

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 p.m.
February 28, 2011**

PLANNING BOARD MEMBERS PRESENT:

Peg Michelman, Chair
John Delano
Jane Black
Steve Sauro
Beata Tatka

ALSO PRESENT:

Adam R. Kaufman, AICP
Director of Planning

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

Ryan Coyne, P.E.
Kellard Sessions Consulting, P.C.
Consulting Town Engineers

Valerie B. Desimone
Planning Board Secretary
Recording Secretary

Peter Limburg
Conservation Board Representative

The meeting was called to order at 7:01 p.m.

APPROVAL OF MINUTES:

February 14, 2011

The minutes were not voted on this evening.

PUBLIC HEARING Con't :

BENNIS

Special Use Permit

Section 1, Block 3, Lot 6.B

250 East Middle Patent Road

Teo Siguenza, Architect PLLC

Jerry Barrett, J.D. Barrett & Assoc. LLC

Discussion

Consideration of special use permit resolution

Mr. Bennis was present as well as his professionals Jerry Barrett, J.D. Barrett & Associates and Mike Sirignano, attorney.

Present was Charlie Martabano attorney for Todd Mydland and Abbey Simpson representing 32 St. Mary's Church Road and living at P.O. Box 148 - Pound Ridge, NY 10576. Stan McWiggin, 244 East Middle Patent Road.

Also present was Rod Christie, Executive Director of the Mianus Gorge Preserve, 17 East Middle Patent Road along with the following Mianus Gorge Preserve Board members: Jean-Paul Valles, Walt Weissinger, Margaret Harding, William Foulke, Gary Jacobson. Board members who arrived after the start of the public hearing were Tim Envin, John Needham and Stacy Albanese.

Mr. Sirignano stated that his client has received approval from the Zoning Board of Appeals (ZBA) as well as the Architectural Review Board (ARB). The ZBA also noted in its approval that there shall be no living space in the second floor of the garage. The ZBA approval also reviewed the other approvals granted for this project.

At Ms. Michelman's request, Mr. Barrett reviewed all of the different options presented to the Planning Board regarding this application. Mr. Barrett noted he would like to respond to some of attorney Martabano's comments in his letter during his presentation. The applicant is proposing a three car garage with a writers loft on the second floor and some storage in the basement area. He presented views of the garage from all sides of the structure to the board. During Mr. Barrett's review of the plans, he noted the present garage location will require the least amount of disturbance to the site, and the grades work best in this location, the garage is nestled in between the ledges and mature trees. Once built it will appear to have been there for years with the mature trees around it. He reviewed the plan where the garage was pushed back out of the front yard, as well as on the other side of the house as well as a plan outside the wetland buffer. They also studied the garage location on the other side of the house. Plan A-2 was studied with this garage outside the wetland buffer. Plan A-3 would require a new driveway and the entrance to the house would go through the library and living room to get to the other side of the house. The present garage has a very low garage door and can't fit a car in it. In this climate everyone needs a garage, especially with the recent winter we have had.

Mr. Barrett continued. The closest residence is the Simpson structure which is 330 feet away from the garage and most of it is wooded in-between. He noted the Simpsons were concerned with the buffering. He noted the front plain and side plan of the Simpson house does not face the proposed garage and the property owners will not have a direct view of the garage.

Mr. Bennis noted that with all of the different locations reviewed with the Conservation Board (CB) the CB liked this proposed location the best because it would require no blasting and the removal of only one tree. The amount of disturbance would be substantial if the garage were moved back rather than nestled into the rock ledges which presently has mature vegetation around it. It was also noted by the Conservation Board if the garage would be pushed back out of the wetland buffer area, it will create a lot of disturbance in the wetland to build it which the board wanted to avoid. The steep slopes behind the house are much more steep than where the garage is proposed.

Mr. Barret continued: There is a wetland off site to the East and to the South. The back of the building is in the wetland buffer and is closer to the outer edge of the buffer vs. the edge of the wetland it self. The location of the garage as proposed by the Simpson's professionals inaccurately states that it is outside the wetland buffer, it is in the wetland buffer. The wetland buffer is maintained as a yard presently and there is no grass. Originally when this application started three years ago, the Board of Health required a separate septic system for the ½ bath, now three years later the board of health has different people, different rules or times have changed and today they will permit this half bath on the existing septic system which will now provide more green space. A proposed retaining wall and planting is proposed around the building to require less grading. The Conservation Board did not want all of the disruption to the land by removing so much rock on site.

