

837 MOUNT KISCO ROAD
Site Plan, Tree Removal, Special Permits FAR and Gross Land Coverage
Section 2, Block 2, Lot 5A-10
837 Mount Kisco Road
Anthony Castillo, P.E. – SESI Consulting Engineering
Consideration of site plan resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 16 out of 29 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. Ms. Barbara Dunn, 839 Mount Kisco Road and Mr. Al Donnellan, 20 Fawn Lane were present.

Mr. Castillo was present on behalf of the applicant. He explained that the applicant is proposing to redevelop the lot and build a one family house, with a driveway and pool on the site. The property is approximately 2.1 acres. Access to the house will be through a driveway off of Mount Kisco Road. In the past, the property had been developed as a hotel / restaurant and that was served by a driveway from Mt. Kisco Road.

Mr. Castillo stated that the house would include a courtyard for vehicles to turn into the proposed garage area. He indicated the location of the garage. A patio and horizon-type pool is proposed in the rear. The site would be served by an on-site well and septic system. He added that they had previously received County Health Department approval for those facilities, but they have resubmitted the application for approval because they had expired.

The stormwater runoff from the site will be conveyed to two underground stormwater recharge galleries. They have applied for and obtained DEP stormwater permit as well as DOT permit for the driveway. During the review, the DOT did an extensive review of the property because the runoff is proposed to be conveyed to a DOT right of way. This was all included in the analysis.

The basic permitted floor area coverage is 6,787 sq. ft. and the maximum permitted floor area is 12,073 sq. ft. The proposed floor area coverage for this house is 10,239 sq. ft. Mr. Castillo noted that 492 sq. ft. of that amount is comprised of the porch area; 1,141 sq. ft. is garage, and an additional 500 sq. ft. consists of the attic space. Therefore, the actual livable area is approximately 2,000 sq. ft. less than the calculations show.

In terms of the gross land coverage, the basic permitted is 11,149 sq. ft. The maximum permitted is 16,999 sq. ft. The applicant is proposing 16,660 sq. ft. Approximately 650 sq. ft. consists of existing retaining walls, which will remain. Additionally, approximately 130 sq. ft. is terraced area, and 500 sq. ft. is porches.

Mr. Castillo explained that in terms of tree removal, in December 2005, Scott Cullen (a registered arborist) walked the site and confirmed the location of regulated trees within the disturbance area, the health status of each tree, and confirmed the diameter of the trees. Mr. Cullen determined that 11 trees proposed to be removed within the DOT right of way, and their health ranged from fair to healthy. The DOT requested these trees be removed to improve the site distance. Nine trees are proposed to be removed from the area of disturbance, two of which Mr. Cullen has classified as dead. Mr. Cullen attempted to minimize the amount of the removal of healthy trees. He added that he had

received all the memos from the professionals and would be able to address all the issues.

Chairman Michelman asked Mr. Castillo to provide a description of the house for the neighbors. Mr. Castillo stated that because he was not the architect, he could not get into the specifics. He said that he did have architectural renderings, and he passed them out to the neighbors. He said that he believed the project had been to the ARB. Chairman Michelman confirmed that this had received approval from the ARB. She said that she did not think the Board ever got copies of the letters of approval from the DOT. The applicant's representative stated that they would forward copies.

Al Donellan, 20 Fawn Lane, said that he is concerned with the size of the house and the development. He referenced the memo from the Town Planner, which indicated the proposed house appears to be very large in comparison to the surrounding homes. He agrees with that statement. Mr. Donellan disagreed with the calculation of the five nearest houses because it left out his house, which is very close. He said that his house is at the top of the hill, and looks down on the proposal. The one house listed at 9,194 sq. ft. probably should not have been included and he thinks it threw off the calculation. Mr. Adelman asked what the size of his house was and Mr. Donellan said that it is just under 6,000 sq. ft. in livable square footage. He said that his house is in character with those houses on the list of five.

Someone wanted to know where the 9,200 sq. ft. house was located. Mr. Donellan was not sure, but felt that when you substitute his house for this very large one, it brings it over the 50%.

Mr. Donnellan repeated that this house with all the amenities is out of character with the neighborhood. He quoted the section of the code that dealt with legislative intent for enacting the FAR and gross land floor coverages. He felt the construction of a 10,000 sq. ft. house with a patio and pool and the land coverage, is completely out of character in terms of size. He noted that the driveway access was not objectionable; nor was the look of the house; just that the size was too big.

David Yale (neighbor who owns lot 5A5, 18 Fawn Lane) stated that he completely supports Mr. Donnellan's comments. He indicated his lot on the map. He asked the height of the house relative to the other homes nearby. Mr. Kaufman explained that 30' is the maximum and it was less than that. He explained that he did not have the actual figure, but believed that it was probably close to the max. Mr. Kaufman added that it would not be substantially taller than any houses nearby.

Barbara Dunn asked if the 10,200 sq. ft. included the basement level and stated that she thought that it did. Mr. Castillo stated that it was approximately 8,000 sq. ft., which is the total without the garages, terraces, porches, etc. Mr. Adelman pointed out that Ms. Dunn was asking about the basement. Mr. Castillo said that it was not included because it was not required to be counted in this situation. Mr. Kaufman explained that any floor space that is completely below grade is not counted in the total.

The above-ground livable space is 8,000 sq. ft. Mr. Kaufman noted that the way the Town defines it, this is 10,000 sq. ft. of livable space. Ms. Dunn noted that her home is similar to the Donnellans and Yales, and did not include basement levels; she wanted to make sure they were comparing apples to apples.

Mr. Kaufman stated that his prior memo went through that analysis very carefully. Chairman Michelman pointed out that the average size was 6,988 sq. ft. Mr. Kaufman said that sounded accurate; 50% larger was 10,482 sq. ft. Mr. Kaufman noted that the 50% is not a limit for the Board, just a trigger for the Board to determine whether a special permit should be granted. Mr. Kaufman added that a special use permit would be needed regardless.

Chairman Michelman explained that the gross land coverage was based upon the new legislation and this house "squeaks by." She noted that it exceeds basic by more than 5,000 sq. ft., and is below the maximum by only 269 sq. ft. Although this is within the criteria, it pushes the envelope.

Mr. Donnellan said that the memo indicated the average was 6,988 sq. ft. and asked if this included the garages. Mr. Kaufman explained that the calculations are derived from the information on file in the tax assessor's office. Mr. Donnellan said that his house, if it was included in the calculations, is 5,600 – 5,800 sq. ft. livable space; including the garage, it would reach approximately 6,200 sq. ft. of the house is livable. If the averages are recalculated with his house, it is 9,503 sq. ft. and this is 655 sq. ft. over. Mr. Kaufman repeated that this is not the maximum, just a trigger for the Board. Mr. Donnellan said that if they are comparing apples to apples, then this is approximately mid-8,000s. The Board felt that was a fair assessment. Mr. Donnellan repeated that he thought this was too big for the area.

