

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 P.M.
Monday – March 26, 2018**

PLANNING BOARD MEMBERS PRESENT: Christopher Carthy, Chairman
Steve Sauro
Jim Jensen
Michael Pollack
Gideon Hirschmann

ALSO PRESENT: Adam R. Kaufman, AICP
Director of Planning

Joseph M. Cermele, PE., CFM
Consulting Town Engineer
Kellard Sessions Consulting, PC

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

Valerie B. Desimone
Planning Board Secretary
Recording Secretary

Conservation Board Representative:
John Krupa
Zenaida Bongaarts – Co Chairman

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

APPROVAL OF MINUTES:

February 26, 2018

Mr. Pollack made a motion to approve the February 26, 2018 minutes, Mr. Sauro second the motion and it was approved with five.

CHAPPAQUA CARES, CHAPPAQUA SHARES [18-011]

901 North Broadway

122.12-4-51

Special Use Permit

Referral from Town Board

Discussion

Town Board referral to the Planning Board regarding a Town Board Special Use Permit to operate a charity at 901 N. Broadway. The Applicant is seeking permission to utilize 3,976 s.f. of space within the existing office building to operate the (914) Cares charity. The charity receives clothes and distributes clothing to needy children and families within Westchester County New York.

Present for this application was Seth Mandelbaum, esq (pro bono) and intern McKenzie Peters from McCullough, Goldberger and Staudt, LLP as well as the applicant Jessica Reinmann, Executive Director of Chappaqua Cares, Chappaqua Shares and Stephanie Roth Executive Director of Kids Closets.

Mr. Mandelbaum stated his client was proposing office space which would not need any approvals and a positive recommendation back to the Town Board regarding the special use permit for the charitable use. He noted there were no exterior changes proposed, no additional parking was proposed and would like the board to consider a site plan waiver for this applicant. He welcomed Mrs. Reinmann to present the details of the charity.

Mrs. Reinmann stated that this organization started in 2014 and they help people find volunteer opportunities; assist with donation drives and assist with fundraisers. They have also finished their third year with the empty bowls fundraiser. She stated that 25% of the residence in Westchester County are at or below the poverty level. Because this charity has grown they changed the name to 914 Cares Charity. Their goals are to help hyper nonprofits who specialize in the community with basic human needs; food, shelter, clothing, medical care and education. The most recent addition is Kids Closet of WJCS, located in White Plains. They get about 2,900 requests from Children in Westchester County annually for bags of love which is seven days of clothing and depending on the season – winter boots, shoes, jackets and in the summer bathing suits and towels; for infant's diapers are also provided and for older kids a cool looking bag. They really try hard to make sure the kids are clothed and feel like the rest of the kids in school.

Mrs. Reinmann stated that she is renting 4,000 Sq. feet of space and 1,000 square feet will be for offices and a conference room and 3,000 square feet for storage of clothes which will be put on shelves similar to a store. Clients don't come in to the site, school nurses, clergy or social workers come and pick up the bags of clothing. She reviewed hours of operation run by volunteers (8-12 volunteers sorting the clothes). People do come and drop off at the site which is 20% of their donations were drop offs and 80% were from donation drives from Churches and Synagogues etc. Perhaps 4 or 5 cars will come with bags of clothing from a fundraiser. No big delivery trucks will be on site. No ripped or stained clothes are given out and no clothing with camp or bar mitzvah decals

are given out as the child would feel uncomfortable wearing something they did not participate in. About every six weeks a 8-9-foot truck comes and it takes about 1 ½ hours to load the truck to go to Westchester County with ripped, stained or clothing items with logos/camp on them and they are recycled and they receive money based on the weight of the clothing brought in. Six times a year they have sorting parties which will take place on a Sunday or after hours.

Mr. Carthy inquired what the interaction would be with this client and the existing tenants in the building and how would this affect parking on site. Mrs. Reinmann stated they work between 10:00 – 2:00 and it would not happen during rush hour in the morning or afternoon. Their office is at the top of the stairs on the first floor, first hallway, second door on the right from the rear of the site. She explained when entering the site at the rear you enter on the ground level and once inside the door, there is a stairwell to the first floor and hallway to the offices on the ground level. The first floor where her office is located is street level in the front of the building. Mr. Carthy just wanted to make sure that the other tenants who are in the building who may not have anticipated this use, were not impacted. Mrs. Reinmann stated they would get around five cars of clothing a day and would use the parking spaces on site. There are drop off sites all over Westchester County. There is no place to park a car in front of the building. Mr. Jensen inquired if there was a loading dock on site.

