

**NORTH CASTLE PLANNING BOARD MEETING  
15 BEDFORD ROAD – COURT ROOM  
7:00 P.M.  
February 25, 2019**

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PLANNING BOARD MEMBERS PRESENT:                      Steve Sauro, Acting Chairman  
   Jim Jensen  
   Gideon Hirschmann

Planning Board Members Absent:                      Christopher Carthy, Chairman  
   Michael Pollack

Also Present:    Adam R. Kaufman, AICP  
   Director of Planning  
  
   Brian Hildebrand, P.E.  
   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:  
   Andy Block

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**APPROVAL OF MINUTES:**

**February 11, 2019**

Mr. Sauro asked for a motion to approve the February 11, 2019 minutes, Mr. Jensen made a motion to approve, it was second by Mr. Hirschmann and approved with three ayes. Mr. Carthy and Mr. Pollack were not present for the vote.

**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**

Mr. Jensen read the affidavit of publication for the record. Mrs. Desimone noted all paperwork was in order for this application. Noticed neighbors Nick and Julie Gagliardi at 6 Barnard Road were present.

Mrs. Criniti stated that her professional was not able to be present this evening. She noted this application was before the board to move the AC units further from the house to reduce the noise from her bedroom window and to level the property around the units for safety reasons.

Mr. Sauro noted that the requested landscape plan was not submitted. Mrs. Criniti stated her professional is working on that and will submit it.

Mr. Gagliardi stated that his lot was adjacent to this lot and his parents lived across the street. Mr. Gagliardi had the following concerns regarding this application:

- If the gravel driveway would be removed – it is still shown on the plan
- If cars would continue to park on the grass next to the house, he presented 3 different photos of a car parked on the grass this past month
- Exactly how much of the knoll will be removed and what are the elevations?
- Will screening be provided so he will not view or hear the AC units?
- Concerns of water draining on his property as result of the change in the knoll
- Will there be a final as built?

Mr. Kaufman noted that in the draft resolution condition #2 addressed the first bullet regarding the gravel driveway and its removal prior to the board signing off on the plans.

Mr. Sauro stated that in regards to the second bullet, the applicant has agreed to a landscaping plan and will provide it along the street as discussed. Mr. Kaufman stated that all vegetation at the top of the site was shown to remain on the plans.

In regards to bullet #3, Mr. Gagliardi stated with the original approval there was no discussion of work on the knoll and now that there is work on the knoll he would like some landscaping to screen his backyard from the applicant's lot so he will not have to see or hear the A/C units.

Mr. Gagliardi was concerned about the result of the work done on site that water would end up on his lot and it could flood his back yard and his septic area. Mr. Kaufman stated that the plan shows that the applicant is not removing the top of the slope and all

of that vegetation should remain because they are going into the slope. Mr. Sauro stated that while out at the site walk, the applicant's professional, Mr. Besherooff said they would not be digging into the fill so far that it would remove any of the bamboo on site.

In response to Mr. Gagliardi's comment, what if all the existing landscaping was removed on top of the knoll. Mr. Kaufman noted that would be an issue because that would not be in accordance to the site plan. Mr. Hildebrand also noted that a limit of disturbance line will be installed and reviewed prior to any work taking place to ensure nothing is removed that was not on the approved plan. If the applicant goes beyond the line, they will be in violation of their approved site plan.

Discussions were had regarding water on site and where it will flow too and how the site would be pitched to address it. Mr. Gagliardi stated as long as it is not draining on his property, he will be fine with it.

Mrs. Criniti stated that in regards to Mr. Gagliardi's comment, the gravel area was removed and there is grass there presently and a few more trees will be planted.

Mrs. Criniti will follow up with Mr. Cermele regarding condition #1 in the draft resolution regarding the board of health.

The board agreed to adjourn the meeting until the landscape plan was submitted.

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

#### **NEW AND CONTINUING BUSINESS:**

**GUIDO [19-005]  
2 Sterling Road North  
108.02-1-45  
Plan Amendment  
SI Design Group  
Discussion**

Present for this application was Mr. & Mrs. Guido and their daughter.

The applicant is proposing to construct a second curb cut, expand and extend the driveway and remove three trees.