Mr. Denny Baror of 831 Mt. Kisco Road asked if the driveway was coming from Route 128. The Board said that it was. Mr. Baror said that he wanted to know who approved this, because this is a difficult road. Chairman Michelman explained that the New York State Department of Transportation approved it. Mr. Baror said that he had no problem with the size of the house, but felt the driveway should be revised.

Ms. Dunn indicated her driveway on the plan. She noted that there was a possibility of the house sharing her driveway. The Board explained that this is how it was approved. Ms. Dunn said that her driveway is a "death trap and [she] will not allow it." Chairman Michelman explained that Route 128 is a state road, and the approval is required to come from the state and they approved the use of this driveway. She said that the point of safety would be addressed with the engineer.

Chairman Michelman asked if there were any questions from Board. Ms. Black recalled the house was in a lower area, so that it is tucked into the hillside, which makes it less visible. Mr. Castillo agreed. They attempted to mitigate the amount of new impervious surfaces, and to make it snug in the center of the property. They purposely placed the house in that location and also provided for a lot of screening. He said that, from a landscaping point of view, they have done as much as they could do to block the view from all vantage points.

Mr. Delano asked what would happen if there was an error made in terms of the calculations, and the houses used in the analysis. Mr. Kaufman said that it would be almost irrelevant. Here the house is already above the basic, so regardless of the analysis of the nearest five houses, the Board still has to consider a special use permit. He added that the 50% trigger was put into place for areas of the Town where there are small houses. There are no additional criteria for the Board to consider. Additionally, the

analysis of the 5 closest houses are measured from the GIS; there may be other houses nearby that are within a few feet but these are five closest houses.

Mr. Schroeder explained that he was still working on the drainage issues, but other than that, he had no problems. Mr. Schroeder stated that he would look at the driveway safety and was waiting for a copy of the DOT approval.

Mr. Castillo explained that in prior submissions the applicant provided the traffic plan that showed sight distances, which were provided to the DOT. That showed more than 200' and the DOT had been concerned with this. Mr. Schroeder said he'd go and take a look at the site.

Mr. Baror asked what a particular line meant. Mr. Castillo stated there are no trees that we are going to remove that are greater than the town requirement. Mr. Baror indicated the border of his house, and explained that there are a lot of trees there. He wanted to know exactly what was going to be removed. Mr. Kaufman noted that there is a tree removal plan, and asked him to show the neighbor. Mr. Castillo did not have the tree removal plan with him, but had the grading plan. He explained that in the area, there is nothing more than the 8" requirement that are planned to be removed. He explained that the row of pines in the area will remain.

Mr. Kaufman explained that anything less than 8" is not considered a tree for purposes of the Town code. Those trees may be removed in order for the infiltration system to be installed. He noted that nothing greater than that will be removed.

Chairman Michelman asked if there were any other issues. There were none. She asked if the applicant had reviewed the resolution. He had not seen the resolution.

Dr. Matusow asked if the Board really wanted to approve a resolution in light of the issues raised. Mr. Adelman moved to adjourn the public hearing. Mr. Delano seconded the motion, which was unanimously approved.

Mr. Delano suggested that the remaining issues (i.e. providing issues from DOT, supporting fieldwork, and issues re: fencing and walls) be resolved prior to the resolution. That way they could be removed as conditions in the resolution. He also suggested that they resolve the issues of drainage with the town engineer.

HARRISON

Site Plan

Section 2, Block 1D, Lot 17-1 & 17-2

36 Whipoorwill Crossing

Paul Sysak – John Meyer Consulting

Discussion

Consideration of site plan resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that all paperwork was in order and that 15 out of 19 cards were returned. Chairman Michelman asked if there were any neighbors present; none were.

Mr. Paul Sysak introduced himself and explained that there were a few minor changes. They shifted the building to the east another 2' as discussed at the site walk; they reduced the width of the driveway in front of the garage from 32 feet to 22 feet and incorporated fieldstone retaining walls and steps to lead to the back of the garage.

Chairman Michelman asked if there were any comments or questions. There were none. She asked if Mr. Sysak had reviewed the resolution. He had, and had no comments. He recognized that ARB approval was still required and explained that he was waiting to appear before that board.

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

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

Mr. Baroni stated that he did not see anything regarding the ARB approval. Mr. Kaufman pointed out that was the first condition.

PUBLIC HEARING

MARIANI

Site Plan & Wetland Permit

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

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

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

Discussion

Consideration of amended site plan resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that all paperwork was in order and that 10 out of 13 cards were returned. The Chairman asked if there were any neighbors present; there were not.

Mr. Dan Hollis was present with Rob Aiello and Mr. Mariani was present. Mr. Hollis asked if they wanted him to expand upon the plan or comment at all. Chairman Michelman said that would not be necessary because there were no neighbors present. Mr. Hollis pointed out that the site was just considered lot 3.A now; it was merged as part of a prior condition. Mr. Kaufman said that he would make note of this.

The Board asked if he had reviewed the most recent resolution. Mr. Hollis said that he had and had a few notations. First they have complied with some of the conditions, including the issue of the water and condition number 4. Mr. Baroni stated that they have been recorded with the county clerk.

Mr. Hollis noted that condition number two has been met as well. Mr. Baroni said that they could be removed as conditions, or Ms. Desimone could initial them as done. He said that to track it properly, he would prefer that Ms. Desimone initial them. The Board decided to leave them in and initial if they are complete.

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

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

TOLZ / NAGLE

Lot Line Change

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

Section 2, Block 5C, Lot 4 (Nagle)

104 & 92 Byram Ridge Road

Discussion

Consideration of preliminary subdivision resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that all paperwork was in order and that 16 out of 20 cards were returned.

Chairman Michelman asked if there were any neighbors present for the application. Mr. Douglas Kase, 2 Indian Trail, Mr. Alan Chorney, 1 Indian Trail and Mr. Bruce Blum at 3 Indian Trail.

Mr. Tolz was present for the application. He indicated the piece of property being discussed. Mr. Kaufman explained that a piece of the Nagle lot is proposed to be transferred to the Tolz property. It is located on the other side of the existing driveway, and is wedge shaped piece that would be transferred from the Nagle property to the Tolz property. Mr. Tolz indicated the portion of the property.