Mr. Barret stated that in response to Mr. Kaufman comment in his memo that he will move the subsurface infiltration chamber out of the wetland buffer area. He is also proposing a second wall behind the garage which will minimize the amount of steep slope disturbance and eliminate work in the wetland buffer area. Mr. Barrett compared the 12/10 plan to the 2/11 plan and can reduce the amount of steep slope disturbance 400 feet and will submit that plan to the board.

Mr. Barrett reviewed the Wetland Mitigation Planting Plan for the Project. Presently there is very little protection to the wetland, the area is all mowed lawn along with some dirt and some moss to the wall and any run off goes directly into the wetland. There is nothing there presently, nothing stopping any run off all the way to the wall down to the stream. He has proposed shade tolerant shrubs and ground cover along with some trees all along the back property line. He is also proposing additional evergreens in response to the Simpsons visual impact concerns. Green Giant Arborvitaes, Dogwood, Witch Hazel and Mountain Laurel are proposed and will be 6 – 8 feet in height when mature which will grow into a hedge row. Planting under the mature trees is also proposed. The yellow area as presented on the plan represents a no mow area which the applicant has agreed to. A no mow seed mix will be planted which grows to 8 inches and requires no mowing, this was suggested by the CB and the Director of Planning and the applicant has agreed to that. A temporary deer fence will be put up for three years and the applicant agreed to post a maintenance bond for the shrubbery to be replaced if it dies after three years.

Mr. Barret reviewed all of the plans discussed with the CB. He reviewed the plan with the garage next to the house and when he calculated the grading information between the garage location next to the house and where it is presently proposed the grading is different by only 7 feet. He reminded the board that if the garage was abutting the house, there would have to be a back up area once you backed out of the garage or you would have to back all the way up to the main road which was not sensible. Once you grade the back up area the difference in grading was only 7 feet. The Simpson letter states that there proposed location would reduce impact on the slopes and reduce impact on wetlands but there were no numbers submitted to support the statement. If you were to build plan A-1 or plan A-2, the disturbance is roughly the same. He then showed where the plan for the Simpson garage would be located. The Simpson plan does not show a turnaround for the garage and there will be an impact to wetlands and steep slopes with this plan.

If the garage were put within 8feet of the house it provides a dark shaded corridor and would take away natural sunlight from the kitchen.

Mr. Barrett confirmed that a tree removal permit was taken out and on file with the Town. Mr. Bennis stated that his brother-in-law recently had a tree fall on his house which caused damages totaling \$500,000. He noted that after the Conservation Board and Mr. Barret had been out to his property, they expressed concerns regarding two trees. Mr. Bennis had Bartlett Tree and Save a Tree come out to his property and both companies determined the trees were unsafe and should be taken down.

Ms. Michelman stated that the PB and the CB have reviewed all of the alternatives. The Planning Board has considered input from all of the boards, the Simpson's and the Mianus Gorge. The input from everyone has affected the plan and created a far superior plan today and a good step forward. Ms. Michelman requested a copy of the plan be submitted for the board's review showing the reduced impact of disturbance to the slopes and removing the infiltrators out of the wetland buffer. Ms. Michelman requested a copy of the revised plans be submitted for the boards and the professionals review.

Mr. Delano asked about how many square feet the present residence is, he was not able to find that information in his file. Mr. Barrett stated that information had been previously submitted and will address that request.

Mr. Martabano stated that he was representing 32 St. Mary's Church Road LLC and the owner of 244 East Middle Patent Road which is contiguous to the property. Firstly he would like to state there is no relevance to this application that his client does not reside at 32 St. Mary's church Road. Secondly, this application requires a special use permit according to the Town Code. The ZBA noted this was idiosyncratic and in his opinion it is not idiosyncratic. There are two requirements regarding the front setbacks. It has to meet the set backs and the use is prohibited in the front yard. This particular location is very significant because it requires a wetland and steep slopes permit. Our position states that according to the Town Code alternate uses as well as alternate locations and alternate uses have to be reviewed. A smaller garage can minimize the

impact to wetland buffer and minimize the impact to steep slopes.

