

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 P.M.
November 7, 2016**

PLANNING BOARD MEMBERS PRESENT: John P. Delano, Chairman
Steve Sauro
Christopher Carthy
Jim Jensen

Planning Board Members absent: Michael Pollack

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

Valerie B. Desimone
Planning Board Secretary
Recording Secretary

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

John Kellard, PE
Consulting Town Engineer
Kellard Sessions PC

Conservation Board Representative:

:

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

APPROVAL OF MINUTES:

October 24, 2016

Mr. Delano asked for a motion to approve the October 24, 2016 Planning Board minutes. Mr. Sauro made a motion to approve. It was second by Mr. Jensen and approved with four Ayes. Mr. Pollack was not present for the vote.

PUBLIC HEARING:

WHIPPOORWILL CLUB DRIVING RANGE

150 Whippoorwill Road

Section 100.04, Block 1, Lot 41

Amended Site Plan

Richard Cordone, Design Manager, John Meyer Consulting

Stephen Spina, PE, Project Manager, John Meyer Consulting

Discussion

Present for this application was Richard Cordone, John Meyer Consulting.

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

Due to the fact that ZBA public hearing did not take place because of a lack of quorum, the next ZBA meeting will take place on December 1, 2016. The applicant requested the Planning Board public hearing be adjourned until December 12, 2016.

Mr. Delano asked for a motion to adjourn the Whippoorwill Club Driving Range application public hearing. Mr. Carthy made a motion to approve. It was second by Mr. Sauro and approved with four Ayes. Mr. Pollack was not present for the vote.

ARMONK CLOSE

162 Bedford Road

108.03-1-42

Multi-family Site Plan

Mike Fareri

Discussion

Present for this application was Michael Fareri and Steve DeLaurentis.

The site plan amendment for the lumberyard (162 Bedford Road) property to construct 30 market rate units (comprised of 8 1-bedroom units, 20 2-bedroom units and 2 3-bedroom units) and the relocation of the six required AFFH units from the lumberyard property to 470 Main Street. The 470 Main Street special permit plan is for the construction of a 14,432 square feet residential building containing 16 two bedroom AFFH units and the retention of the existing 1,400 square foot retail building at 470 Main Street. The Town Board has referred this application to the Planning Board.

Mr. Delano asked for a motion to reconvene the Armonk Close Public hearing. Mr. Carthy made a motion. It was second by Mr. Sauro and approved with four Ayes. Mr. Pollack was not present for the vote.

Mr. Fareri reviewed the steps necessary between the boards to get this application approved. He presented the rendering for both buildings and presented the application to the board. He discussed the common charges for both buildings and noted the differences in the charges. He stated this would reduce the traffic at the 162 Bedford Road site and how both sites have public water and sewer. He reviewed the tax information for all three proposals with the board. Mr. Fareri also reviewed the costs per student and the efficiency level of more or less children in the school district.

Mr. Fareri reviewed the impervious surface at 470 Main Street and pointed out the wetland and wetland buffers on site and how the buffers are not mitigated right now but after this application there will be mitigation. He then discussed if the building were moved out of the wetland buffer it would reduce the units from 902 square feet to 750 square feet and he felt the 750' was too small. He noted the DEC wetlands are part of the Town Park. He reviewed the costs of purchasing 470 Main Street as it relates to the cost per AFFH unit to build. He asked for a referral back to the Town Board.

Mr. Kaufman and & Mr. Cermele had no major issue with this application.

With the referral from the Town Board there were four specific recommendations the Town Board asked the Planning Board to discuss.

In regards to the comment made by the Town Board about patios and decks for the units. Mr. Fareri stated very strongly that he did not like the look of second floor patios but would provide the first floor units with patios or decks. He noted that he could do a playground and outdoor private space for the second floor units. Mr. Fareri noted that typically the AFFH units do not have decks or patio as they are too costly.

The Planning Board reviewed and discussed the comments from the Town Board at this time. Mr. Kaufman strongly recommended to the board that 1st & 2nd floor balconies and patios can be done tastefully.

He also noted the inconsistencies within the town regarding the AFFH units and noted that Armonk Square had no outdoor space for their apartments. He also stated that there were only 6 units with patios at Whippoorwill Commons and the Lumberyard had 1 common area outside. Mr. Sauro agreed with his comment.

