

**NORTH CASTLE PLANNING BOARD MEETING  
15 BEDFORD ROAD – COURT ROOM  
7:00 p.m.  
January 23, 2012**

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PLANNING BOARD MEMBERS PRESENT:

Robert Greene, Chairman  
John Delano  
Steve Sauro  
Guy Mezzancello

VACANT SEAT:

Town Board Will Appoint

ALSO PRESENT:

Adam R. Kaufman, AICP  
Director of Planning

Ryan Coyne, PE  
Consulting Town Engineer  
Kellard Sessions PC

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

Valerie B. Desimone  
Planning Board Secretary  
Recording Secretary

Conservation Board Representative:  
Maggi Pack

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

Mr. Greene welcomed everyone to the meeting and noted that Supervisor Arden asked him to thank Jane Black for her five years of service to the Town Planning Board. He also thanked on behalf of Supervisor Arden, Beata Tatka for her service to the Planning Board as well because she will be stepping down from the Planning Board and returning to the Architectural Review Board as their Chairman.

## **APPROVAL OF MINUTES:**

The minutes from November 7, 2011 and December 12, 2011 were not voted on because there was not a quorum of people present at those meetings to vote.

## **January 9, 2012**

Mr. Greene asked for a motion to approve the January 9, 2012 minutes. Mr. Delano made a motion to approve the January 9, 2012 minutes. It was second by Mr. Sauro and approved with three Ayes. Mr. Greene abstained from the vote. There is a vacant seat on the board at this time.

## **PUBLIC HEARING:**

**GELMAN, 62 E. Middle Patent Rd, 1/7/14.A, Ronald Markowitz, Esq. Special Permit application for the establishment of a 709 square foot accessory apartment in an existing detached structure adjacent to the existing 5,627 square foot home.**

Mr. Greene read the affidavit of publication for the record. Mrs. Desimone stated that 9/11 green cards were returned for this application and all paperwork was in order. No noticed neighbors were present for this public hearing.

Present for this application was Ronald Markowitz, attorney for the applicant.

Mr. Markowitz stated that this accessory apartment received a certificate of occupancy when originally built in the 1980's. A few years after the C.O. was issued legislation was passed requiring all Accessory Apartments to obtain a Special Use Permit and that that was why this applicant was before the board this evening.

Mr. Markowitz has reviewed the resolution and had a few comments regarding the square footage of the existing home. Mr. Kaufman noted that the figures referenced in the application were submitted by the applicant's professional. After a brief discussion the board agreed for Mr. Kaufman to meet with the applicant's professional to go over the figures and if appropriate, to amend the figures in the resolution.

Mr. Markowitz asked that item #1 in the resolution be eliminated regarding an as built site plan. Mr. Kaufman agreed with this request as nothing was being built by the applicant. The board agreed as well and deemed it appropriate, in this case, and removed the condition.

Mr. Greene asked for a motion to close the Gelman public hearing. Mr. Delano made a motion to close the public hearing. It was second by Mr. Mezzancello and approved with four Ayes. There is a vacant seat on the board at this time.

Mr. Greene asked for a motion to approve the Gelman resolution as amended. Mr. Delano made a motion to approve. It was second by Mr. Sauro and approved with four Ayes. There is a vacant seat on the board at this time.

**DISCUSSION:**

**ADOPT A DOG, 23 Cox Avenue, 2/13/38, R-1A, Dan Hollis, Esq. Shamberg, Marwell and Hollis. Referral from Town Board - Request to amend the Town Code to permit animal welfare and rescue facilities uses in residential zoning districts.**

Present for this application was Dan Hollis, Esq. Shamberg, Marwell, Davis and Hollis along with Megan Collins, Esq. from Shamberg, Marwell, Davis and Hollis and Dan Holt, PE, Holt Engineering.

Mr. Hollis stated that this is a prior non conforming use on a 1.7 acre property in an R-1A zone. The applicant would like to bring this use into conformity by amending the zoning ordinance which would enable the applicant to enhance the property, make it more aesthetically pleasing and prepare for long term strategic planning. He has read the memos from the professionals and would like to discuss the FAR comments referenced in Mr. Kaufman's memo. Presently the FAR for the site is .06 and the Director of Planning is proposing a maximum FAR of .15. In many cases this would be appropriate but in this case because of the nature of kennel runs and the housing necessary to maintain a facility like ours, unobtrusive, we need to have greater coverage. He would like a referral from this board back to the Town Board this evening.

