

NORTH CASTLE PLANNING BOARD MEETING
H.C. Crittenden Middle School - 10 MacDonald Avenue
7:00 p.m.
October 12, 2011

PLANNING BOARD MEMBERS PRESENT:

John Delano, Chairman
Jane Black
Steve Sauro
Beata Buhl Tatka
Guy Mezzancello

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:
Larry Nokes

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

APPROVAL OF MINUTES:

Mr. Delano asked for a motion to approve the September 12, 2011 Planning Board minutes as amended. Ms. Black made a motion to approve. It was second by Mr. Sauro and approved with four Ayes. Ms. Tatka abstained from the vote.

PUBLIC HEARING:

I. PUBLIC HEARING:

A. Market at Armonk Square, 402 Main Street, 2/14/8, Consideration of approving site plan resolution.

Also present for this application was Alan Zaretsky, Dominick Dioguardi, John Dioguardi, Anthony Veneziano, Mark Miller, Andreas Stresemann, Erik Zambell, John Collins, and Ralph Alfonzetti.

There were approximately 100 people in the room at the start of the public hearing.

Mr. Delano read the affidavit of publication for the record. Ms. Desimone stated that 30/36 green cards were returned and all paper work was in order for this application. Mr. Delano reminded everyone in the audience to be respectful of the opinions this evening whether you agree or disagree with them and to only comment on the Market at Armonk Square and no other matters.

Mr. Veneziano made a brief presentation and stated that the 3.4 acre site would consist of 10,234 square feet of residential space (10 Units), 12,748 square feet of retail space, a 600 square foot DEC building and a 20,650 square foot grocery store (Grand total of 53,360 square feet of FAR) together with 168 parking spaces. He is presently working on a draft lease with a client. He also stated that the buildings off of Main Street will remain the same. He also noted that all of his professionals were present this evening to answer any questions.

Mr. Veneziano then noted some types of comments received from St. Stephens Church and the Landmarks Preservation Committee. Mr. Veneziano summarized the St. Stephens Church comments presented in their letter dated October 12, 2011 to the Planning Board - #1 - restriction of deliver times- Mr. Veneziano stated his client was not able to do that. #2 – restriction of hours of operation, Mr. Veneziano stated the store will close no later than 10:00 p.m. #3 - signs and lighting of signs. Mr. Veneziano stated that as this application moves forward and there are any items that his client can address, work on or resolve, he will certainly do what he can..

Mr. Veneziano stated for the record this project was approved by the Landmarks preservation Committee with a vote of 5-0 and now, this evening, Ms. Shimer has additional comments regarding this application. He summarized her letter for the Planning Board. #1 . Restriction of truck traffic to Maple Avenue only. Mr. Veneziano stated that at this point the large trucks will come in off of Maple Avenue and exit onto Bedford Road back to I-684 and not go into town. #2 She noted if the trucks can't exit onto Maple Avenue, we should restrict the times. Mr. Veneziano stated that he already commented on the restriction of delivery times and deliveries are typically early in the morning. He noted if some of the smaller trucks can enter and exit off of Maple Avenue they will try to accommodate that request.

Mr. Veneziano also referenced appropriate screening on site, which his client has been working on with St. Stephens Church and is already approved by the Historic District. He also noted that

there was a meeting last evening with members of the Planning Board and Bob Greene, resident, and Mr. Greene discussed with the board twelve of his observations regarding this application. Some of the items discussed were turning radius, trash, technical issues, transformers, electrical conformity and that informatin will be provided. Mr. Baroni noted that there was never a quorum of planning board members present in the meeting at any time last night.

Christine Eggleton – representative of the Landmarks Preservation committee read a letter into the record prepared by LPC Chairman Schimer. Ms. Eggleton expressed the following concerns in her letter: #1 Restrict truck traffic and if that can't happen, then give a very limited amount of time for truck traffic in the historic district. #2 Provide appropriate screening between historic distric and cemetary during construction and after construction. #3 Provide appropriate screening along the driveway to exit onto Bedford road. #4 She reminded the applicant that the Placing of any sign in the historic district requires prior approval of the Landmarks Preservation Committee. #5 - She also noted that the town should consider the truck impact on the historic district and numerous other towns, states and cities around the country do take truck traffic into consideration in the historic distric.

