

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 P.M.
January 14, 2013**

PLANNING BOARD MEMBERS PRESENT:

Arthur Adelman, Chairman
John Delano
Steve Sauro
Guy Mezzancello
Christopher Carthy

ALSO PRESENT:

Adam R. Kaufman, AICP
Director of Planning

Joseph Cermele, PE
Consulting Town Engineer
Kellard Sessions PC

Jerry Reilly, Esq. Town Counsel
Stephens, Baroni, Reilly & Lewis, LLP

Valerie B. Desimone
Planning Board Secretary
Recording Secretary

Conservation Board Representative:
John Fava

The meeting was called to order at 7:00 p.m.

NYCDEP

Nanny Hagen & Route 120

Section 103, Block 01, Lot 1

Section 103, Block 02, Lot 1 and Lot 1.A

Section 103, Block 04, Lot 1, Lot 2-.A

Property clean up from Sandy and removal of destabilized trees

Amanda Locke, Watershed Forester

Discussion

Present for this application was Amanda Locke, Watershed Forester from the NYCDEP and her boss Fred Kisling.

The application submitted by the New York City Department of Environmental Protection is for an emergency clean-up and salvage project on approximately 45 acres of NYCDEP owned watershed forest land at four sites around the Kensico Reservoir. The project is designed in response to significant damage caused by Hurricane Sandy. The objectives of the project are to remove storm debris from the sites, to remove remaining trees destabilized by damage to adjacent trees, and to restore forest cover on cleared sites as quickly as possible. The applicant will also clear the remaining spruce trees that are within 100 feet on both sides of the road.

Ms. Locke briefly reviewed each of the four sites for the board. She noted that she would like to start planting in the spring. They will plant 300 trees per acre which equals a spacing of 12' x 12' on grid. There will be a minimum of 3' tall trees planted. There will be seed in mulch in much of that area within the next few years. It was noted that ½ of the material would be grown in pots as growth in the land is not as efficient.

Mr. Adelman noted that he was impressed with the report and how very detailed and informative it was. He inquired what would the 8' woven fence look like.

Ms. Locke stated that it would be a single strand fence made of metal or wooden posts, gray or silver in color. The fence will promote other natural regeneration and within 5 -7 years, the site gets established and the fence would be removed. She will provide pictures of other existing fences in use today for the board members.

In response to Mr. Adelman's comment, Ms. Locke stated that she will oversee the removal of the trees for the project and the contractors on site to make sure the approved plan is followed. The clean up debris will be overseen by the operations group and she will oversee the planting or the forest scientist will oversee the planting.

In response to Mr. Adelman's comment, Ms. Locke stated that signage will be put up on site to inform drivers of what is proposed, the traffic flow on Nanny Hagen will not be held up for more than a couple of minutes because the equipment will not be on the road. Traffic will be stopped when a truck enter or exits the site. If the equipment is on the road, it will be for the trees near the road that are coming down and traffic will be held up for a matter of minutes and she will be sensitive to commuter times when removing trees on the road.

In response to Mr. Sauro's comment, Ms. Locke stated that there are proposed staging areas identified on the plans as landings and these areas will accommodate the trucks and an area for workers (2 or 3 workers on site at a time) to park. She reviewed the staging areas at this time.

In response to Mr. Adelman's comment, Ms. Locke stated that she will be coordinating her project with the other DEP project regarding The Kensico Road Closure Traffic Improvement Measures application currently before the Planning Board. Our project will be done by next fall.

In response to Mr. Sauro's comment, Ms. Locke stated that the contractor they have hired has purchased all of the wood from the DEP. The contractor will set up all of the erosion and control measures on site and will be removing all logs 5 inch in diameter or larger that they can sell. These logs are going to be transported to Canada. A contractor will chip what is left and spread the chips around the site for stabilization as they do not want bare soil exposed. The chips will be no deeper than 3 inches in any one area which will allow growth through the chips. The roots will be tipped back and cut down to the trunk as close as possible, for aesthetics, some of the stumps will be grinded. Branches will be left on site as that provides stability for erosion control.