Mr. Carthy tried to continue discussing the comments from the Town Board with the other board members at this time. Much discussion and debate went back and forth with the board members and the applicant, Mr. Fareri regarding the comments from the Town Board.

Mr. Baroni noted that in the memo from Westchester County, they requested more outdoor space for the AFFH units. Mr. Kaufman recalled seeing the same comments from Westchester County. Mr. Fareri did not recall seeing this comment.

Mr. Kaufman also noted that he has given his professional opinion regarding out door space and there are different site conditions all over Westchester County and his office has provided recommendations regarding out door space.

Mr. Fareri agreed to do it but not with aesthetically negative impacts. He suggested the ARB should make that decision, not the Town Board or the Planning Board. He opined that the 902 square feet of indoor space would offset the deck space lost on the second floor.

In response to comments made, Mr. Fareri will not reduce his AFFH units from 16 units to 12 Units. The zoning permits 16 units and he will build 16 units.

The Planning Board agreed to refer the special permit positively back to the Town Board. The Planning Board will pay attention to Town Board comments 2,3,4 during site plan review and in regards to comment #1 regarding out door space and patios, the board is in favor of the first floor and the applicant has agreed to that but it is not obvious to the board about the 2nd floor decks/patio and would like to discuss further and perhaps get some input from the ARB on this matter. The board would also like a detailed landscaping plan.

In regards to comments made by both professionals in their memos, Mr. Kellard stated to the board they were strongly infavor of building step units and building them closer to the road which would provide more privacy to the CVS lot and provide a larger backyard for the site. Mr. Fareri agreed to this suggestion and will review it during site plan.

Mr. Sauro made a motion to positiely recommend to the Town Board the Special Use Permit and the conceptual plans for the 30 units at 162 Bedford Road and 16 units at 470 Main Street with language as noted above. Mr. Carthy second the motion and it was approved with four Ayes. Mr. Pollack was not present for the vote.

CONTINUING BUSINESS:

HIDDEN OAK SUBDIVISION

13 Hidden Oak Road

Section 107.01, Block 1, Lot 32

Alan Pilch, Evans Associates

3-lot subdivision

Discussion

Present for this application was Alan Pilch and his client Kevin McKenna.

A public hearing was scheduled for December 12, 2016.

BTDT PROPERTIES

18 CAROLYN PLACE

Section 100.04, Block 1, Lot 5

Mark P. Miller, Esq. Veneziano & Associates

Referral from RPRC - Tree Permit

Discussion

Mr. Carthy recused himself from this application.

Present for this application was the applicant Kirk Scuderi and his professionals Mark Miller, Attorney and Frank Giuliano, landscape architect and neighbor John Skeel at 22 Carolyn Place.

The site plan application for the establishment of tree restoration plan on the above referenced property. The Applicant has removed trees that were not approved by the RPRC. The RPRC determined that given the environmental constraints of the property and the amount of proposed disturbance, a detailed review by the Planning Board and Conservation Board is warranted.

Mr. Miller stated that this was a referral from the RPRC for a tree removal permit. We are here tonight to fix the problem, not the blame. There are two sides to every story. Tree removal was issued for 11 trees and 12 were taken down. There has been some issue as to whether his client went beyond the scope of that permit and he believes that he absolutely did not. There are some issues as to whether he went onto Town Land or Westchester County Land closer to the lake. He disputes that and he does not want to get into that, he would like to fix the problem. At this point he and Mr. Giuliano were hired to provide a restoration program. Twelve trees were taken down, not an additional twelve trees, just twelve trees. There was a Certificate of compliance issued by the Building Inspector with respect to the tree permit. His client would like to make things right and restore the site. The building permit is on hold while this issue is being resolved.