Judy Willsey, owner of the Framing store on Main Street for 23 years would like to get this project off the ground as soon as possible and is looking forward to the new supermarket and the new sidewalks in the town and would like it to happen as soon as possible.

Stuart Kovensky, resident for 12 years wanted clarification on the process and what happens after this public hearing and are all of the reports are complete. Mr. Delano addressed these comments. Mr. Kovensky inquired how long until the ground is broken, what if changes happen and what is the trigger on those changes that would require the applicant to return to Planning Board. Mr. Kaufman stated that the applicant has to build and comply with the resolution and the Building Inspector can agree to some field changes, anything substantial would require the applicant to return to the board. Mr. Kovensky asked for the details of the project regarding size of buildings and how many apartments and asked how that compares to the current A&P site and the Town Center on Route 128. All of these questions were addressed.

Mr. Kovensky expresesed his concerns about traffic and parking associated with this application. He inquired about who prepared the traffic study and parking analysis and who reviewed these reports. Mr. Kaufman indicated that John Collins Engineers prepared the reports and Michael Galante of Frederick P. Clark Associates, Inc. reviewed the documents for the town. Mr. Kaufman invited Mr. Galante to the Dais to discuss the details of the traffic report and shared parking analysis. Mr. Galante addressed all of Mr. Kovensky comments and questions regarding the shared parking analysis, how much more flow of traffic will be brought into town and noted that all studies that were done include the present A&P or future CVS.

Bob Greene, resident, hopes this plan works and he has followed it for a long time. He delivered his eight page point of view last night at a meeting in the supervisor's office with the Planning Board. He then reviewed the credentials of the three persons who prepared the eight page point of view last night which were Ken Narva, Tony Calavolpe and himself. He was concerned that the letter from Westchester County was not correct and handed out copies of the letter with his comments written in red to the board members. He noted that he did not have an opportunity to review the traffic report and would like to review the report and provide their (Narva, Greene &

Calavolpe) observations to the Planning Board. He would like the public hearing held open so that he would have the time to review the material and provide his comments to the Planning Board.

Mr. Veneziano stated that the Westchester county letter gave a glowing report regarding this project and read excerpts from the letter to that effect.

Mr. David Fields is a long time resident and stated the development of this site will make Armonk a better place, every day.

Father Josh Condon, St. Stephens Church, read a letter into the record that was submitted to the board earlier today. He had the following concerns which he would like addressed as part of the approval if granted this evening. #1 - No deliveries on Sundays, #2 - No deliveries from 10:00 p.m. to 6:00 a.m., #3 - At the time of closing that all lighting not necessary be turned off.

Neil Bauman is a 23 year resident and parishioner of St. Stephens for 15 years. He noted that all previous agreements made with this developer have been met. He strongly encouraged the board to support and approve this project and the amendment will have less of an impact on St. Stephens then the previous application.

Mr. Fareri stated that he has been a resident for over 40 years. He stated that he would like to see this site developed but it needs to be done responsibly. He then reviewed the three different Heritage Square and Armonk Square site plans over the years from 1987 to the present. Mr. Delano asked if we could discuss the application this evening.

Mr. Fareri expressed the following concerns with the board members: Community Character (the three Armonk Square plans are very different); noise generation; odor; is garbage behind Main Street large enough for the businesses and apartments; the garbage is also located 10 feet from his home as he is an abutting neighbor to the site; how will odor be eliminated out of the loading dock; are there enough loading docks; concerned with turning radius off of Maple Avenue; he then reviewed his DeCicco information regarding trucks, times etc provided to him for their supermarket; where do tractor trailers wait when the loading docks are already full; where are the fire safety lanes and where will emergency vehicles park; there is a full basement under the supermarket which is 7' tall and the elevation is in the flood plan; What will the 24,000' basement be used for; did the DEC review the plan; if the DEC pump is still pumping on site where does it discharge to and why is DEC still monitoring the building; he noted the mezzanine above the supermarket was 3,000' and wanted to know what this space will be used for and if this space was calculated into the parking count; Does the Landmarks Preservation have to get comments from the National Registry or is this only a local determination; he was concerned about the proximity of the headstones on the abutting property being only 6 feet away from the Armonk Square driveway; concerns regarding traffic and if there is adequate parking on site and if shared parking is appropriate in this instance; concerned all uses will be used at the same time and there will not be enough parking; the loading dock and the one compactor is not sufficient; outdoor seating tables; roof plan; Since there is an elevator, is the mezzanine and basement square footage included in the parking calculations; fumes from cooking on site are near the loading dock and will these fumes affect the neighbors; what size are the roof top air conditioning units; how much noise will the air conditioning units generate on the roof and is this