Mr. Greene was in favor of a positive recommendation to the Town Board and noted the Town Planner memo was very thorough and would like to hear from the other board members. Mr. Delano was in favor of this application and agreed with Mr. Kaufman's comments and his concern regarding the FAR (Floor Area Ratio).

Mr. Hollis stated that a long time plan of only having .15 FAR would restrict the clients future development of the lot. The client would not be able to build the buildings necessary to house the animals in an unobtrusive way by sound and sight. Mr. Kaufman noted that the existing facility is .06 and would allow the facility to double or triple what is presently there. Both board's, Town and Planning, would need a clearer definition of what is envisioned there. If it is really just tied to the dog runs then we could address that in the Special Permit by exempting the dog runs, if that is the issue. Mr. Hollis stated that the space is for more state of the art Kenneling. There is only one area that can be built unless we tore down the existing structure. We don't have any plans down the line for the site but want to be prepared for when they are ready to retrofit the existing facility or become more state of the art. We can demonstrate at the public hearing what we will be able to do at the site.

Mr. Kaufman noted that this was an important issue for both boards to understand because at a density of .35 that is something you would see in the commercial areas and not a residential area. The boards need to understand how this will impact this property as well as other animal welfare and rescue facilities in town. Mr. Hollis noted there are no other facilities in town and that is why a Special Permit is needed. Mr. Kaufman stated that we don't want to gloss over the fact that we are going to make this a permitted use and we are recognizing that this use, which is permitted in residential areas, could have significant impacts and we are trying to put safeguards in the law

where these facilities can be located. For example they have to be so many feet away from a residential structure, must have frontage on a state or county road. Mr. Hollis noted that there was staff living on site and that should be addressed as well. Mr. Kaufman stated that really gets into the issue of what should the maximum density be in these types of facilities, how does it fit and are we comfortable with that in town. Mr. Hollis noted that when they come back they can show the potential build out of the property with overlays of kennels, enclosed runs or administrative buildings. They will put together a template showing a compare and contrast of the FAR for .15 and .35 on site.

In response to Mr. Greene's comment, Mr. Kaufman stated the Floor Area was obtained from the Assessor's records or application, he did not recall which place. Mr. Hollis stated the runs are outside and are not part of the .06 existing FAR calculations. Mr. Kaufman stated that the new .15 FAR could exclude the runs as well.

Mr. Greene stated that it is hard to recommend extra FAR to the Town Board without seeing it on a plan and how the site is laved out. The applicant has not created a plan based on the proposed .15 FAR to see if that is really enough or not.

Mr. Hollis stated that a recommendation can be made back to the Town Board with a condition that the FAR be worked out.

Mr. Delano noted he had no problem referring this back to the Town Board with a note regarding the FAR comments. Mr. Greene agreed.

Mr. Sauro stated that he was in favor of a positive recommendation. There are no other facilities like this one except for the one on Cox Avenue. Having the zoning changed opens up a potential Pandora's Box elsewhere in the town. He expressed his concerns about this zoning change. He wanted to know if there was any way we could further protect the residents.

Mr. Kaufman reviewed some of the proposed law at this time. The minimum lot size shall be 65,000 square feet. An animal welfare and rescue facility shall directly front on a State or County road. All non-enclosed buildings, structures or areas occupied by animals (including exercise areas) shall be located no closer than 200 feet to any residential structure. Mr. Hollis stated that we drafted this to make it pretty tough to put this any place else in town. Mr. Kaufman stated that there are other multiple places in town that could potentially meet this criteria and it is not just one location. Mr. Hollis agreed, but not many of those properties would be targeted for this kind of use right now and is still subject to the Special Use Permit by the Town Board. Mr. Sauro stated that he was trying to head off any potential problems moving forward.

Mr. Greene made a motion to refer this application positively to the Town Board with the FAR comments discussed this evening. Mr. Sauro second the motion and it was approved with four Ayes. There is a vacant seat on the board at this time.