Mr. Carthy noted that in Mr. Kaufman's memo he had some comments regarding increasing the size of the perimeter plantings vs. interior plantings. Ms. Locke stated she would look into that but stated she would prefer to have trees that are going to grow better on site. If larger trees are planted they grow slower vs. smaller trees. If that is the board's preference we can work with that but need to be sensitive to the cost issue as well. She noted once the trees are removed people will have a great view of the reservoir. With opening the road for more daylight, this will increase the safety of the road.

Mr. Kaufman stated that the Town needs to understand that this is going to take many, many years for this area to grow up. The DEP is doing all of this work in a reasonable manner with this project.

Mr. Adelman complimented the applicant on their submission.

The applicant will meet with the Conservation Board tomorrow. Mr. Fava stated that he is aware that this is a sensitive area and will submit a letter back to the Planning Board by the end of the week. He suggested not planting evergreens or deciduous trees on the south side of Nanny Hagen in order to let the sunlight assist with the winter cover on the road. Ms. Locke stated that request can be accommodated.

A public hearing was scheduled for the January 28, 2013 Planning Board meeting.

ZENG

46 North Greenwich Road

Section 2, Block 17, Lot 2G-1

Proposed amendment to the landscape plan and driveway location

Discussion

Walter Nestler, Landscape Architect, ASLA

Mr. Zeng was present on his behalf for this application.

The Applicant is seeking approval to modify the previously approved site plan and landscaping plan. The Applicant is proposing to amend the configuration of the previously approved driveway.

Mr. Zeng stated that he has reviewed the professionals memos. Mr. Zeng noted that the impervious area was reduced 40 square feet with this new plan. He would like to pave the driveway outside of the wetland buffer.

Discussions were had at this time regarding the Conservation Board memo. Mr. Fava reviewed the items in his memo with the board at this time regarding the second driveway entrance, rain garden, storm drainage, mitigation measures and monitoring of the rain garden to make sure it is functioning.

In response to Mr. Adelman's comment, Mr. Zeng will be able to accommodate all the suggestions in the Conservation Board memo. He was concerned about the storm drainage as that was already installed but will work on these items with the Town Engineer.

Mr. Zeng and Mr. Cermele discussed his memo at this time. It was concluded that items discussed needed to be reflected on the plan and part of the next submission.

It was clarified for Mr. Zeng that he needs to resubmit a plan to the board that includes the comments made in the Conservation Board memo, Town Engineer memo and Planning Board memo.

In response to Mr. Adelman's comment, Mr. Zeng stated that he will submit the most recent copy of the NYSDOT letter and he will get another letter from the DOT which closes the issues noted in the original letter. It was clarified at the board's request to Mr. Zeng that a letter is needed from the DOT stating it is alright to plant and for the existing plantings to remain in the right of way.

Mr. Zeng presently has a temporary C.O. which expired last month.

It was noted that all the issues to be addressed by the applicant were listed in the memos from the Director of Planning, Town Engineer and Conservation Board.

In response to Mr. Adelman's comment, Mr. Zeng noted that he was clear with what he needed to do to proceed with this application.

Mr. Cermele and Mr. Kaufman stated they were happy to meet with Mr. Zeng and his professional to keep this application moving. Mr. Adelman stated that he will get Mr. Zeng on the very next agenda once he has completed all the items in the memos and has an updated DOT letter; Mr. Adelman promised Mr. Zeng that he will do his best to keep this application moving but noted that Mr. Zeng had to address the comments in the memos and get an updated DOT letter. Mr. Zeng stated that he was clear on what he needed to do.

DEHMER

11 Annadale Street

Section 2, Block 02, Lot 23.D01

Change of use of the existing building to an apartment, office and storage space with the outdoor overnight storage of a fuel vehicle

Barry Naderman, PE Naderman Land Planning and Engineering

Discussion

No neighbors were present for this application.