Mr. Miller continued, his client is a builder, purchased the property, spent money demolishing the house and would like to build the house. None of the activities that would be required for the reforestation program would impact the building of the house. We welcome the site walk, working with the board through the process and providing neighbor notification. Mr. Giuliano will present the restoration plan. Time is very tight for his client right now with the encroachment of winter. His principal goal is to allow the building permit to continue, he knows the board needs to have some comfort with the restoration plan and suggested that no temporary or final CO be issued until everyone is completely satisfied with the reforestation plan. This is his clients living and livelihood and he would like to continue doing that and the board will have the protection of no CO and his client will have moved further along with the house and have a deeper incentive to complete the restoration plan. There are issues as to whether or not his client went on Westchester County land and he has not heard anything from Westchester County regarding this matter. Apparently the County may have contacted the Town Planner. Critical for his client is to pour foundation before it is too cold and

start building the house.

In response to Mr. Baroni's comments, Mr. Miller stated that the applicant went before the RPRC and got approval for the house and went back to the RPRC for the restoration plan which the applicant was then referred to the Planning Board. The Building Inspector would like input from the Planning Board regarding the issuance of a Building Permit. There is no summon issued.

Mr. Kaufman stated that he did speak with a representative from Westchester County today, David Deluccia and David said that they need assistance with getting a survey and staking the property lines in the field. They said they have reached out to the applicant and have not had a positive response with coordinating with them. Westchester County asked that the Planning Board work with the applicant to help get the information that they need to determine what did or did not happen on Westchester County property.

In response to Mr. Baroni's comment regarding Town of North Castle land in that area. Mr. Kellard stated that there was a four acre parcel that was donated to the Town of North Castle at the time of the subdivision and that was supposed to be donated to Westchester County. Mr. Kaufman noted Westchester County declined the lot. Mr. Kellard stated that this really impacts the County property more than the Town property, there was a clearing from Carolyn Place all the way down to Wampus Pond and there is a water course to the pond.

Mr. Miller stated they will do and work with whomever necessary to keep this project moving forward. In response to Mr. Baroni's comment, Mr. Miller stated that there are trees down on Westchester County property, he has seen pictures, a lot of them are uprooted and the root balls are still attached. He noted that his client was quit explicit that he did no cutting on County property and can get affidavits from the tree people who did the cutting on his site to that effect. His client told the tree company to not go beyond the 218' to rear of the property line and he marked that line to make sure they did not go past the property line. At the site walk, the board will see there were some clearly older stumps that were cut down by the prior owner. There has been activity over the years. His client cut down twelve trees and got a certificate of compliance from Mike Cromwell, Assistant Building Inspector. Mr. Kellard noted that he saw a clearing from Carolyn Place to Wampus Pond, and this goes for hundreds of feet, whether they cleared it, someone cleared it and there is also a watercourse through this area as well and this is a wetland issue. Mr. Miller noted he had a letter from Steve Marino from Tim Miller associates which he can supply to the board regarding old drainage. Mr. Kellard stated that Dave Sessions from his office was out to the site- Mr. Miller interrupted and suggested that both professionals speak on this matter.

Mr. Delano asked that the property lines be staked and asked Mrs. Desimone to coordinate a site walk with the representative from Westchester County that Mr. Kaufman spoke with earlier today, Mike Cromwell, Dave Sessions, Adam Kaufman, Planning Board, the applicant Kirk Scuderi and his professionals - Frank Giuliano and Steve Marino. He would like the site walk noticed so that the board can discuss it at the

site walk. A site walk was scheduled for Wednesday November 16th at 8:30 a.m. on site.

Mr. Kaufman stated that he asked Westchester County how they would like to deal with the issues on their property and their response to him was they would like to deal with it themselves. They have an issue as to whether or not North Castle has any jurisdiction over Westchester County property. Mr. Delano noted the town does not. Mr. Kaufman stated Westchester County would rather be on their own and will deal with their own enforcement and violation on their own property.

Mr. Miller stated that he and his client will do whatever is needed to keep this moving forward; he would like a site walk scheduled and a neighbor notification for the next meeting if possible. Mr. Kellard stated that the board really needed to see the site before rendering a decision.

Mr. Delano stated that the board needs to see the site and speak with Mike Cromwell and have Dave Sessions attend the site walk as well. Mr. Miller asked if there was a consensus regarding the allowance of the building permit to proceed. Mr. Delano noted he was a little leery personally. Mr. Skeel asked to speak at this time.

