

**NORTH CASTLE PLANNING BOARD MEETING
15 BEDFORD ROAD – COURT ROOM
7:00 P.M.
September 23, 2019**

PLANNING BOARD MEMBERS:

Christopher Carthy, Chairman
Steve Sauro
Michael Pollack - Absent
Jim Jensen
Lawrence Ruisi

Also Present:

Adam R. Kaufman, AICP
Director of Planning

John Kellard, PE
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:
Jane Black & George Drapeau

APPROVAL OF MINUTES:

There was not a quorum present to vote on the minutes or the work session from September 9, 2019.

**AIRPORT CAMPUS [18-019]
113 King Street (Formerly MBIA)
118.02-1-1
Zoning Referral from Town Board
Mark P. Miller, Veneziano & Associates
Extension of Time Resolution**

In response to comments from the Board regarding the status of the application. Mr. Miller stated that his clients anticipate that they will have their building permit within the year. He has been working with the DEP & DEC and they need to approve the SWPPP before this application can move forward. They expect several more months of work until completion. Mr. Sauro made a motion to approved the extension of time resolution. It was second by Mr. Jensen and approved with four ayes. Mr. Pollack was not present for the vote.

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 of field change

The applicant is returning to the board regarding the condition in the resolution which is required to be satisfied prior to the issuance of a Certificate of Occupancy/ Compliance CO regarding the proposed improvements, including curb, sidewalk, pavement and landscaping, within the NYSDOT right of way of NYS Route 22. The applicant shall submit receipt of a NYSDOT Highway Work permits to the satisfaction of the Town Engineer.

Mr. Williams stated that he has been working for a long time to get a Highway work permit from the NYSDOT to install a sidewalk along the front of the site which would also deter cars from parking in front of the site. He is a few weeks away from getting the CO and still has not obtained the building permit from the NYSDOT and has run into some issues along the way. There is an irregular Road Boundary in front of their site and there was discussion of the State taking some possession to straighten that out and then concluded that an easement would be best and the surveyor is preparing the maps at this time. As discussed previously, he may need to update the resolution regarding this condition due to the amount of time it will take to finalized this last step with the DOT. He would like to update the resolution so that an establishment of a bond can be added and his client can obtain a Temporary Certificate of Occupancy while this issue is resolved. This concern was originally brought to the boards attention back in April, 2019.

Discussions took place whether or not TCO's would be issued by the new Building Inspector Rob Melillo and the board discussed other options regarding this matter like moving this condition. The board also considered other options regarding this matter like moving the location of the condition to the Other Conditions. Mr. Baroni stated it was not a good way to manage the condition by moving it to Other Conditions in the resolution. He stated he would be alright with a bond, if the work was not done, the bond would be forfeited to the Town.

Mr. Williams updated the board regarding the pipe from route 22 onto their property, the applicant is presently preparing a swale on site, the DEP stated they were not asking for an easement to the pipe because they do not want to maintain it. If that were the case then that would be between two property owners, the town would not be involved.

The board concluded that they would amend the resolution to include the bond and the final CO and the bond will include forfeiture provisions with an option to extend. Mr. Carthy made a motion to amend the resolution as stated and Mr. Sauro second the motion and it was approved with four ayes. Mr. Pollack was not present for the vote.

PUGATCH [19-028]
23 Creamer Road
108.04-2-6
Referral from RPRC
Victor Solarik, VKS Architects
Discussion

Proposed 90 square foot addition at the rear of the existing home, expansion, a 400 square foot patio at the rear of the house, and modification to the existing side and rear entrances. A wetland permit is required for work performed in 100' Town-regulated wetland buffer.

This property was recently referred for Planning Board site plan approval by the RPRC.

Mr. Solarik reviewed the application for the board as noted above and stated that most of the property is in the wetland buffer and there are two streams that cut across the site which limits the use of the land and only one acre is available for use of the two-acre lot.

Mr. Kaufman stated that this site was before the board previously for new construction, patio and pool and has been reduced in size. He also noted that the previous approval included a conservation easement and even though this is a smaller project it is still in the wetland setback.

The board agreed to wait for the Conservation Board comments regarding this site and would then schedule a site walk. The applicant will need a public hearing regarding the wetland permit. Once the Conservation Board comments are received a site walk will be scheduled.

