

**NORTH CASTLE PLANNING BOARD MEETING  
15 BEDFORD ROAD – COURT ROOM  
7:00 P.M.  
April 8, 2013**

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PLANNING BOARD MEMBERS PRESENT:

Art Adelman, Chairman  
John Delano,  
Steve Sauro  
Guy Mezzancello  
Christopher Carthy

ALSO PRESENT:

Adam R. Kaufman, AICP  
Director of Planning

Joseph Cermele, 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:  
Zenaida Bongarts

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

**APPROVAL OF MINUTES:**

**January 14, 2013**

Mr. Adelman asked for a motion to approve the January 14, 2013 Planning Board meeting minutes as amended. Mr. Delano made a motion to approve. It was second by Mr. Sauro and approved with five Ayes.

## **February 11, 2013**

Mr. Adelman asked for a motion to approve the February 11, 2013 Planning Board meeting minutes as amended. Mr. Sauro made a motion to approve. It was second by Mr. Carthy and approved with three Ayes. Mr. Delano and Mr. Mezzencello abstained from the vote.

## **March 21, 2013**

Mr. Adelman asked for a motion to approve the March 21, 2013 Planning Board minutes. Mr. Sauro made a motion to approve. It was second by Mr. Delano and approved with five Ayes.

Mr. Adelman noted that he had met with John DeCicco out at the site of the new DeCicco's Supermarket in Armonk and Mr. DeCicco took him on a tour of the new supermarket. Mr. DeCicco told Mr. Adelman that this was going to be their flagship store and was looking forward to opening up at the end of May, 2013.

## **CONTINUING BUSINESS:**

### **NYCDEP BOWLING ALLEY**

**1 George Smith Place**

**Section 2, Block 11, Lots 11.A, 11.A1-2, 11A1-3**

**Wetland Permit**

**Laura Csoboth, HDR**

**Discussion**

**Consideration of approving site plan resolution**

Mr. Adelman read the affidavit of publication for the record. There were no noticed neighbors present and all paperwork was in order.

The New York City Department of Environmental Protection (NYCDEP) is proposing to compensate for the permanent loss of wetlands, open water and submerged aquatic vegetation (SAV) that will occur at three DEP-sponsored projects within the Kensico Reservoir Watershed. The NYCDEP has committed to re-surfacing Old Route 22 as part of the current project due to extensive truck traffic associated with the previous approved (adjacent) Kaysal Court mitigation project and has offered to construct an off-street parking area adjacent to Old Route 22 that is consistent with the Town's Streetscape Improvement Project for Old Route 22.

Ms. Manderino stated that as requested they have added two more parking spaces. She requested the fees associated with the parking lot be waived and she was directed to submit this request to the Town Board. The Planning Board agreed to submit a letter to the Town Board about waiving the fees as well.

Ms. Mandernio reviewed some other minor items in the resolution and the board was

agreeable to those changes which included a request from Mr. Adelman regarding the trucks not transit Old Route 22, instead enter and leave from that part of Old Route 22 nearest Kaysal Court. The applicant confirmed their understanding and agreement to this requirement.

Mr. Adelman asked for a motion to close the public hearing. Mr. Delano made a motion to close the public hearing. It was second by Mr. Sauro and approved with five Ayes.

Mr. Adelman asked for a motion to approve the resolution as amended. Mr. Delano made a motion to approve. It was second by Mr. Sauro and approved with five Ayes.

## **FUCA**

### **25 Limestone Road**

#### **Section 2, Block 16, Lot 17.B22**

**Site plan application for the construction of a new 3,840 square foot two bedroom home in the R-1A Zoning District.**

**Ralph Mastromonaco, PE – Mastromonaco, PE PC Consulting Engineers**

**Consideration of site plan approval**

Present for this application was Mr. Mastromonaco, engineer for the applicant.

The site plan application is for the construction of a new 3,840 square foot two bedroom home in the R-1A Zoning District. The RPRC determined that given the environmental constraints of the property and the amount of proposed disturbance, a detailed review by the Planning Board and the Conservation Board was warranted.

Mr. Adelman read the affidavit of publication for the record. Mrs. Desimone stated that all paperwork was in order for this application. Present for this application was Sandra Miller from 27 Limestone Road and Mr. Buck from 27 Limestone Road.,

Mr. Mastromonaco stated that he received a septic permit and a NYSDEC wetland permit. He noted that the stream runs through the site and the flood plain runs through the stream. The house meets the setbacks and height requirements.

In response to Mr. Adelman's comment, Mr. Mastromonaco confirmed that the septic system at the rear of the property had a capacity for two bedrooms.