**20 BANKSVILLE AVENUE, 20 Banksville Ave, 1/12/7.D, Dan Hollis, Esq. Shamberg, Marwell and Hollis. Site plan application for the conversion of the 1,686 square foot existing residence to an office and the construction of a 4,000 square foot warehouse within the GB Zoning District. In addition, the site plan depicts a fueling station and outdoor truck parking which necessitates the issuance of a Town Board Special Use Permit for the storage of contractor's equipment.**

Present for this application was Dan Hollis, Megan Collins and Anthony Carr, PE as well as the applicants, Mr. & Mrs. DiPietro.

Mr. Hollis stated that the plan has been modified based upon some conversations had with this board, some of the leadership of the neighbors, Mr. Kaufman and Mr. Baroni. He noted there are some discussions about rezoning in Banksville. At an attempt to find something acceptable to all parties, the fueling tank has been removed from the site.

Mr. Carr reviewed at this time what the original lot was like and what the proposed changes are today. He reviewed his memo that was submitted to the board dated December 8, 2011. He noted the numbers referenced in his memo correspond to the numbers on the plan. Reduced, proposed construction disturbance approximately 1,800 square feet. The site was reconfigured for outside parking from the southwest to the northeast part of the site. The trash enclosure was relocated. The building decreased 300 square feet. Twelve parking spaces were added to the site. The outside storage areas have been eliminated. The washing areas outside of the site have been eliminated. The existing trees in the southwest portion of the site and along the western property lines have been preserved. Six parking spaces were removed and the trees in that area will remain, the outside stand gravel areas have been eliminated. The key words used for this plan vs. the previous plan are reduced, eliminated and preserved. He has sat down with the Director of Planning as well as the Town Engineer to go over a few reiterations of the plan. The applicant has conceded with a lot of these originally proposed site features which created additional green space, reduced disturbance and the elimination of the tank and fueling station.

Mr. Greene inquired why these concessions were made. Mr. Kaufman noted that there were a few pre-application meetings with the applicant and meetings with the neighbors. Mr. Kaufman noted that the directives and concerns were laved out in his and Mr. Coyne's memos. Mr. Kaufman stated that he was particularly concerned with the amount of disturbance within the wetland buffer; the watercourse buffer is still not accurately depicted on the site plan. Since there is not enough room on site to fully mitigate, off site mitigation is being proposed, which needs to be discussed with the board. Mr. Hollis stated that last summer he was out to the site with Beth Evans, Beth Evans Associates and Rich Fon (former Building Inspector) and reviewed some off site mitigation in the area. We just wanted to update the board members regarding the status of this application.

Mr. Steve O'Connor stated that part of his property is contiguous and adjacent to this property. He noted that even with the removal of the gas tank, the plan still calls for a tremendous intensification over the present use of the single family use. Mr. O'Connor handed out a letter with photos to all of the board members and professionals at this time and noted that this is a heavily commercialized use on site.

Mr. Greene stated that historically things get bogged down because there is an absence of a constructive dialogue between the applicant and the neighbors. He noted that Mr. O'Connor's comments were valuable and important, but this was not the forum. Mr. Greene offered to have an informal meeting with the neighbors and the engineers in order to understand their concerns more thoroughly. He asked that this first meeting take place without the attorneys, to listen to the neighbors concerns. The neighbors agreed to the meeting.

Mr. Kaufman noted that this application was before the Town Board for a Special Use Permit and was referred to the Planning Board. The Planning Board has been trying to get the information, as well as a better understanding of what exactly this application is going to be. At some point the discussion the O'Connor's are having has to go back to the Town Board because they are the approving authority for the special use permit. That is where we would go through those points in the code that talk about the requirements for issuing the special permit. At some point that will need to be discussed.

Mr. Hollis suggested the Town Board Liaison attend the meeting with the neighbors, it was noted Supervisor Arden was the liaison. Mr. Greene will have Supervisor Arden attend and asked that Mr. Kaufman attend the meeting as well. He also offered one other board member to attend. It was suggested that the new board member, Art Adelman, attend this meeting to get up to speed.

Mrs. O'Connor provided the contact information to the chairman.

**MONACO, 8 Hollow Ridge Road, 2/3/2-8, Holt Engineering Application for preliminary subdivision approval of a Lot Line Change and special permit for an accessory structure over 800 square feet.**

Present for this application was Al Pirro, Esq. Paul Siriano, Barry Bronfman, AIA and Dan Holt, PE and land surveyor and Mr. Monaco.