Chairman Michelman asked if the neighbors had any questions. Alan Chorney said that he and the other neighbors had spoken to Mr. Tolz before the meeting. He explained that the Indian Trail easement is a closed end subdivision and with the sale of the Nagle property, the Tolz property would almost abut Indian Trail. According to Mr. Chorney, Mr. Nagle had requested tall trees and a fence. The Indian Trail neighbors were concerned about a possible encroachment and difficulties that would be presented when snow is plowed. They also felt it would change the character of the area. In speaking with the applicant, they agreed to put the fence 5' back, and screen it on the easement side. They also agreed to put the trees on their own side. Mr. Chorney said that if they put up a stone wall, they would not insist upon screening on the Indian Trail side. The Board felt that sounded reasonable. Mr. Kaufman explained that would be between the Tolz's and the neighbors; he could put that fence wherever they agreed to.

Mr. Chorney said that they would like some kind of condition in the resolution to ensure that it would be 5' off the property line. Mr. Kaufman felt that might be possible if Mr. Tolz agreed, but that there is no reason to do that otherwise. Right now, that is an easement over the Nagle's property, and Mr. Nagle can put up a fence right on the property line. Mrs. Tolz said that she would like to give it more thought and would not like to have it as a condition in the resolution.

Mr. Adelman stated that the neighbors seemed to believe that this was already agreed upon. Mr. Chorney said that they did. Mr. Kaufman asked if the neighbors on Indian Trail had any agreement in writing with Mr. Nagle. Mr. Chorney said that the sales contract requires a fence to be erected. Mr. Nagle is in agreement with the neighbors that a fence should not go three feet from the road; if certain conditions are met he will waive the fence requirement. Dr. Matusow stated that if it is waived, it is not in the contract, and it

becomes a neighbor issue. The Board agreed. Mr. Adelman asked why they were getting this Board involved. Mr. Chorney said this was their chance to talk. Mr. Kaufman explained that the easement should have been created in the first place to ensure adequate snow removal. Mr. Baroni explained that the applicants are not before the Board for a fence installation, and this is not appropriate for the Board to consider as a condition. They ultimately agreed to resolve this issue amongst themselves.

Chairman Michelman asked if anyone else wished to speak. No one did. Mr. Delano asked Mr. Kaufman if these two lots would be subject to the requirements of the new code, because technically, they will be new lots (i.e. net lot area, slope, buildable area, etc). Mr. Kaufman said that they would, except for the steep slope requirement. Mr. Delano pointed out that the Board did not have the information necessary to determine if these new lots will meet the requirements.

Dr. Matusow suggested that if the Board wanted to move forward, could we just make it a condition of the resolution. Mr. Kaufman agreed.

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

Mr. Adelman moved to approve resolution subject to the demonstration of having minimum lot area and minimum contiguous buildable lot area. The motion was seconded by Mr. Delano and unanimously approved.

Mr. Kaufman noted that this essentially expanded upon the first condition. The Board agreed.

MERMELSTEIN
Special Use Permit
Section 2, Block 2, Lot 17.B-3
88 Whippoorwill Road East
Discussion
Bruce Bohlander, EIT – John Meyer Consulting
Consideration of special permit resolution

Chairman Michelman read the public notice for the record. Ms. Desimone noted that 19 out of 20 cards were returned and that all paperwork was in order. Chairman Michelman asked if there were any neighbors present for the application. There were none.

Chairman Michelman asked if Mr. Bohlander had reviewed the resolution. He said that he had, and that he did not have any issues. Chairman Michelman asked about the regulated steep slope disturbance. Mr. Bohlander explained that this proposal has a maximum of 15% steep slope disturbance. Mr. Kaufman explained that he wanted the plan to contain a note that there is no area of 25% or greater of steep slope disturbance. Mr. Bohlander agreed.

Chairman Michelman pointed out that item #1 under prior to issuance of building department is irrelevant and can be removed. Mr. Kaufman agreed.

Neither Mr. Schroeder nor Mr. Kaufman had any issues. The board had no comments. Mr. Adelman moved to close the public hearing. The motion was seconded by Mr. Delano and unanimously approved.

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

CONTINUING BUSINESS:

MBIA

Amended Site Plan

Section 3, Block 4, Lots 3, 3A, 3A1, 3B, 3C, 3D,

3F, 3G, 3G1, 3H, 3-1, 3-3, 3-6, 3-7, 3-8, 3-9

King Street, Cooney Hill, Weber Place

John Meyer Consulting

Consideration of amended site plan resolution

Mr. Mark Miller was present on behalf of the applicant. Mr. Kaufman noted that the public hearing had already been held. He added that all of his comments were incorporated into the resolution.

Chairman Michelman asked if there were any issues with the resolution. Mr. Miller noted that the last two whereas clauses at the bottom of the first page talks about the parking structure and how they are short 34 spaces. He felt they might have confused things: the parking structure has 15 additional spaces, but the entire site is short 28 spaces. Mr. Miller gave Mr. Kaufman a markup for the file. Additionally, the second "whereas" on the top of page two, talks about expanding the previously approved landbanked parking; he felt that the language "approved as part of office expansion" should be deleted. Lastly, on page three should be site plan approval not a special use permit.

Chairman Michelman asked if there were any comments or questions. There were none. Ms. Black moved to approve the resolution as amended. The motion was seconded by Mr. Delano and unanimously approved.

SISKIN

Amended Site Plan

Section 2, Block 4, Lot 1-10

53 Hammond Ridge Road

Dan Sherman – Landscape Architect

Discussion

Mr. Sherman explained that the last thing he saw concerned engineering on a wall as requested by Mr. Schroeder. Chairman Michelman noted and appreciated changes made at the request of the Board.

Mr. Greg Mercurio received further clarification for the retaining walls from the Town Engineer as well as the finalization of the stormwater calculations. They are requesting they be scheduled for neighbor notification.

The applicant asked if the gazebo needs ARB approval. Mr. Kaufman did not think it did, but suggested the applicant check with that board. Mr. Schroeder asked where the

gazebo was going to go. Mr. Mercurio said that it would be on the pool patio. Mr. Kaufman recommended making it a condition of approval and have the building inspector determine whether ARB approval is needed.

Mr. Schroeder asked if Mr. Mercurio had provided him with the stormwater calculations. Mr. Mercurio said that he had not, but would.

Mr. Kaufman said that the Board could determine whether they are comfortable with this application enough to schedule neighbor notification. Dr. Matusow felt that they could, and suggested having a resolution prepared at the same time. The Board agreed.

Mr. Sherman asked how they would know what date they should have in the neighbor notification. The Board said that he should contact Ms. Desimone the following day.

