

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 p.m.
September 12, 2011**

PLANNING BOARD MEMBERS PRESENT:

John Delano, Chairman
Jane Black
Steve Sauro
Guy Mezzancello

PLANNING BOARD MEMBERS ABSENT:

Beata Buhl Tatka

ALSO PRESENT:

Adam R. Kaufman, AICP
Director of Planning

Ryan X. 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:
Peter Limburg

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

APPROVAL OF MINUTES:

Mr. Delano asked for a motion to approve the August 8, 2011 Planning Board minutes as amended. Mr. Sauro made a motion to approve. It was second by Mr. Mezzancello and approved with three Ayes. Ms. Black abstained from the vote and Ms. Tatka was not present for the vote.

PUBLIC HEARING:

Preliminary and Final Subdivision of the Jennie Clarkson / St. Christopher's Inc. property located at 1700 Old Orchard Street, Section 3, Block 4, Lot 4, Ralph Herrera, St. Christopher's Inc., Consideration of Preliminary and Final subdivision resolution of approval, Discussion

Mr. Delano read the affidavit of publication for the record. Ms. Desimone noted that all paperwork was in order and 14/16 green cards were returned. The following noticed neighbors were present. Marjorie Durand – 1610 Old Orchard Street and Marlene Durand – 1613 Old Orchard Street and Frank Aiello – 1615 Old Orchard Street.

Present for this application was the applicant's professional Tom Merritts, Merritts Land Surveying PC and Ralph Herrera representative from the Jennie Clarkson Home.

Mr. Merritts stated that presently the Jennie Clarkson site is on one lot which includes two existing houses fronting onto Old Orchard Street and this subdivision will create individual building lots for each of the two houses.

Mrs. Marlene Durand was concerned how water will access these two lots and how will it affect her mother's lot which is in-between the proposed building lots and how will it affect her lot across the street. Mr. Kaufman stated that Potable water will be provided by the School, as it does presently, and the Board of Health has signed off on it.

Mrs. Marlene Duran noted a dump on site and wetlands in and around the dump area and was concerned about the impact of the dump on the water and the wetlands. Mr. Delano asked Mr. Kaufman to follow up on that. Mr. Kaufman stated that he will notify the Building Department and the Conservation Board regarding this matter. Ralph Herrera from the Jennie Clarkson home stated that he would look into this matter as well.

Mr. Aiello lives across the street from Marjorie Durand and is having trouble with the water coming onto his property from the Durand House. He would like to know how this issue will be resolved. Mr. Delano stated that there is no construction proposed for the applicant. Mr. Aiello stated the water runs off the Jennie Clarkson site down to the Durand site and all the sand and gravel, about 10 yards, runs onto his property. Mr. Delano inquired who has taken care of this issue previously. Mr. Aiello stated this was the first time that it happened, we should concentrate on the water not the subdivision, and he offered to show pictures of his lot. Mr. Delano stated that many people experienced water problems during Hurricane Irene. Mr. Kaufman stated that if something were going to be built on the property, we could look into this matter, but since only imaginary lines are being drawn on the site and no construction of any type is being done, he was not sure of a remedy that could be provided and asked Mr. Baroni for his comments. Mr. Baroni stated that he would need to know a lot more about the situation than he does now before he could venture an opinion. Mr. Delano stated that there is no vehicle that he was aware of to help Mr. Aiello, he suggested Mr. Aiello speak with the neighbors to work something out.

Mrs. Marlene Durand stated that Hurricane Irene overwhelmed the system and this is the first time in 90 years that this has happened. She presently has a contractor who is giving her a price

to fix her mothers driveway. Mr. Aiello repeated all of his concerns and noted that between 5 -7 yards of gravel and sand are on his front lawn. Mr. Delano stated that if Jennie Clarkson was doing something on their property to change the water course, we could look into it and he was sorry that we could not offer any relief in this matter.