Mr. Mandelbaum stated that Kids Closets has been in operation for seven years and was located at the corner of Post Road and Mamaroneck Avenue and the building is going to be torn down and they produced 16,000 bags at this location with narrow stairs and narrow doorways. Having personally worked there, this site will not have issues. He also reminded the board that the comments in the Planners memo did not provide any concerns about parking on site.

The board inquired about people leaving donations by the door during off hours. Mrs. Roth stated that has only happened once during the time they have been doing this. Mr. Sauro inquired if this organization would get to a point where they are bursting at the seams and can't accommodate the amount of clothing coming in. Mrs. Roth stated they have a bunch of dedicated volunteers and it goes out as fast as it comes in. They send out about 50 bags per week. On days when a huge drive is coming in they reach out to everyone and put it on Facebook that they need volunteers for a "Sort-a-thon" and take care of it. Mr. Sauro inquired about interior ingress and interior egress for this site. Mrs. Roth stated that there are three doors and two of them will be used to access the clothing and office. She also noted a commercial architect, pro bono, would be working on the space for them.

Mr. Carthy stated he would like to follow up with the fire department to see if they had any concerns with this use and access inside the office/closet. Mrs. Reinmann stated that smoke detectors and carbon monoxide detectors will be installed on site and all safety precautions will be taken as they would like a pleasant work environment.

Mr. Kaufman noted that the site will also be reviewed and inspected by the Building Department.

Mr. Jensen inquired about the freight elevator and if that would be utilized. Mrs. Reinmann stated they would not use the freight elevator.

Mr. Mandelbaum stated that Kids Closet has been closed since February and everything is sitting in a Westies storage container and the applicant is getting calls daily for clothes. It was noted a public hearing with the Town Board was scheduled for April 11, 2018 and he would like the board to include their concerns with their recommendation back to the Town Board.

Mr. Pollack stated that he shares the concerns of Mr. Carthy regarding the fire and fire safety for this use on site and admires the service this provides to our community.

The board discussed the option of putting a designated parking space in for drop off and Mr. Kaufman noted that there is more than enough parking for this use because only 1,000 square feet is being used for office where as other users of this site would use all 4,000 square feet of office space. The board also realized if they required a parking space for this applicant it may complicate the process and they did not want to do anything to hinder the applicant This is not an intense use of this site.

Mr. Carthy made a positive recommendation to the Town Board for the special use permit with the caveat that the NWP Fire Department review the use and provide comments for the site. Mr. Sauro second the motion and it was approved with five ayes.

Mr. Carthy made a motion to waive planning board site plan approval. Mr. Hirschmann second the motion and it was approved with five ayes.

RAQUETTE LAKE CAMP [18-008]

11 Maple Avenue

108.01-6-38

Change of use site plan

Kory Salomone, Esq. the Law Office of Kory Salomone, P.C.

Discussion

The Applicant is proposing to change the use of the property from an existing residence to a business office. The applicant is proposing an administrative office for Raquette Lake Camp, there will be no campers or staff from the camp onsite. There will be four people on site and the applicant is proposing six parking spaces.

Present for this application was Kory Salomone, esq; Laurence Kramer esq; and Ralph Alfonzetti, PE.

Mr. Salomone stated that he will be discussing both 11 and 15 Maple as they are owned by different entities but the members of those entities are the same.

Mr. Salomone stated that 11 Maple Avenue is .11 acres with 1400 square foot structure in the CB zone and he is proposing a change of use, this has been used as a single

family home and he would like to convert the use to business office. This would be used as their administrative office for Raquette Lake Camp which has a maximum of four employees on site doing the day to day management. There would not be campers or counselors interviewing or visiting the site. One parking space is required for every 250' and they will have six parking spaces. A referral will be needed to the ZBA for the entry driveway and backup drive.

In response to Mr. Hirschmann's comment. Mr. Salomone stated that this applicant has been in business for 18 years at another location and has always had the same amount of employees. In response to additional comments from the board Mr. Kramer stated that they interview counselors on line and the director of camp goes on site at the camp to meet the parents and kids.

Mr. Alfonzetti handed out the plan showing the six parking spaces and the cross easements. Mr. Kaufman noted that he and Mr. Cermele had some concerns in their memos with how the parking would work on this site with the cross easement. Discussions were had regarding the parking on site and what the code requires vs. what the applicant can provide onsite and what variances are needed.

Mr. Jensen inquired about the comment regarding fencing and landscaping to screen the parking lot and if the fence was adequate. He noted he would like to keep up with all the great work already done on Maple Avenue. Mr. Kramer noted the white picket fence was removed, once the pavers are put down with the grass growing in, it will look beautiful. The tenant asked for the fence to be removed because it blocked the view from the street and then the property owner took down the other white picket fence to give it an open feel. The board discussed whether this fence should be put back up or not.