Mr. Martabano referenced his proposed garage location on the plan and noted that the Town Code mandates that the board look at the alternatives to the impacts of preserving the steep slopes when reviewing the steep slopes impacts. Is there another reasonable alternative? It is the applicant's responsibility to prove the burden. The Town code states the approval authority, that's your board, shall not grant the necessary permit or approval, if there is another alternative in the sole opinion of the approving authority that is reasonable and practicable to help preserve the steep slopes. That is as clear as anyone can make it, shall not grant - if there is another alternative. The question in fact, is this not a better alternative, this has to be studied, I don't believe it has been studied, nor has been studied tonight. The board needs to make a finding, if you are going to issue a finding, if you are going to issue a wetland and steep slope permit, is there another reasonable or practical alternative? I don't think it is in your resolution based on the necessary findings. The same thing applies to the wetland. It is not our responsibility to prepare an alternative. The bottom line is that maybe in the alternative we presented that we did miss part of the wetland, we prepared this rather quickly. It is the applicant's responsibility to bare the burden of proof as referenced in the town code regarding wetlands and steep slopes. He asked the board, to take a look at his alternative and the applicant's alternative, which is better, his plan is better which this board is mandated to approve.

Ms. Michelman stated that Mr. Martabano stated that there is some discretion of the board, discretion to the fact that because it is out of the buffer is it the best place? You mentioned that the board has some discretion. You are saying regardless of whether it is the most appealing, the most aesthetic or the most anything else that because it is out of the wetland buffer we have to approve your plan, according to what you are saying and you are leaving the board with no discretion to the decisions of this board. Mr. Martabano reminded the board that he was quoting the town code. Ms. Michelman stated that Mr. Martabano's point was well taken but stated that because something is out the wetland buffer and out of the steep slopes, we have to approve it. The board can go back historically and review all of the applications. The board considered many different options when making their decisions and in some cases where it was more aesthetically pleasing. There is some flexibility.

Mr. Martabano stated that the point he was trying to make is that this application requires three separate permits because of the applicants proposed location. Ms. Michelman reminded Mr. Martabano that this application is not unique, this is not the only application that requires three different permits since she has been on the board in 1999. This situation is not unique. Ms. Black stated that when you review both locations or any alternative, you also have to consider the total impact as well as the paved area and turn around area as well. Mr. Martabano without a doubt Mr. Kaufman stated that you would have to go back to whether the alternative is reasonable and viable. Ms. Michelman stated that we made a determination and some where along the way, the Conservation Board agreed that this was a better alternative. Mr. Martabano stated that he has reviewed all of the plans and the plan shown to the board this evening was never shown to the Conservation Board nor anyone else before this evening. He then reviewed the other plans which were shown to both the Conservation Board and Planning Board.

Mr. Martabano referred to different plans that were presented so far. His point was that the alternative that was presented this evening had not been studied by this board or the Conservation Board. Mr. Sauro stated that the word Mr. Martabano said earlier this evening was mandated, the board was mandated to approve it in that location. This is the reason why the Planning Board Chair raised this issue, there is some flexibility. The word mandated made the board feel that we are boxed into a corner. Mr. Martabano stated that he did not use the word Mandated. Mr. Sauro stated "Mandated to approve this in this location". Mr. Martabano said if he did say it what he meant to say was that the Town Code has certain mandates including reasonable investigation of other reasonable and practical locations. There are three permits needed for this application, the code states you are not suppose to have this type of use in the front yard, it is in the front yard. The code has wetland buffer infringement and 80% of the structure is located in the wetland buffer and has steep slopes disturbance of about 3,000 square feet. These are the things that your codes mandates that you need to look at. The code says if there is a reasonable alternative or feasible location then you can not issue the permit. Another section of the wetland code is Section 209.7B1 which references that you are entitled to a permit only if you make a specific findings to the proposed regulated activity and is consistent with the policy to preserve, protect and conserve wetlands. This is what the code states. The question he trying to make is that there is another alternative location that should be considered for this use. The statute also says that you have to consider alternatives, you could make the structure smaller. There may be another location that would have everything the applicant would want. Your code states you have to consider all of these factors when making these determinations. He feels that his proposed location is one that minimizes impact and complies with the special permit. He feels the board should reject the applicant's proposal.

Ms. Michelman stated that the buffer has been disturbed for a long time.