Mr. Pirro handed out written responses to the professional's comments in the memos.

Mr. Pirro Stated this house was built prior to the Gross Land Coverage and Floor Area Ratio worksheets. He opined that the legislative intent was not to preclude this type of application. He noted that it was suggested in the Director of Planning's memo to reduce the size of the garage and to move it. Mr. Pirro stated that an 800 square foot garage would not meet the needs of three cars and if the garage were moved the turning radius would be affected. He noted the garage was not two stories and was

peaked to match the architectural details of the existing house and garage. He was surprised to read in the memo that the swimming pool invaded the 30 foot vegetative area which was on the original subdivision plat. He said he would review the original approvals. We would solve this matter with the lot exchange. No violations were issued for the pool and the C.O. was issued as well. Perhaps another vegetative buffer can be created in another location on the lot. The towns will be exchanging an even amount of property which is 1,576 square feet of land. In the event there is a lot exchange between municipalities, the applicant will own property in the Byram Hills School District and the children will have the ability to attend that school district instead of the Bedford school district, he said this was not a priority for his client. He felt the Town of New Castle would be indifferent because distributing school taxes monies to one school district or another would be inconsequential.

Mr. Kaufman stated that he opined that the Town of North Castle and the Town of New Castle do have a reason to not be so indifferent regarding the lot line change. Specifically, because the North Castle code says you should not create lots that go across boundaries. Mr. Pirro stated that he disagrees, when reading that section of the code as it starts out "In General" that is an advisory section of the code; it says it is a preference that the board can take into consideration. It is not the law.

Mr. Kaufman stated that in general a lot should not be divided by a zoning district or municipal boundary. In this case, the lots exist and there is not a separation between the two towns. In this case you would be going contrary to the code in creating a lot that is in two towns. If there is an alternative here, he suggests and recommends that it be explored like a reduction size or zoning variance before going to the extreme, last case scenario with a lot in two different towns.

Mr. Pirro stated that provision of the code states "In General" it then goes on to say that where the board finds that it is going to do that. It should make sure the new plat indicates what the situation is and goes on to talk about the board in the event that it does do it. It is an advisory section. Mr. Pirro stated that knowing a little about zoning law, a tie goes to the property owner if there is not a specific regulation prohibiting what we are applying for, then we are entitled to it, at the boards discretion whether they want to do it or not. He was convinced that this was a preference given by the board, not a mandate.

In response to Mr. Greene's comment, Mr. Pirro stated that if the property is exchanged between the two municipalities, the law states that if a portion of the lot is in North Castle, the Monaco's can request to go to the Byram Hills School District. The Monaco's may want that preference. New Castle collects the school taxes and distributes them to Bedford School district, in this case New Castle would distribute monies to Byram Hills and that is why New Castle would be indifferent. Neither school district would be at a disadvantage monetarily. Mr. Baroni stated that once the election is made regarding the school district, they would be in that school district forever.

Mr. Greene stated that this plan addresses the 30' side yard set back, but does not appear to address the land now or formerly Ferrovechio it appears to close to that

property line. Mr. Holt stated that he spoke with the building inspector regarding the side yard and the rear yard for this site. The building inspector determined the side yard and the applicant will adhere to those setbacks. In response to Mr. Greene's comment, Mr. Holt will confirm the distance is no less than 30 feet between the corner of the garage and the Ferrovechio lot which is also owned by Mr. Monaco. If he was less than 30 feet, we could slide the garage forward until the 30 feet is met.

Mr. Greene stated that he spoke with the Director of Planning regarding this manor and asked the applicant if he considered going to the North Castle Zoning Board to see if they would consider a shorter side yard set back due to the ownership issues. Now the lot line would not have to be changed. If the school district is not really a concern and all you want is to build a garage, this would be a simple solution. Mr. Holt stated that one of the reasons for the property exchange is to put the 30 foot buffer back into place which is noted on the plat map. Mr. Greene inquired if there was anything that would prevent you from building within the vegetative buffer with a permit. Mr. Kaufman stated that there is a note on the Plat that indicates the 30' vegetative buffer. It is hard to conceive building within a vegetative buffer. Clearly the intent was to keep it clear of building structures. Mr. Pirro stated that they would like to keep the buffer per the note on the plat. He noted in New Castle they did something similar and there is a 25 foot wide Conservation Easement. His client is trying to keep everything in place regarding setbacks, vegetative buffers and conservation easements.

