

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 P.M.
January 28, 2019**

PLANNING BOARD MEMBERS PRESENT: Steve Sauro – Acting Chairman
 Michael Pollack
 Jim Jensen

Also Present: Adam R. Kaufman, AICP
 Director of Planning

 John Kellard, P.E.
 Kellard Sessions

 Valerie B. Desimone
 Planning Board Secretary
 Recording Secretary

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

Absent: Christopher Carthy, Chairman
 Gideon Hirschmann
 Conservation Board Representative

APPROVAL OF MINUTES:

December 10, 2018

Mr. Pollack made a motion to approve the minutes, Mr. Jensen second the motion and it was approved with three ayes.

January 14 2018

There was not a quorum present tonight of those members were at the January 14,2019 meeting to vote on these minutes this evening.

PUBLIC HEARING:

**HELLER [18-034]
97 Mianus River Road
96.01-1-15
Site Plan
Peter Gregory, PE Keane Coppelman Gregory Engineers, PC
Discussion & resolution**

Mr. Jensen read the affidavit of publication for the record. No noticed neighbors were present. Mrs. Desimone noted all paperwork was in order for this application.

Also present was the applicant Mr. Heller and his professional Pete Gregory.

Proposed new 804 square foot indoor pool house addition and mechanical space. Planning Board and Architectural Review Board approval of the proposed project is required pursuant to Section 355-19.D(1) of the Town of North Castle Town Code as the property is located on a Scenic Road.

Mr. Gregory presented the application as noted above and noted with a small patio off the rear. Some disturbance will fall within the 100' wetland buffer of the pond and the mitigation proposed will be a 60' x 5' band of landscaping along the pond. He noted they had Conservation Board approval, Architectural Review Board approval and storm water mitigation was proposed as well.

The board and applicant did not have any questions or comments at this time.

Mr. Sauro asked for a motion to close the public hearing. Mr. Jensen made a motion to close the public hearing. Mr. Pollack second the motion and it was approved with three ayes. Mr. Carthy and Mr. Hirschmann were not present for the vote.

There were no questions or comments on the draft resolution. Mr. Sauro made a motion to approve the resolution, it was second by Mr. Pollack and approved with three ayes. Mr. Carthy and Mr. Hirschmann were not present for the vote.

**CARQUEST [16-023]
215 Business Park Drive
114.01 - 1 - 1
Amended Site Plan
Eric Kingsbury, PE Langan Engineering
Discussion**

This project was previously approved by the Planning Board on March 27, 2017. The resolution of approval has since lapsed.

Application for a proposed 44,658 square foot warehouse and office expansion and

various additional site improvements. The property is 36.76± acres and is located at 215 Business Park Drive within the PLI Zoning District. The site is currently developed with a 112,000± square foot warehouse/office building. The proposed warehouse expansion will be located within the NYSDEC adjacent area for state wetland G-1 and within a Town-regulated wetland and wetland buffer.

Present for this application was Eric Kingsbury and the applicant Irwin Stockel.

Mr. Pollack read the affidavit of publication for the record. No noticed neighbors were present. Mrs. Desimone noted all paperwork was in order for this application.

Per Mr. Sauro's request, Mr. Kaufman informed the board the applicant had received their approval and while finishing up the conditions in the resolution to be complied with prior to signing the site plan, the resolution expired. Some procedural steps need to be complied with prior to granting this re-approval and those steps have been noted in his memo to the board.

Mr. Kingsbury presented the application as noted above and stated parking would be provided all around the addition. He noted that part of the improvements were within the NYSDEC wetland adjacent area, the town regulated wetland and the town wetland setback. Last time he was before the Conservation Board he received his approvals. He noted the freshwater wetland permit was still valid and he needed to get reapproval from the Conservation Board and the NYCDEP. He is working on all the comments in the prior resolution.

