was being worked on.

Mr. Kaufman pointed out that a public hearing is required for this application, but it had to follow the ZBA determination. He stated that a public hearing and a resolution could be prepared at the same time.

LASHINS

Site Plan

Section 2, Block 1.J, Lot 6.B

1 Hidden Oak Road

Rich Williams, P.E. – Bibbo Associates

Discussion

Mr. Tim Allen was present on behalf of the applicant. Mr. Allen explained that the application was for a single-family residence. He noted that the Board has walked the site, and he believed the Board was fairly comfortable with the proposal.

They are proposing to remove the existing house in front and reconstruct a new home which will be angled. He has reviewed the comments from the Town Planner and Town Engineer and he is comfortable with them. He asked the Board to schedule public hearings and notices for the special use permits that are required.

Chairman Michelman noted that the applicant is proposing a new driveway, and wanted to know what would happen to the old one. Mr. Allen explained that it would be removed; it is partially under the septic area, and will be totally removed at the intersection of Bayberry and Hidden Oak. The new driveway will be further down the road, as discussed, with increased sight distance. Chairman Michelman asked if this would provide the requisite 200' sight distance. Mr. Allen said that it would not, but it does improve it. Mr. Kaufman explained that this needed a variance, but this Board could refer it with a positive recommendation, explaining that the applicants have already improved it to the best of their ability.

Mr. Allen felt that any other location would be a detriment. Mr. Kaufman agreed with Mr. Allen, and felt that it should go in the best place. However, it had to be approved by the ZBA. Mr. Kaufman stated that he would double check if this Board could grant relief, but did not think it could.

Chairman Michelman asked if there were any other issues. Mr. Schroeder had none. Mr. Kaufman noted that the applicant still had to provide the size of the five houses closest to the applicant under the new regulations. He noted that the analysis of the maximum of the exterior wall height, which should be included on the zoning conformance chart. The proposed house exceeds the basic amount of floor area by 752 sq. ft. and is more than 4,000 below the maximum. Mr. Kaufman asked if the applicant counted the floor area in the attic (if more than 7 1/2 feet). Mr. Allen stated that they did not intend for that area to be more than 7 1/2 feet, but he would clarify. Mr. Allen added that they still needed to verify the steep slopes, and that 46 trees are proposed to be removed. Mr. Kaufman asked what the Board wanted the applicant to do with the cutout for additional spaces. Mr. Kaufman recommended that the parking area be removed, and that land coverage be used around the pool. Mr. Allen stated that this has been discussed, perhaps cutting off half, so that a car could still turn around.

Mr. Kaufman stated that if the applicant was proposing underground utilities they should be included on the plan. Chairman Michelman asked about the sewer and water department approval. Mr. Allen said that there is no sewer connection, and that there should not be any issues about the water, because they have existing water on the property.

Ms. Black stated that the Board asked about landscaping near the neighbor. Mr. Allen said that he would approach the Department of Health for a fill waiver. He noted that the Board asked about the distance, and he has determined that it is approximately 280 ft., which is substantial. He added that they have a fill section that will create the driveway pad, and they will landscape more than previously proposed. Mr. Allen added that this is "garage to garage," and oriented well, but would look at it again.

Mr. Delano said that the applicant should make sure they show enough of the clearing and grading limit line, and that all trees that need to come down for light on the pool are being proposed to come down. He did not want to see a problem in the future regarding removing additional trees for purposes of sunlight on the pool.

Chairman Michelman asked if this had been to the ARB yet and Mr. Allen said that it had not.

Chairman Michelman asked if they needed to do a neighbor notification and a public hearing. Mr. Kaufman said that they do, but first he needed to confirm that the applicant needed to go to the ZBA for the sight line issue. Mr. Allen said that they would like to get the hearings scheduled as soon as possible. He asked if ZBA approval was not required, if the Board could schedule the hearings. The Board was comfortable with that. Mr. Allen asked if ZBA approval was needed if this Board would make a recommendation. The Board said they would.

The applicant asked when they needed to go to the ARB and Chairman Michelman said that it could be done whenever the applicant desired. Mr. Kaufman pointed out that the

applicant should have received some assurances that the Board is comfortable with the size of the house, and that it is only 700 sq. ft. above the basic. Mr. Kaufman stated that the attic calculations could change that however. Mr. Allen stated that they would make it work so that the attic complied.

MARIANI GARDEN CENTER

Site Plan & Wetland Permit

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

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

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

Discussion

Mr. Dan Hollis, Esq., Mr. Rob Aiello and Mr. Mariani were present for this application. Mr. Hollis explained that the Board had granted site plan approval in December and then amended site plan approval in January. He explained that several field changes have been made to the plan that were necessary for practicality. The previously approved relocation of the propane tanks and the dumpster caused parking to be reallocated and this caused the client to discover that aesthetic changes could be made to the building which had nothing to do with the substance of the plan. They included altering the front of the building and the walkway. Mr. Hollis explained that the client undertook this risk on his own, and while he hopes the Board likes the plan he recognized that the Board might want it removed.