Mr. Holt stated that what ever we do, we are clearly into the vegetative buffer, the only way to stay out of the buffer is to build a one car garage and there is no point in doing that for his client. Mr. Delano stated that you are not creating a vegetative buffer somewhere else because there is already on Conservation Easement. Mr. Holt stated that they would maintain the 25' wetland buffer in New Castle as well.

Mr. Baroni stated that the applicant will have to go before the Zoning Board of Appeals regarding the gross land coverage for the accessory structure. He suggested going for a variance regarding the setbacks as well as the chairman suggested.

Mr. Pirro stated that when appearing before the ZBA you need to request as minimal amount of a variance as necessary. The lot line change would assist in that request and it would be an additional benefit for his client, if he were to develop the lot for a family member that they would be able to attend Byram Hills School District as well.

Mr. Greene stated that the ZBA will inquire why this garage couldn't be moved eastward, which would solve the side yard setback, the buffer intrusion and the proximity to the Ferrovechio property. Mr. Bronfman stated that they are maintaining the existing garage and will be duplicating the exact design of the existing garage structure with the proposed garage structure at the other side of the parking court. They are trying to mimic the existing garage to the proposed garage and have them line up architecturally. This will create two pavilions which are symmetrical and landscaping will tie the two buildings together.

Mr. Delano stated that there was another application that was similar to this one that



was not greeted favorable and kind of disappeared. Mr. Kaufman recalled this application as well. (File name Scampone, Hollow Ridge Road)

Mr. Greene asked how small could the garage be reduced to which will still hold three cars. He realizes 800 square feet is too small for three cars but would like to know how much tighter this garage can go down to. He would like to review Mr. Pirro's submission, go on a site walk and look at a new plan.

Mr. Greene asked for a motion to declare lead agency intent. Mr. Sauro made a motion to declare lead agency intent. Mr. Delano second the motion and it was approved with four ayes. There is a vacant seat on the board at this time.

**MILLER, 5 Valhalla Ave, 5/25/13, Ken Murphy - Petruccelli Engineering. Site plan application for the construction of a new 4,717 square foot home within the R-10 Zoning District.**

Present this evening is Albert D'Agostino from Minerva and D'Agostino, his client Mr. Miller and the applicant's engineer, Ken Murphy from Petruccelli engineering. Also present was Mr. Papallardo, attorney for Mrs. Nassetta as well as some of the other neighbors.

Mr. D'Agostino reviewed the history of the site for the board's reference and reminded the board that the original ZBA approval for the Nassetta property granted approval to extend the pervious gravel driveway, which today is presently blacktop.

Mr. D'Agostino stated that he had submitted maintenance agreement copies to the neighbors which proposed proportionate division of costs. One of the neighbors raised an interesting question, if he agrees to this he doesn't want to be responsible to correct or remove any blacktop and restore the pervious gravel, if that is what the Planning Board wants because that apparently was not part of the original approval. He has spoken to Mr. Papallardo, the neighbor's attorney, regarding this and they have been trying to come up with something fair and equitable to all parties. He will make every reasonable attempt and every reasonable accommodation to arrive at a reciprocal maintenance agreement. There have been some issues along the way which have been addressed; he briefly reviewed the ARB approvals, cross access agreement and the berm.

In response to Mr. Greene's comment, Mr. Coyne stated that the issue first arised because you are extending Valhalla Avenue, increasing impervious surface and Installing a storm water management structure within the Valhalla Avenue right of way. The maintenance agreement was originally for the maintenance of that stormwater Structure as that structure is not for Mr. Miller to maintain because it is not on his property. The stormwater structure is put there to mitigate the additional impervious surface for extending the driveway. This is where it originally started, it may have morphed into plowing and paving but originally it was for the storm water structure.

Mr. D'Agostino stated that there was a note on the map which states that it is our responsibility to install and maintain it. There is an extension of an impervious road or drive and the ZBA approved an extension of a pervious road and technically this is in violation. My client does not object to the blacktop, we want the record corrected because Mr. Weyhausen raised the issue as noted above. Mr. D'Agostino did not want the approval and development of this house held up do to this maintenance agreement, while his client does have a right over the paper road to his lot.

