

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 P.M.
NOVEMBER 9, 2015**

PLANNING BOARD MEMBERS PRESENT:

Art Adelman, Chairman
John Delano
Steve Sauro
Christopher Carthy
Michael Pollack

ALSO PRESENT:

Adam R. Kaufman, AICP
Director of Planning

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

Joseph Cermele, PE
Consulting Town Engineer
Kellard Sessions PC

Valerie B. Desimone
Planning Board Secretary
Recording Secretary

Conservation Board Representative:
George Drapeau

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

DISCUSSION:

AMORE PIZZERIA AND PASTA

1 Kent Place

Property ID: 108.03 / 1 / 76

Proposed Change of Use on Second Floor

Robert W. Roth, PE CPESC John Meyer Consulting

Kevin R. Masciovecchio, Designer John Meyer Consulting

Discussion

Recommendation to the ZBA

Present for this application was Anthony Guccione, Associate Principal from John Meyer Consulting.

The Applicant is seeking approval for the conversion of 885 square feet of attic space to restaurant space within the existing Amore restaurant. The proposed conversion would require 12 additional off-street parking spaces. The Applicant previously obtained a 32 space off-street parking variance from the Zoning Board of Appeals for the remodel and expansion of the property. A variance for an additional 12 spaces would be required for the conversion of the attic to restaurant space. The applicant was previously before the board regarding this referral but wanted a full board present for this discussion and wanted a positive referral from the Planning Board to the ZBA.

Mr. Guccione stated that his client would like to add 36 seats to the second floor of the restaurant which would give more dining options to the patrons at the facility. Twelve parking spaces are needed for this request as there are no more spaces available on site. This is just another option for patrons and would not bring more people to the facility. Patrons could eat upstairs, downstairs or on the patio during the summer months. The second floor seating would also be available during the winter months when seating was not available on the patio during the warmer weather. He would like the board to provide a positive recommendation to the ZBA this evening.

At Mr. Adelman's request, Mr. Guccione reviewed the previous variance granted for this site for 32 off street parking spaces. A parking occupancy report was done between Amore and the Library and behind the shops on Main Street on a Thursday from 4:00 – 7:00 p.m. and it was found that between 31 – 48 spaces were available at any time during this window.

Mr. Adelman started the discussion with the board members on this matter. He noted he was in favor of this application and found that it makes sense. There is no competition for parking with the Shell Station, who has resisted doing anything with their site over the years and he would hope they would follow Amore's

example of beautifying their own site. He then read a comment from Mr. Kaufman's memo "The Planning Department is concerned that if the requested off-street variance is obtained, the majority of spaces in the new lot will be utilized for the benefit of the Applicant." Mr. Adelman stated that was certainly true but did not see the harm in that. The only other user for that is the Shell station which would not be an issue. Those that park at the library would not want to walk up hill to the library. Even though they have been granted a 32 space variance previously and are requesting another 12 spaces, he did not see a problem with that. In regards to a parking district, he has lived in town for 41 years and every year the town has tried to form a parking district with the property owners which has been unsuccessful to this day.

In response to Mr. Sauro's comment, Mr. Kaufman stated that the Town Board is giving serious consideration to the new parking lot. Kellard's office just submitted plans to the Town Board at their last meeting. The Town Board is concerned about parking down town and wants to provide parking for everyone. The Town Board was thinking that the parking in this more remote location would be typically for more long term parking and a significant amount of those spaces would be convenient for Amore and exacerbate the real or perceived parking shortage on the west side of main street. He agreed that trying to form a parking district is remote since we have been trying to form one for nearly fifty years. The best way to deal with that in the absence of forming a parking district is the establishment of a fee in-lieu of provision for off-street parking spaces on the property. Under this scenario, a fee would be paid to the Town for each off-street parking space that can't be provided on a property and the collected fee would be utilized to construct off-street parking by the Town. With a price of over \$400,000. for 46 parking spaces. That would be about \$10,000 per parking space which would equate to \$120,000. for the proposed 12 parking spaces. This is a matter for the Town Board to discuss as well as the Zoning Board of appeals.

Mr. Guccione stated that the 12 parking spaces are only to meet the zoning requirements, more people are not going to come to the restaurant because of the space upstairs, this just provides them with more options. In the winter when the outside patio is not available, this is a substitution for some of those spaces they lose out on the patio. They don't anticipate a larger parking demand. If those spaces are used by Amore, it kind of seeks a level and will open up more spaces closer to Amore for parking for the shops and business closer to Amore.