the right location for the units; did the Westchester County Health Department review the exhaust path for the kitchen and grease trap. Mr. Fareri summarized that he had concerns regarding all of these issues and the public hearing should be held open until all of his comments have been addressed. Mr. Delano thanked him for his comments and time spent reviewing the project.

Mr. Veneziano stated that a lot of that detail will be addressed at prior to signing of the site plan and obtaining a Building Permit. He noted that there is presently a supermarket in town and the noise level will be consistent with the existing A&P supermarket and the character is not being changed. Mr. Kaufman stated that Mr. Fareri was comparing the old Heritage Square plan to the current plan in terms of character and that is not what SEQR review is about. SEQR asks the town to review the proposed development with the character of the hamlet. Based on the Town Comprehensive Plan and Westchester County 2020, and given the proposed elevations and approvals from the ARB there is not any question that this is the type of development that we want to see in the down town hamlet.

Mr. Veneziano stated that in regards to the noise, this is not inconsistent to what exists presently. There is already a supermarket near by. It is appropriate to discuss truck traffic but at the meeting last night, Mr. Greene had the regional director of Stop and Shop present and that is a different level of truck traffic. There will be two tractor trailer trucks a day. In regards to odor there is a 30' compactor in the loading dock area and there will be things stored in the basement area. The trash will be monitored outside and moved probably once a day. He noted that he has a letter from John DiCicco, on letter head, regarding the conceptual agreement with his client and outlines the uses and deliveries of their supermarket. He stated that deliveries will be generally between 7:00 a.m. – 11:00 a.m., store hours will be generally from 6:00 a.m. – 8:00 p.m. There will be two or three tractor trailer trucks, 4 to 5 smaller trucks and 8 step vans. Most deliveries are between 10 - 15 minutes on site. This letter was read to you to inform you about the site but also to alleviate some of the concerns raised on a white piece of paper, with no letterhead, Mr. Fareri submitted. Mr. Gallante reviewed Mr. Collins traffic information. The emergency and fire vehicles were not overlooked and have been fully reviewed. The basement is not within the flood plain. Under the approval from DEC, every month we have to submit soil testing results through out the entire project to the DEC.

Mr. Delano asked Mr. Coyne about the flood plain. Mr. Coyne stated that the property where the supermarket will be located is not within the floodplain.

Mr. Veneziano stated that there will be storage and mechanicals in the basement. He has already commented about dumpsters on site. In regards to the Jurisdiction from the National registry, the jurisdiction is a local one in this regard and he has approval from the Landmarks Preservation Committee. In response to Mr. Delano's comment, Mr. Kaufman stated that storage is calculated into the parking space count which is at a ratio of 1 parking space per 1,200 sq ft of storage. This was a condition in the resolution; the applicant will have to demonstrate that the figures work. Mr. Veneziano stated that the mezzanine and the basement are counted in the square footage regarding the parking spaces. The outdoor seating is now approved by the Building Department. Grease pits and such will be discussed with the building dept.

Andreas Stresemann, Architect for the project, stated that they had received ARB approval for

the supermarket this evening and the roof top air conditioning units were on the plans reviewed by the board and will be hidden behind shed roofs. These are modern units; the shed roofs will block the noise and direct the noise up. The compressors are in the basement and the condenser are on the roof top, the odors will be filtered before it exits the building and this is not a full running kitchen, they will not be preparing lunches and dinners on site.