Mr. Mezzancello asked Mrs. Durand what her driveway was made of. Mrs. Marjorie Durand stated that her mother's driveway was blacktop with gravel on top. There is a culvert that takes water from the Jennie Clarkson home through the wetlands across the property and along the driveway under the road to a storm drain that Mr. Aiello has which has always worked until two weeks ago with Hurricane Irene, That was why the dump was a concern to her and may affect the water supply. The contractor will be able to fix this and hopefully it will work again, the pipe is between 10 -12 inches and the driveway will have to be taken apart and it will cost thousands of dollars to repair. Mr. Mezzancello inquired if the Town Engineer will have to review the new driveway and new culvert. Mrs. Marjorie Durand stated that the water goes under the street, she was not sure if it had changed in recent years when the new sewer line was installed. The contractor told her that when the sewer line was installed it went down ten feet and she has not had a chance to follow up with the Water Department regarding the location of the pipeline and did it interrupt her pipeline underground. Mr. Delano stated that we can follow up with the Highway Department regarding this matter. Mrs. Durand thanked the chairman.

No further comment was made at this time. Mr. Delano asked for a motion to close the public hearing regarding this matter. Ms. Black made a motion to close the public hearing, it was second by Mr. Sauro and approved with four Ayes. Ms. Tatka was not present for the vote.

Mr. Delano asked for a motion to approve the Preliminary and Final Subdivision Resolutions regarding the Jennie Clarkson home. Ms. Black made a motion to approve. It was second by Mr. Sauro and approved with four Ayes. Ms. Tatka was not present for the vote.

DISCUSSION:

A. Site Plan for Miller, 5 Valhalla Ave, 5/25/13, Ken Murphy - Petruccelli Engineering.

Present for this application was Mr. & Mrs. Miller, their attorney, Mr. Albert D'Agastino - Manerva and D'Agastino 107 South Central Avenue, Valley Stream Long Island. Their engineer, Mr. Rudy Petruccelli Mr. & Mrs. Miller.

Also present, Gregg Papallardo Attorney representing Mrs. Cecilia Nassetta – 4 Valhalla Avenue, Nancy Hadley - Niece of Cecilia Nassetta; Tony Nassetta – 4 Valhalla Avenue; Claire Nassetta - 54 Overlook Road North; Jill Gretto – 17 Rock Cliff Place; Michael Russano – 48 Overlook Road North; Stephanie Cornell – 50 Overlook Road North and Walter Puff - 120 Nethermont and Harvey Lotko - 124 Nethermont Avenue, Chris Mattoni- 8 Hillandale Avenue.

Mr. Petruccelli stated that his original submission reflected an 18 foot wide road which can take care of emergency vehicles and runoff. A meeting has since taken place with the applicant and some of the neighbors and the conclusion of that meeting was to reduce the width of road to 15

feet. A driveway can be reduced to 16 feet if there are four or less houses on the private road, according to the private road standards, Chapter A-216-25 . A lot of trees and a pole can be saved with the reduced size driveway. He has not had an opportunity to calculate the drainage on this width of the driveway and he will work on that information if the board agrees to the 15' or 16' driveway. The board agreed that a meeting should take place with the police and fire departments regarding the width of the private road.

Mr. Kaufman asked Mr. Petruccelli to prove out on the subdivision plat exactly where the right of way of Overlook Road and where the driveways terminate. Mr. Petruccelli agreed to address that issue. Mr. Kaufman stated that if you can demonstrate that there are four houses and if the code does provide that a width of 16 feet is acceptable, that may work.

Mr. D'Agostino stated that he had met with the neighbors for two or three hours on August 10, 2011. A great deal of time was spent walking the property and walking the right of way and they had a meeting subsequent to that. The neighbors relayed that they would like the right of way reduced and we are discussing that with the board. His client's position is that we do have a right of access over a 50' right of way and that appears on a filed map from 1892, filed in 1900 at the Westchester County Clerk's office. He would like the professionals to review the definition of street and definition of frontage.

Mr. Pappalardo stated that he represents Mrs. Cecilia Nassetta. He noted that many of the concerns and issues were addressed at the meeting with the neighbors. The biggest concern was the street width, there are a number of steep slopes, rock outcropping and ornamental plantings on the north side of the street. He would like the ornamental plantings maintained and put back in their original condition once the road is done. He is aware the Miller's attorney has submitted comments to Mr. Baroni regarding the right of way and he will be submitting comments of his own. The biggest concern is loss of mature trees and the additional run off as a result of the loss of those trees for the people who live down slope. There are people who live on Nethermont that are here this evening and are concerned about the run off.

