

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 P.M.
March 11, 2019**

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

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

Joseph M. Cermele, PE CFM
Kellard Sessions Consulting

Valerie B. Desimone
Planning Board Secretary
Recording Secretary

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

Conservation Board Representative:
John Krupa

APPROVAL OF MINUTES:

January 14, 2019

Mr. Carthy made a motion to approve the January 14, 2019 minutes, Mr. Sauro second the motion and it was approved three ayes. Mr. Pollack and Mr. Hirschmann abstained.

January 28, 2019

Mr. Sauro made a motion to approve the January 28, 2019 minutes, Mr. Pollack second the motion and it was approved with three ayes. Mr. Carthy and Hirschmann abstained.

February 25, 2019

Mr. Sauro made a motion to approve the February 25, 2019 minutes, Mr. Jensen second the motion and it was approved with three ayes. Mr. Carthy and Mr. Pollack abstained.

NEIGHBOR NOTIFICATION:

CRINITI [16-010]

2 Barnard Road

108.03 - 3 - 60

Plan Amendment

Roy Fredriksen, PE Rayex Design Group

Discussion

Consideration of amended resolution of approval

Present for this application was William Besharat, Rayex Design Group.

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

Mr. Pollack made a motion to reopen the neighbor notification. Mr. Jensen second the motion and it was approved with five ayes. No neighbors were present.

Mr. Besharat stated all seven conditions in the resolution have been complied with, he has the Westchester County certificate of compliance with the new septic system and approval from the Health Department. He has complied with everything and would like approval.

Mr. Sauro inquired if there were any issues with this application. Mr. Kaufman noted that the significant concern was the screening plan, the board had asked to see that plan. He also wanted to clarify with the board the screening on the side yard and the front yard. Mr. Sauro recalled that if they were not going to encroach on the berm significantly the existing bamboo would suffice, Mr. Besharat agreed and noted a few more trees would be added to the front of the lot where the anti-tracking pad was located. Mr. Sauro noted the board had requested the trees be shown on the plan at the last couple of meetings and they are shown on the plans but the species, size and quantities were not shown on the plans. Mr. Kaufman noted that was condition #1 in the resolution to be addressed by the applicant. The applicant will plant 3 8' trees along where the anti-tracking pad was located. Mr. Carthy also clarified that all of the bamboo on site will remain and if removed some other screening shall be put up in its place. Mr. Besharat agreed.

Mr. Hirschmann made a motion to close the neighbor notification. Mr. Pollack second the motion and it was approved with five ayes.

Mr. Hirschmann made a motion to approve the resolution as amended. It was second by Mr. Pollack and approved with five ayes.

NEW AND CONTINUING BUSINESS:

POOLS OF PERFECTION [19-006]

495 Main Street

108.01-6-14

Amended Site Plan

William O'Neill, AIA O'Neill Architects

Discussion

Mr. Carthy recused himself from this application.

Present for this application was Bill O'Neill.

Proposed overnight storage of 6 commercial vehicles at 495 Main Street for a business operating at 523 Main Street which does not have an adequately sized off-street parking area to accommodate such vehicles.

Discussions were had by the applicant and the board regarding the location of the 6 overnight parking spaces, it was concluded they would be located at the rear of the site. Mr. O'Neill also raised the concern that when the trucks were returned at 5:30 p.m. if one of the designated spots were taken by another vehicle and his client had to park in the spot close by that he would not get a violation, the board said they could note in the resolution that no more than six spaces in the rear of the site be taken by these vehicles.

Mr. O'Neill reviewed the parking count on site and the amount of parking spaces that would be necessary to get a variance for while at the ZBA. Based on calculations of the current uses on site, 65 parking spaces would be necessary and 51 are provided. He noted that overnight parking spaces are used during off peak time from the other business on site. The property owner has told him that the parking lot has never been filled to capacity, Mr. Hirschmann agreed that he has never seen the parking lot full either.

Mr. O'Neill stated that some of the uses on site had changed since the original calculations - Pools of Perfection needs 6 spaces. With the change of use for some of the other businesses since it was originally calculated and the rental of the third floor, 8 additional parking spaces are necessary, for a grand total of 14 spaces. In response to Mr. Sauro's comment, Mr. Kaufman stated that the board could not refer this application for only the 6 overnight parking spaces, they needed to refer all 14 of the deficient parking spaces.

In response to Mr. Sauro's comment, Mr. O'Neill stated that the third floor was built as rentable space. His client only wants to sprinkler the 3rd floor and or only the 3rd floor egress, the 3rd floor requires 4 parking spaces of the 14. He may have to get the states approval on that, to sprinkler the entire building was too expensive for his client at this time.