Mr. Carthy stated that there is no allowance for parking spaces for outdoor dining. Mr. Kaufman stated that the Town Board wanted to provide outdoor seating to the local restaurants and did not require parking spaces for those outdoor seats figuring during the nicer weather people will choose to sit outside.

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Mr. Carthy stated that the Town Board felt the outdoor seating was good for the community. It was not really meant to create a credit that restaurants could then bring to boards in lieu of outdoor dining during the off season. We would like to create some additional seating in our restaurant and in lieu of having off street parking or any type of parking requirements. To bring up outdoor dining and trying to exchange it for indoor dining is not quit what the Town Board intended to do. He did not think that weighed in favor of this argument.

Mr. Carthy continued, we do have applicants that come before the board all the time that want to make improvements. If we can, we try to work with an applicant to improve the street scape or something like that and that is done all the time and it is fair to ask this applicant to participate with an improvement to the community. In North White Plains applicants have provided sidewalks or made some type of community improvement. Mr. Adelman agreed and noted the same was done with applicants on Old Route 22.

Mr. Carthy stated that for this applicant to come before the board asking for 12 more parking spaces and not want to participate in any kind of community improvement is asking a lot. This is a fair request and we do it with all the other applicants as well, he feels it is fair for this board to ask the applicant to participate in improvement to the community. The applicant will benefit from this variance. It will cost the community to deliver that benefit and that is a big variance and he opines that it is fair that the applicant share in that cost. He agrees with Mr. Kaufman's suggestion of a fee in lieu of. He understands this board does not make the decision about the parking spaces; the applicant wants a positive recommendation without giving anything in exchange. A "positive" blessing from the Planning Board is too much to ask for in this case.

A brief discussion was had about contributions from all the property owners for the parking district. Mr. Baroni noted you cannot force the property owners into a special district. He noted that part of the reason why this district has not been formed over the years is that a lot of the boards in town have granted approvals to the property owners over the years and they have received variances for additional parking spaces. As long as they continue to receive variances for parking and outdoor seating, why would they want to spend money for a parking district which is a lot of money?

Mr. Pollack stated that it is rational to say that usable square footage correlates to parking demands or potential parking demands. It is rational to say where the parking does not exist to expand square footage that does not merit a positive recommendation. You also have a significant deficiency here and there is a cost associated with providing that additional parking whether it is to the town or the unavailability of adjoining land owners. There is no suggestion that one usable area will be taken away whether it is outdoor dining which does not count toward usable square footage anyway but there is no suggestion that there is a tradeoff of one usable space opposed to another. For those reason he has trouble justifying a positive recommendation to the ZBA. In regards to the point raised by Mr. Adelman, you don't have a point to go back to when the situation is dire enough and elicit a contribution from the benefited businesses.

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Mr. Adelman inquired if something could be built, a parking structure for long term parking with parking tags. Mr. Baroni stated if something were built it would be at grade, if long term parking were encouraged at this location, you would have to come up with a methodology for patrons who park for 2 hours closer to the stores. Mr. Adelman noted that we have a parking enforcement presently in town.

Mr. Pollack noted that he heard earlier that the uses in the area were countercyclical with Amore, the peak demands were opposite hours of the local stores and the library up the street from the restaurant. There might be some room to fashion a solution there during the week but on the weekend it is probably peek for everyone and it is a harder solution to solve from an hours of usage approach.

Mr. Guccione stated that his clients tend to be busier in the evening during dinner time from 5:00 to 8:00 p.m. They are trying to stay competitive in a competitive market with 33 other restaurants in town and many restaurants in this location have failed previously. He does not want to see his client fail as this restaurant is off the beaten path. Mr. Adelman stated that he personally was very sympathetic to that.

Mr. Sauro stated that argument holds water. The Synergy of day and night does have some merit; some of the shops do shut down at 5:00 p.m. Is it an ideal situation, would everyone love to see the street scape that is in the town code, absolutely, but for lack of a better word he does not want to hold this applicant hostage for lack of a parking district. This extra lot the Town would like to construct would go a long way to help. He would like a positive recommendation.

Mr. Guccione stated that Amore will take part in a parking district. They do not really have the funds to do a public improvement on Kent Place. This is not a big business and they are trying to keep their head above water. His client will participate in the parking district when it comes along. Mr. Baroni noted that the applicant agreed when the original variance was granted to participate in the parking district when created.

Mr. Adelman made a motion for a positive recommendation to the ZBA. Mr. Sauro second the motion. Mr. Adelman and Mr. Sauro voted aye. Mr. Delano, Mr. Carthy and Mr. Pollack voted nay.