Barbara DiGiacinto stated that she was a life long resident and would like the Planning Board to close the public hearing and vote on this application. The DiGiacinto family supports the supermarket at Armonk Square and 70 Main Street retailers signed a petition supporting the Supermarket at Armonk Square. The petitioners support the grocery store at Armonk Square for the following reasons: will continue to have a grocery store in the heart of town; the central location will encourage people to park once and shop at Armonk Square as well as all of the local business on Main Street; the grocery store will be a link from David Chen's to the Olive Branch Plaza; a grocery store will be a solid anchor for the project; Fiscal benefits to the town once the project is completed; leasing of 10 one bedroom apartments will add vitality and additional support to local merchants. None of the aforementioned will occur if there is no grocery store in Armonk Square. A market in Business Park will draw away, daily, potential shoppers from Main Street. She also noted a few individuals have caused doubt and controversy regarding the development of the A&P and does not want to see that happen at this site as well. This is our last chance to retain in the heart of town a modern food store.

Jeff Garson, owner of the Armonk Town Center on Main Street stated that people can shop anywhere and you have to make the people want to go to your shopping center. This applicant has had the best traffic specialist on this application and this subject has been beaten to death. He noted if the supermarket were put in Business Park it would kill the down town area. As a consequence, he would be forced to take in national chains. We don't need any more retail space in town; we need items that don't burden the town like the Brynwood site and the Assisted Living Site in Business Park Drive.

Barry Malvin, resident, stated that we have been waiting since 2003 for Armonk Square and once it was approved, the economy tanked and there were no tenants and the economy would not support retailers on this site. The board has to take a chance with the supermarket on site and he would rather face unforeseeable stuff than an empty hole, lets get this project done, don't let it die from analysis, get it done or the residents will be pretty annoyed every time we have to drive to another town because we don't have a local supermarket.

Mr. Sauro commended the applicant for being proactive and reaching out to the abutting neighbors and St. Stephens Church and listening to their concerns and solving them to the best of their ability. He asked that we review the store hours. Mr. Veneziano stated that in regards to the supermarket the latest the store will stay open is 10:00 p.m. and the applicant will not keep the store open if not necessary and if that time can be changed to 8:00 or 9:00 p.m., the applicant will work on that. The lighting and signage will go down similarly.

In response to Ms. Black's comment, Mr. Veneziano stated that there is no sign outside the historic district yet. Ms. Black noted on the original plan there was no signage in the historic district. Mr. Veneziano agreed. Ms. Black inquired if that would continue. Mr. Veneziano stated yes.

Mr. Sauro noted there were no cart corals on site. Mr. Stresemann, stated that there are cart corals

proposed in front of the store and inside the building. Someone will go around and collect the carts, it would be a disadvantage to his client to have shopping carts in parking spaces and could damage other cars and it would also be unsightly. Mr. Veneziano stated that the parking on site is tight and if a coral can be put in, the applicant will consider it.

Ms. Black stated that Mr. Fareri raised the issue of the compatibility of the supermarket with the hamlet. The Planning Board reviewed the elevations of the supermarket and it was designed in the style of multiple buildings and keeping with the historic buildings within the hamlet. Mr. Veneziano stated a lot of work was done to maintain the character on the Main Street side and this was carried over to the Maple Avenue side as well, there will be 3,000 square feet of retail stores along Maple Avenue. Ms. Black noted that she had heard a lot of concerns around town from residents that they were concerned there would be a big blank wall along Maple Avenue and wanted to reassure people that there will be individual store fronts on Maple Avenue. Mr. Stresemann stated that the linear exposure of the supermarket on the eastern side has been broken up to look like several stores.

Ms. Tatka stated that she is concerned with the children who walk into town every day after school from the Middle School and would like the hours of the tractor trailer deliveries be restricted for their safety. Mr. Veneziano stated that as of right now the delivery times are between 7:00 a.m. and 11:00 a.m. and he would explore the delivery times and will work with Mr. Baroni and Mr. Kaufman. Ms. Tatka noted that it was the Planning Board's duty to protect and to make the town safe overall. Mr. Veneziano stated that safety is paramount and some of the turns are going to be sensitive and the truck drivers will be aware they are in a hamlet and driving much more cautiously.