Mr. Adelman stated that a 3,840 square foot house with only 2 bedrooms and a playroom that large was unusual. The use of the playroom could change once people moved in the house. The amount of bedrooms determines the septic use. He wanted to note for the record that he was very concerned about the use of the playroom.

Mr. Mastromonaco stated that you could question the bedroom uses on other houses on the same street. Legally you can't do a third bedroom with this house.

In response to Mr. Adelman's comment, Mr. Cermele stated that he had some minor

comments regarding this application which could be addressed.

Mr. Sauro stated that originally the height of the house was a concern as it relates to the neighbors; the applicant was able to bring the look of it down. He agrees with Mr. Adelman's comments regarding the 3,800 square foot two bedroom house with a playroom on the second floor and bathroom located right off of the playroom.

Ms. Miller inquired if the height of the house was conforming to other heights. Mr. Puck was concerned about the height of the house as well. Mr. Mastromonaco stated that the height of the house was in conformance to the code.

Mr. Sauro stated that the house was stark and boxy on the outset but the applicant has come a long way since the initial submission.

Mr. Adelman asked for a motion to close the public hearing. Mr. Delano made a motion to close the public hearing. It was second by Mr. Mezzancello and approved with five Ayes.

Mr. Adelman asked for a motion to approve the resolution as amended. Mr. Delano made a motion to approve. It was second by Mr. Mezzancello and approved with five Ayes.

### **CONTINUING BUSINESS:**

#### **STAMATELOS**

**36 Mianus River Road**

**Section 1, Block 07, Lot 5-2**

**New House Construction**

**Alan Pilch, RLA Evans Associates**

**Discussion**

**APPLICATION ADJOURNED AT THE APPLICANTS REQUEST.**

#### **MADONNA**

**Route 128 – Mount Kisco Road**

**Section 2, Block 12, Lot 3**

**Referral from Town Board.**

**Application to apply senior floating zone to property and construct 14 townhouse units on the 3.8 acre property.**

**Anthony Veneziano, Esq. Veneziano & Associates**

At the March 20<sup>th</sup> Town Board meeting, the Town Board referred the Madonna application to the Planning Board. Supervisor Arden requested study concerning the following points:

- Sewer usage as compared to use by 6 homes (as-of-right).
- Sewer buy-in fee as a requirement of the applicant.
- Necessary upgrades to pumping station.
- Drainage through wetlands.

Attorneys Kory Salomone and Anthony Veneziano were present from Veneziano and Associates representing their client, who was also present, Frank Madonna. Also present was resident and neighbor Christine Eggelton, 129 Old Mount Kisco Road.

Mr. Salomone stated that this was a referral from the Town Board. Presently the site is zoned R-10 and R-1A and the applicant is requesting a zoning change to RMF –SFZ (senior floating zone). Last time the applicant was before the board 28 units were proposed, 14 units are proposed today. Twelve units will be 1,900 square foot - market rate units with a two car garage. Two units will be MIU's (Middle Income Units) with no garages and approximately 1,400 square feet. Access will be off of Old Mount Kisco Road. The master bedrooms for the market rate units are located on the first floor and are proposed for people aged 55 and older. There is nothing proposed in the wetland or wetland buffer. Any disturbances will be during construction and appropriate measures will be taken on site. The client would pay for the extension of the water line and sewer district #2 to his property and will pay for the extension of the properties adjoining the site.

Mr. Salomone reviewed the water usage figures for the site based on 6 residential units vs. the 14 units. Mr. Adelman asked Mr. Salomone if the water and sewer department confirmed the figures he presented this evening. Mr. Salomone did not answer the question.

Mr. Madonna stated that water saving devices will be installed. He stated that the information regarding the water presented at the joint work session was accurate. Mr. Kaufman stated there will be a meeting with the water department. Mr. Veneziano will submit the water figures once finalized.

It was also noted that the abutting neighbors were not in the sewer district and the petition would have to be amended to include them.

Discussions were had regarding the necessary upgrades to the pumping station. It was noted that the most recent report on the upgrades and the status of the pumping station was 10 years old. The applicant was willing to discuss helping out with some of the costs to the pumping station.

In response to Mr. Adelman's comment regarding wetlands. Mr. Madonna presented some plans at this time and reviewed the wetlands on site as well as the stormwater. The

Conservation Board noted in their memo that they did not want to see the stormwater in the wetland buffer.

Mr. Delano stated that he thought the applicant could mitigate the stormwater underground as proposed. He was concerned about the units facing Old Mount Kisco Road and sight distance while exiting those units onto Old Mount Kisco Road. He believes it is a good idea to bring water and sewer to the site and the buy in for that sewer district will have to be worked out with the Town Board. He does not really agree with Mr. Madonna that this is the gate way to our community.