Mr. Sauro did not see any issues with sending this application to the ZBA.

In response to Mr. O'Neill's comment about not being able to locate in the Town Code where it states specifically about overnight parking. Mr. Kaufman stated it is not in the town code, this is about occupying a parking space, the planning board will approve an accessory use and the accessory use is occupying those six parking spaces. The code does not specify the time of day that these spaces are calculated for; it is not just for overnight, it is 24 hours a day, 7 days a week. If the applicant wanted to park their cars there during the day while the overnight vehicles were in use, that would not affect the parking count.

Discussions were had regarding the referral to the ZBA and proof for the ZBA regarding the lack of parking on site at 523 Main Street. It was noted that the survey will show that you can't park in the NYS right of way. The code shows that you can allow parking on adjacent lots for adjacent uses within 250' of the lot and it is demonstrated that it is not practical to put the spaces on their own lot.

Mr. Sauro made a positive recommendation to the ZBA regarding the 14 deficient parking spaces which included 6 overnight parking spaces. Mr. Hirshcmann second the motion and it was approved with four ayes. Mr. Carthy abstained from this application.

MISTIS PROPERTIESS Inc. [19-004]

176 Virginia Road

122.16-1-3

Site Plan

Stephen Berte, EIT Fusion Engineering PC

Azim Aliriza, EIT – Petruccelli Engineering

Discussion

Proposed construction of 2 metal prefab buildings (totaling approximately 5,000 square feet) which will be primarily used as parking bays for tractor trailers, including one wash bay.

Present for this application was Azim Aliriza, from Petrucelli engineering and Steven Berte from Fusion engineering.

Mr. Berte stated that It was noted this site was across the street from Byram Concrete and a few lots from Washington's Headquarters. The applicant described the application as noted above and stated that his client was employed by the US Postal Service and his trucks transport the mail from one location to another. He is proposing garage bays to store the trucks on site and keep them out of the elements and maintenance will be performed on site as needed, this will not be full time. His client would also like to rent out the unused bays for automotive storage. No other business will be one site. The grading and cut done on site will all be done on this site, currently it is all rock face with no retaining walls. There are 5 bays to the east and 3 bays to the west. An Auto turn has been simulated for a 40' box truck.

Mr. Berte stated that site distance was good from both directions and the landscaping in the rear of the site was only visible to the applicant.

It was noted that off street parking was not provided on the plan, the applicant will update the plan with the requested information. The applicant inquired what the board's thoughts were on a sidewalk for the site. The board will better be able to determine this after the site walk. The applicant would like to have a 1,000-gallon gas or diesel tank above ground on site to refuel the trucks. If the board deems it appropriate the gasoline or diesel tanks can be approved of as an accessory use on this site.

Mr. Hirschmann agreed that the landscaping in the rear of the site was not necessary. He would like the spillage possibilities of the gas or diesel reviewed for the site.

Mr. Carthy inquired about future uses of the warehouse and what is stored on site and what if there was a leak with the gasoline or diesel tanks. The board discussed the difference between garage and warehouse as defined by the code.

It was noted there were no wetlands on site. The setbacks of the INDA were discussed at this time.

Mr. Jensen inquired about the gasoline proposed on site. Mr. Baroni state that gasoline stations are not a permitted use within the Town of North Castle, they are all non-conforming uses. It would be a similar set up like the highway department has for its gasoline. Discussions took place regarding the zoning in this general area and how it might have gotten that way with Washington's Headquarters so close to the site.

A site walk was scheduled Thursday, March 28 at 8:00 a.m.

PLANNING BOARD DISCUSSION

Extension of time requests

At the last Planning Board meeting, the Board noted that there appeared to be many extension of time requests with some requests going back several years. The board noted that it would like Applicants to provide more details regarding the status of the project prior to granting an extension. The Board also noted that when multiple extensions have been requested, they would like to be updated on the progress since the last extension request and what specific approval items remain unresolved. In addition, the Board was also concerned with granting too many extension of times (the most recent was 8 and the most granted was 15) and noted that when dealing with such old projects, legislation with respect to stormwater requirements could have changed since the original approval. The Board discussed the need to charge an extension of time application fee to cover the time associated with processing the application. The board asked Mr. Kaufman to prepare a draft extension of time application form for consideration by the board. The draft form was submitted to the Board and will be discussed for the first time this evening.

The board discussed the draft form and discussed whether a flat fee or an escalating fee would be appropriate. Mr. Hirschmann discussed waiving fees for the first two extensions of time. Mr. Carthy and Mr. Pollack were in favor of imposing fees from the

first extension request. The Board noted that any fees charged would need to be approved by the Town Board.

The board continued discussions regarding the extension of time form.