Ms. Tatka asked what would happen if the applicant were to sell his food store in five years, is this permit only restricted to the food store or can someone come in and purchase this site and put in a Walgreen's? Mr. Baroni stated that it is not only restricted to a food store. Under today's regulations if it were going to be a new store, other than a supermarket, they would have to go back to the Town Board and get a new Special Use Permit. The reason that did not happen with the CVS is because the existing A&P was grandfathered. We did not have that regulation and that was a regulation that came in 2003 or 2004 and the A&P had been there for 50 years and it was not applicable then, it would be applicable now. Mr. Veneziano stated that the lease was for 10 years. He noted that Coco Bolo has trucks that are going in and out of their site and truck delivery is not novel. Ms. Tatka noted the church was requesting restricted delivery times as well.

Mr. Mezzancello stated that he drove up to the Yorktown Store and down to the Scarsdale store to see how the stores operate a number of times. He has had some work in Scarsdale that gave him the opportunity to take a close look at Scarsdale for about two weeks. This gave him the opportunity to look at the people, the parking and the loading docks. We have a lot more with this proposal than the Scarsdale location, we have a loading dock, and Scarsdale does not. They don't have a lot of parking and we do have a lot of parking. You really have to look around to see what you have. We have a pretty good plan here, is it perfect, like we all said it is not 100% perfect but I have no doubt that this will work for our town.

Mr. Delano asked if there were any more comments at this time.

In response to Mr. Sauro's comment, Mr. Veneziano stated that his client has said that Sunday deliveries are not common he will get back to the board regarding Sunday deliveries. Mr. Kaufman stated that if the board does not regulate deliveries now, there is no mechanism down the road to regulate that point. Mr. Sauro stated that he was not a big fan of over regulating but was concerned about trucks being near the church, cemetery and historic district on Sunday's. Mr. Veneziano stated that there may be bread vans on Sundays but if the board would like to put a whereas clause in the resolution that the applicant has to get

back to the board regarding this matter, he was agreeable to that. It sounds like you could prohibit tractor trailers on Sundays and truck deliveries on Sunday's would be deminimis. Mr. Sauro noted he was very sensitive about this.

Ms. Black inquired about the traffic signal at the intersection of Main Street, Bedford Road and Kent Place. Mr. Kaufman stated that a bond was put into place as part of the resolution the board would approve. The DOT stated in the past that they wanted to wait for one year after the site was up and running and would make a determination if a traffic signal was necessary or not. Ms. Black asked if the period of time for the bond was sufficient. Mr. Kaufman said yes it was.

Ms. Tatka inquired about the MIU's. Mr. Kaufman stated that there is a requirement for two MIU's . The current proposal is to have ten market rate apartments onsite with two MIU's off site. We have certain protections to ensure those are built.

No more comments or questions were made at this time. Mr. Delano asked for a motion to close the public hearing. Mr. Mezzancello made a motion to close the public hearing, it was second by Ms. Black and approved with five Ayes.

While the board members were discussing the revisions to the resolution, Mr. Dave Riggs from Wampus Avenue stated that there may be snow storms and due to the weather, the trucks may have to deliver on days and times that were not originally anticipated.

The board members discussed the revisions to the resolution at great length. Mr. Baroni and Mr. Kaufman have reviewed the revisions and are comfortable with them. Mr. Sauro stated that all of the professionals have done a great job reviewing every aspect of this project and noted that as one of the residents commented on earlier, don't over analyze this, he thinks it will work out great. Ms. Black stated that overall having a supermarket within the central business district far out weigh any small disadvantages like truck traffic. We already have truck traffic in town for the present supermarket. We need to bring this vitality to the hamlet and keeping retail business in the center of town is a small step. Our neighboring town, Chappaqua is the most recent town without a supermarket and we do not want Armonk in a similar situation.

The board members were comfortable with the revisions to the resolution, Mr. Delano asked for a motion to approve the Armonk Square resolution as amended. Ms. Black made a motion to approve the Armonk Square resolution as amended. Mr. Sauro second the motion and it was approved with Five Ayes.

II. DISCUSSION:

Mariani Garden Center, 45 Bedford Road, 2/16/ 3.A, Referral from Town Board

Present for the applicant this evening was P. Daniel Hollis, Esq. Shamberg, Marwell, Davis and Hollis.