Mrs. Guido stated that she purchased the house in 2013 and did not realize at the time how hazardous the existing driveway was. She explained that the prior owners converted the existing garage into a family room and built a new garage next to the family room which brought the new garage at the time closer to Route 22. She stated while driving north on Route 22 and turning onto Sterling Road North and then right onto

her driveway is no problem. When exiting the driveway there have been a lot of near misses with her neighbors and is concerned with the safety of her children getting on and off the bus. She noted that practicality was another reason for this application as she loads and unloads her car by the garage with groceries, sporting equipment for three kids and as a realtor she stages homes and the furniture is stored in the garage. Presently, entering the site is convenient, exiting the site is not and that is why the second curb cut is so important, to exit the site safely. She also noted that the vehicles who do regular deliveries on site back up into her driveway, i.e.: oil, ready fresh, deliveries, garbage pickup, water deliveries, UPS – FedEx. She also noted that the second curb cut would be aesthetically pleasing and provide curb appeal. She also stated that she has the widest lot on the street and the biggest lot. She also stated that 5, 6, 9 Sterling Road North all have two curb cuts.

Mr. Sauro stated that he understands the applicants concerns and suggested closing the original entrance and opening the new curb cut with a circular court in front of the house. He did not feel it was appropriate to let the existing entrance remain because there are those drivers that will take the path of least resistance and we don't want anyone to get hurt. Mr. Guido noted the septic tanks and septic fields are in front of the house and there is also a telephone pole in the front yard and that would not work. Mr. Guido explained the challenges of oil delivery on site. Mrs. Guido suggested a one-way sign can be put on site to enter the existing driveway and exit the new curb cut.

Mr. Jensen concurred with Mr. Sauro regarding the second curb cut and suggested shifting the existing entrance further away from Route 22. Mrs. Guido noted that the house does not flow as it is and did not want to exacerbate the issues on site, she wants to enhance the curb appeal of her home and does not want to place the driveway in a location that looks worse. The code says if the board feels it is warranted and she opined it is warranted, it eliminates all the problems with keeping the integrity of the esthetics on site. She does not want to do something that decreases the value of her home.

In response to Mr. Hirschmann's comment, Mr. Hildebrand stated that Mr. Cermele echoed similar concerns that the board did. If the curb cut remains, there will still be a safety issue for cars entering and exiting the site and he deferred to the board on this matter. Overall he is agreeable to having two curb cuts if the board feels the same. The board discussed the location of the septic tank and fields on site and how they might be able to make this work. Mr. Guido noted he had a survey which showed where all of the septic tank and fields are located. Mr. Hildebrand stated that depending on how large the septic fields are you might be able to shift the driveway further away from Route 22.

Mr. Holt and his clients asked for a 10-minute recess to discuss this further in the hallway. 7:30 p.m.

8:02 p.m. continued discussion

Mr. Holt stated that Mrs. Guido did a good job explaining the need of the second curb cut and the practicality of the day to day operations at home and of course the safety

issue. He opined that the safety issue is what turned the board off of the second curb cut. Why keep a bad curb cut in favor of getting a second one. He stated that if the board was in favor of a second curb cut - he would like to look into moving the existing driveway further back from Route 22. He thought initially he could double the existing distance to Route 22 and that would get us out of the "danger zone" and he could work on the site lines with the grading without hurting the Contour lines and expansion area and this would relieve the safety concerns the board has. He will have to come up with a plan that is code compliant assuming the board is ok with a second curb cut and the driveway moved to that location.

Mr. Hirschmann inquired if the new driveway location would fix the safety issue, why would you need the second curb cut. Mr. Holt reiterated what Mrs. Guido said earlier about all the deliveries on site, access to the garage, flow of the property, curb appeal.

Mr. Sauro stated that if the existing driveway were moved in further like Mr. Holt suggested he would be alright with a second curb cut. Mr. Hildebrand stated that if the driveway is moved, the driveway will have to be code compliant with 200 feet site distance from each side. If the driveway is moved, it will not be code compliant, you will need a variance, it may be extra steps to do this but you would get a better end product. Mr. Kaufman sked the board if they were considering a driveway location that was not compliant. Mr. Holt stated we are trying to make a better situation by moving the driveway. Mr. Kaufman stated that we have a better situation by eliminating the existing driveway and using the new driveway location.