GERSTER ELECTRIC

Site Plan

Section 3, Block 8, Lot 12.C01

785 North Broadway

Discussion

Rudolph Petruccelli, P.E. – Petruccelli Engineering

Mr. Rudy Petruccelli was present for the application. The client has done renovations inside the existing building. This was built prior to the present zoning and it is a legal nonconforming in that it is set back only 6'. The calculations in terms of the office, storage, retail and apartment require 12 spaces, but they are showing 16 spaces, two of which backup into MacDougal Drive and have been used for years. He noted that there has never been any problem with those spaces. There are also four tandem parking spaces in the rear. He uses six vans for the business and his employees will use those spaces when the vans are moved out.

Chairman Michelman asked how many vans would be parked overnight, and Mr. Petruccelli said six. He added that they have conformed with the planting as requested by Mr. Kaufman. The vapor lamps that point down are preexisting. Mr. Petruccelli added that they have responded to Mr. Kaufman's comments in his memo.

Ms. Black recognized that even if the applicant removed the one space as suggested by Mr. Kaufman they would still have adequate parking. Mr. Petruccelli agreed.

Chairman Michelman asked about the rock. Mr. Petruccelli said that it was not rock, but a pile of debris that has been removed. Chairman Michelman thought it was still shown on the plan. Mr. Kaufman asked if the applicant was proposing any excavation and he said he was not.

Chairman Michelman asked how this building was being broken down. Mr. Petruccelli explained that the retail space will consist of 1,046 sq. ft., 855 sq. ft. will be an office, 1,524 sq. ft. apartment that has been there. Chairman Michelman asked if anything was being done to the apartment. Mr. Petruccelli said no, there are renovations being done to the first floor for the storage, but not to the apartment.

Ms. Black asked what kind of screening was proposed between the parking areas and North Broadway. Mr. Petruccelli said nothing is being proposed. Ms. Black asked Mr.

Kaufman if that was adequate. Mr. Kaufman said that there is really no opportunity for additional screening in this situation.

Mr. Schroeder said that he was still concerned about the two spaces backing up to MacDougal Drive. He recognized they have been there for decades, but said he was still concerned.

Dr. Matusow said that he shared those concerns. He thought it was fair to say that if this were a new proposal with these two spaces being proposed, the Board would not allow it. Just because there has not been an accident there before does not mean this Board should put their stamp of approval on what is clearly a dangerous situation. He asked what the implications would be if the two spaces were removed. Mr. Petruccelli stated that it makes it very inconvenient.

Dr. Matusow recognized that it would be inconvenient, but felt that the Board needed to look at more than the inconvenience. The applicant pointed out that this Board approved the parking at the Dunkin Donuts site and there have been many accidents there. Mr. Petruccelli said that he felt he was spending a significant amount of money to do nothing new on the site.

Chairman Michelman asked if there were any issues from the Board or the professionals. Mr. Kaufman said that the Board needed to discuss the overnight storage of the trucks on the site, and whether it is acceptable to the Board. He noted that they have talked about the parking, and recognized that this is a tight site and noted that if the northwestern space is going to remain, he did not think there is an adequate backup.

Ms. Black questioned whether there would be any impact because there are adequate spaces nearby. Mr. Petruccelli agreed, but felt that it was always good for them to have an extra space. He added that they would be used for employees.

Mr. Delacruz explained that the owner is willing to designate the parking spaces with signs or other methods, if it would satisfy the board. As for the two spaces that have been there for decades, he realized the concerns for the future but reiterated that there has never been an accident there mainly because everyone is aware of the situation. He pointed out that they cannot change the location of the building, even though today's code requires a greater setback. He did not understand why Mr. Kaufman raised it to the Board. Mr. Kaufman said that he was just pointing out that it is an existing nonconforming. Mr. de la Cruz appreciated the concerns, but pointed out that they are two valuable spaces, and makes the whole area conform in terms of parking.

Mr. Kaufman suggested that they show the area where the four tandem parking spaces as overnight vehicle storage without the dimensions and not include them in the off-street parking requirements. He advised them to make sure that there is enough backup room. He said that he would prefer the site plan depict it that way.

Mr. Kaufman said that the other issue is how the Board felt about the two spaces off of MacDougal Drive. Mr. Adelman felt the Board was in a position where they cannot approve them. Ms. Black asked if they could be moved so that they function better. Mr. Petruccelli said that they do not know how to do that. Mr. Gerster said that they did try to do that, but were not able to.

Mr. Adelman asked if Mr. Baroni could provide guidance on this. Mr. Baroni stated that the Board could not approve what does not meet the requirements. He asked if perhaps the ZBA should be considering this application. Mr. Kaufman said that it was not a zoning issue. Mr. Schroeder agreed, and said that it was more of a safety issue. Mr. Delano pointed out that if those two spaces were removed, it does become a parking issue that the ZBA needed to approve. Mr. Kaufman said that if the two spaces were removed, then there would only be eleven parking spaces, where twelve were required.

Dr. Matusow said that he could not accept the argument that just because there has not been an accident there, the spaces should be approved. Mr. Adelman pointed out that Mr. Baroni stated the Board could not approve anything that did not meet the requirements. Mr. Delacruz did not think the Board could enforce all the regulations that pertain today because the building could not be moved. Mr. Adelman said that he is not going to approve the resolution, based upon the advice of the Town Attorney.

Multiple discussions were conducted at this point. Mr. Petruccelli asked Mr. Baroni if the Board has the power to waive a parking space but Mr. Baroni and Mr. Kaufman stated that could not be done in this zone. Mr. Kaufman pointed out that landbanking would not be an option either because they would not be able to demonstrate that the spaces could be built if they needed to be. Mr. Baroni stated that he felt the applicant's best option was to appear before the ZBA. Mr. Delacruz asked what that would accomplish; if the ZBA approved it, they would still be doing the same thing. The Board explained that Mr. Baroni is suggesting that the applicant go to the ZBA to get the one space that is required for the site plan approval.

Mr. Kaufman explained that the applicant's argument for the ZBA should be that if they were able to use those two spaces, they would be able to meet the off-street parking requirement. The spaces have been there for 60 years, but under today's requirements, the Planning Board has deemed them unsafe, and this presents a hardship, and therefore they are requesting that they allow 11 spaces, as opposed to the 12 that are required.

Mr. Delacruz asked if this Board was saying that the Planning Board would accept the layout without those two spaces, if the ZBA approves. The Board agreed.

Mr. Kaufman asked if this Board wanted to make a positive recommendation on this. The Board said yes. Dr. Matusow pointed out that the Board was not required to make a positive or negative referral for this type of application and wanted to know why this Board should take a position one way or another. The Board said that it was because the ZBA has asked for guidance before. Mr. Adelman recommended that the Board make a detailed recommendation so that this is done expeditiously. Chairman Michelman and Ms. Black agreed. The Planning Board would make a positive recommendation to the ZBA.