Mr. Veneziano stated the stormwater off site runs into the wetlands and his client has to mitigate the stormwater, it does not make sense. Mr. Kaufman noted that generally we do not like to put anything in the wetland buffer, this is the conversation that the Planning Board will have with the Conservation Board. Mr. Madonna stated that the sight distance will be improved once the lot is cleared and there will be better visibility.

Mr. Kaufman noted that in response to comments in his memo, the applicant has put five units facing Old Mount Kisco road so that they are integrated with the existing homes in the neighborhood. The board should discuss whether the units should face Old Mount Kisco Road or not. The board should also discuss what impacts would that have on the existing house of the units are positioned with the backyards abutting the front yards, what would the impacts be associated with that? There is some grade change on site and that might work.

In response to Mr. Adelman's comment, Mr. Madonna stated that the MIU's were not senior units, the master bedroom would be on the second floor and there were no garages proposed for these units. With a 1400 square foot unit, you would want the unit to blend in with the other units and not stand out. The unit was not large enough to have the master bedroom on the first floor along with a kitchen and living room. The proposed MIU's are a little larger than what the code requires which helps them blend in more and makes them more desirable. He presented a cross section at this time.

In response to Mr. Mezzancello comment, Mr. Madonna stated that natural gas and electric were proposed underground. Mr. Mezzancello suggested doing all the underground work with the sewer and natural gas at the same time so that you would only dig once.

Mr. Carthy stated that the project has improved, he is very pleased with the age restricted housing and the water issues need to be resolved. Mr. Carthy was concerned about the rear yard setbacks of the units as the property is zoned R-10. The rear yard setback for an R-10 has a 30' setback and this plan shows a 20' setback. He thought it was a lot to ask to reduce the rear yard setback from 30' to 20'. He did not think the rear yard should be reduced to 20'. Mr. Madonna noted the proposed side yard was larger than the minimum

required side yard. Mr. Carthy and Mr. Madonna continued discussions regarding side yard and rear yard setbacks. Discussions were also had regarding the amount of MIU's.

Lead Agency discussions were had at this time. It was noted that the Town Board has not declared lead agency intent.

Mr. Adelman asked for a motion to declare Lead Agency Intent for the Madonna property. Mr. Carthy made a motion to declare lead agency intent. Mr. Delano second the motion and it was approved with five Ayes.

The Planning Board requested a joint site walk with the Town Board and Conservation Board regarding this application. It was scheduled for Thursday, May 2, 2013, 5:00 p.m.

## **BANKSVILLE REZONING**

### **Referral from Town Board**

**Draft local law that would rezone the properties along Banksville Avenue from the GB Zoning District to a newly created CB-C Zoning District.**

There were approximately 20 neighbors present; the majority of them were the business owners in Banksville, represented by Mr. Chuck Banks, Esq. Their names were as follows: Joe and Donna Santoro – 18 Banksville Avenue, Jack Dipietro – 20 Banksville Avenue, Sandy Genkerell – 22 Banksville Avenue, Vinnie & Gilda Gencarelli – 36 Banksville Avenue, Herby & Missy Farquhar – 38 Banksville Road, Robert Scupp – 40 Banksville Road. Also present were Mr. & Mrs. O'Connor, Larry Nokes, Jeff Brown.

Mr. Adelman stated that he asked all of the Planning Board members to watch the Town Board meeting regarding this subject. He stated that he would be happy to hear anything new today but asked for people not to repeat the same information that was presented to the Town Board. He noted that he lived on Cedar Hill to Hickory Pass off of Cedar Hill road for 25 years and is familiar with Banksville and its stores. Mr. Adelman then read into the record a very positive personal experience he had with the Banksville Volunteer Fire Department many years ago and how he values their services in the community as well as the shops and local businesses in the community.

Mr. Kaufman noted that the Town Board has been wrestling with the recommendation of the Town Comprehensive plan for the past 6 – 8 years and most recently. In 2006 a draft local law was part of the moratorium to rezone Banksville Avenue to residential zoning and that is what is shown on the comprehensive map. That local law was not adopted in 2006. A couple of years ago the Town Board revived this discussion and a draft law local law was prepared to rezone Banksville Avenue to R ½ Acre zone. The Town Board did not take any action with respect to that and directed Mr. Kaufman to come up with a potential hybrid zone that would take out the heavier industrial uses that were permitted in the GB zoning district and replace that with your standard core business uses as well as residential uses. Attached is a local law that the Town Board is considering. At this point the Town Board is looking for the Planning Board report and recommendation regarding these changes. Specifically, what we are talking about

is removing from the GB to create the CB-C district some of the more onerous uses that were permitted in the GB district like wholesale and storage uses, printing establishments, automotive body shops, theatres and clubs , building material storage sales and public and private garages and gasoline filling stations. Those uses which were permitted in the GB zoning district would not be permitted in the CB-C zoning district.