Mr. Salomone stated that we really don't need a dumpster for four people. Mr. Kaufman agreed but noted the applicant had to tell the board how trash would be addressed. Mr. Kramer stated that how garbage is addressed at 15 Maple – he was interrupted and was asked where does Mr. Milton park right now, Mr. Kramer was not sure.

Mr. Carthy asked what to do about the picket fence. The board started discussing the fence, Mr. Kramer noted the fence has already been disposed of.

Mr. Carthy made a motion to adjourn into executive session. Mr. Pollack second the motion and it was approved with five ayes and the meeting was adjourned at 8:08 p.m.

Mr. Sauro made a motion to reconvene the public hearing. Mr. Hirschmann second the motion and it was approved with five ayes and the meeting was reconvened at 8:24 p.m.

After all of the discussion took place the following referral was made to the ZBA:

Parking Stall No. 4 is bordered by fences on two sides, requiring a minimum size of 10 feet x 20 feet, per Section 355-56 D of the Town Code.

The back-up aisle for Parking Stall No. 4 is required to be 25 feet as required pursuant to Section 355-56 E of the Town Code.

The access drive, pursuant to Section 355-56 G of the Town Code, requires a width of 20 feet for a parking lot of this size.

Mr. Salomone stated that he will work on revising the matter on 15 Maple avenue so that once he receives his ZBA approval he can return to the board and get his approval for both lots.

Mr. Carthy made a motion to refer this application to the ZBA. Mr. Hirschmann second the motion and it was approved with five ayes.

VICTORIA EQUITIES LLC [18-012]

15 Maple Avenue

108.01-6-37

Site Plan Waiver

Kory Salomone, Esq. the Law Office of Kory Salomone, P.C.

Discussion

The Applicant is requesting a site plan waiver to change the use of the property from a personal service establishment to a real estate office.

Present for this application was Kory Salomone, esq. and Laurence Kramer esq. and Ralph Alfonzetti, PE.

Mr. Salomone stated that he will be discussing both 11 and 15 Maple as they are owned by different entities but the members of those entities are the same.

Mr. Salomone stated that 15 Maple Avenue is .02 acres with a 450' building and was used as a Taylor and Seamstress shop and they would like to change this use to business office. There is 1 parking space required per 250' and there are no parking spaces for this site. This site will be compass Realty offices, and this is the management office for the other offices in Westchester and will handle internet activity. 15 Maple will only have a maximum of 2 people on site a day similar to 11 Maple who will only have a maximum of 4 people on site at any one time. He would like a cross easement for this site to use the additional two parking spaces from 11 Maple Avenue. This proposal will reduce the non-conforming use with the cross easements. He would like to provide a cross easement with 11 Maple Avenue. In response to comments from the board Mr. Salomone stated we could put these restrictions in the cross easement and if the ownership changes the cross easement would not be in affect and any future owner would have to return to the board. He noted this use would reduce the non conformity.

Mr. Hirschmann inquired about Compass Realty and what happens when clients come

over. Mr. Salomone stated that they manage the other offices in Westchester and manage the online activities of those offices. Mr. Hirschmann opined that presently this site is a sales office and noted Brian Milton is a very successful realtor and is on site right now. Mr. Kaufman noted that he was not aware Mr. Milton was occupying the site.

Mr. Kramer stated that he is the attorney for both properties. Brian Milton has rented it as a management office and was hired by Compass Realty to manage the other offices and has been on site for six weeks. He has spoken directly to Mr. Milton and he anticipates no customers on site. Mr. Milton is there with Maude from Houlihan Lawrence and it is just the two of them. They have a conference table where they sit and look at plans of properties. Mr. Milton is there from morning till night on the phone or on his computer as is Maude. Mr. Kramer stated he has been there many, many times since Mr. Milton moved in 6 weeks ago and has asked how many people come in and out of this site and they have always said 2 people. Platinum Westchester was purchased by Compass Realty and will oversee those locations from this site. Mr. Milton is a realtor and will sell from this location but he goes to the houses he is going to show or to the purchaser's home.

Mr. Kaufman asked if the location was all fitted out now and converted from the Taylor shop to this use. Mr. Kramer stated that it is a big space. Mr. Kaufman asked if any permits were taken out with the town for the work the applicant did for Compass Realty to go in. Mr. Kramer said that it was a big open space with a desk in it. Mr. Kaufman inquired if a building permit was issued? He also stated that he did not think the building department would issue building permits without site plan approval. He asked Mr. Kramer and Mr. Kramer stated he did not know.