Mr. John Junker, North White Plains, inquired what the maximum volume of liquids of any kind that would be stored on site at any time due to the proximity of the wetlands to the site. Mr. Stockel stated he did not have a tenant at this time.

In response to Mr. Sauro's comment, Mr. Kaufman stated that the applicant once granted approval would not have to return to the Planning Board as long as the site is used as a warehouse and office as defined on the plan. Whatever they need to do to satisfy the building department the applicant will do directly with them. They would only return to the Planning Board if there was a modification to the site plan.

Mr. Jensen inquired about the flood plain and 100-year storm on site. Mr. Cermele and Mr. Kingsbury answered the question to his satisfaction.

Mr. Pollack inquired about the wetland mitigation plan, MR. Kingsbury stated that the proposed mitigation was proposed all over the site and part of that was removing invasive species on site.

Mr. Kingsbury will let the board know once he has ARB and CB approval and will return to the board for his resolution at that time.

Mr. Sauro asked a for a motion to adjourn the public hearing. Mr. Pollack made a motion to adjourn the public hearing, it was second by Mr. Jensen and approved with three ayes. Mr. Carthy and Mr. Hirschmann were not present for the vote.

BRYNWOOD [11-079]

568 Bedford Road

101.02-1-28

Site Development and Preliminary Subdivision

Mark P. Weingarten, Esq. - Delbello Donnellan Weingarten Wise & Wiederkehr, LLP

Referral from Town Board

Discussion

The applicant is seeking an amendment to section 355-32D(1) of the North Castle Zoning Ordinance. If adopted the amendments would eliminate the limitation on form of ownership of residences in the GCCFO District, so that multifamily residences at Brynwood can be condominium units. This would remove the fee simple ownership requirement from the town code.

Present for this application was Mark P. Weingarten attorney for the applicant and the principals Ed Baquero and Jeff Mendell along with Megan Maciejowski Woodward.

Mr. Weingarten reviewed the background of the site and the approvals received to date. He also reviewed the benefits the town would receive from the applicant i.e.: Water district #2 improvements. Mr. Weingarten continued and stated how diligently his client had been working to get the funding for the residential component of the project. His client has been spending over a million dollars a year to keep the golf club closed. His clients have tried everything to no avail and are now back before the town to get some help. He reviewed the proposed solution presently before the Town Board. The applicant is proposing 36 residences – condos vs. fee simple units. Depending how the first 36 units sell the applicant may put the next 37 units as senior units for 55 plus. He then reviewed the differences and similarities of the current proposal before the town and reviewed the benefits for the town that were part of this application.

Mr. Sauro read Mr. Carthy's comments into the record at this time.

The applicant is asking the town board to change the methodology of taxation from fee simple to condominium method taxation. The reality is that the buyers of these "Ultra Luxury" condominiums would not pay taxes based upon the sales price and market value of their new homes as most North Castle residents are accustomed to paying.

I would ask the planning board: Do you believe the premise that the applicant presented, which is that the development of the 73 units as approved in 2015 is not feasible as per the current taxation methodology. In reviewing all the material germane to this development, I am inclined to believe that the applicant made reasonable effort to develop the site as it was originally approved. The Town Board as lead agency can clearly demand proof that the applicant made every effort to procure financing to develop the site and failed. Now the applicant and the Town of North Castle share a predicament. If we insist on the fee simple taxation methodology, then we risk the loss of development of the new golf course community and the open space of the golf course. In lieu of the Brynwood Partners development, the Town of North Castle Town Board and Planning Board could be asked to entertain a more conventional type of

development, which in fact may be less positive for our town.

Despite the taxation advantage that condominium development provides to the developers and buyers at the expense of the whole community, I am inclined to believe that the applicant will not move forward without condominium taxation. I think that the “ultra-luxury” development as proposed will benefit the Town of North Castle and we should acquiesce to the change in taxation methodology even if the proposed sales prices prove to be too optimistic.