Mr. Delano made a motion to make a recommendation to the ZBA without it being positive or otherwise, just a recommendation. Mr. Pollack second the motion and it was approved with five ayes.

KOTOR/MIANUS RIVER GORGE

35 & 45 Mianus River Road

Property ID: 95.04 – 2 – 9.1 & 9.2

Lot Line Change

Alexandra Kotor

Rod Christie, Executive Director Mianus River Gorge

Discussion

Present for this application was Rod Christie, Alexandra Kotor & Johnathan Becker.

The application is for the land exchange between the Mianus River Gorge and the Kotur property. No new building lots will be created with the proposed land exchange. Both properties are located within the R-4A Zoning District.

Mr. Christie stated that they want to protect the upper ridge line and that is why the Mianus Gorge is agreeing to the exchange of property. Mr. Christie inquired if the FAR and IPP were necessary and could that information be waived since the house size was not changing and the existing house is modest in size. It was concluded that Mr. Kaufman will double check the figures and make sure the lots after the exchange conform to present code and zoning requirements. If any concerns arise he will reach out to the applicant.

A public hearing was scheduled for December 14, 2015. A resolution will also be considered at that time.

WAMPUS MILLS

805 & 809 Route 128

Property ID: 101.03-2-7 & 101.03-2-6

Site Plan

Frank Madonna

Kory Salomone, Esq. Veneziano & Associates

Referral from Town Board

Discussion of joint site walk

Present for this application were the professionals Ralph Alfonzetti and Kory Salomone and the applicant Frank Madonna.

Mr. Madonna is the contract vendee for both lots totaling ten acres. The property is zoned R-2A and there is a petition before the Town Board to change the zoning to R-1A. They are also petitioning the Town Board to extend Sewer District #2 and complete the sewer main from Old Mount Kisco Road. The Town Board has made a referral to this board, a site walk was scheduled as a result of that meeting and we are back before the board this evening to discuss the site walk.

Mr. Adelman expressed his concerns regarding the site lines when exiting the site to Route 128. It was also noted at the site walk that there will be a net zero removal of fill

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which will not have an impact on Route 128.

Mr. Alfonzetti stated that in response to Mr. Adelman's comment about site lines there is 400 feet to the right when exiting the site and when exiting the site to the left there is sufficient visibility. He noted he did not have that information with him at the time.

In response to Mr. Adelman's comment about a Conservation Easement, Mr. Alfonzetti stated that he did not think it would be that much different, we still need to bring the road up to the flat area and there will be a significant amount of grading and we are staying away from the steep sloped areas along route 128 and long the other side as well. We can speak about putting a conservation easement on the steep slopes without doing a cluster conservation subdivision. If we go to a cluster conservation subdivision, the house will be too on top of one another in his opinion.

In response to Mr. Adelman's comment, Mr. Cermele stated that based on the site walk if the number of houses are six, they are where they should be. Like Mr. Alfonzetti mentioned no one will want the frontage onto Route 128 and a conservation easement is something worth considering.

Mr. Kaufman stated that we can think about a Conservation Subdivision, the main benefit is more flexibility for the applicant. If it does not make sense, it does not make sense. Mr. Salomone stated that during the subdivision application his client would be more than happy to look at that option but before that can be done the zoning has to be put into place.

In response to a comment made, Mr. Alfonzetti stated that the water usage would increase to 1,800 gallons per day (300 gallons per house). There was a typo in the last memo submitted to the board at the prior meeting. Mr. Pollack noted at the last meeting there was a deficiency when combined with the other homes that were being added and the typo that was referred to was about a 1,000 gallons, he inquired if there was any progress on that revision with corrected figures. Mr. Alfonzetti stated that he did not submit a new report, he noted he can and will submit a new report. He agreed that his figures were about 1,000 gallons off.

Presently there are two lots and four more lots are proposed.

In response to Mr. Carthy's comment, Mr. Salomone stated that with the Senior Housing project, 8 homes will be connected to the sewer district. With this application the remaining eight homes on Old Mount Kisco road will be added to the sewer district. His client will pay for the water main and will provide the extension to their house for anyone that signed the petition.

Mr. Carthy expressed his concerns about what would happen to this project and their connection to the sewer if the senior housing site plan was never approved or built. Mr. Madonna stated that one project does not affect the other, the sewer connection for this application would come from Leisure Farm and the sewer connection for the Senior Housing could come up in the middle of the senior housing site. He was hoping to do

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the entire infrastructure at the same time. This was the way it was designed back in the 1990's.