Mrs. Hadley introduced herself and all of the neighbors present this evening. She then tried to submit some minutes to the board regarding the meeting with the neighbors. Mr. Miller and his professionals noted that they had not reviewed the minutes and asked that they not be submitted to the Planning Board and professionals. The minutes were not submitted. Mrs. Hadley offered to review her minutes verbally at this time. Mr. Delano reminded Mrs. Hadley that this was not a public hearing and Mr. Miller has a lot on a filed map and has a right to put a house up and we have to make sure it is done the right way and minimize the impact to the neighbors. Mrs. Hadley stated that minutes were supposed to be typed up and were not done, Mr. Miller sent a letter to the town stating that the neighbors met and agreed upon a 15' road and the plans that are on the board this evening were not made available to her. She was not pleased with the communication regarding this application. She wanted to put on the record that the neighbors do have concerns and the primary concern is that the neighbors want the minimal amount of disturbance to the road and a specific amount for the width was not agreed upon. There are also steep slopes and severe drainage issues, the wider the road is, the less impervious ground there will be to soak up the water, which directly affects the Cornell and Russano property. The neighbors communicated about the width but we did not get communicated to back.

Mrs. Hadley also noted that when Rock Cliff was built there was a gapping, unfinished pipe left that water races out of and is heading down the hill. We have been discussing the width of Valhalla Avenue and common sense says that we should review the finishing of Rock Cliff and that would address this pipe problem and its drainage and give the Miller's access to their site. If the Miller's are insisting on accessing through Valhalla Avenue, which logic says access from Rock Cliff vs. Valhalla Avenue – we are trying to figure that out. We are making progress but the width of the road needs to be determined and what has to go into the easement agreement. Communication is not exactly going in a two way direction. Until this past storm of Hurricane Irene, we were not aware of the Rock Cliff unfinished pipe.

Mr. Delano noted that the Rock Cliff pipe was not the responsibility of this applicant. If we find a reasonable access off of Valhalla Avenue that makes everyone happy, is done correctly and complies with emergency services – Mrs. Hadley interrupted and stated the neighbors want the least amount of width increase possible for the road which will minimize the impervious surface lost and minimize the amount of runoff on the neighbors below. The other issues are landscaping, steep slopes, chipping rock, maintenance agreement and all of that has to be put together for everyone to agree on.

In response to Mr. Delano's comment, Mr. Baroni stated that it is an approved paper road on a filed map and this is a lot off of the paper road. The applicant has the right to build a house and use that road for access and has the right to improve the road to a standard to be determined by the Planning Board. He did not think anyone disagreed with that. It is the degree of improvement that the Planning Board is going to require. You can't go too much further without a report from the engineers and comments from emergency services as to what they require to suitably serve the proposed and existing premises. Without those reports in hand, it is hard to determine what width is or is not appropriate.

Mr. Kaufman stated that we were looking to get a feel from the board if they would consider going below the 18 feet. Mr. Delano and Ms. Black said this was not the norm and would consider going below 18' as long as we had input from the engineers and emergency professionals. A meeting will be scheduled.

Mr. Russano stated that presently there is grass where the road is going to go and if paved, the water will flow down potentially to his house and other people's homes. Mr. Delano stated that the drainage will be looked in to.

Jill Gretto stated that no matter how wide the road is made there will be significant steep slope disturbance. The plans show 6,600 square feet of steep slope disturbance in an area that already has drainage issue simply can not be ignored. The drainage has not been sufficiently reviewed as the Town Engineer has mentioned in his memo. Rock Cliff place is one of the highest roads in North White is now flooding and was disastrous during the hurricane. The area is presently over taxed with water and flooding and this project will add significantly to it. She noted that two of the adjacent property owners on Nethermont did not have their photos submitted to the ARB as abutting property owners and was concerned they were being left out of the process. We understand the Millers did not cause the drainage issues on Rock Cliff but the area is over taxed. Mr. Kaufman stated that these were legitimate concerns and the board would review them.

Ms. Cornell stated that over the past few years she has had rivers coming down her driveway and is concerned that with this application the water will increase and trusts the board will do its job and watch out for her property as she is not very knowledgeable regarding drainage.