Mr. Naderman stated that this application is for the establishment of an apartment and the relocation of an office from the first floor to the basement. In addition, the Applicant is proposing the overnight storage of a commercial vehicle. In his opinion the biggest issue is the visual aspect and the screening of it. He presented various photo locations to give the board a visual of the site with proposed screening. A two foot berm is proposed next to the truck along with landscaping. The truck has been parked there for 8-10 years. There have been other types of trucks parked on site since the 1970's. There were other issues raised about the oil truck on site, this is not a transfer facility, no oil will go in or out of the truck on site. His client has been respectful with the times of the deliveries. There are times when a client may run out of oil not during business hours and he would accommodate that client, but that is not often. Once the truck is out in the morning, it does not come back until the end of the day,

Mr. Naderman noted that oil containment for the truck was raised as a concern. There is more of a likelihood of a delivery oil spill then one occurring in this driveway, the DOT has requirements and standards that the vehicle must adhere to and the truck must pass regular inspections. Mr. Dehmer has a Hazardous Material licenses. Mr. Naderman does not feel that oil spillage is of great concern. He has met with Kellard's office a few months ago to discuss all of these matters. He is trying to focus on the true issues at this point.

Mr. Delano agreed that the last time this applicant was before the board that landscaping was an issue to hide the vehicle, the septic issue was accommodated on

the plan. He was concerned originally about the proximity of the truck to the well but he also agreed with Mr. Naderman that there was not going to be a 5,000 gallon oil spill on site. He noted how far this application has come with the revisions Mr. Rucker provided and how Mr. Naderman finalized those comments. He would like to defer to the town engineer on how he would like to address the drainage. Mr. Naderman will work with Kellard's office regarding the drainage to see if that can be improved. There is no drainage on site presently and we are increasing the impervious surface.

Mr. Naderman stated that this application has been around for a while and Mr. Dehmer has been trying to be respectful of the neighborhood. Given there have not been chronic and ongoing complaints about it, is a testament for trying to be a good neighbor.

Mr. Adelman stated that we appreciate that but noted the neighbors are concerned about the visibility of the truck. Mr. Naderman stated that was a primary concern for his client and that was why there was screening along the fence and along the berm on the side of the lot. Five to six foot evergreens are being proposed. Mr. Adelman noted that the species of plants is important; we want to make sure they last and stand up. The plantings will be replaced during the next growing season.

Mr. Carthy stated he also agreed with Mr. Naderman that just because the oil truck is on site, it does not mean it will leak. During his review of this application he came across some notes that prohibit outside storage. He has two work trucks that he can't park at his office and have to be parked off site and he understands how irritating that is and he pays for offsite parking. Why couldn't this applicant consider offsite parking, it would be more considerate of the neighbors. He drove up and down Annadale today; he did not feel there was a lot of truck traffic on the road. Mr. Naderman noted that when his client leaves the site, he exits toward Route 128.

Mr. Carthy noted that Mr. Dehmer is a long standing resident and is considerate of his neighbors but the use goes with the life of the property and future owners may not be as considerate of the site and the neighborhood. Future owners may go in and out of the site with the oil truck all day long. He read on the 1978 site plan that there was no outdoor storage. He understands this is a commercially zoned lot but he feels it is asking a lot of this community to permit the storage of the oil truck on site.

In response to Mr. Reilly's comment, Mr. Kaufmann stated that the logic the Planning Board has always used in the past is if there is a business on the property then the vehicle associated with the use on site is permitted. The Planning Board can determine that the truck is a permitted accessory use or not. It is customary with a business; if his oil delivery business is in the building then the oil delivery truck is an accessory use.

Mr. Reilly noted if the use is changed in the future, the applicant would have to come back before the board for a change of use. If the use remains the same they would not have to appear before the board.

Mr. Adelman stated that ideally, in a perfect world we would prefer the truck not be there at all. It seems that it is going to be there and appropriate to be there. We are down to getting good screening on site.