Ms. Michelman asked Mr. Martabano what impact will this project have on your client and the Mianus Gorge property. Mr. Martabano stated that Mr Barrett stated earlier that the only impact to his client was visual. That is not true, there will also be impacts to the regulated steep slopes, wetlands and protected critical environmental resources.

Ms. Michelman stated that other than the impacts to the wetlands and the steep slopes, what are the impacts to your client and the Mianus Gorge Preserve? Mr. Martabano stated he will let the Mianus Gorge Preserve representative address this question. Mr. Martabano continued and said that the principal that we are going to make here and we are not making this up – Ms. Michelman interrupted and said the board would like to get a broader picture. The property owner would like to make some amendments to his property, we are trying to work with him. I want to know what the broader impacts would be on the Mianus Gorge if the site were left the way it is.

Mr. Christie, Executive Director of the Mianus Gorge Preserve stated that there were seven board members present this evening from the Mianus Gorge supporting the Gorge's position. Mr. Chrisie stated he has submitted three letters regarding their concerns. His primary concern is the impact to the steep slopes and the impact to the wetlands. He referenced wetlands located on the Gorge's property. All of the properties in the area drain to the wetland on the Mianus Gorge.

The wetland is at the headwaters to the Havemeyer Stream. This stream is very fragile and unique in that it is totally unimpacted at this time and basically goes through the Mianus Gorge Preserve to the Bargh Reservoir which provides drinking water for 130,000 residents. We have protected this stream, successfully, through its entire run into the reservoir through land acquisitions or conservation easements on private properties. This is the only piece of the stream that is not protected. Headwaters are very important to stream systems. The Gorge is very concerned about everything running into the stream and its impact to the stream. We have also done a lot of studies on this wetland and it is a very functional wetland and a good breeding ground of amphibians.

Mr. Christie continued: There are two other locations that were considered and looked at while at the site walk with the Conservation Board. One location was on the far side of the house and at the time that location was not considered because it could not tie into the existing septic system. As mentioned earlier this evening, they have been able to tie into the existing septic system. He has reviewed the driveway on the far side of the house as well as the garage location proposed by the Simpsons. He noted the proposed Simpson garage location and the location on the other side of the house basically eliminates the wetland and wetland buffer issues and the steep slopes issues. He suggested tying the pumping station through the house instead of around the house which has more disturbances to the wetland buffer. He is concerned if the erosion control measures will be enough to control things from going down into the wetland. He was also concerned that the plantings are proposed in a dark place and the growth will be minimal due to the lack of light. He is also concerned that once the deer fence is taken down after three years that the deer will eat all of the plantings. Mr. Christie referenced another site in North Castle where the fence came down and after one year of fence removal, everything was eaten and the property owner was no longer required to maintain the growth. The mitigation does work depending on how long you let it get established but once you take that fence down the deer will eat it. He did not think the planting plan would be that successful due to the amount of shade in that area and once the deer fence is removed, the deer eating all of the landscaping over a period of time.

Ms. Michelman confirmed with Mr. Christie that part of this wetland buffer has been grass for a long time. Mr. Christie agreed. She thought with all of the proposed plantings this would improve the site. Mr. Christie agreed that the additional plantings would improve the site. Mr. Christie was concerned that the planting plan would be done after construction and was concerned about all of the sediment during construction.

Mr. Barrett suggested keeping a permanent deer fence to help protect the planting plan. Mr. Christie stated that would certainly be an improvement.

Ms. Black stated that she lives in the area and walks around the neighborhood frequently. Currently there is a bare slope which has minimal grass on it down to the edge of the property. The small amount of differential in buffer disturbance, along with the turnaround area, the difference in disturbance is minimal vs. adding all that planting going forward would be a benefit as to what it is today, which is water running down to the properties bare slope edge.

Mr. Christie stated that there are two other locations that do not have any disturbance to the wetland and any disturbance to the steep slopes and if one of those two sites were considered along with the proposed planting plan, it would be even better. Ms. Black noted that the difference between the two sites proposed is seven feet. Mr. Christie stated that the location of the disturbance to the site is just as important. He would prefer the garage be located to the left of the house. Ms. Black noted that we all have to live in our houses and a new driveway would be proposed with all of that disturbance and the impervious surface if the garage were sited on the left side. The formal areas of the home are on the left side of the house and the kitchen is not close to the garage in this location and in today's life style, it would not be very functional. She agrees with the applicant in terms of the livability of the house. The applicant has to live in their house and preserve the wetland.