SAINT STEPHENS CHURCH [19-030]
50 Bedford Road
108.03-1-13 & 108.03-1-14
Amended Site Plan
Jim Ryan JMC Planning Engineering
Discussion

The applicant is proposing various parking and site improvements that serve the existing church.

Mr. Ryan presented a photo of the site to the board from 1940's which showed the location of the road and park at the time vs. where the road is today. He also introduced Reverend Niles Chittenden.

Mr. Ryan stated that the parking lot was overdue for parking changes and needs repairs and improvements to access handicapped parking, they are also adding curbing and striping. There will be 40 parking spaces which is in excess of what is needed. The garbage will be relocated and enclosed. He noted the applicant would like a positive referral to the ZBA due to the existing non-conforming site.

Mr. Ruisi inquired if there would be any potential impacts to the parking lot from the proposed changes to the intersection (Bedford & Maple). Mr. Kaufman stated that he did not foresee any impacts to the site as proposed.

Mr. Jensen inquired about angled parking on site. The board discussed if there would be any potential impacts to the parking lot from the proposed changes to the intersection as well as the benefits or deterrents of diagonal parking spaces on site. It was concluded that pull in parking spaces were more beneficial to the site.

Mr. Ryan stated that there will be guiderails placed on site and drainage on site will be beneficial. He noted that the contractors are donating their time and resources to the project.

Mr. Sauro inquired about a side walk on site, a visual cue. Mr. Kaufman stated that it would not be a sidewalk but it could be labeled for people who are walking from their cars to the church or to the dumpster.

In response to comments, Mr. Kaufman stated that it would not be necessary to coordinate with the traffic consultant since the site is being improved there is not enough changes to impact the traffic on site.

Mr. Carthy made a positive referral to the Zoning Board of appeals with an uncoordinated review, Mr. Sauro second the motion and it was approved with four ayes. Mr. Pollack was not present for the vote.

The applicant was scheduled to go before the ZBA on November 7, 2019 and will return to the Planning Board for a public hearing after that.

DIPIETRO [19-015]
137 Bedford Banksville Road
108.01-6-38
Amended site plan
Joseph C. Riina, PE Site Design Consultants
Discussion

Previously, 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 was warranted. While before the Planning Board the applicant previously received approval for the construction of a three bedroom, 4,972 square foot home on this lot. The Applicant is seeking a site plan amendment to rotate the house and provide access via a new driveway from Gina Lane (over a newly proposed easement) as compared to the previously approved access over the Mianus River via a driveway on Bedford Banksville Road.

Present for this application was Tom Kerrigan, Site Design Consultants.

Mr. Kerrigan went to the Conservation Board last week and discussed the proposed

mitigation plan for the site and noted that 2:1 mitigation on site may not be possible. There is 33,557 square feet of disturbance and 67,000 sq. ft. of mitigation necessary for the site and this will not leave much room on site with buffers and rock outcroppings. There is a big decrease on what was proposed and approved on the original resolution. He reviewed the impacts of crossing the stream from the original approval and how this new proposal would not require access across the stream and would reduce the impacts considerably.

In response to comments, Mr. Kaufman stated that the applicant was asked to submit a matrix showing the original approval vs. the proposed application. The new plan is significantly less impactful than the previous plan. In the Original approval there was a conservation easement on the wetland area over the Mianus River and that is no longer proposed with this amended application. The board should consider if this should remain or not since it is in such a highly sensitive area. The applicant was also proposing a swimming pool in the buffer area and the board discussed whether a wetland buffer was an appropriate place for a pool and would want input from the Conservation Board on that matter.

The applicant stated that they can work with the 911 operator for an appropriate address and the proposed new driveway is wider for easier access for emergency personnel.

The board needs comments from the Conservation Board and a public hearing will be necessary for this application.

82 ROUND HILL ROAD [19-016]

82 Round Hill Road

102.03-1-40

Site Plan

Ralph Alfonzetti, PE Alfonzetti Engineering

Discussion

Proposed new 4,889 square foot home on existing undeveloped lot.

Present Steve Lopez and Ralph Alfonzetti.

The existing lot is highly constrained by Town-regulated wetland and wetland buffer areas. A Wetland permit for over 13,000 square feet of disturbance is necessary for proposed work performed in the 100' Town-regulated wetland buffer.

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 the Conservation Board is warranted.

Mr. Alfonzetti stated he has been before the Conservation Board twice and they have asked for some input from the Planning Board.