Mr. Kaufman stated that the threshold test that has been used in the past is if you have the overnight storage of vehicles, you would permit it if you believe it is - #1 tied to the use in the building, #2 - adequate room on site and #3 adequately screened. This has been what the board considers in the past.

Mr. Adelman noted that the truck has been there for ten years, there is enough room for it. We need to screen the site. Mr. Dehmer noted that trucks have been parked on site since the 1960's. Mr. Carthy stated he was not sure if he agreed with Mr. Adelman that just because the truck has been parked there for 10 years does not mean the outdoor storage is right or this property supports screening of it. Even though it can physically fit there, the concept of screening it for the sake of the community may not be the best solution.

Mr. Adelman said that we would like it not to be there, if the applicant was willing to locate his oil truck in another location, like Mr. Carthy had to do with his trucks. The applicant would prefer to keep it on site where it has been for the past ten years. Mr. Dehmer agreed, he wants to keep it on site. Mr. Naderman noted that it would be a different story if complaints were made to the building department every week for the past ten years, the truck would not be there. Mr. Adelman stated that we are left with making the best as we can with screening.

Mr. Naderman reviewed the landscaping plan. Mr. Adelman noted that when the neighbors were last before the board, they were concerned with the number of trucks parked on site and the screening of the site. Mr. Naderman confirmed that there would only be one truck parked on site.

Mr. Carthy inquired if a different solution could be considered a tenancy, he agrees that the truck has been there a long time and he has been a good neighbor. He is sympathetic to the applicant but from a planning point of view he does not agree that the truck should be on site. If the board does not see it that way, can we see it from the point of view that he has the right to keep the truck there as long as he personally renews the right every year or every other year and it does not become part of the site plan or part of the property and the right to park a truck there does not succeed him. He has been part of this community a long time and he can see the point of view to let him keep his truck there but to allow it to live there forever that disturbs him to a degree. Mr. Reilly stated that it would be discriminatory and if it is not legitimate for Mr. Dehmer it would not be legitimate for everyone else. It is not enforceable and would be challengeable and it is a bad precedence and then everyone would be coming in to get exceptions from the Planning Board and they will keep stretching it to the point of no legitimacy to the request unlike Mr. Dehmer's and those types of things are considered in variances which are heard before the Zoning Board of Appeals.

Mr. Naderman stated that these decisions are made on a case by case and site by site basis.

In response to Mr. Sauro's comment, Mr. Naderman has read the resolutions provided by the professionals.

Mr. Kaufman noted that the last public hearing was held on December, 2011. Mr. Reilly stated that another notification would have to be sent to the neighbors. A public hearing was set for February 11, 2013.

In response to Mr. Mezzancello's comment, Mr. Naderman stated that there will be a two foot berm and the trees would be 6' plantings.

GUSSACK

13 Hemlock Hollow Road

Section 1, Block 04, Lot 1.D-13

Accessory Structure

James Coleman, AIA LEED AP James Coleman Architecture Studio

Discussion

Present this evening was Mr. Gussack and his professional, James Coleman.

The application is for the construction of a 946 square foot detached garage which is located within the town regulated wetland buffer. The detached garage is located within the front yard as defined in the code and would need a variance from the Zoning Board of appeals. It is also located within the side yard and does not meet the setback requirements and would also need a variance from the Zoning Board of appeals.

Mr. Coleman stated that he has reviewed the memos and the comments are clear and he can address them. He noted that there was no other location on the property to put the detached garage due to the terrain. He has spoken to the neighbor and he will redo the screening along the border of the property. He is aware he will need to appear before the ZBA for a front yard and side yard variance. He is aware that he also has to appear before the Conservation Board. Mr. Coleman presented the layout of the site and plans at this time. A rendering will be prepared for the ZBA.

Discussions were had regarding the recommendation to the Zoning Board of appeals. The Planning Board noted that there were no other viable alternatives for the garage on site due to the terrain. There was no vote at this time.