Mr. Delano was not comfortable making a recommendation to the Town Board without knowing more about the property, the subdivision, and how many variances are needed to create the subdivision. He thinks it will be hard to get six lots on sight with all the steep slopes, net lot area and zoning requirements. He is concerned with approving the zoning change if six lots don't have a chance of approval. Mr. Kaufman stated that the applicant still needs to prove to the Planning Board that the zoning works for six lots and if the applicant can only prove out three lots then that is what they get approval for. Mr. Delano stated that he would like to see a rough sketch and a revised report regarding the water calculations before making a recommendation back to the Town Board.

In response to Mr. Adelman's comment, Mr. Baroni stated that this board can make a recommendation back to the Town Board when it feels it has enough information before it to make that recommendation. The Town Board is lead agency on this matter and they will be looking at the Planning Board for a lot of guidance on the environmental review since the Town Board is Lead Agency and he was not sure how much of that information the board has in front of it right now when you don't even have the lot calculations. The board may want some more information in front of them before making that recommendation back to the Town Board because they are going to have to make a finding before they vote and their finding will be binding on this board.

Mr. Adelman noted that because the town Board is lead agency in this matter this application will have to take a different pace.

Mr. Madonna asked to come to the next meeting and noted he will have everything straightened out by then. Mrs. Desimone stated that the submission deadline would be Thursday morning because the offices are closed on Wednesday in observance of Veterans Day.

SKRILOFF BARN

21 Hickory Kingdom Road

Property ID: 95.03-2- 27

Special Use Permit – Accessory Structure/Accessory Appt.

Paul Sysak, RLA John Meyer Consulting

Discussion

Present for this application was Paul Sysak.

The application is for the legalization of an existing accessory apartment and the construction of a 1,290 square foot barn on a 5.6 acre lot located within the R-2A Zoning District.

Mr. Sysak stated that he has been before the Conservation Board and needs a Special

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Use Permit for the Accessory Apartment. A joint sitewalk was held back in June or July, 2015. Some significant changes were made to the plan as a result of the site walk. The structure was reduced from 1,500 to 1,290 square foot barn and was rotated 90 degrees and the short side will face the road. The application will go before the ARB. Soil testing was performed last week and a rain garden is proposed as a result of that test. The Conservation Board has made a positive recommendation back to the Planning Board and the limit of disturbance was 7,500 square feet and has been reduced to 5,000 square foot disturbance area. The mitigation proposed is just under 11,000 square feet. The rain garden will be in excess of the 11,000 square feet of mitigation proposed.

Mr. Adelman inquired about the Town regulated tree. Mr. Sysak stated that to do the rotation of the garage, the 36" oak will be saved and the 18" Hickory tree will be lost which is not a significant tree but a Town regulated tree. The board was pleased the Oak tree would be preserved.

Mr. Kaufman noted that he spoke with the property owner today in regards to the accessory apartment and the owner is aware of what needs to be done. The board will wait for the applicant to resubmit additional information from the memos and schedule a public hearing and consider a resolution in February, 2016 which will be the two year anniversary of the person owning the house.

Mr. Cermel followed up with the board in regards to his comments in his memo about the wetland mitigation and monitoring plan. It was not discussed with the Conservation Board while he was before that board.

In response to Mr. Carthy's comment about the wetland mitigation and monitoring plan, Mr. Cermel stated that would be part of the site plan approval, the applicant is required to provide an annual report monitoring the wetland plantings and making sure things are thriving, Paul Jaehnig is the professional who prepared the plan and he would submit the report on behalf of the applicant annually.

The board encouraged the applicant to submit his information one more time before the public hearing takes place to make sure all matters have been addressed.

Mr. Carthy inquired what would happen if the report is not submitted annually, what recourse does the town have. Mr. Cermel stated that there is usually a maintenance bond associated with that. Mr. Kaufman noted the applicant would be in violation of their site plan approval.

DIPETRO

137 Bedford Banksville Road

Property ID: 102.01-2-67

New Construction of a 3 Bedroom 4,972 s.f. Home

Geraldine Tortorella, Esq. Hocherman Tortorella & Wekstein, LLP

Consideration of 3rd extension of time site plan resolution

Mr. Kaufman and Mr. Cermele have met with the applicant and professionals who are diligently working on this. The plans were just resubmitted and the Army Corps of Engineers approval expired and the applicant is working on getting that reapproved. There are also retaining walls on site and the applicant is addressing that matter as well.

Mr. Delano made a motion to approve the extension of time resolution. Mr. Sauro second the motion and it was approved with five ayes.

Mr. Delano made a motion to adjourn the meeting. It was second by Mr. Sauro and approved with five Ayes.

Meeting was adjourned at 8:05 p.m.