Mr. Kaufman stated the issue of the maintenance of the road is an issue the Planning Board will not hold up for the construction of the house. Mr. Kaufman asked what mechanism, regarding Stormwater, from the applicant is needed to ensure that we have a responsible party for that mitigation. Mr. Baroni stated, short of that maintenance agreement, we would need a maintenance agreement only from the applicant, which he has offered. Mr. Greene thought this would be a simple agreement and takes the responsibility off of everyone else. Mr. D'Agostino stated that there is a note on the plan. Mr. Baroni stated it represented good planning trying to pull together a maintenance agreement. If it can't be done, it can't be done and we will move forward with out it. He did not think that the town was trying to create leverage for or against this development. Mr. D'Agostino stated that he will continue to work with Mr. Pappalardo.

In response to Mr. Greene's comment, Mr. D'Agostino stated that his client still intends to remove the asphalt on the property to the south and relocate it. Mr. D'Agostino stated that as long as the property owner is agreeable to removing the blacktop and relocating it, his client will do it, if the property owner changes their mind, it will not be done.

In response to Mr. Greene's comment, Mr. Kaufman stated that the neighbors submitted a letter detailing 15 comments. The board instructed the applicant to respond to these comments, which was part of this last submission. The neighbor's attorney submitted a letter today, which states whether the neighbors agree or disagree with the response by the applicant. We could discuss the disagreements.

Mr. D'Agostino noted that one of the comments by Mrs. Nassetta was in regards to the railroad ties in the driveway. A good part of the garage entrance is in the right of way. There are some railroad ties on one side of the driveway due to the grade and the ties are breaking down. He pointed out where the railroad ties are and what his client would address. He noted his client did not want to be part of replacing those railroad ties and any drainage associated with replacing the railroad ties. The railroad ties are for her own personal use and this is not a common request. This is purely a personal access to her driveway and is not his client's responsibility.

In response to Mr. Greene's comment, Mr. Murphy stated that the grade elevation between Mrs. Nassetta's property and the road were: the driveway is at 154 and the new extension of the road is at 145. Mr. Miller presented photos of the railroad ties to the board at this time. Mr. Greene noted that he would like to review the neighbors responses submitted this evening and go on another site walk to look at the rail road ties.

Mr. Pappalardo stated that he represents Mrs. Nassetta. Mr. Pappalardo stated that in regards to the rail road ties, Mrs. Nassetta told him that early on in the process, she and Mr. Petruccelli had a conversation and Mr. Petruccelli said that it would be a good idea that these things be addressed going forward, which created an expectation that there was going to be some give and take regarding the roadway and what would be done for the neighbors, as the building is done and obviously the roadway will be disturbed. There is an outcropping that will be chipped away and he has had some good discussions on that issue. The concern was as the ledge is pulled away would dirt be left there or ground covers be replaced with something similar. This is the hesitancy of the neighbors to get involved with the road maintenance agreement. Their understanding was solely for plowing and blacktop. The plan states the bio retention system is the responsibility of Mr. Miller. Mr. Pappalardo stated that the concerns of the neighbors are listed in his letter.

The board will review the letter submitted today by Mr. Pappalardo and conduct the site walk regarding the rail road ties. The board asked Mr. Kaufman to prepare a draft resolution for the next meeting.

**STONE MANORS AT ARMONK, LLC, 1/11/5.A5, 2 Daphne Lane. Construction of a new 9,648 square foot residence in the R-2A Zoning District – Extension of Time Resolution.**

No one was present for this application.

Mr. Greene asked for a motion to grant the Stone Manors at Armonk LLC an extension of time site plan resolution. Mr. Sauro made a motion to approve, it was second by Mr. Delano and approved with four Ayes. There is an absent seat on the board at this time.

**STONE MANORS AT ARMONK, LLC, 1/11/5.A6, 4 Daphne Lane. Construction of a new 9,056 square foot residence within the R-2A Zoning District – Extension of Time Resolution.**

No one was present for this application.