The applicant has suggested to the Town Board that the sale price of the first 36 units should determine whether or not the Town Board should place a senior housing restriction on the second phase of development of the next 37 units. I would advise the town board to authorize the development of all 73 units with exactly the same conditions and NOT impose a senior housing restriction. I think that in order to maximize taxation there should be no restriction on who can purchase the condominiums. Also the senior restriction may inhibit young buyers from participating in the first phase of development. The possibility of school children is not a detriment despite the condominium taxation.

Mr. Pollack stated that these are fiscal issues, not physical issues. From that stand point this is really a Town Board issue and not a Planning Board issue. Mr. Weingarten explained why this was referred to the Planning Board. Mr. Pollack appreciates the investment by the applicant and it is a testament to the applicant and their commitment to the project.

Mr. Jensen inquired how we arrived at fee simple. Mr. Weingarten stated that was a condition insisted upon, among other conditions at the time by the Town. Mr. Baroni also stated that at the time during the public hearings, at the suggested price point at the time, the applicant would have been competing with Wampus Close, Whippoorwill Hills and Whippoorwill Ridge all of which are fee simple. The Town Board was looking for equality of taxation of the Town Houses, and condos enjoy about a 40% tax benefit. Mr. Jensen agreed with Mr. Pollack that this is really a Town board matter than a Planning board matter. Mr. Baroni agreed and noted that this text happens to be in the zoning code and the zoning code requires a referral to the Planning Board. He noted that the Planning Board could make part of their recommendation back to the Town Board that this is purely fiscal and under their control and otherwise the Planning Board has no objection to it and that would suffice.

Mr. Sauro stated that he agreed with Mr. Carthy’s comments regarding the macroeconomic view point. If the fee simple did not work, let the competitors drive the market, we want to see a viable project, He was alright with the condo taxation.

The Planning Board has discussed the zoning petition from Brynwood that would remove the fee simple ownership requirement from the Town Code. Mr. Sauro made a motion for a positive recommendation to the Town Board. This recommendation was made with no objection from the Planning Board and the requested zoning change is a Town Board fiscal issue, not a physical planning matter and there were not any evident global *planning* issues with respect to the requested zoning amendment. Mr. Pollack second the motion and it was approved with three ayes. Mr. Carthy and Mr. Hirschmann were not present for the vote.

PATTI [13-072]

30 Palmer Avenue

122.161-4-59

Site Plan

Paul Berte, PE Fusion Engineering

Discussion

The Applicant is proposing to construct a second curb cut and 32' x 14' single space off-street parking area.

Present for this application was Tony Patti and his professional Paul Berte, PE Fusion Engineering and his attorney, Mark Blanchard esq. Blanchard & Wilson.

Also present for this application was Ken Kaufman and John Junker.

Mr. Berte noted that he has reviewed the memos from both professionals as well as from FP Clark memo.

In response to Mr. Sauro's comment regarding the depth of the parking space. Mr. Berte stated that the parking space will be 3-5 feet of greenspace from the road to where the parking space will be. A standard parking space is 9x20. The proposed spot is 32 x14 which allows the applicant to pull in and out of the spot and will be gravel. Mr. Sauro was concerned with the parking space that big that two or three cars would park there. Mr. Berte stated if that were the case he was sure the neighbors would inform the town.

Mr. Sauro stated that if this application was approved by the ZBA he would want to see a landscaping plan. Mr. Berte stated his client would not have any objection to that.

Mr. Jensen stated that this plan has less gross land coverage and is slightly less than it is today. This is a marginal improvement.

Mr. Mark Blanchard, Blanchard & Wilson, attorney for the applicant submitted six letters of support to the members of the board at this time. Mrs. Desimone noted she had received those letters via email and they were included in this most recent packet.

Mr. Sauro made a motion to refer this application to the Zoning board of appeals for a site distance variance and land coverage variance. Mr. Pollack second the motion and it was approved with three ayes. Mr. Carthy and Mr. Hirschmann were not present for the vote.