CARRIER
Site Plan
29 Sarles Street
Section 2, Block 4, Lot 1-5A
Ralph Mastromonico, P.E., P.C.
Discussion

Ralph Mastromonico was present on behalf of the applicant. He explained that they have revised the plan based upon prior comments from the Board and professionals. The landscape architect, Seth Titherst was also present.

They are providing a berm now, as well as very dense landscaping. Previously, the pool house was located in one area and is now shown in another area in order to have additional screening. This will reduce the visual and audible impacts.

Additionally, in terms of the size of the house, they are slightly over the minimum permitted size for this zone, but they are under the size of the footprint for the original house shown in the subdivision.

Chairman Michelman wanted to see the berm in detail and how it would protect the neighbors. Mr. Titherst said that they are going to have very sufficient evergreen screening (12-14' and 16-18' Norway spruces) on both property lines. Additionally, the berm would add to the protection. They are also proposing deciduous and perimeter planting around the house and courtyard.

Chairman Michelman noted that the applicant had discussed potentially flipping the septic and the house to try and move things away from the neighbor. She felt that even though the berm and evergreens will help, they wouldn't help with the second floor. That was still an issue for her.

Mr. Carrier felt that the 4-5' high berm and a 16' tree would block the second story, as second stories are about 20' high. Dr. Matusow stated that berms and trees are nice, but a pool in that area will be an imposition to the neighbor to the south. He felt the pool needed to go somewhere else. One possibility is shifting everything to the east, to the flat area below the current proposed location. He also stated that if nothing seemed plausible, the applicant should consider omitting the pool.

Mr. Mastromonico explained that there is no wooded buffer to preserve. He added that this is not an incompatible use. They are putting residential right next to residential. They are providing adequate screening. Dr. Matusow said that the pool seems to be right under the neighbor's window. He recognized that Mr. Carrier is the last lot to be developed and that he is "stuck" with everything neighbors did before him; however, that is the case. Dr. Matusow felt that the Board should give considerable consideration to the neighbor to the south. He would like to move the pool further away from that neighbor, and that plus the landscaping and the barrier, might make this more approvable.

Mr. Carrier said that if it were moved to the other side, they would have similar problems with the neighbors on the other side. Dr. Matusow noted that the same consideration he would give to the neighbor, would be the same consideration he gives to this application in the future. Mr. Carrier explained that to do what Dr. Matusow suggested, the clearing and grading limit line would have to be increased, and they would have to remove a substantial number of trees. He said the pool would have to be in same position. They can't put the septic all the way in the back because of the rock ledge. Therefore, the pool would basically be left in the same place. Dr. Matusow said that if that were the case, then he would not ask them to change. He asked the Town Engineer to comment on that.

Mr. Carrier said that could be tested, but is doubtful. He added that blasting would be required. The further away you go, the more visibility is created. Additionally, with having the sound buffer of house, trees and pool house, it provides the most protection in terms of noise. He understood why the Board would think this is beneficial, but the gain of moving it 20' did not offset the mitigation or reduce the visibility.

Chairman Michelman suggested that the Board conduct another site walk to visualize the berm and the plantings. The Board and Mr. Kaufman agreed. Chairman Michelman stated that she would like some staking so that the Board could evaluate this properly. Mr. Kaufman said that he felt this might be a very viable solution.

Monica Graham, a neighbor to the south, was permitted to speak even though it was not a public hearing. She said that she and her husband would like everything as far away from them as possible. She'd rather have the additional distance so that it is more center in the applicant's lot. Although that seems to be an ideal place for the pool, it is in her front yard. The applicant had given her three scenarios, and she wants the one as far away from her as possible.

The Board said they would go and walk the site before a neighbor notification would be scheduled.

LONDON

Site Plan

Section 1, Block 5, Lot 23.C

175 East Middle Patent Road

Pete Gregory – Keane Coppelman Engineers, P.C.

Consideration of approving resolution

Mr. Peter Gregory was present for the application. He explained that at the last meeting, the applicant was asked to resolve outstanding safety issues regarding the existing driveway and the regrading in the back of the house. They've now shown guide rails on both sides of the driveway and a plan with terraced walls rather than one retaining wall. They have spoken to Mr. Schroeder, and they still need to resolve where the guide rail will commence and how close to the road it will go. Additionally, they have commenced testing for the stormwater infiltration and they performed soil testing and will resubmit that information to the Engineer.

Chairman Michelman asked if Mr. Schroeder had any other issues. He did not. Mr. Kaufman had no comments.

Dr. Matusow asked if the Board had a public hearing for this application. Mr. Kaufman said this was done in August.

The Chairman asked if the applicant had seen the resolution. He had not. The Board gave him an opportunity to read it. Mr. Kaufman noted the only thing that should be added is Mr. Schroeder's comment regarding extending the guide rails.

Mr. Gregory explained that there was a subsequent review memo, and some of those issues may have been addressed. Mr. Kaufman recognized this, and advised the applicant to inform the Department as to what has been completed.

Chairman Michelman noted that she still had great concerns for this house. It is a two-bedroom house with a two bedroom septic but the rest of the house has 4-bedroom potential. There is an enormous amount of space, and although it fits and there is a rationale behind it, she is concerned.

Dr. Matusow agreed with the Chairman. He noted that he is going to vote for it because there is no reason to turn it down; however, he felt it is one of the most unwise plans he has ever seen. The potential for abuse of this plan is there, and he did not think it was well planned.

Mr. Adelman said that he too had problems with this plan, but that there is no reason not to approve it. Ms. Black agreed. It is a large structure for a two-bedroom house.

Mr. Adelman moved to approve resolution as amended. The motion was seconded by Ms. Black and was approved by the Board, with the exception of Chairman Michelman.

NEW BUSINESS:

FARERI

Subdivision

69 Round Hill Road

Section 1, Block 9, Lot 4-2

Susan Fasnacht, P.E.

Discussion

Ms. Susan Fasnacht was present for the application. She explained that the property consists of 11.5 acres; there is an existing house and some small existing structures on the site as well. The property backs up to Gifford Lake, which is a NYC wetlands. That area has been delineated. There is also a small wetlands adjacent to the property, that has been delineated. Gifford Lake is a critical environmental area, and that line cuts through the property. The applicant is proposing a four-lot subdivision with lots ranging from just under two acres to just over three acres. They are proposing a cul-de-sac to provide access to three of the lots and the fourth lot will be served by Round Hill Road. The houses proposed are six-bedroom houses with appropriate septic. The existing house has a septic system already. Ms. Fasnacht added that the lots will be on wells.