Mr. Lotko stated that he is very concerned about the drainage; his lot is adjacent down hill from this site. Since construction on Rock Cliff took place about five years ago he has been getting a lot more water on site but was not aware of where it came from. A neighbor had mentioned that the culvert at the end of Rock Cliff place was brought to his attention. He went up there after Hurricane Irene and saw two fire trucks with 6 inch pipes in the culvert draining the water which in turn drained into the neighbor's basement. He then presented a photo showing water coming out of the drain once the fire department stopped putting water into the culvert. Mr. Delano asked if Mr. Lotko spoke to anyone at the town regarding this matter. Mr. Lotko stated that he has not. Mr. Delano noted that if Mr. Miller were not to build, the drainage would still exist. Mr. Lotko stated that on one side the drainage will be exacerbated and on the other side says they are going to rectify it. Mr. Delano stated that we are here to look at the amount of exacerbation and impose a reasonable amount of rectification. In response to Mr. Lotko's comment, Mr. Delano suggested Mr. Lotko presented those pictures to the Highway Department and Town Board.

Mr. Mattoni stated that we agree that the Miller's have a right to build but how you come to the right decision so that they can improve their land and not exacerbate, without reason, the neighbors property is a balancing act. He thanked the board for listening to their concerns.

Mr. D'Agastino stated that he is aware of the drainage issues and it will be reviewed by Mr. Petrucci. He would like to be a good neighbor and there was a request to reduce the size of the road and is working on it. With respect to drainage, he would like the board to review the Planning Board minutes from November 3, 1983 and decision from November 7, 1983 in regards to building the Nassetta home. The condition in the resolution noted that the road should be pervious, not impervious. This is the condition in the resolution and a prior board did look at this. Mr. Nassetta's attorney basically said at the time what I have been saying, if you own a lot on a filed map, by law you have an easement across the street and you have a right to improve it. There is case law to support that and that information has been submitted to the Town Attorney. We will do our best to move forward in the most amicable way possible. But when he hears a myriad list of issues like drainage and what has occurred before, he wonders if there is recognition for everybody. Mr. Miller owns this property and has certain rights and his family has owned for decades and he is looking to comply with the ordinance and build his dream home and be a good neighbor. There were no steep slopes ordinances in 1983 and in 1983 there was a request for blasting whereas his client is proposing chipping. There is also a drain on the Nassetta driveway that is on a different grade than the driveway and this slope comes down this way, where is that water going. These are all things we need to address and in a neighborly fashion and we will do so and will attend any meetings with the professionals to address these issues. We will contain our water and hope that the neighbors will contain their water. He would like his clients and his neighbor's rights both recognized.

Mr. Delano stated that there are some items in the memos that need to be addressed and we will schedule a meeting regarding the width of the road. Mrs. Hadley asked that the professionals review the minimum width possible and if that was even 13 or 14 feet she would hope the

professionals would look at that as well.

Ms. Gretto stated that all the neighbors support the right to build, no one is challenging his right to build but the right to build is not absolute and it comes with a responsibility and compliance along with a code that was very carefully written, that is what the Planning Board, Mr. Kaufman and the Architectural Review Board is here for. He has the right to build but it is not with a blank check.

A. Amended Site Plan for Mackey, 5 Dellwood Farm Way, 2/4/1-9, Frank Guiliano, RLA. Present for this application was Joe Cermele, PE, Site Design Consultants

Mr. Cermele stated that the applicant is proposing to build a tennis court and will need to amend the clearing and grading limit line for this location. There will be lighting on the court, the applicant is also proposing a viewing area, 21 trees will be removed for this project and the applicant is proposing to plant 30 trees. A mixture of Evergreens and Pine trees are proposed. Added vegetation on the east side is proposed for aesthetic reasons.

Mr. Delano asked the board and the professionals if they had any comments at this time. Mr. Kaufman stated that there are no real issues on this site, the impacts are minimal, and there will not be a lot of steep slope disturbance. Since the applicant is proposing a 10 foot fence they will have to go to the Zoning Board of appeals for the fence. Once the applicant is done with the ZBA the applicant can resubmit plans and return to the Planning Board for a resolution.

PLI Zoning District Discussion re: Supermarket at 99 Business Park Drive, 2/16/11.B09, Michael Fareri.