Continued discussion took place regarding this matter. Mr. Jensen noted the plans showed that the new driveway location was about 285 feet from Route 22 and continued discussing how the site can be utilized with one driveway. Mrs. Guido was not happy with Mr. Jensen's response. She noted she was a realtor and the curb appeal of the driveway crossing the lot to access the driveway was aesthetically ridiculous. She would love to have a courtyard in front of the house but financially to move the septic fields did not make sense. She noted the prior owners put additions onto the house and the house does not flow, she does not want to make the situation any worse. She reminded the board that she has more frontage than the other neighbors on her street and there are three other neighbors on her street that have a double curb cut. Continued discussions took place. Mr. Kaufman stated they have seen other application where the driveway goes across the front of the house. Mr. Baroni suggested gating the first entrance to control who goes in and out of that entrance. Mr. Hirschmann was concerned with who would make sure the gate was not open 365 days a year. Mrs. Guido stated the code says a second curb cut is permitted if the board finds it necessary, does the board not find it necessary? Why can't we explore Mr. Holts suggestion?

Mr. Sauro summarized the applicant's options at this point. She can keep the existing driveway and second curb cut with only this board's approval. Mr. Holt can submit another plan moving the existing driveway further from Route 22 which will require a variance. Mr. Sauro inquired what was the likelihood of a variance being granted. Mr. Kaufman expressed his concern that the Zoning Board will say we have a plan that is fully compliant with the use of the second curb cut, why would we approved this non-

compliant application. Mrs. Guido stated moving the original driveway entrance will cost additional money and she would like to stay with the original plan and put up a one way sign to enter the driveway only, not exit it. Mr. Kaufman noted that someone who was not familiar with the site may pass the first driveway and enter the second curb cut and exit the original curb cut which is what we are trying to avoid.

Mr. Hirschmann noted there are a lot of options with this application. He clearly understands that Mrs. Guido wants a second curb cut. Every driveway in town faces the same issues that Mrs. Guido described with her lot and there are many lots in town where the driveway crosses the front of the house. Mrs. Guido noted there were other lots in town that have well thought out lots where the driveway goes to the garage, then the mudroom, then the kitchen. Her garage cuts through the family room and then to the kitchen. She opines that putting the driveway in the wrong place is making the discombobulated house worse. She wants to invest in her property to improve it, not devalue it. She feels that this will address the safety issue but creating another issue. She noted she has the most frontage on her 3-acre lot which is zoned R-2A acre. She noted if the garage were on the other side of the house she would be fine with a single curb cut. She has a problem with this lot and is hoping the board will help her solve it with a second curb cut.

The three board members present totally understood Mrs. Guido's safety concerns as presented at the meeting as well as in her cover letter to the board but could not understand why she would want to continue to utilize the existing unsafe curb cut. The board opined that there is a viable solution with moving the driveway further down the road and noted that many other homes in town have driveways that cross the front of the house.

Mr. Holt inquired if he was able to come up with a 100% compliant plan with two curb cuts is the board still going to say no. Discussions took place regarding when is it appropriate and when is it not appropriate to approve a second curb cut. Mrs. Guido stated she would like the board to answer the question, she stated she has already spent enough money on this project and if the board is going to turn it down anyway then she wants to find out now before spending any more money.

Mr. Kaufman stated that the applicant made a good point that there is a large frontage on this lot and the board can take that into consideration. Plus, what is happening in the rest of the neighborhood, there are a number of lots that have two curb cuts. Mr. Sauro agreed with Mr. Kaufman points. Mr. Hirschmann stated he would entertain the application.

Mr. Holt will resubmit the plans and see how much further away from Route 22 the driveway can be located.

**GDC EQUITIES, LLC [18-032]**

**873 North Broadway**

**122.12-4-27**

**Site Plan**

**Rich Williams, PE Insite Engineering Surveying & Landscape Architecture, P.C.  
Discussion**

Present for this application was Rich Williams and the applicant Steve Tobia from GDC Equities.

Mr. Williams stated that he has provided an updated survey and addressed the professional's comments. He would like to discuss the look of the frontage along route 22.