In response to comments from Mr. Jensen regarding minimizing environmental impacts

to the maximum amount practical. Mr. Kaufman stated that typically on highly constrained lots and you can address that by minimizing the driveway, the square footage, bedroom count or septic field. He noted that back in June, 2019 the board did not have any issue with this application and made a referral to the Conservation Board.

The board and professionals discussed at this time - is every building lot, buildable, how much improvement can be made on the property. Mr. Kaufman noted this was a building lot. Mr. Baroni stated that not every building lot is capable of meeting today's regulations - not every building lot is buildable. During the discussion it was noted that a building lot and a buildable lot are different.

Conservation Board Chairman Jane Black stated that they have never made a recommendation for something that was 100% within the wetland buffer. She followed up with the former chairman who was on this board for dozens of years and he (John Fava) said that there were no applications that were 100 % in the wetland buffer either during his time on the board.

The board inquired when was the lot originally created. Mr. Alfonzetti noted that water from the road has been discharged onto his client's property instead of into the pond. He noted this was a modest house with four bedrooms and the septic was located 99% outside the wetland buffer, he has Health Department approval. He has a fence at the rear of the site and at the wetland buffer and a wall is proposed on the side of the lot to create separation to the wetland buffer area.

Mr. Kellard stated that all the improvements are 100' or more from the wetlands and Mr. Alfonzetti did a great job with this site but wanted the mitigation plan enhanced. Mr. Lopez stated that he will review storm water mitigation and flows and it was really a created wetland by the road on his client's lot and will work on removing invasive plants to balance out the site.

Mrs. Black stated that the Conservation Board could not make a recommendation back to the Planning Board without a full mitigation plan and wanted the Planning Board's comments regarding the entire site located in the wetland buffer. Mr. Carthy stated that based on comments earlier this evening the board would like the Conservation Board to review and consider this application.

Mr. Lopez will take into consideration Mr. Kellard's comments as well as the Conservation Board Chairman's comments.

SIR JOHN'S PLAZA SITE PLAN [19-031]
909 North Broadway
122.12-4-52
Additional Parking
Gabriel Senor PC
Thomas D'Agostino, Esq.
Discussion

Proposed Construction of new 48 space off-street parking area with appurtenant retaining walls. In addition, the Applicant is proposing overnight parking of five spaces at the rear of the Sir John's Plaza building.

Present for this application was Tom D'Agostino and co-counsel Alan Focarile; the landscape architect Elliott Senor - Gabrielle Senor PC, and Realtor Paul Jordi – Broad & Bailey.

Mr. D'Agostino introduced his client and team of professionals. He continued and reminded the board of how we got to where we are today. Mr. Magnotta is seeking to re-zone an existing residential two family lot and portion of an adjacent residential two family lot to commercial business zoning and merge them with an existing commercial business lot. The rezoned property would be used for additional off street parking in order to meet the parking requirements for existing and proposed businesses. After the Planning Board findings and referral on April 29th we appeared before the Town Board on July 10th for the purpose of having a public hearing on this project. After hearing neighboring residents comments and considering comments from the Town Attorney, Town Planner and Consulting Town Engineer, the Town Board determined that the applicant demonstrated a need for additional parking and that the proposed re-zoning would not represent an expansion of retail in the CB zoning district and is consistent with the Town Comprehensive Plan. It was also determined that the proposed actions would not result in any significant adverse environmental impacts and adopted a Negative Declaration to that effect. The Town Board also adopted a local law amending the Town Code to re-zone the residential lot and a portion of the second residential lot from R-2F zoning district to CB zoning district. We now return to the Planning Board seeking approval of the Subdivision and Site Plans recently submitted to the Board for review.

Mr. Jensen and Mr. Kaufman noted that the submitted plans were difficult to read. The applicant said they would address that with the next submission.

Discussions took place regarding the screening Depth to the residential lot from the commercial lot and whether to install a wall or a fence and the height difference between the two lots and the benefits of landscaping on the residential lot since all concerned would benefit from the landscaping on the residential lot since it is higher off the ground. Mr. Kaufman stated that the board has a lot of discretion regarding this matter, the board may agree to a wall or a fence and which lot to put the landscaping on.