Mr. Banks stated that he represents the business owners and they are trying to reach a compromise, Mr. Banks handed out some additional legislation that he would like the board to consider adding to the referral back to the Town Board which read as follows:

“Indoor parking for vehicles of plumbers, electricians and similar trades, and indoor storage of equipment and materials used in connection with such trades, provided that such vehicles shall not exceed 14,000 gross vehicle weight, shall not have more than two axles and shall not exceed 9.5 feet in height, measured from the ground to the highest point on the vehicle.”

Mr. O'Connor said that the proposed information presented tonight by Mr. Banks was taken out by the Town Board when they voted on this referral. Now Mr. Banks is asking the Planning Board to approve the same words that were rejected by the Town Board.

Discussions were had at this time regarding what the Town Board referred to the Planning Board.

Mrs. O'Connor noted that there have been studies conducted since 1986 and all of those studies recommend the zoning should be changed to residential. Money is spent on all of these studies and none of them are followed.

Mr. & Mrs. O'Connor's concerns were about possible permitted uses that could impact the drinking water in their community. They also noted that the majority of the business' on Bedford Banksville Road were located within the CEA (Critical Environmental area) They noted that there were three previous spills in Banksville and wanted to insure that there would be no other permitted uses that could impact the drinking water; They both opined that the zoning should be changed to residential.

Mrs. Farquhar presented pictures to the board of vehicles presently in the neighborhood. She noted the aerial photo presented in the material handed out by the O'Connors to the Town Board was five years old. She would like smaller trucks permitted in the referral back to the Town Board.

The Planning Board discussed the present uses on site, what would happen if a new use were to come on site or if a present use were to expand in size.

Mr. O'Connor noted there was no code enforcement in Banksville. Mr. Adelman stated that he would follow up on that matter with the Town Board to strengthen enforcement.

The board members discussed different variation of the legislation. There were multiple



discussions throughout the evening about the definition of Tradesmen vs. Contractor and when does a tradesman's business get to the point of becoming a contractor.

Mr. Mezzancello stated that a big concern is the chemicals that are not good for the environment and those businesses should not be allowed to come in.

Jill and Vincenzo Genkerell from 36 Banksville Avenue owned the deli in town which is now closed. They inquired what their options were now that the business is closed. Mr. Baroni stated that because the store is closed, you would have to comply with the current zoning. You would have to reopen it before the law goes into effect. If a use ceases for more than 6 months, you lose your nonconforming status.

Mr. Baroni reminded the Planning Board that the Town Board asked for their comments on specific things and did not want them reinventing the wheel.

Mr. Adelman, Mr. Carthy and Mr. Mezzancello like the legislation as proposed. Mr. Sauro opined that the legislation proposed could be worked on further and tweaked. Mr. Delano stated that we need to do more to protect the CEA (Critical Environmental Area) as a good portion of these lots are within the CEA. He would like to get more away from the GB district and get closer to the CB-C district. He also supports the last 27 years of reports to turn these lots to residential lots.

Mr. Mezzancello stated that he likes the CB-C and would like to qualify what is allowed and not allowed.

Mr. Sauro stated that this is a tough situation due to the CEA. He does not want to preclude people from their rights as business owners and he understanding the sensitivity to the CEA. He is reluctant to blanket it as residential, as it will hurt all of the businesses but we must keep working to get a good solution.

Mr. Carthy echoed Mr. Sauro's comments.

Mr. Adelman stated that we should tell the Town Board our recommendation and concept of a compromise should be considered. We find this law unacceptable as proposed and how the Planning Board would like to fix it.

Mr. Kaufman stated he could prepare a draft for the next meeting.

Mr. Carthy suggested the board should list the board's reservations about the proposed legislation.

The board worked on possible alterations at this time i.e.: inclusion of tradesmen uses such as HVAC, Painters, drywall, plumbers and electricians with only a 1 ton van and no CCW along with indoor storage of vehicles w/specific trades.

Mr. Sauro stated that he feels like we are missing things and we should let this sit for a few days.

Mr. Mezzencello suggested that the Planning Board have a work session with a few of the Town Board members regarding this legislation. The Planning Board agreed and a work session was scheduled for Monday, April 15, 2013 at 6:00 p.m.

Meeting Adjourned at 10:08 p.m.