Mr. Williams stated that in response to comments from the Town Engineers memo, there was work done on their property. There is a drainage channel that flows along the south side of their property from NYS Route to the abutting lot at 11-13 Washington Place East. That water is not their runoff and do not contribute to it, it is runoff from route 22. There have been flooding issues going on for years. Recently a backhoe showed up on site and the property owner of 11 Washington Place East informed his client they had received approval to install a pipe for a headwall on site. As soon as this matter came to his attention he reached out to Adam Kaufman and Joe Cermele and requested a site walk to address this matter. He wanted to bring this to the board's attention to be transparent, so this would not hold up his client. His client is happy to work with the neighbors on this but did not want to hold up his own application. Mr. Williams stated that the area where the backhoe was doing the work was not in the area his client had work proposed.

In response to comments from the board, Mr. Williams stated that Mike Cromwell issued a stop work order, the board continued discussing whether they could continue working with this application when a stop work order was issued - due to recent legislation that was passed.

In response to comments. Mr. Hildebrand stated that the channel vs. the pipe on site, the channel collects any runoff or the water and sediment and the pipe goes in the backfilled trench and that water will bypass what used to be collected and brought downhill. It changes the hydrology of the area. Mr. Williams stated his client did not have a preference.

The board discussed how to proceed regarding this matter. Mr. Sauro did not see why this should hold up this applicant and penalize them for work they did not authorize. The board inquired if we can work concurrently with both applicants or not?

Mr. Baroni stated that the way that the law reads is that 60 days has to lapse between the issuance of a notice of violation or stop work order and the failure of the property owner to remedy the situation either by going to the ZBA or having it cured at the Building Department level. It is not the issuance of a summons.

In response to Mr. Hirschmann's and Mr. Jensen's comment regarding the local law. Mr. Baroni stated that the board can continue to discuss this application because 60 has not passed.

Mr. Baroni asked Mr. Williams if the DOT had a drainage easement through their property. Mr. Williams stated the title survey and the title report did not show one on record, the boundary report did not show one either. He would also like to know if there was any work done in the DOT right of way. He would like to understand exactly where the DOT pipe was installed.

Mr. Williams stated there was an awning on site. There is expansive asphalt in front of the building. He noted the front of the building will be repaved and a sidewalk will be installed with some landscaping and topiaries behind the sidewalk. He would prefer planter boxes to keep the drainage away from the building. He stated that he brought the plans to the NYSDOT and they had no issues with the plans. Mr. Kaufman noted if the DOT was agreeable to plantings in the right of way then so was the town.

It was noted that there would be an entrance from the street level for pedestrians and a second entrance from the rear of the building for those who would be parking on site for drop off or pick up. As requested the, the applicant will submit updated plans with the interior layout of the first floor plans.

Mr. Jensen inquired about the fire sprinklers on site. Mr. Kaufman stated that he followed up with the town's fire marshal, William Richardson who informed him that an automatic fire alarm was not required and a sprinkler system was not required. The applicant, Mr. Tobia stated that he was going to install an automatic fire alarm for the site.

Mr. Jensen recalled that Mr. Kaufman had mentioned in December the Westchester County permit requirements for Dry Cleaners. Mr. Jensen inquired if there a department of health permit required or a DEC permit was required for this applicant? Mr. Kaufman noted that both of them are required.

Mr. Jensen noted that there was no supporting documentation for the water demand or discharge for this site provided to the water and sewer department. Mr. Kaufman agreed and noted that Mr. Misiti stated in his letter that this use should not cause an adverse situation in either the sewer or water district. Mr. Baroni stated that there was another dry cleaner that had been there for years, perhaps Mr. Misiti was using that as a guidepost for this applicant.

The board was looking for more concrete verification from the water and sewer department regarding the amount of sewer and water for this use and will the district be able to accommodate it. Mr. Williams reminded the board that this is a code compliant use and his client pays taxes for the use of sewer and water on site. If this was not a code compliant use, he could see the board's concerns. Mr. Kaufman will send communication to Sal Misiti regarding this request and the applicant will provide supporting documentation regarding the calculation of usage and disposal for the site.



A site walk was scheduled for Thursday, February 28, 2019 at 12:30 p.m. with Mr. Kaufman, Mr. Cermele, Mr. Williams and the abutting property owners at 11-13 Washington Place East Frank Della Galla and Janet Glover.