Mr. Skeel stated that the applicant asked him to attend the meeting; he noted the house next door was an eyesore and this application is a big improvement to the Town. This tree issue is different from building the house and the board should let him build. Mr. Miller noted the work on the house is independent from the tree reforestation, he did not see any down side to the town with issuing a building permit. He noted the RPRC approved this application. Mr. Kellard noted that the issue with his office is that the RPRC approved the building permit because there was not one tree to be removed on the property. The RPRC said lets give them a building permit, if they knew that was going to occur they would have sent this application to the Planning Board that is the position of his office. Mr. Miller noted that it was his understanding that the tree removal permit and certificate of compliance was issued prior to the RPRC application. Mr. Kellard stated that his office states that while at the RPRC meeting not one tree was going to be removed from the site. Mr. Kellard stated that the board has to see the site. Mr. Miller stated that he does not see why the Building Permit cannot be allowed to proceed while working on the reforestation plan. Whether or not someone said this or went outside the permit, we are here to make it right. Mr. Kellard stated there may even be a wetland violation. Mr. Miller stated that he will address that. Mr. Delano stated that we would rather that be addressed before digging around in the ground. Mr. Miller stated the house will be built in the same location as where the house was demolished and is basically within the same footprint.

In response to Mr. Delano's comment, Mr. Kaufman noted that Michael Cromwell, Assistant Building Inspector, wanted input from the Planning Board regarding this situation before he issues a building permit for the house. Mr. Delano summarized that the applicant went to the RPRC and got approval for the house and then went back to the RPRC for the tree removal permit. Mr. Kaufman agreed.

Mr. Miller stated that he had a discussion with Mike Cromwell and he told him that if this board was comfortable, he was ok with issuing the Building Permit. Mr. Kaufman noted he has had conversations with Mr. Cromwell as well. Mr. Baroni stated how can the board be comfortable if they have not had the opportunity to see the site. Mr. Miller noted because they are separate. Mr. Delano stated they may not have been separate if the site plan came in proposing tree removal and maybe we would have found out about the wetland and watercourse and the RPRC would have sent this full package to the Planning Board before a saw came off of the truck.

Mr. Scuderi stated that he received tree removal and got a certificate of compliance from Mike Cromwell and then went to the RPRC and Mr. Kaufman noted at that meeting that trees were taken down and he got a certificate of compliance for those trees. Kellard Sessions was concerned if there may be a water course and they were more than 100 feet away and the architect addressed this and Kellard Sessions approved it. The Building Department typed his permit and Westchester County came after the fact to Mike Cromwell and asked if there were trees cut down here. Westchester County asked him if he had a tree permit and he said he did and showed it to them. Westchester County was not happy about that because you can see the house now from the water, which you could always see the house, you can see it more now that he took his trees down. It opened up what was taken down by hurricane Sandy and what the prior owner cut down in the past and that is another statement from someone as to what he cut down in the past. The prior owner had hunters in there that had tree stands and cut down some trees for better visibility from the tree stands, the prior owner was there 15 years. The prior owner was cutting down trees all the way up to the past year because of being in foreclosure he was trying to up the value of his property and ended up short selling it to him. The tree permit was done and completed before the RPRC meeting.

Mr. Kaufman stated he was not sure how the applicant got his certificate of compliance.

Discussions were had at this time regarding the order and timing of events regarding tree removal, certificate of compliance and RPRC approval. The applicant and Mr. Kaufman did not agree with the sequence of events that brought the applicant to the board today. It was noted that everyone would have a better understanding once out to the site. Mr. Scuderi stated for the record that he was not on Westchester County land and did not remove any of their trees. He has loans in place and five children to feed and is at a standstill right now and has no other jobs going right now. He would really like his building permit.

Continued discussions were had regarding what happened at the site and if the present owner or prior owner took trees down and when and why according to Mr. Scuderi. It was noted the tree stumps were marked and were according to the plan except for the additional tree that was taken down. Mr. Guiliano stated that the entire ridge line has trees down and were uprooted and some logs were down for 5-10 years and are decomposing. Mr. Kellard stated that there are trees on Westchester County and Town property that appear to have been cut down and they are cut up and these trees are fresh cuts. Mr. Guiliano agreed there are some fresh cut but did not know how fresh

they were. Mr. Guiliano reviewed the plan and reforestation plan for the board at this time. The trees going in are 2 ½ inch caliber because of the slope they would be planted on and they will not be watered regularly. If larger trees like 3 ½ inch caliber were planted, they would look good but almost 50% of the trees would not survive because of the slope and lack of regular watering.