SAMAD

100 Buckout Road

Section 3, Block 14, Lot 4A

New accessory apartment

Brad Demotte, RA De Motte Architects

Discussion

Present for this application was Seth Mandelbaum, attorney for the applicant, Brad DeMotte, Architect; Vincent Massaro, Engineer for the applicant. Mr. & Mrs. Samad were also present.

Mr. Mandelbaum stated that he received ZBA approval on January 10, 2013. He would like a Public Hearing scheduled with the Planning Board on January 28, 2013. He noted that no one appeared at the ZBA public hearing and he had one letter of support from one of the neighbors. The accessory apartment has Health Department approvals. Site visits have taken place for this application. This application is scheduled to appear before the Conservation Board tomorrow evening. The septic system for the accessory apartment has been signed off by the Board of Health.

Mr. Adelman noted that he would like to discuss the septic systems for both buildings. Mr. Kaufman noted that the remaining issue is the wetland permit and the Conservation Board recommendation regarding the septic. Mr. Kaufman noted that the conclusion paragraph in the Conservation Board memo dated January 9, 2013 summed it all up by eliminating the cesspool in the wetland buffer and creating a new septic for the accessory apartment and residence.

Multiple discussions were had at this time regard the septic, cesspool and expansion area for this application. Locations for the septic system and expansion area for the apartment were determined for the accessory apartment. The board was concerned if these two locations are the only two remaining viable areas left on the property, where would the expansion area be for the primary residence should that septic system fail. Discussions were had regarding why would this lot continue with ½ cesspool and ½ septic, why not have a full septic system built to accommodate the house and apartment. The applicant did not see a reason to replace a working cesspool. Discussions were had regarding the Westchester County Board of Health approvals and sign off's for failed systems vs. existing systems, conventional and nonconventional systems and cesspools. Mr. Mandelbaum stated that he will go over the comments with his professionals and his client. He would still like the public hearing on January 28, 2013.

Mr. Fava stated that both the house and apartment have cesspools and the cesspool for the house is located within 30 feet of a stream which flows to Silver Lake. The proposal for the septic and expansion area for the apartment is located 75% within the wetland buffer. He suggested as the board suggested that this be looked at as an entity and have it all tied together. Mr. Massaro stated that Westchester County will not let

you combine the systems. Mr. Delano and Mr. Carthy said that they worked on projects in Westchester where the septic was all in one.

A public hearing was scheduled for the Samad application for January 28, 2013.

KAHN

85 Whippoorwill Road East

Section 2, Block 11, Lot 3F-2

Glen Gate Company

Discussion of site walk

Proposed alteration of originally approved clearing and grading limit line

The owner of Glen Gate Company, Jordon Scott was present as well as Cheryl Russ from Glen Gate Company.

Mr. Scott stated that he is aware of the two important errors made regarding this project. his client's attorney, Gerry Geist was not able to attend this evening.

Mr. Adelman noted that Mr. Geist's presence was not necessary this evening as the remediation proposal was pretty acceptable based on the site walk. Mr. Scott reviewed the plan at this time for the board members.

Mr. Kaufman noted that the main issue is whether or not the Planning Board wants to amend the integrated plot plan on the subdivision plat. There was a note on that plat map that said an amendment to the Clearing and Grading limit line requires site plan approval from the Planning Board. If the board feels that it is appropriate to amend those lines then the board has the ability to do that. The board agreed that it was appropriate to change the clearing and grading limit line. Mr. Kaufman suggested that Mr. Scott call him in the morning and review the next steps with him. Mr. Kaufman also suggested the applicant revise the plans according to Mr. Cermele's memo and his memo. Mr. Scott agreed to submit revised plans according both memos and to follow up with Mr. Kaufman in the morning. A resolution will be considered once the revised plans are resubmitted.

Meeting adjourned at 9:05 p.m.

BYRAM RIDGE ROAD SUBDIVISION

62 Byram Ridge Road

2 / 5C / 10

P.Daniel Hollis, III, Esq. Shamberg Marwell & Hollis PC

Consideration of Extension of Time Resolution

Item was taken off the agenda at the applicant's request.