Mr. Kaufman inquired if anything was done on site. Mr. Kramer stated that it was an empty shell, they cleaned out the site and painted it. They applied for a sign and it is in the back of the office. He noted there were other camp offices on this street. The board discussed the parking and uses for both sites at this time.

Mr. Baroni asked if the board had any concerns that the applicant already changed the use without coming to the Planning Board first. He did not hear if the board thought any action was required for this. The fact that the tenant has moved in without the benefit of coming to this board for the requirements. Mr. Baroni stated the applicant could be issued a Violation.

In response to the board. Mr. Baroni stated the Building Inspector can issue a violation and proceed in that manor or the applicant can vacate the building while the board goes through this process. Mr. Baroni stated that it is a very bad precedent to set by steamrolling the board and get what you want. Mr. Carthy also noted the board could take no action on this property. Mr. Salomone stated that the property owner was not aware of the process for the change of use. As soon as this came to his attention he told the owner he had to apply. Mr. Kramer stated he was not aware of this requirement either. Mr. Kramer stated that the property owner called him on a Monday and told him he wanted to close on Friday the same week with no contract.

Mr. Carthy made a motion to adjourn into executive session. Mr. Pollack second the

motion and it was approved with five ayes and the meeting was adjourned at 8:08 p.m.

Mr. Sauro made a motion to reconvene the public hearing. Mr. Hirschmann second the motion and it was approved with five ayes and the meeting was reconvened at 8:24 p.m.

Mr. Carthy stated that the board has considered this matter very carefully and the board would like to remedy the situation before they allow this applicant to return to the board. By the applicants own admission, there is a violation on site and that needs to be corrected and then they can return to the board. Since a cross easement is being requested the board will not consider either application this evening. Mr. Salomone respectfully disagreed, it does not affect the use or our correcting it. Mr. Baroni stated that it effects the legal process on how we prepare a resolution because we now have two crossover elements between the two lots, one that carves out two parking spaces for parking and the ability to access it with two spaces. Mr. Carthy suggested the applicant follow up with the Building Inspector. Mr. Kaufman reminded everyone that the Town board recently adopted legislation for the application processing restriction rule. You can go to the Town Board for a waiver and then return to this board. Mr. Carthy noted we are trying to remedy the situation by you fixing the situation so that a violation is not issued. Once the violation is issued, you cannot come to the board until it is remedied. Mr. Salomone will follow up with Mr. Cromwell.

DEER RIDGE SUBDIVISION [16-012]

7 Deer Ridge Lane

100.04-2-20

Bond Recommendation to Town Board

Ralph Alfonzetti, PE Alfonzetti Engineering PC

Dan Merritts, Thomas C. Merritts Land Surveyors

Consideration of Bond Reduction

Present for this application was Ralph Alfonzetti.

Mr. Alfonzetti stated that almost everything had been completed and he would like the board to consider reducing the bond value to 25%.

Mr. Hirschmann made a motion to positively recommend to the Town Board a bond reduction for Deer Ridge as noted in the Town Engineers Memo. Mr. Pollack second the motion and it was approved with five ayes.

MONTELEONE [18-009]

62 Whippoorwill Road East

107.02-3-32

Special Use Permit

Kory Salomone, Esq. the Law Office of Kory Salomone, P.C.

Discussion

The Applicant is proposing an accessory apartment located in an existing accessory structure on the property.

Mr. Salomone stated that the property was in the R-10 district and .64 acres with a 1,700 square foot home and 1,000 square foot accessory structure. The accessory structure was built prior to the town having a zoning code. In the mid 1930's the home was built. In 2007 the Building Department issued a predate letter for the accessory structure stating it was a legal non-conforming use. This structure meets all of the setbacks and since 1981 the accessory structure has had an accessory apartment. His client purchased the lot in 2008 and would like to do some improvements and it has come to his client's attention that he needs a Special Use Permit for the accessory apartment. His client would like to continue the use with the appropriate permits in place. His client has DOH septic approval and he handed out a hard copy approval to this effect.

The board discussed the application and how a predate was issued without follow up to get the approvals from the town for a special use permit at the time. Since this is a new owner, he has to apply and since he wants to make changes to the structure, he needs approvals from the town. Mr. Salomone stated he will submit revised plans showing the parking on site. The board did not find it necessary to schedule a site walk.

A public hearing was scheduled for April 9, 2018.