Mr. Bennis stated that impervious surfaces were discussed, the proposed driveway was out of the wetland buffer. Maybe there was a discussion about the septic but it was never a reason why the garage could not be located on the left side of the house. Discussions were had at this time regarding the original septic approval three years ago vs. the septic approval that was granted recently.

Mr. Christie noted there was another location discussed by the Conservation Board which had the garage located off of the existing driveway and attached to the house. He was not aware of what the CB conclusion was on that location because that was already a disturbed area.

Ms. Michelman stated that it has always been discussed that this is the site of a disturbed area. Life is nothing but a lot of accommodations and there is nothing than anyone would prefer to than to maintain and sustain the Mianus Gorge Stream in its excellence, you have not really proved to me - Mr. Christie interrupted and stated that it is not just the location of the structure, it is the size of the structure, three stories is a sizable structure with storage underneath. It is a very sizable structure for a three car garage with a lot of space on top of it. .

Ms. Michelman stated that it meets the 25% size requirements according to the code. Mr. Bennis stated that it was not his request for a three story structure, it was a reaction to the slope. We have provided significant mitigation.

Ms. Black stated that when this plan was first presented, the board was concerned with the size and the mass of the building and the applicant has worked very hard with this board to mitigate that concern with providing a wall, bringing that level up, adding a planting plan and trying to minimize the impact of that. Ms. Tatka noted that he applicant worked really hard to make this work. This application meets the size requirements and the applicant has made a lot of changes to soften the appearance of the garage.

Mr. Christie stated that he was very concerned about storm water run off during construction. He noted examples in other towns where the storm water run off mitigation measures did not work. Ms. Michelman assured Mr. Christie that the town and the building department will make sure the stormwater run off is taken care of. Mr. Christie stated that he would hold Ms. Michelman to that.

Mr. John Needham, Board member of the Mianus Gorge commented on something mentioned earlier by Ms. Michelman. He stated that we love that you want to protect the Mianus Gorge and we all need to make accommodations. What exactly did you mean by that? Ms. Michelman stated that when people own a piece of property and want to do certain things, as long as it does not impact negatively on other people and other things. That is why I was asking how much worse would this site be when there is already grass and slopes and it is already flowing. We are trying to do our best for everybody and this is already a lose - lose situation and we can't please everybody.

Mr. Needham continued and said, My question is why do we have steep slopes laws and wetlands laws if when those issues come into conflict of livability and the other more general context that you referred to, does that mean those laws are less important? Ms. Michelman stated there are ways to work through them.

Ms. Black stated that because of those laws we have a mitigation plan that is going to be put in and a lot of planting that the applicant says is going to be protected with a permanent fence. You currently have water running down that slope which is completely unfiltered, running into the Havemeyer Stream that will hopefully arrive in better condition once it has been filtered by the new planting plan. The law does protect the wetlands with a 2:1 mitigation plan and this applicant is proposing almost a 3:1 mitigation for the site. The law does protect the wetlands.

Mr. Needham stated that - The question is whether all of the other alternatives have been considered in advance of that decision?

Mr. Sirignano stated that building in a buffer area or steep slopes area is not prohibited in the zoning ordinance, it is a regulated area and within the context of this board, this board has a broad discretion regarding the totality of the impacts. Secondly, Mr. Christie has articulated the same issues while this application was before the Conservation Board, the Zoning Board of Appeals, the Town Board and this board. His comments have not gone unheard or unconsidered. Mr. Barrett has addressed these concerns on this plan as well as with his mitigation plan.

Mr. Martabano stated that he understands the arguments made about the garage location on the other side of the house, when you talk about a lot more disturbance, I understand livability aspect of it, what I don't understand is Mr. Barrett indicated on the original plan to attach the structure to the house. All of the board members stated they had not seen that Plan. Mr. Martabano read Mr. Barret's comments from the minutes - Mr. Barrett also noted that the applicant had initially planned to build an attached structure and simply connect to the existing septic. Multiple discussions were had at this time. (after the meeting it was learned that Mr. Martabano was referring to ZBA minutes dated November 4, 2010.)

Mr. Martabano stated that he felt that an attached garage or in the location he has proposed would be the best alternative which is reasonable and practicable with much less impact and conforms to the special use permit as well.