The lots do meet all setback requirements with the exception of some preexisting non-conforming. They made some slight reconfigurations of lots one and four to comply with the new FAR and gross land coverage. It can be done, but they have not gone through the process yet. They meet the buildable area requirements for the property.

The back of the property is the NYS DEC wetlands. Ms. Fasnacht noted that none of the construction would go into that area, so there is no requirement for wetlands permit from them. However, the applicant wants to create a conservation easement of approximately 2.8 acres. The applicant has also begun discussions with the Westchester Land Trust. The application would have to go to the Conservation Board. There is also some disturbance to the wetland in one area. There would have to be work within the setback for the existing drain line that cuts into the property.

Chairman Michelman asked about lot 4 with the two houses, and the structure that exists there. Ms. Fasnacht explained that it is 29.5' back; infringing 0.5'. It is an old house that was used by the original owner as a studio. Although there is a bathroom, the building consists of one big room, a couple of small rooms and a fireplace. There is no intention to have it as a dwelling. They will designate it as a type of studio structure and there is no intention to convert it to livable space. Chairman Michelman said that she was concerned with this structure.

Dr. Matusow asked if the issue of whether the structure could stay or go, was only a problem if the Board gets a site plan for another house on that lot. The Board agreed that for now it could remain. Mr. Kaufman explained that the Board would have to deal with that at the subdivision stage.

Mr. Kaufman explained that the Board would still have to create all these lots. While the existing 11-acre property has two or three houses, they are preexisting nonconforming structures that would have to conform to the current code.

Dr. Matusow asked what would be required to keep the existing structure on the site. Mr. Kaufman stated that it cannot be a dwelling or accessory apartment. If it is over 800 sq. ft., a special permit is required. Mr. Kaufman said that if its less than 800 sq. ft., then the Board could say 'existing studio to remain;'/ if it is over 800 sq. ft., then a special permit would be required. Dr. Matusow said that they were going to need additional information, but noted that it appears to be small. Mr. Kaufman said they should find out more about this structure and its history, and structurally, what condition it was in.

Ronnie and Martin Marmoor, 1 Gifford Lake Drive, said they had no problem with the subdivision but were worried about the easements that were given to them providing them access down to the lake. If this property is going to be given to the Land Trust, their access might be thwarted. They noted that the surveyor was on their property without notice and there is a disagreement about where the property line is. The house is not 29.5' from their property line and they have submitted a letter to the Board. They asked the Board to keep in mind that there are easements on both sides.

Mr. Kaufman said that an approval, if any, would not impact the easements; they would remain and they are depicted in the documentation the Board has.

Mr. Marmoor explained that their easement is not a straight line, but more meandering. What they had at the time was the right to go down to the lake. Unless the easement is corrected in some fashion, he doubts the future homeowners would like him wandering through their backyards to get to the lake. Dr. Matusow asked for them to provide copies of the easements to the Town Attorney. The Board said that they would look into this.

Ms. Fasnacht asked if the Board would refer the application to the Conservation Board, and the Board said they would. Dr. Matusow suggested they also send a letter to the Open Space Committee and let them know of this application.

Mr. Kaufman stated that one of his recommendations be that the Board look at this as a conservation subdivision, but this was before the applicant indicated that they would be granting a conservation easement. Now, it might not be necessary to have a conservation subdivision because essentially, there would be the same benefit.

Dr. Matusow asked the applicant to provide the Board with a plan that shows the critical environmental line. He also asked Mr. Kaufman to provide a detailed memo as to what this means to this Board. Mr. Kaufman explained that the CEA has been adopted by the county; according to NYS law, it gives special status under SEQRA, and although there is no permit that is required, it is something for the Board to consider. If there is possible disturbance within the CEA, the Board has to mitigate. It is part of the Board's review. They need to understand the impacts. In this subdivision, he felt the Board was doing a good job. The sloped areas within the buffer with mature trees are going to remain, and then placed in a conservation easement.

Mr. Adelman said that he read Mr. Kaufman's description, but wanted to know why this was a CEA. Mr. Kaufman explained that it was because it feeds the Mianus River.

Peter Limburg, 229 Bedford Banksville Road, on behalf of the Conservation Board wanted to know what was meant by a conservation subdivision. Mr. Kaufman explained this to his satisfaction.

BERGER

Site Plan

29 Carolyn Place

Section 2, Block 2, Lot 3.D-11

Mark Miller, Esq. – Veneziano & Associates

Discussion

Mr. Mark Miller, Mr. Peter Kurth and Mr. Berger were all present for the application. Mr. Miller explained that they are seeking amended site plan and special permit approval for modifications to existing residence. The applicants plan to take the existing garage, in which an SUV cannot fit, and convert that into a study and exercise room, and take the existing paved turnaround area, and move it closer to the adjacent property. Other modifications include a gazebo / cabana and a small area of the house that cannot be seen.

At the site walk, the Board was primarily concerned with screening the adjacent property. The existing house is slightly over the basic permitted gross floor area. After the expansion, they'd be further above the basic, but still about 25-30% below the maximum. There are also issues regarding the gross land coverage. The property as it exists, it is already beyond the maximum permitted. It is roughly 20,000 sq. ft. of impervious coverage. Mr. Miller explained that they would be able to reconfigure some areas, so that there is no increase of impervious surfaces. He pointed out that this reconfiguration would result in a slight reduction. Based upon discussions with the Town Attorney, the applicant is aware that they will need to go to the ZBA because they are shifting the dimensional non-conformity on the site. If the ZBA were to deny the variance, there would be no decrease in the impervious surface. The applicant hopes to get a positive recommendation to the ZBA to go address that issue, and then come back to get into more details regarding screening.

Mr. Miller explained that at the site walk, the Board saw the screening uphill, and the client agreed to carry out that scheme behind new garage turnaround. The applicant has had discussions with the neighbor to the south, and will get something in writing soon, indicating that they have no problems with this application if the applicant agrees to appropriate screening.

Peter Kurth, architect, recognized that screening was a concern for the Board. He presented photos to the Board, and explained that there is existing, heavy evergreen screening. He pointed out that they are only taking out two trees, and adding even more landscaping in the area closest to the neighbor's property. Part of the existing fence will have to be relocated; what they are moving has to be identical to that. Mr. Kurth thought that it might be helpful to answer Mr. Kaufman's August 21st memo. He said that there are absolutely no wetlands on this property but if the Board wants a site engineer, they would be happy to retain one.

Another issue that came up is the height of the structure. The memo refers to ridge height and the code refers to the median height, which is less. Mr. Kaufman agreed, and said that he was not talking about the height per the code, but what would be seen.