Mr. Hollis stated that he would like to expand and change the uses to the NB zoning district as a result of the economic economy. This change only affects the 14,000 retail building on site; all other uses on site will remain the same. This is the only property in town that is zoned NB. His client is proposing amendments to the NB Zoning District which allow for less restrictive and additional uses in the NB Zoning District. His client is forward thinking and does not want to

over restrict this site; this will enhance the economic area of town. He is currently negotiating with someone and can't disclose that information at this time.

Mr. Kaufman stated that the Town would want to have some review or authority as to the uses on site; he suggested we articulate the possible uses or return back to the board for each use. It has to be kept in mind that Mr. Mariani will not always be the property owner and we have to consider future owners as well.

Mr. Kaufman stated that some of the uses in a CB district are clearly not appropriate for the NB district. Mr. Delano noted that there was a lot of thought given to this original site plan on this site. He noted the proposed changes look very similar to the C.B. district with a mandatory Nursery Business requirement. Continued discussion was had regarding this subject. Mr. Baroni noted that to his recollection, it was discussed at the Town Board meeting that a compatible use for the special use permit and the definition of compatible would be worked out. Specific standards would be created that a use would have to meet in order for the Town Board to issue a Special Use Permit. Mr. Hollis did not think that he limited his client and did not want it too restrictive. Mr. Baroni stated that the challenge is that this is a Nursery Business zone and Mr. Hollis and Mr. Kaufman will have to come up with some language that allows the Town Board and the Planning Board to agree on a certain range of use that would be appropriate in the NB zone. You will never be in the retail zone. Mr. Hollis stated that we could do that in present day and other uses such as these, which may be different, and may develop over the course of time. Mr. Hollis would be able to prepare some language to that effect and discuss that at the November 7, 2011 Planning Board meeting. Mr. Baroni noted that the applicant may have to come back in the future for a further amendment for something that would or could not be anticipated today. Mr. Hollis asked if he could return to the 11/7/11 meeting if he could submit something by the end of the month. The board was agreeable to that. Mr. Kaufman offered to work on the language with Mr. Hollis. Mr. Hollis will email Mr. Kaufman some language.

Mr. Bauman said that Josh Condon asked him to present comments on behalf of St. Stephens Church. Mr. Bauman stated that he was very concerned about this application as the front of the church faces the front of Mariani Garden Center. He hopes the board will work with Mr. Mariani and noted that the existing nature of this property should be maintained.

37 Washington Place East (Formerly S & S Building Concepts), 37 Washington Place East, 6/3/23, Amended Site Plan application.

Present for the applicant this evening was Steve Basini, Petruccelli Engineering, representing Mr. Shah, property owner.

Mr. Basini stated that this application was to legalize bedrooms in both basements of his two family home. This proposal meets New York State Code. The original site plan approved a two family home with three bedrooms in each home. The applicant is proposing two more bedrooms in the basement of each home. Violations were issued in 2009 and the fees were paid. The basement was originally approved for storage, laundry and mechanical rooms. After the violation fees were paid his client applied for a building permit for the rooms in the basement which were essentially already constructed. The rooms are recreation/media rooms/study/

television rooms - rooms to be used for anything but storage. That was done and legalized through the town and did not have to come before the Planning Board because there was not a change in bedroom count or a change in the site plan. Once that approval was granted the tenants started occupying the spaces in the basement and then it became bedrooms. The owner does not live on site and he does not know if he was aware of the situation or not. Another fine was issued in 2011. Another professional was hired to address this matter which did not work out and his firm has now been hired to address this matter legally. The applicant would like to have two five room homes and noted that \$25,000 is paid annually in taxes on this home. He noted that there is one furnace in the building and the electrical and hot water are on the other side of the building and if a wall was put up in the center, it is not practical to maintain the utilities.

Mr. Kaufman stated that he was not sure if it was proper to obtain a floor plan that was different than what the Planning Board approved. The Planning Board approved the site plan, approved the architectural plans and approved the floor plans. It is not clear to him why the Planning Board would allow anything other than what was discussed during the initial approval stage with separate mechanical rooms and a fire wall. Especially since the issue of illegal apartments and the potential utilization of that space was an issue at the site planning stage and has come to fruition three times that it has been used for illegal apartments. It is not clear why the Planning Board would amend the original site plan and floor plans to do anything different.