Mr. Sauro stated that if this was only one tree we would not be here right now. Mr. Miller stated that both sides have different opinions as to what happened and now we have to fix it with a reforestation plan. Mr. Sauro stated that the 800 pound elephant in the room is setting a precedent and if someone comes in and clears something and says I am so sorry but just let me keep building and by the spring let me get you a new forest. It sets a dangerous precedent. Mr. Miller stated that he does not know if that is precedent, as the facts come out and the board sees the site, it will reinforce what we believe did happen on site, To a large extent they are separate. The construction will happen in the front of the site and the reforestation will happen at the rear of the site.

Discussions were had regarding the issuance of the foundation permit. Mr. Kellard suggested the board go out to the site and make a decision after that. Mr. Sauro stated he yields to the professionals. Mr. Miller stated if the foundation permit is issued at the end of November that does us no good, it is too cold. A stop order can always be issued if his client is not working with this board, the Conservation Board and Westchester County. Mr. Baroni noted that if that was the case we would have to go to court. Mr. Scuderi stated that once he starts he will not stop, the bank funds this in stages and if he stops he will not get any more funding.

Mr. Jensen stated that it sounds like a disconnect to him and is having a hard time reconciling the two. The other board members agreed. He wished Mr. Cromwell were in the room to speak to at this time. Mr. Miller repeated what he said earlier about his discussion with Mr. Cromwell and the Building Permit. Mr. Kaufman stated that what it comes down to, is it appropriate. Mr. Miller stated there are two sides; we are here to solve this while the building goes up. Mr. Baroni suggested the foundation permit be issued until the board can get out there.

Discussions were had about how long it takes to pour foundation - five days and six weeks to frame the structure and when you can do the framing and pouring the foundation. Discussions were also had with getting an as built survey after the foundation was poured. Mr. Scuderi stated that there would not be any further disturbance to the site now that the house has been removed. Discussions were had regarding the next steps for this applicant regarding whether to recommend a foundation permit, building permit, referral to the Conservation Board, if a wetland permit is necessary.

In response to comments at the meeting Mr. Kaufman repeated his conversation he had earlier today with Westchester County representative David Deluccia. Mr. Scuderi disagreed and noted he spoke with John Baker from Westchester County on Friday and was out to the site with David Deluccia from Westchester County. Discussions were had regarding the watercourse on site and whether it was a wetland or not, the

applicant and the town's professionals did not agree on this matter at this time.

Mr. Skeel stated that this board should let the applicant continue to build at this time.

Mr. Sauro stated that he does not doubt this applicant has every good intention to build a beautiful house and will enhance the area. He thinks this board is being very generous, at the very least to offer up a foundation plan. He framed homes for 10 years, six days a week and through the winter in 5 degrees with a wind chill of -10 degrees. As of right now he thinks this applicant should take this offer of a foundation permit and run. He is not comfortable doing anything else personally.

Mr. Jensen and Mr. Delano agreed that they agreed with Mr. Sauro regarding a foundation permit only and to schedule a site walk. The Board directed Mr. Kaufman to relay the board's comments with the Mike Cromwell, Assistant Building Inspector in the morning.

AIRPORT CAMPUS

113 KING STREET (formerly MBIA)

118.02-1-1

Mark P. Miller, Veneziano & Associates

Amended Development Plan

Referral from Town Board

Discussion

Consideration of amended site plan approval

Present for this application was Mark Miller and his clients Geoff Ringler and Steve Wise.

Mr. Miller reviewed with the board that the site plan approval originally granted by the Planning Board to MBIA in 2004 provided for development of the project in 3 phases; The first phase would consist of removal of underground residential fuel oil tanks, removal of dead trees and pruning of healthy trees, the reconstruction of existing stone walls and the demolition of the existing Cooney Hill homes, construction of a graded earth berm up to 6 feet in height along King Street to shield the Cooney Hill area, the construction of walking paths and a fitness center to provide recreational opportunities for MBIA employees, and the construction of new stone walls around the perimeter of the property; The second phase would include the construction of the meeting house and the stormwater detention area located to the south of the meeting house; and The third phase would consist of the construction of the corporate headquarters expansion together with the new parking structure. The first phase described above was completed years ago but no action has been taken on the second or third phases.