Ms. Michelman asked if there were any more comments at this time. No further comments were made. The board asked the applicant to waive the 62 day requirement for a decision since the board is waiting on a revised plan. Mr. Sirigano agreed to waive the requirement. Ms. Michelman asked for a motion to close the public hearing. Ms. Black made a motion to close the public hearing, it was second by Mr. Sauro and it was approved with four Ayes. Mr. Delano voted Nay.

The board is waiting for a revised site plan showing the infiltrators and deer fence. Mr. Kaufman reviewed some items discussed this evening and how the board would like to proceed with the resolution. The board did not see a reason to have a maintenance bond on this application. The deer fence detail will be noted on the plan.

Ms. Michelman thanked the members of the public for coming and showing their interest for the project and the Planning Board appreciates it.

CONTINUING BUSINESS:

11 NEW KING STREET PARKING

Site Plan

Section 3, Block 4, Lot 14.B

11 New King Street

Nanette Bourne, AKRF Environmental & Planning

Second DEIS Completeness Review

Nanette Bourne stated that she submitted a preliminary DEIS in October, 2010 and they received back 300 or so comments from the Town Professionals and made considerable revisions to the document and resubmitted the DEIS again in January 2011. The majority of the comments received from the Town's professionals are recommendations that can be can be accommodated and she would like some clarification on some other items.

Ms. Bourne referenced the Town Wetland Consultant's memos which stated that it was difficult to delineate wetlands in December. The wetland was larger than what the applicant had shown on their map and the corner of the building intruded into the wetland. She will provide a mitigation plan and if it is not sufficient she would like the town to provide a few off site mitigation areas instead of her firm researching different locations in town.

Mr. Coyne recalled from the meeting that if the wetland buffer line was moved and the building is now in the wetland, the DEIS should analyze those impacts. He also recalled from the meeting that if you need to build a stormwater pond within the wetland buffer you can't count the pond area as wetland mitigation.

Ms. Bourne agrees with comment #1 in Mr. Kaufman's memo. In regards to item #5, Ms. Bourne will make an application for public water supply. In regards to item #6 Ms. Bourne felt

this item would take too much time and would be too costly. Mr. Kaufman stated that they were not asking for noise modeling.

In regards to the F.P. Clark memo page one, item one, re: graphic presentation. They never anticipated graphics, only text format. On page two of the memo refers to supplemental analysis and HCM analysis. Both issues will be resolved via a conference call with Ms. Bourne and Mr. Gallante from F.P. Clark.

Ms. Michelman stated that in regards to item #11 the DEP has met with the applicant and that date will be included.

Ms. Bourne confirmed that only the revised pages will be submitted for the next submission. Mr. Kaufman was agreeable to that request.

99 BUSINESS PARK DRIVE

PLI Zoning District Discussion re: Supermarket

99 Business Park Drive

2/16/11.B09

Mike Fareri

Discussion

Mr. Fareri expressed his concerns stating that Beata Tatka may not be up to speed on this application. Ms. Tatka stated that she was up to speed regarding this application.

Mr. Fareri stated he purchased the 99 Business park which was 67,000 square feet and he donated the existing water tank to the town. The gym is presently on site with vacant office space for the past 2 ½ years. DiChicco Markets expressed interest in the existing vacant portion of the building. They are considering redoing the parking lot and the loading area.

Mr. Fareri reviewed different plans for the site as well as the parking requirements for the CB zoning, SC zoning and PLI zoning. He also reviewed the parking space totals and parking requirements for 99 Business Park Drive.

Mr. Fareri reviewed how he would treat and mitigate storm water on site. He asked Mr. Coyne if there were any show stoppers regarding the storm water. Mr. Coyne stated that there were no show stoppers presented at this time.

Mr. Fareri also noted that the right turn into the entrance of Business Park Drive from Route 22 North in its present condition is challenging for semi tractor trailers. If this supermarket were to be approved he would help repair it but would not finance it totally. He also found sidewalks to route 22 reasonable and would participate in that as well.

Mr. Fareri stated that the town did a study to see if a supermarket in Business Park would affect down business and the report showed that it would not affect the business's on Main Street.

Mr. Fareri also stated that the A&P is in chapter 11 and closing a lot of their smaller stores. He was concerned if the A&P were closed in town. He also noted that the supermarket as well as the assisted living application are responsible assessables for North Castle.