Mr. Basini stated that he has been before the board many times regarding accessory issues. Mr. Delano noted that this is entirely different matter, this is a two family home that was before this Planning Board for a number of months and there was quite a bit of discussion on it and about a concern for an illegal apartment popping up in here and low and behold, look what happened, it came up again and again.

Ms. Black noted there were three violations, Mr. Basini stated that there were only two violations; the third violation was issued because the second one had not been finalized yet.

Mr. Delano noted that he feels the way to resolve this is the build what was originally approved. Two five bedroom houses are not consistent with the neighborhood or anywhere in North White Plains. There are two parking spaces per house and Washington Avenue can not support all of the extra cars from the additional bedrooms. There were several conversations on the record about the outside stairs, layout of the house and this potential problem which did come to fruition. He could not see himself approving this application.

Ms. Black noted that Mr. Delano was the only board member present at the time of this original application and she is not comfortable going against the decision of another board which discussed this matter at great length. Ms. Black also agreed with Mr. Delano that two, five bedroom homes were not consistent with the neighborhood.

Mr. Basini stated that the changes are respectable and permissible according to the New York State code.

Ms. Black stated that one problem the Planning Board has is that the prior Planning Board had expressed concerns about illegal apartments and they happened and the applicant was sited for

that. This site has outside access, outside stairs and we have no guarantee this will not happen yet again and the applicant has already been sited three times.

Mr. Basini asked to discuss the outside stairs and outside access on the original approval. Mr. Kaufman suggested the site walk would be beneficial for the board. Since this is a new Planning Board since the original approval, the board would better understand the site after the site walk.

Mr. Basini stated that he has read and is aware of the comments in the Director of Planning's memos. His client also feels that other homes in the area have walk out basements and he should be permitted to have a walk out basement as well. He noted if the board does not like the stairwells there are other changes that can be done to make this project work. He noted that the applicant does have the right to request an amended site plan change.

A site walk was scheduled for Friday, October 21, 2011 at 4:30 p.m.

Bennis – 250 E. Middle Patent Rd, 1/3/6.B, Amended Special Use Permit, Consideration of approving amended special use permit resolution.

Also present for this application was the applicant, Mr. Bennis, and his professional Jerry Barret, as well as Mr. Sirigano, but Mr. Sirigano had to leave before the application was heard. Charlie Martabano was present representing St. Mary's Church LLC.

Mr. Martabano stated that a letter date October 4, 2011 was submitted to the board. Mr. Martabano briefly summarized the letter for the board's reference. The plans have been submitted according to the stipulation. A memo was submitted to the board from the Town Engineer and he would like the board to consider approval this evening.

Mr. Martabano and Mr. Bennis stated that they had no issues regarding the proposed resolution. Mr. Delano noted some minor revisions to the resolution.

Mr. Delano asked for a motion to approve the Bennis resolution as amended. Ms. Black made a motion to approve the resolution as amended, it was second by Ms. Tatka and approved with five ayes.

Berger, 29 Carolyn Pl, 2/2/3.D11, Consideration of Extension of Time Resolution

Mr. Delano asked for a motion to approve the Berger extension of time resolution. Ms. Black made a motion to approve the Berger resolution. Mr. Sauro second the motion and it was approved with five Ayes.

Gizzi, 7 Hunter Dr. 2/5C/1-2A, Consideration of Extension of Time Resolution.

Mr. Delano asked for a motion to approve the Gizzi extension of time resolution. Ms. Black made a motion to approve the Gizzi resolution, it was second by Ms. Tatka and approved with five Ayes.

Shanghai Moon Restaurant, 111 Bedford Road, 2/16/11.A, Consideration of Extension of Time resolution.

Mr. Delano asked for a motion to approve the Shanghai Moon Restaurant extension of time resolution. Ms. Black made a motion to approve the Shanghai Moon Restaurant extension of time resolution. Ms. Tatka second the motion and it was approved with five Ayes.

Meeting adjourned at 10:30 p.m.