Mr. Kurth explained drawing A-1 refers to the table, which has been revised. He said this was ready to be submitted to the Board. Mr. Kurth also presented a diagram, and he indicated the new covered accessory buildings, the covered porch in the front and the new landscaped areas and the terraces. He said that this plan shows how they calculated the new amenities. This is tied to the charts that have been submitted. The plan shows the existing circular driveway, what areas are to be removed and what are being replaced. There is a slight variation in the calculations, resulting from the surveyor putting stakes in and the garage being pulled in closer to the house. He asked if there were any questions from the Board.

Mr. Schroeder asked if Mr. Kaufman was referring to the wetlands on the neighboring lot. Mr. Kaufman said that he was and that the buffer extends to this lot. Mr. Miller explained that the GIS map shows something like a second pond, but in reality, that doesn't exist. He added that he would clear it up with the Town Wetlands Consultant.

Mr. Kaufman said that there is an issue regarding the screening, but he believed that this would address the Planning Board's concerns. Mr. Miller explained that they would provide all the details at the next submission, but in the meantime, they were requesting a positive referral to the ZBA. He added that they were seeking a positive referral (as opposed to a mere referral) because they are constrained due to the topography on the site that cannot be changed. He explained that they have taken great pains to design the site, and this has actually resulted in a slight decrease in impervious surfaces.

Chairman Michelman asked if the Board was in favor of referring this positively to the ZBA. She, Mr. Adelman and Ms. Black were in favor of making a positive referral. The Board said they would positively refer this to the ZBA.

VELARDO

Site Plan

Section 1, Block 2, Lot 4-1

2 Gene Curry Drive

Dan Ciarcia - Ralph Mastromonico, PE, PC

Discussion

Mr. Dan Ciarcia was present on behalf of the applicant. He explained that the Board conducted their site walk. This application was previously before the Board and had received approval. A building permit was issued, but it lapsed and they are now trying to

renew the approvals. However, they are now faced with the new regulations for FAR and gross land coverage.

Chairman Michelman asked Mr. Schroeder if he had any issues with the application. Mr. Schroeder said that his issues are contained in his memo, and concern the retaining wall and the approval from the Westchester Health Department. Mr. Ciarcia explained that the approval is coming.

Chairman Michelman pointed out that there was a request to reconfirm the previously delineated wetland boundaries. Mr. Ciarcia said that they would do this.

Chairman Michelman asked if there were any other issues or comments. There were not. The Board and the professionals felt this was the same plan, and there were no issues.

Mr. Kaufman asked the Board if they wanted a public hearing and a resolution prepared once they hear back on the wetlands issue. The Board said they did.

PUBLIC HEARING & NEIGHBOR NOTIFICATION

GIFFORD LAKE ESTATES (Rolling Hills Lot #1)

Site Plan

Section 1, Block 9, Lot 13-10

Gifford Lake Drive

Time Allen, P.E. – Bibbo Associates

Discussion

Chairman Michelman read the public notice for the record. Ms. Desimone noted that all paperwork was in order and that 14 out of 19 cards were returned. Chairman Michelman asked if there were any neighbors present. Louise Gantress, of 2 Warren Place, Charles Feuer of 11 Gifford Lake Drive and Mr. Conrad of 95 Round Hill Road were present.

Mr. Allen was present on behalf of the applicant. He noted that at the site walk, the Board asked the applicant to reduce the size of the house back to 4,200 sq. ft. per the subdivision approval. He noted that there is a discrepancy, which he will rectify. He explained that he looked at general surroundings, particularly Mr. Conrad's property, and met with Mr. Conrad that day to discuss screening in detail.

They talked about additional landscaping along the roadway, creating an embankment and some trees will be removed. He believed that, with the enhanced landscaping plan, they should be able to make everyone happy.

Mr. Robert Sherwood, landscape architect was also present for the applicant. He explained the Board has seen this plan before. There are a few minor mistakes on the plan. The pergola is on the North side of the plan, the fireplace and the pergola structure are both on the north side. There will be a very thick planting of Norway spruces so that the development will not be seen. This will serve to protect the Conrad property. There will be a mixture of flowering trees and shrubs around the pool, and spruces coming up the driveway to enhance and further screen. They discussed bringing in more evergreens on the slope to help diffuse any light for those neighbors on the opposite

side of the ridge-line. They are proposing under-planting as well with flowering and evergreen shrubs to help maintain the embankment.

Chairman Michelman asked if they were going to submit a revised plan with these changes. Mr. Sherwood said that they would. She asked if the neighbors had any comments. Charles Feuer explained that he has spoken to the applicant and the landscape architect because this plan did not reflect some of the trees that are going to be removed, and that the applicant has indicated they are going to work with him on that. Mr. Feuer said that he would like to see the amended plan because this did not depict what has been discussed. He said he was not sure what the parameters are in terms of construction times, truck traffic, etc. Mr. Kaufman explained that the hours of construction are dictated by the code, but they would also be required to have a construction plan. Mr. Feuer added that the applicant has been very forthcoming and cooperative.

Louise Gantress indicated the approximate location of her house. She agreed that they have discussed her concerns, and that the applicant agreed to work with the neighbors. She said that she is concerned with the lighting from the site and the noise because the steep valley channels the noise. She hopes the planting will abate some of that. She said that she would like the lights to be capped so that they shine down as opposed to out. The Board made a note of this. Mr. Kaufman asked if the Board wanted to see a lighting plan because typically this Board does not look at that. The Board said they did.

Mr. Conrad thanked the Board for putting this toward the end of the agenda to enable the neighbors to attend the meeting. He indicated his property on the plan. He said that he appreciated the applicant's actions and responses to the neighbors. He pointed out that this is a development for commercial purposes. He spent time with the applicant regarding various scenarios to screen the property better. There will be approximately 100' separating him from the applicant. He stated that one of the reasons why he purchased this property was because he liked the country and now feels that he needs to move. He said that he has attempted to buy nearby property, and that should prove that he is not solely motivated to prevent people from doing things. Chairman Michelman said that they have to deal with what they have.

Mr. Adelman pointed out that this meeting was going to need to end soon because the Planning Board only had the court room until 7:30 p.m., so Mr. Conrad had to get to his point because the Board was hearing mixed messages Mr. Conrad stated that he is happy with this applicant, and is accepting the reality of the situation. He said that he had prepared a written comment and submitted it to the Board and asked that it be made a part of the record. Mr. Conrad recognized that his comments were not really going to change things, but wanted to point out that he was concerned with the issue of well contamination and that the number of trees to be removed would be pretty dramatic. Chairman Michelman pointed out that more landscaping would be coming in.