The Applicant is requesting a text modification to the prior site plan approval to provide that the previously approved parking structure can be constructed as Phase I, with the office building comprising Phase II, and the meeting house Phase III. The Applicant is not seeking any change to the approved plans and the proposed amendment is limited to a re-arrangement of the order in which the components would be constructed and the

Applicant is seeking permission to construct the parking structure, in its approved form, but with the ability to build only as many levels as necessary initially, with the right to add the additional approved levels as demand requires. There is no proposed change to the approved site plan; no amendment to the previously approved Town Board Preliminary Development Concept Plan (PDCP) is required.

The previously adopted approvals shall be amended as follows: A new Phase I is authorized to permit the previously approved parking structure with the ability to build only as many levels as necessary initially, with the right to add the additional approved levels as demand requires. A new Phase II is authorized to permit the construction of the previously approved office building. A new Phase III is authorized to permit the construction of the previously approved meeting house.

Mr. Delano inquired if the stormwater management system will work with the proposed changes. Mr. Ringler stated that the phasing of the SWPPP will go with the work.

Mr. Jensen inquired if the parking structure was in the same location as the originally approved location. Mr. Miller stated that it was. Mr. Jensen inquired if there was any risk to the Town with this being built in phases or the town being left with a half built parking area. Mr. Delano did not think so as this was not visible from the road should the applicant stop construction for any reason. Mr. Miller stated you might be left with a two deck parking garage vs a three, four or five deck parking garage or until such time the demand is there.

Mr. Wise stated that stream lining is what this is all about. He has a plan that he has inherited from MBIA and they are trying to meet the market and we don't have the market yet and some of the questions are very good questions and we won't know until the market hits them. How much or at what time we have to build the parking garage, we don't know. As Mr. Miller noted it is exactly per plan. In regards to impact during construction, constructability is something they will have to incur at the time or maybe he won't but they will do their best to meet the demand. This is all about a market that is requiring more and this is the best manor we have to meet the market and that is why we are trying to streamline the process to make it happen. He does not have all the answers today but is trying his best to meet the market.

Mr. Carthy inquired how and where people would park during the expansion. Mr. Wise noted the expansion can be done vertically vs. horizontally. A lot of them are prefab or modular and can be done laterally and can phase parking into one section during construction. He does not think it is likely to happen.

Mr. Delano asked for a motion to approve the amended resolution. Mr. Sauro made a motion to approve. It was second by Mr. Jensen and approved with four Ayes. Mr. Pollack was not present for the vote.

DEER RIDGE SUBDIVISION

7 Deer Ridge Lane

100.04-2-20

Preliminary Subdivision

Ralph Alfonzetti, PE Alfonzetti Engineering PC

Dan Merritts, Thomas C. Merritts Land Surveyors

Discussion

Consideration of Preliminary Subdivision Resolution extension of time

Mr. Delano asked for a motion to approve the extension of time resolution. Mr. Carthy made a motion to approve. It was second by Mr. Sauro approved with four Ayes. Mr. Pollack was not present for the vote.

GJONAJ

7 Pine Ridge Road

102.01-02-7

Preliminary 3 lot subdivision

Paul Sysak, RLA, ASLA John Meyer Consulting, PC

Mark P. Miller, Esq. Veneziano & Associates

Discussion

Consideration of Amended Final Subdivision Resolution extension of time

Mr. Delano asked for a motion to approve the extension of time resolution as amended. Mr. Sauro made a motion to approve. It was second by Mr. Jensen and approved with four Ayes. Mr. Pollack was not present for the vote.

Mr. Delano asked for a motion to adjourn the meeting. Mr. Sauro made a motion to adjourn, it was second by Mr. Jensen and approved with four Ayes. Mr. Pollack was not present for the vote. Meeting was adjourned at 9:51 p.m.