CRINITI [16-010]

2 Barnard Road

108.03 - 3 - 60

Plan Amendment

Roy Fredriksen, PE Rayex Design Group

Discussion

Proposed relocation of existing air conditioner units six feet into existing hillside to mitigate noise in adjacent bedroom.

Present for this application was William Besharat and the applicants Mr. & Mrs. Criniti.

Mr. Besharat stated that this application will make the site safer and remove the noise from the AC units.

It was noted that the applicant did not submit a landscape plan. Mr. Sauro reminded the board that at the last meeting Mr. Carthy had noted that he wanted additional screening and a little more substantial screening along the open space by the curb so that people would not be inclined or tempted to jump the curb and park on the lawn. Mr. Besharat did not feel it was necessary to submit a landscaping plan because there is so much rock in the area that landscaping cannot be done. His client will not remove the bamboo trees and will do his best to relocate the existing fruit trees on site. There was some confusion amongst the board because had kept requesting a landscape plan and the Mr. Besharat kept saying it was not necessary. Mr. Cermele stated that we need a plan regarding the front of the lot with the size, species and number of plants shown on a plan. Mr. Besharat stated his expansion area was in the same proximity but he could introduce a few trees, that would be no problem.

Mr. Jensen and Mr. Pollack noted they had trouble reading the Topo maps as they were not very legible.

Mr. Pollack confirmed with the applicant that the neighbors would not be impacted by the new location of the AC units by sound or visibly. Mr. Besharat stated that the new location of the AC units will be in a ditch and the berm will block it from the road visually and there will be no sound impact and the landscaping will be provided in the front. Mr. Pollack stated that as long as the sound and visibility are addressed and the additional landscaping Mr. Carthy requested in the front of the lot is addressed he had no further comments at this time.

The neighbor notification was scheduled for February 25, 2019 Planning Board meeting. The applicant was informed that the submission deadline was February 11, 2019 by noon.

TEDESCO [15-121]

1462 Old Orchard Street

123.01-1-1 & 15

2 Lot Subdivision

Nathaniel J. Holt, Holt Engineering & Consulting

Discussion

Consideration of extension of time resolution of approval

Mr. Sauro asked for a motion to approve the extension of time request. Mr. Pollack made a motion to approve, it was second by Mr. Jensen and approved with three ayes.

TURET [08-018]

East Lane, West Lane, Nichols Road

Final Subdivision, Tree Removal, Steep Slope and Wetlands Permit

108.03-3-36, 108.03-3-38, 114.01-1-4, 108.03-3-39, 114.01-1-5

Tim Allen, PE Bibbo Associates

Subdivision of an existing 8.28-acre lot into four residential building lots.

Consideration of 6th extension of time for final subdivision approval

In response to Mr. Pollack's comment, Mr. Cermele stated that the applicant has been making progress on this application and he has been in communication with the applicants professional.

Mr. Pollack stated that applicants need to progress with their applications in timely matter and he doesn't feel compelled to grant extension after extension, this will not happen indefinitely.

In response to Mr. Jensen's comments, Mr. Baroni stated that in 2008 when the real estate market collapsed, the legislation was changed to grant an indefinite amount of extensions.

Mr. Pollack noted with this amount of extensions the applicant is consuming the town's resources.

Mr. Pollack made a motion to approve. It was second by Mr. Jensen and approved with three ayes.

WORKSESSION:

TOWN COMPREHENSIVE PLAN [18-036]

Discussion of implementation of priority recommendations

The board did not discuss this matter this evening. They wanted to wait for a fuller board.

Mr. Sauro made a motion to adjourn the meeting. Mr. Pollack second the motion and it was approved with three ayes. Mr. Carthy and Mr. Hirschmann were not present for the vote. Meeting adjourned at 8:18 p.m.