DEMASI/FEIT/GIZZI LOT LINE CHANGE [15-155]

6, 4 & 8 HUNTER DRIVE

101.03-4-6&5

Lot Line Change

Barry Naderman, PE, Naderman Land Planning & Engineering

Discussion

Consideration of extension of time resolution

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

MIU (Middle Income Unit) AMENDED LEGISLATION [18-007]

Referral from Town Board

Discussion

The Town Attorney has brought to the Town's attention the existence of lawsuits in Westchester County municipalities regarding the resident preference provisions in their Middle Income Unit laws. In an effort to prevent future potential litigation, the Town Board is considering draft legislation that would eliminate the Middle Income Unit eligibility priority list from the Town Code. As a result of the adoption of the legislation, MIU units would be awarded via a lottery drawing.

Mr. Kaufman explained to the board that MIU's were issued on a point basis I.e.: town resident, volunteer fireman, town employee, Westchester County resident. The Town Board is proposing to change that to a lottery system. The Town Code requires the Planning Board to opine on this matter and provide a recommendation to the Town Board. In response to a comment, Mr. Baroni explained how the point system worked and what you were given points for. More than a few of the towns had a point system and the anti-discrimination leagues have stepped forward with lawsuits, most notably in a lawsuit against Bedford and stated these point systems really do not cure the discrimination issue because when you look at who works for the town, lives in the town, volunteers for the fire department, it is the same population segment that is not well represented by minorities. Bedford immediately worked towards a settlement. Other towns like North Castle are working to resolve this matter to avoid any lawsuits. Presently there are 10 MIU's in Whipoorwill School and 24 units in Whipoorwill Ridge.

Dialogue was had by the board members regarding this legislation and the differences between MIU's and AFFH units. Mr. Carthy raised a concern that the point system was helpful for keeping residents who could not afford homes in town and who volunteered in our community. Mr. Hirschmann agreed. Mr. Carthy noted his son recently went through the MIU process and was able to get a unit because of the point system because he was a resident and a volunteer fireman. After all dialogue took place and questions were answered to the boards satisfaction they were ready to vote on this matter.

Mr. Carthy made a motion for a positive recommendation regarding the proposed legislation to the Town Board. Mr. Sauro second the motion and it was approved with five ayes.

**PATERNO DAM [15-154]
17 Windmill Road
101.04-2-67 & 29, 101.04-3-50 & 51
Spillway Channel
PW Scott Engineering & Architecture, P.C.
Consideration of Bonds**

Mr. Carthy made a motion to establish a bond for the work itself and another bond for the 5-year maintenance and monitoring plan to the Town Board. Mr. Pollack second the motion and it was approved with five ayes.

Mr. Carthy and Mr. Pollack shared their comments regarding the recent Planning and Zoning seminars they attended for annual training requirements and how much they benefited from the SEQR meeting. Mr. Jensen noted he took the Planning Board Basics and the speaker, Christian Miller, reviewed the benefits of work sessions and how often other communities were using the work sessions which were open to the public to observe but not provide comments. This would provide more opportunity for the board members to have more dialogue with each other and other board members during a work session. This would enable the Planning Board to drive the show. This is still a public meeting and you would open the meeting into a work session and it is discussions between the board members and professionals only. The meeting is open to the public and applicants and they can sit and listen but not participate. Some municipalities have one work session a month and the other meeting is a Planning Board meeting. Mr. Kaufman stated that is the way the meeting is run now. The applicant drives the show but the board can say to the applicant, please sit down and let us have some dialogue on this matter. It is the board's preference on how they would like to do it. We can do a work session and start that prior to the meeting or another time, we would have to schedule that. There is nothing saying that we have an internal discussion and then call the applicant up to the podium. Continued discussion was had regarding this matter.

Mr. Jensen stated that would be helpful to answer the boards comments and questions prior to the applicant beginning their presentation. Mr. Carthy noted that the board can say at one point that we need to go to a work session on this matter and then schedule that. He also noted that prior to the applicant coming up and presenting to see if anyone had any comments or questions they would like addressed prior to the discussion. Mr. Kaufman offered to present the application instead of the applicant doing that at the meetings. Mr. Pollack liked work sessions but it was hard to make these work sessions on the fly. Better to schedule a work session occasionally at 6:30 p.m. and if nothing is on the agenda, to cancel it. Mr. Baroni stated the public has to be notified at least 72 hours in advance if a work session will take place other than during a Planning Board meeting. Mr. Cermele reminded the board that they can say prior to an applicant presenting their project at the meeting the board and professionals can have some dialogue prior to the applicant presenting.

Mr. Pollack made a motion to adjourn the meeting, it was second by Mr. Hirschmann and approved with five ayes. Meeting adjourned at 9:04 p.m.