Mr. Jensen noted that last fall there was a compelling rational from the applicant to let them move forward, there was a sense of urgency by this applicant to do interior changes and now outside things are happening on site and causing bigger problems. Mr. Hirschmann noted that was the applicants risk doing the interior renovations. Mr. Williams stated that we understand that and we are doing our best to stay ahead of the problems, that is why we reached out to the town as soon as we were aware of the backhoe situation.

Mr. Loberman agreed with Mr. Jensen and the board should continue to act cautiously. It seems that everything proposed in North White Plains has the greatest expectations and are all Rosie and then problem after problem starts up. You can't always see all the good in a situation, you need to consider all the bad too. He agrees with Mr. Jensen.

A site walk was scheduled and the applicant will address the comments in the Memos and resubmit to the board. A second referral was sent to the Water and Sewer Department.

**34 CREAMER ROAD [18-002]**

**34 Creamer Road**

**108.04-2-14**

**Single Family Home Site Plan**

**Ralph Alfonzetti, PE Alfonzetti Engineering**

**Jay Fain, MS, PSS, CPESC, CERP Jay Fain & Associates**

**Kory Salomone, Esq., The Law Office of Kory Salomone PC**

**Discussion of establishment of wetland mitigation bond**

Mr. Sauro made a motion for a positive recommendation to the Town Board. It was second by Mr. Hirschmann and approved with three ayes. Mr. Carthy and Mr. Pollack were not present for the vote.

**HIDDEN OAK SUBDIVISION [14-106]**  
**13 Hidden Oak Road**  
**107.01-1-32**  
**3-lot subdivision**  
**Alan Pilch, Evans Associates**  
**Consideration of 8<sup>th</sup> extension of time resolution**

Mr. Sauro made a motion to approve the extension of time request. Mr. Hirschmann second the motion and it was approved with three ayes. Mr. Carthy and Mr. Pollack were not present for the vote.

The board discussed general applications requesting extension of times and what is a reasonable amount of extensions for any application whether it is a site plan, subdivision or special use permits. The board concluded that this should be discussed as an agenda item with a full board present. (scheduled for March 11, 2019) Mr. Hirschmann asked for a checklist to be created with the status of the application is for the board and when the applicant feels he will finish the application. Mr. Baroni noted that in 2008 the rules changed and unlimited extensions were now permitted. The board agreed upon some questions to be answered on the form.

In response to Mr. Jensen's comment, if this extension was not approved this evening, would the applicant have cause to sue the town. Mr. Baroni stated that you don't have to have a reason but if you built a case, i.e.: if when you granted an approval this evening you choose to say this will be the final extension, if the applicant does not finalize within the next 90 days, that is on the applicant. If the board is moving into this direction, they should lay a paper trail for an applicant and that would give the applicant plenty of time with their decision or convince the board why he needs another extension.

Mr. Sauro noted he did not want to be onerous to the property owners but would like more information from the applicant regarding the status of their application. Mr. Hirschmann agreed. Mrs. Desimone stated that when she speaks to an applicant regarding an extension, she informs them to provide the status of the application in the letter to the board that requests the extension. She informs the applicant that the board likes to know that detail prior to granting an approval for an extension request or the applicant can attend the meeting and update the board. Mrs. Desimone stated that she noted when the letter was submitted that there was no status of the application and emailed the applicant that they should update the letter with more details regarding the status of the application. The applicant said they would send an updated letter, the letter never came and the applicant was informed to attend tonight's meeting and provide the board with an update. Conversations took place today in the office and the applicant was informed they did not need to attend the meeting this evening. The board concluded to schedule this item on an agenda for an organized discussion with a full board.

**NOBLES / WAMPUS MILLS LLC [18-022]**

**43 Old Mount Kisco Road & 585 Main Street**

**101.03-2-11 & 108.01-1-27**

**Lot Line Change**

**Kory Salomone, Esq. The Law Office of Kory Salomone PC**

**Discussion**

**Consideration of extension of time resolution of approval**

Mr. Sauro asked for a motion for an extension of time request regarding the Nobles Wampus Mills LLC application. Mr. Hirschmann made a motion to approve. It was second by Mr. Jensen and approved with three ayes. Mr. Carthy and Mr. Pollack were not present for the vote.

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

Meeting was adjourned at 8:42 p.m.