Mr. Hollis explained that the signage has been approved by the ARB. He added that a drainage problem in the front of the property was discovered, which would require the replacement of the sidewalk in that area. The applicant has agreed to replace the entire length of the sidewalk along his property, not just the problem area.

Mr. Aiello presented the revised plan to the Board, He explained that these changes were made after the site walk and submitted to the Planning Department earlier that day. There is a freestanding sign in the previously approved location. Chairman Michelman asked if he was referring to the slightly enlarged sign that has been approved by ARB. Mr. Aiello said that it was, and that it also included some building signage on the facades, which were included in revisions.

Mr. Aiello stated that originally the applicant was only proposing to do the curbing in front of the property, but following Mr. Schroeder's site walk, and the drainage problems that were discovered, the applicant is now proposing the new curb and side walk. Chairman Michelman asked if this has been approved by the Highway Department. Mr. Schroeder said that it had not been approved yet, but the Highway Department and the Town Engineers were going to be visiting the site and discussing the issues.

Mr. Adelman asked if the driveway would be the same width as it exists today, and Mr. Aiello said that it would.

Mr. Aiello explained the relocation of the parking. After the dumpster was relocated, they had proposed the relocated parking spaces in one area. Now, the applicant would like it near the storage bins, and he indicated the new location. They added curbing as well. The original plan did not require relocation of the propane tanks, but now because of the two new parking spaces that needed to be relocated, they would need to shift it 25'

north. Mr. Aiello stated that they are just shifting it, which was necessitated by relocating the spaces.

Mr. Aiello then addressed the three other spaces. He indicated the location of the new water feature and presented a 3D rendering of the area; he also indicated the location of these three spaces. There will be accent lighting, and he felt that this would all soften the entrance to the office building. In order to accommodate this feature, they relocated and restriped spaces.

Chairman Michelman asked Mr. Schroeder if he had reviewed these plans. Mr. Schroeder said that he had not done so yet, but would review and inform the Board of his opinion. Mr. Aiello stated that it meets the Town's requirements.

Mr. Kaufman noted that the only difference is that the two spaces near the dumpster have been eliminated and relocated. He asked how the applicant maintained the 25' wide access drive. Mr. Aiello explained that it is turned on an angle. Mr. Kaufman said that he would need to review it.

Mr. Aiello stated that they are adding signage to keep one area strictly employee parking and that this signage was already part of the approved plan. Mr. Kaufman asked if the new spaces were going to be employee or customer parking. Mr. Aiello said that it would be for employees. Mr. Aiello said it was the same exchange. Mr. Kaufman asked if three spaces eliminated from the water feature area would remain customer parking. Mr. Kaufman did not think customers should be parallel parking. Mr. Hollis stated that there has always been a demarcation of employee and customer parking, and the applicant always had a surplus of customer parking in the front. Mr. Kaufman did not understand this. Mr. Hollis explained that the number of spaces they had for customers was in excess of what the code required. Mr. Kaufman asked if he meant that the retail customer parking requirement is satisfied in the front, versus the parking for the nursery, office, etc. Mr. Hollis said yes.

Chairman Michelman stated that she recognized that things change in the process of building, however she did not accept the implementation of these changes before the Board reviews it. She stated that this behavior is consistent with this applicant. She said that if the Board "wanted to be ornery, [they] could do a whole lot of stuff, but it makes no sense." She found the applicant's disregard to be very insulting, and that it is consistently annoying to have the applicant build things before any approval is granted. She agreed that the plans were beautiful, but said that they would be appreciated more if the applicant would come to the Board prior to implementation.

Mr. Hollis explained that the applicant recognized that the aesthetic changes were made at his own risk. Chairman Michelman said that regardless, there is a simple process in place. This is not the first time the Board has encountered this with this applicant, and that this "could have moved a hell of a lot faster" if the applicant had followed the process. She said that the Board does not need to waste its time to visit the site to see something that has already been done.

Mr. Hollis asked the Board to do SEQRA notification and referral to the County and schedule public hearing for new changes to the plan. Mr. Kaufman said that if the Board

was ready, then they could do so. The Board was ready to do that and directed the applicant to speak with Ms. Desimone regarding the scheduling of the public hearing.

Mr. Hollis said that the applicant was amenable to posting a cash bond in the event that it does not get approved so as to guarantee the applicant would put it back. Mr. Kaufman said this was not necessary, because if it is not approved and the applicant does not put it back, he would not get his C.O.s. The Board felt this was not necessary.

The meeting was adjourned at 8:59 p.m.