Mr. Greene asked for a motion to grant the Stone Manors at Armonk LLC an extension of time site plan resolution. Mr. Delano made a motion to approve, it was second by Mr. Mezzancello and approved with four Ayes. There is an absent seat on the board at this time.

**BAC ELECTRIC, 873 North Broadway, 6 / 2 / 3. Application for “after the fact” site**

**plan approval of a proposed change of use to electrical contractor office, retail sales and personal training uses. The property is located within the CB Zoning District**

Present for this application was Barry Naderman, PE, Naderman Land Planning and Engineering as well as his client, J.R. Cavallaro.

Mr. Naderman reviewed the history of the project for the Board. The site was previously Fisher's Garage from the 1930's to 2005 and after that, United Rental used the site and then his client moved in and has been there for the past three years. His business was previously on Lafayette Avenue. He has cleaned up the site and added some landscaping on site and the site has functioned well these past three years.

Mr. Naderman presented some photos of the site from 1947, 1960, 1976 and 1990. All of these photos show that there has always been activity at the rear of the site.

Mr. Naderman stated that his client will provide additional screening along Washington Place and along the back of the site. There have been no complaints from the residential neighbors. He was not sure if you would want to light up the rear of the site. A dumpster enclosure will be provided along with a handicapped space and an outdoor storage area in the rear for ladders, there will be no storage of excavation machinery. This is not inconsistent with some other uses in the CB zone. There is a lot down the street which received site plan approval for the continued use of a contractor's yard and there are some bulldozers parked on site which are visible from Route 22. He pointed out some other sites just down the road from this site. The property at the rear of the site is not visible. His client was born, raised and presently lives in town and would like to keep his business in town as well. It is economically difficult for his client to do a lot of work on site.

Mr. Greene noted there are a lot of things shown on the plan that the applicant agreed to. He noted due to the steep grade, the proposed pedestrian path will require stairs to access Route 22. He thought that there would be some minor lighting in the rear, not lighting like a supermarket but some minor lighting.

In response to Mr. Delano's comment, Mr. Naderman said that he met with a representative from the NYSDOT and this is a grandfathered situation, they will not prohibit the use of the property but they will not approve the improvements there either. The front can be used without a violation of the site plan. Mr. Naderman reviewed the right of way for the board as it relates to the site.

In response to Mr. Delano's comment, Mr. Naderman stated that there will be space downstairs for consultation which will be handicapped accessible. The basement is basically storage.

In response to Mr. Greene's question, Mr. Kaufman stated that the applicant is

before the board because there is a change of use from the public garage to office space, warehouse storage and gym.

In response to Mr. Greene's comments, Mr. Sauro stated that previously, the board discussed sidewalks in front of the building along route 22 in conjunction with how to work with the DOT. Mr. Naderman noted the sidewalk was primarily in the right of way. Mr. Sauro asked if the sidewalk was discussed while out at the site with the Dot or if the applicant raised the issue of the sidewalk with the DOT. Mr. Naderman stated that he met the DOT out at the site and they did not express any desires to extend that. We are not going to get an approval for curbing or anything along those lines; we can use it as it exists.

In response to Mr. Greene's comment, Mr. Naderman stated that the dimension of the building to the right of way line, not including the house is approximately 26 feet.

The board felt that if the applicant were sent to the DOT for a side walk that the applicant will be unsuccessful based on comments made earlier this evening. Discussions were had regarding the sidewalk in front of the building and where there is and is not a sidewalk in along North Broadway, Route 22.

Mr. Greene would like to discuss this application at the next meeting so that he will have the time to meet with the town's professionals regarding this application. He does not want to create a hardship for the applicant and would like to make the site look a little better. He asked Mr. Naderman to submit a plan showing the side elevations and access, as well as steps with a railing that will make the site plan accurate. Mr. Naderman will provide the speculations on the lighting so the professionals can determine how many spaces the lighting will cover once installed.

At 9:08 p.m. the Planning Board went into executive session to discuss the 37 Maple Avenue agreement.

At 9:23 p.m. the Planning Board went back into its regular meeting and Mr. Delano asked for a motion to authorize Chairman Robert Greene to sign the stipulation of agreement for 37 Maple Avenue LLC litigation. Mr. Sauro second the motion and it was approved with four Ayes. There is a vacant seat on the board presently.

Meeting adjourned 9:25 p.m.