Mr. Conrad's written statement is included below, verbatim:

STATEMENT OF RICHARD CONRAD, 95 ROUND HILL ROAD
ARMONK, NY TO THE PLANNING BOARD, SEPTEMBER 10, 2007

Thank you for the opportunity to respond at today's public hearing to the proposed site plan for the construction of a new six bedroom home on Lot #1 of the Gifford Lake Estates subdivision (formerly known as Rolling Hills). My name is Richard Conrad, I am a 10 year resident of 95 Round Hill Road in Armonk. My property is directly adjacent to Lot #1 of Gifford lake Estates formerly known as Rolling Hills Subdivision.

I'd like to read from this prepared statement and I have copies here for the Board and the Board Secretary to enter into the record. [HAND STACK TO VALERIE.]

First, I'd like to thank the board and Valerie for arranging today's schedule so that I may be present to speak. The original 4:00 PM meeting time was difficult for my wife and me to attend since we both work full time and getting away to be present at the 4:00 pm time would have required us to leave prior to the end of the work day.

I believe everyone is aware that Lot #1 and the subdivision which was known as Rolling Hills has been of particular interest to my family. My wife and I have expressed our concern over the subdivision and the health and environmental hazards presented overall but in particular with respect to the integrity of our well. The substantial increase of the proposed house on Lot #1 from approximately 6500 sq ft to 9500 sq ft has heightened our level of concern.

We have attended every public hearing and virtually every Planning Board meeting which discussed Rolling Hills. On one occasion, we cut a vacation short in order to be present at a meeting. Since that first Planning Board meeting more than a year ago, my wife and I have engaged a number of experts to educate ourselves and review the matter on our behalf. These experts included two attorneys, a surveyor, Michael Klemens, the distinguished local environmentalist and an engineer, Peder Scott. Mr. Klemens' work is so respected that the town of North Castle has also engaged him as an adviser and speaker on environmental issues.

Both Mr. Scott and Mr. Klemens issued two lengthy reports which were delivered to the Board. I can supply additional copies of those reports as necessary. After reading the memos from the Town Engineer and the Planning Board related to the proposed plan for Lot #1 I re-visited those reports.

TREE REMOVAL

Among other things in his report, Mr. Klemens noted that the Applicant stated on page 6, Item 5 of its EAF that no mature forest would be

removed in connection with the Subdivision. The September 7th planning board memorandum indicates that the plan for Lot #1 involves the removal of 117 trees. We request that it be confirmed by the Board that the proposed removal of 117 trees remains consistent with the EAF representation of Applicant that no mature forest would be removed. Further in light of the planned removal of 117 trees, we request that Applicant maintain a mature tree screen to insulate our property line from the proposed construction and that the removal of 117 trees not interfere with this screen.

WELL CONTAMINATION

In the May 23^d report prepared by engineer, Peder Scott, the issue regarding the location of Lot #1's septic system relative to the location of my family's well was raised. In that report, it was documented that our pre-existing well was in jeopardy because it was at a lower elevation than the planned septic system on Lot #1 unless the septic site was set back further than planned. The Applicant maintained that the presence of an intervening rock eliminated the danger to our well. His report further concluded that based on a septic for a typical residential home, the location of the intervening fractured rock did not serve to mitigate the risk but rather the type of rock---a fractured gneiss rock-- increases the zone of influence of the Conrad well. It was his belief that in order to provide proper protection of our well with a typical home septic, a setback distance of 200 feet and not the 100 feet minimum be required to mitigate the potential contamination through the existing fractured strata. A request to drill test wells to determine the effect of the rock strata on the aquifer was refused by the then current Applicant despite the danger of contamination to our sole water source. Based on the then proposed smaller square footage the Planning Board at that time agreed with the then Applicant based on the planned and did not accept the recommendation of Peder Scott. We respect the Planning Board's judgment but we believe that the material change in size of the proposed "typical residence" of 4 bedrooms to an "atypical residence" of 6 bedrooms and thus its septic warrants a new examination of the health risks posed to the integrity of our well. If our well is contaminated we will have to seek alternatives to obtain water for our basic needs at our own expense. We believe it is unreasonable for us to be expected to bear the health risks posed by the material increase in the size of the proposed residence. Accordingly, we request that the Board reconsider the issues posed by the plan for Lot #1 and specifically request that the Applicant address our concern and provide us with assurances that our well is not at risk and that his plan will not force us to turn to other water sources.

WELL DRAW DOWN

We ask that our well is measured while the pump out of the other wells take place to insure the integrity of our well.

Chairman Michelman asked if anyone from the public wanted to comment. No one else wanted to speak. Ms. Black moved to close the public hearing. The motion was seconded by Mr. Adelman and unanimously approved.

Mr. Allen added that he and the applicant would meet with each individual that spoke at the meeting to discuss the landscaping plan with them in person.

ALPS SAUNA

Site Plan

Section 2, Block 16, Lot 18A

130 Business Park Drive

William O'Neill, AIA

Discussion

Mr. Bill O'Neill was present on behalf of the applicant. He noted that they were finally able to talk about the site plan and the actual application. Chairman Michelman felt that was a little premature, but said that the Board would listen and discuss. She noted that no one knew what the Town Board was going to do about the new legislation, and questioned the purpose of this meeting. She pointed out that the applicant was going to come back and present the application all over again.

Mr. O'Neill assumed that the Board had received a copy of what the Town Board was going to vote on. The Board did not, but Mr. Kaufman said this was basically what the Board had agreed upon at the last meeting.

Mr. O'Neill thought they would be able to move forward and talk about the revisions, especially in light of the fact that the town board will be voting.

Mr. Kaufman stated that there have been excellent changes to the plan. At first, the plan called for a restaurant, then it was proposed as a lounge, and now it is proposed to be half and half; he felt this used the space nicely. Mr. O'Neill said they wanted to be able to preserve the dynamics between the projector and screen. The client had been unhappy with Mr. O'Neill's suggestion to move it to the side. The client wanted it in the center. The Board stated that they liked it better in the center. Mr. O'Neill noted that they added office space, toilet facilities and worked out the mechanical configurations.

He stated that if he was able to get a sense that they did not make any changes that bothered the Board, he would be able to make a formal application to this Board without the need to revise the plan. Mr. Kaufman said that he prepared a memo that addressed the information that the Board still needs for the site plan. Mr. O'Neill said that he had reviewed that memo, and these issues are being addressed. Chairman Michelman said that there is still minor housekeeping to do. She noted that on the memo, there are a couple of numbers that are incorrect; just ignore the numbers. Mr. Kaufman said that the Board would like the applicant to address all these comments and then once there is a referral from the Town Board, the Planning Board would be in a position to adopt the site plan.

Mr. Kaufman asked if there was a consensus from the Board that this is heading in the right direction. The Board agreed.

The meeting was adjourned at 7:12 p.m.