Mr. Fareri reviewed the previous history of the site as well as the past history of his other supermarket application that was at the former bowling alley site on Old Route 22. He presented aerial photos and previously proposed plans for the supermarket. He then reviewed all of the steps that had been taken to bring his application to this point today. He stated that he is considering DiCicco Family Markets at this time. He handed out some information to the board regarding the supermarket and how many deliveries and customers come in and out of the site daily. Mr. Fareri also reviewed with the board all seven pages of plans that were submitted to the board for their review. He reviewed each of the statistics regarding the DiCicco supermarket and noted there were 8 other DiCicco supermarkets in Westchester County. He suggested that the same statistics be reviewed for the Market at Armonk Square proposal; this would help see if this was an appropriate use for the Market at Armonk Square. He noted that the supermarket location in business park drive would keep the tractor trailer trucks out of down town Armonk, there are four loading docks proposed which is one more than the requirement and two queue spots are proposed for any overflow. Mr. Fareri inquired where the trucks would go at the Market at Armonk Square site if queuing were to occur. He was concerned if Armonk could accommodate the additional cars in town, he said it would not be a problem in Business Park. Mr. Fareri then stated that he was scheduled to appear before the Town Board on Wednesday. He was not sure at this time if his application would stay on the Town Board agenda because three of the board members were against his application for a supermarket in Business Park and

thought this would be the last time he would be before the Planning Board regarding this matter.

A. Preliminary Subdivision 3rd Extension of time resolution for Turet, East Lane – West Lane - Nichols Road.

No one was present for this application. Mr. Delano asked for a motion to grant an extension of time for the Turet preliminary subdivision approval. Ms. Black made a motion to approve. It was second by Mr. Sauro and approved with four Ayes. Ms. Tatka was not present for the vote.

B. Site Plan Hillside Church, 448 Bedford Road, 2/8/16.G, Stephen Marchesani.

Mr. Marchesani stated that the applicant is proposing a second floor addition over the existing first floor. There is an existing two bedroom accessory apartment and the applicant is proposing a third bedroom which requires an additional parking space. The existing septic is for the church and the school and there should not be an issue with the additional bedroom, he will supply the information. In response to Mr. Delano's comment Mr. Marchesani stated that he will be working with the board health regarding the septic.

In response to Mr. Delano's comment Mr. Baroni stated that in regards to condition #3 in the Director of Planning's Memo dated September 9, 2011 which read - The existing apartment is proposed to be expanded by approximately 800 square feet. Since the apartment is expanded and not new, the Town Attorney will need to confirm that amended special use permit approval is not required by the Town Board and that the Planning Board has the authority to approve the proposed addition via site development plan approval. Mr. Baroni stated that the applicant would not have to return to the Town Board.

Mr. Delano stated that Health Department will have to sign off on this and receive ARB approval. Mr. Marchesani stated the applicant does have ARB approval. Mr. Kaufman noted that there are a minimal amount of issues regarding this application and if the applicant does have ARB approval the board could consider a resolution at the next meeting. The board agreed to consider a resolution at the next meeting.

C. Site Plan for the Assisted Living Facility, 90 Business Park Dr, 2/16/11.B08, Anthony Veneziano, Esq., Veneziano & Associates.

Also present for this application is the applicant Steve Krieger, member of the Engle Berman

group LLC and his attorney, Mark Miller, Esq. Veneziano Associates and the property owner Eric Lashins and Ed Lashins.

Mr. Miller stated that he submitted a Special Use Permit to the Town Board and the Town Board has referred that application to the Planning Board for its recommendation. Mr. Miller stated that he did not have any issues regarding the comments in Mr. Kuafman's memo regarding the local law. The subdivision and site plan submission will be made tomorrow to this board to get back on the September 26, 2011 agenda. He would like a positive recommendation back to the Town Board this evening regarding the Special Permit as well as a referral to the ARB, CB and Westchester County Planning Board. Mr. Delano asked if the applicant was ready for all of these referrals. Mr. Kaufman stated that once the plans are received he would be alright with the recommendations regarding the referrals. Ms. Black stated that she that the board has reviewed the concept plan and is alright with that. Mr. Delano asked for a motion for a positive recommendation to the Town board regarding the special use permit. Ms. Black made a motion to postively recommend the special permit to the town board. It was second by Mr. Sauro and approvd with four Ayes. Ms. Tatka was not present for the vote.

Meeting adjourned at 9:15 p.m.