Mr. Pollack made a motion to recommend to the Town Board the adoption of the extension of time request form as amended with the escalating fee schedule to not exceed \$1,000. Annually. Mr. Carthy second the motion and it was approved with five ayes.

TOWN COMPREHENSIVE PLAN [18-036]

Discussion of implementation of priority recommendations

The board did not discuss the Town Comprehensive Plan this evening, instead they wanted the utilize the time to prepare for the work session with the Town Board tomorrow morning regarding the Mariani residential application at 45 Bedford Road.

MARIANI RESIDENTIAL [18-021]

45 Bedford Road

108.03-1-65

Zoning Petition - Referral from Town Board

Anthony Veneziano Jr. Esq. Veneziano & Associates

Discussion - Referral from the Town Board

The Planning Board wanted to discuss this application this evening prior to their work session with the Town Board tomorrow morning.

The board discussed the preliminary traffic study from FP Clark received late on Friday. One of the recommendations from this memo was for no left turns in and out of the site and to move the driveway closer to Main street to alleviate the queuing on Maple Avenue. Mr. Baroni stated that would be an enforcement nightmare. Mr. Cermele stated that would increase traffic on Main Street. Mr. Carthy stated if people were to exit the site, they would have to leave the site and drive on Route 22 to get to DeCicco's or go down main street. Mr. Sauro inquired if the entrance could be moved across from the DeCicco's site. The board inquired if it would be enough to move the entrance further down maple avenue to alleviate the no left turns recommendation. The board also discussed how many units would the site have to be reduced down to along with moving the entrance further down Maple avenue to alleviate the traffic enough to remove the recommendation for no left turn in and out of the site. Mr. Kaufman noted he would have to ask Mike Galante, who prepared the memo.

Mr. Jensen inquired if this came up before when Soul Cycle was before the board - didn't Soul Cycle have similar intensity at the site. He wanted to know how that compared to this traffic report. Mr. Jensen inquired what was the difference in density

from the Soul Cycle site to this application. Mr. Hirschmann stated the use was not the issue, the traffic was why this was turned down. Mr. Baroni noted it did not come to a vote but that was one of the factors.

Mr Hirschmann noted that two of the letters he received from the residents referred to the Master Plan and was this application consistent with the original intent of the recently approved master plan.

Mr. Kaufman and Mr. Baroni noted that the Town Comprehensive Plan used the word limited residential. The board inquired what was the definition of limited and when was it added to the plan. Mr. Kaufman stated that the word limited was added after the public hearing. Mr. Carthy inquired if a compliant plan was submitted. Mr. Baroni stated that not necessarily compliant with the Master plan but a plan was submitted that was not in the restricted area which had about 40 units. Mr. Kaufman noted that plan resembled a strip mall. Mr. Carthy inquired if the board had seen a plan that was compliant with the Master Plan. Mr. Baroni stated that plan has not been submitted because the word limited has not been defined. The board and professionals stated that they read this legislation to say with residential units as compliment of uses on site, or second story apartments.

Mr. Hirschmann inquired how did other applications in town arrive at getting to a unit count that was acceptable to the town like at cider mill. Mr. Hirschmann stated that his gut feeling was that this is too dense and so close to the middle of town and so close to the historic district. He understands the applicant needs a return on his investment but does not feel the character of our town warrants that many units. How do you balance all of the issues, there are a lot of concerns from the residents and is this the best use for this lot?

Mr. Carthy stated that we should press the applicant to submit alternate versions of this site. He expressed concern with the large building at the rear of the site would look nice now but somewhere down the road if not kept up it could look like an apartment complex. Mr. Kaufman stated that whatever information the board needs to render its decision would be appropriate to request. It would be a good forum to discuss this tomorrow at the joint work session. The board stated that it would like to see another plan that removes the large building in the rear of the site and puts in a continuation of the townhouse looks with more greenspace between the units. Mr. Carthy did not like coming out of the front yard into someone's back yard. The rest of the board was also concerned with the large structure at the rear of the site and wanted more green space in-between the structures.

Discussion were had regarding the flood plane on site. Mr. Pollack inquired if someone's car were parked in the flood plane and there was a flood damage would the town be liable. Mr. Baroni stated that this board would only technically approve something that was in the flood plane if the engineering was certified that there would not be any flooding, there would have to be some type of drainage plan, it would not be a town liability.