The board had discussions at this time with the Director of Planning regarding the wording of the referral to the Town Board.

Ms. Michelman asked for a motion to declare lead agency intent regarding the 99 Business Park application. Mr. Delano made a motion to approve. It was second by Ms. Tatka and approved with four Ayes.

Ms. Michelman asked Mr. Kaufman to draft a positive recommendation back to the Town Board as modified this evening. She also requested that a long EAF form be submitted to the Planning Department so that it can go out with the Lead Agency Intent Letters.

90 BUSINESS PARK DRIVE

Referral from the Town Board

90 Business Park Drive

Sec 2, Blk 16, Lot 11B08

Anthony Veneziano, Esq. Veneziano Associates

Discussion

Contract vendee Steve Krieger from The Engel Berman Group was present as well as his professionals, Anthony Veneziano, Esq. - Veneziano Associates, John Saccardi, AICP - Saccardi & Schiff VHB and Steven Grogg, PE - M.C. Laren P.C.

The FAR (Floor Area Ratio) was discussed at great length this evening, also discussed was the storm water and the water supply. Mr. Kaufman noted that there is no specific limit to the FAR and you can limit it to the site. The town comprehensive plan does permit this type of use and offers density bonus's. Also discussed was the maximum development potential for the entire site. The Town Board and Planning Board must agree to that number.

Mr. Kaufman stated that the town can not ignore the potential impacts of the entire site. Mr. Veneziano stated that there were not that many off site impacts.

Ms. Michelman expressed her concern with the vacant lot next door and the impact that will have. Mr. Veneziano stated that it fits well on the site. Ms. Michelman stated that this building is some what urban. Discussions were had at this time regarding the building and if it were urban or not.

Mr. Baroni noted that he wanted a fixed number to be sure of all of the future special use types.

Mr. Veneziano stated this use was very sedate; there would be no kids in school. Mr. Kaufman

noted that the real issue is if the extra FAR is reasonable and appropriate. How much more is appropriate?

Mr. Baroni and Mr. Kaufman would like a fixed number. The applicant's professionals noted that the figure was flexible in many other towns out on Long Island like Huntington and Westbury.

Continued discussion was had on the FAR figure.

Mr. Grogg stated that he will provide the additional information regarding drainage and the preliminary storm water report and will submit all of that information.

Mr. Coyne noted that the stormwater and wetland plans will be handled and they will get to an agreement of the right number. One third of the additional water and sewer capacity proposed will go to this use.

Continued discussions were had regarding the FAR and Density.

Mr. Coyne stated that the sewer usage should be finalized before going to the Town Board.

Ms. Michelman asked for a motion to positively refer 90 Business Park Drive back to the Town Board with items discussed this evening. Mr. Delano made a motion to approve, it was second by Ms. Black and approved with four Ayes. Ms. Tatka was not present for the vote.

Ms. Tatka left the meeting at 9:45 p.m.

61 & 67 OLD ROUTE 22 SUBDIVISION

Subdivision

Section 2, Block 11, Lots 9-2 & 9-4

61 & 67 Old Route 22

Bob Peak, AICP John Meyer Consulting, PC

Discussion

Present this evening was Bob Peake, AICP, John Meyer Consulting, PC and Joshua Grauer, Esq. Cuddy and Feder.

Mr. Grauer stated that he represents one of the co applicants. He stated that according to the last meeting, there is an absence of a shared parking agreement. The clients will agree to a shared parking agreement but they still want their own separate entrances.

Mr. Coyne noted that there are site distance issues that need to be resolved.

FURIO

Site Plan

Section 1, Block 9, Lot 13-1

113 Round Hill Road

Chris Yaroscak, Legacy Development

Consideration of approving 4rd extension of time resolution

Ms. Michelman asked for a motion to approve the 4th extension of time resolution for the Furio site plan. Mr. Delano made a motion to approve the extension of time. Ms. Black second the motion and it was approved with four Ayes.

TURET

Preliminary Subdivision

East Lane, West Lane, Nichols Rd

Bibbo Associates, Tim Allen, PE

Discussion

Consideration of 2nd preliminary subdivision approval extension of time

Ms. Michelman asked for a motion to approve the Turet second extension of time resolution. Mr. Delano made a motion to approve. It was second by Ms. Black and approved with four Ayes. Ms. Tatka was not present for the vote.

Meeting adjourned at 10:28 p.m.