Mr. Cermele stated that the premiums would reflect the risk. Building C, the large

building is only set two feet above the flood plane which is permitted by code. The D units which are proposed along Maple Avenue are proposed with basements. The Town Code says that the lowest floor needs to be two feet above the flood elevation. The applicant cannot do that with the way the site is and the current flood mapping. The applicant would have to physically have FEMA alter the flood plane map to show a new flood boundary line to allow those buildings to be built the way they are proposed. It is possible to be done but the timing of all that and how do you approve a plan conditioned on FEMA amending the map. He has had meetings with the applicant's engineers and even though the units don't have to have basements, the applicant wants the basements. At the board's request Mr. Cermele briefly reviewed what was necessary and how much time it would take to change the FEMA maps.

Mr. Kaufman noted that in regards to the units on the west side, just because one plan was submitted that the board did not like, did not mean the applicant could not go back and resubmit additional plans with a similar concept. Mr. Pollack agreed with Mr. Kaufman and noted the least impact to this site was to build along route 22 and the side abutting the legion and to work on another plan.

Mr. Jensen stated in regards to building on the flood plane -flooding has onsite and offsite impacts just like traffic does and the applicant wants to minimize the onsite impacts but we can't look at that in isolation, we need to consider the offsite impacts as well and the flood plane encompasses a good portion of St. Stephens Church as well as the Town Hall Annex building. If the FEMA maps were to change, what are the offsite impacts. Mr. Cermele stated the applicant would have to study those impacts as well and went into more detail on what the applicant would have to provide.

The board pondered why would we approve basements that are not permitted in the D units because of the flood plane and are also proposed in the restricted area. Both the C & D units are partially within the flood plane and are proposed to have basements as shown on the most recent plans. It was also noted that the patios in the D units with heavy rains will be flooded. The board expressed concerns about all of the work necessary to change the FEMA maps and if that work is done will it maintain the integrity of the historic district.

The board discussed the communities benefit fund and all the different fees associated with that fund; Water, Park, Sewer and Recreation fee. The Planning Board noted that they are reviewing the best design for the site and the Town Board is determining the right size for the site. Different alternatives would help the board make a decision. The applicant increases the bedrooms and decreased the units. The board suggested reducing the larger building in the rear to two stories instead of three stories.

Discussions were had regarding the proposed height of the structure in the rear at the site and the maximum height of 40 feet, where does the 40 feet fall on the structure at the peak of the roof or the mid roof. Mr. Kaufman expressed concern regarding the proposed height of the building as well.

Mr. Carthy stated he would like to see an alternative that respects the deed restriction. He also discussed with the board if they wanted to see another plan that had less FAR

than what was presently submitted. Mr. Pollack stated he would like to see both plans. Mr. Kaufman noted that if the board wants alternatives then it is appropriate to request them. Mr. Sauro suggested the entrance to the site be moved across from the DeCicco entrance. It was noted what if the legion was sold and developed, Mr. Baroni noted that the Town had the right of first refusal for that lot and would more than likely purchase it since it abuts the rest of the town property.

The board discussed the recommendation that was given back in January, 2019 to the Town Board. Based on conversations, the board concluded that they can supplement the referral made in January.

Mr. Carthy was concerned with what the site would look like in the future as proposed today. He would like see less density and more green space, Mr. Hirschmann agreed.

At Mr. Carthy's request, the board members summarized their comments at this time. Mr. Hirschmann stated he would like to see another plan with less density and a plan out of the restricted area. He is also concerned about approving a plan contingent upon changing a Fema map and the impacts of the flood zone on this site and surrounding sites.

Mr. Baroni inquired if the board agreed that with every reiteration of this plan the comprehensive plan has to be amended. He opined that limited residential did not refer to the entire site. The Town Comprehensive Plan is a living breathing document that can be amended. Once the Comprehensive Plan has been updated, the board cannot be accused of spot zoning. A Public hearing and environmental review are necessary to change the Comprehensive Plan. The Town Board can also decide not to move forward with this application and not update the Town Comprehensive Plan at this time. It is a coincidence that the Town Comprehensive Plan was recently updated and now consideration of it being amended. There was no way to know this applicant was going to take down the existing buildings and build new residential units. Mr. Sauro stated that the market force dictates many of the things that we cannot foresee.

Mr. Baroni noted that at the last Town Board meeting the Pastor of St. Stephens Church and the trustees stated they were in support of the position of the Architectural Review Board regarding this application.

Mr. Pollack summarized the items discussed so far this evening. Mr. Carthy summarized topics for discussion with the Town Board at the work session and wanted to know if the Planning Board was in support of amending the Town Comprehensive Plan.

Mr. Kaufman summarized area of concerns that were relayed to the Town Board in January. The board considered what else to add to that letter. The board was surprised they made a recommendation without having gone on a site walk. Mr. Kaufman stated that all of the other issues may impact density.

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Mr. Pollack made a motion to adjourn the meeting. Mr. Sauro second the motion and it was approved with five ayes.

Meeting was adjourned at 9:55 p.m.