Conversations took place regarding the additional parking spaces proposed and how

the site was being increased almost 50% without knowing the exact uses for the additional parking spaces. Mr. Kaufman noted this would be a similar situation if a new strip mall were built and we did not know who all the tenants were on site, the applicant would have to work within the parameters of the approval. It was noted that potential tenants signed letters of intent for the uses on site that would require additional parking spaces.

It was suggested if a parking consultant should study the impact of the additional parking spaces on site and possible queueing off site. The board questioned if the existing parking stalls will continue to effectively work with pulling in, backing out, turning around and cars and pedestrians entering and exiting the site with the 50% increased parking on site. Mr. Kaufman stated that there is an unknown if the leases will be obtained or not but the tenants still have to adhere to amount of parking spaces per use on site. Mr. Kaufman noted if the board wanted FP Clark to review the traffic on site that is an option. Mr. Kaufman reviewed all the items to be complied with during site plan review for the additional parking spaces and how that all works together.

The applicant needs to address the comments in the memos and to update the plans to show overnight parking. The Town Board noted in its referral that overnight parking should be carefully looked at. Mr. Kaufman stated that the board could request that FP Clark review the application. The board concluded to wait for a more completed application before sending it to FP Clark.

Discussions took place regarding the overnight parking which is located behind the main building and ensuring that the cars, vans, box trucks that park overnight have a legitimate business on site. Discussions were had regarding shared spaces like with the HVAC and the landscaping are in one space and both need overnight parking. Mr. Senor noted that attorneys share offices. It was noted that a plumber has been renting a desk for 20 years in order to park his van overnight.

Continued discussions took place regarding the % of overnight parking for the site and how there are 17 rentable spaces currently on site and how tenants change and if they need overnight parking they have to return to the board every time and what is the best way to handle this. Based on the current uses on site the board was comfortable that 3 of the existing overnight parking spaces are clearly associated with business on site and the other two uses need legitimate documentation for the other two parking spaces on site.

The board concluded that the tenants must be in the complex to use the overnight parking space and to pick a % of spaces to be used for overnight parking. The residential property has to have the screening on it and they need to limit the box truck size/ vans on site and number of spaces. This information will need to be submitted.

SIR JOHN'S PLAZA SUBDIVISION [19-032]
913 North Broadway & 2 Emmalon Avenue
122.12-4-56 112.12-4-53
Preliminary Subdivision
Gabriel Senor PC
Thomas D'Agostino, Esq.
Discussion

Proposed subdivision of 2 Emmalon Avenue that results in a transfer of a portion of the existing residential lot to the adjacent commercial property.

Mr. D'Agostino stated that the zoning is now in place and the property lines conform with the zoning lines.

Mr. Jensen and Mr. Kaufman noted that the submitted plans were difficult to read. The applicant said they would address that with the next submission.

Mr. Kaufman stated that zoning was now in place and the lot lines were moved to reflect the existing zoning lines. The applicants noted they had not reviewed the memos regarding their submission. Mr. Kaufman stated that a public hearing is required for preliminary subdivision and a public hearing is required for site plan approval. He noted the plans we are reviewing this evening are similar to what the board reviewed during the zoning change.

GECAJ [18-025]
3 Vincent Lane
101.01-1-6
Residential Site Plan
James A. Ryan, RLA JMC Planning Engineering Landscape Architecture & Land Surveying, PLLC
Discussion of field change

The Applicant is proposing the following field changes:

- Install stone curb along driveway
- Create a 5' wide landscape area in new parking area
- Modify the configuration of the platform connecting front steps to drive
- Modify the patio
- Construct new 3' wall adjacent to patio
- Add stone veneer to walls
- Construct outdoor fireplace on patio
- Recalibration of landscaping – slight reduction

Present for this application is Jim Ryan and his client Mr. Gecaj. Also present were neighbors Brett Summers – 6 & 8 Vincent Lane who lives across the street and Alicia Ifshin – 1 Vincent Lane abutting property owner.

Mr. Ryan stated that a field change was done in May, 2019 and those changes were aesthetic and changes proposed this evening as noted above were materially aesthetic and will be the last field change. He reviewed all the changes as noted above.

Mr. Summer stated that he lives directly across the street and he was here with his neighbor Alicia Ifshin who lives next door at 1 Vincent lane.

Mr. Summer was concerned about the location of the generator shown on the plan vs. the location of the generator pad in the field and did not think its current location was according to the code. He also raised concerns about the sound of the generator. The board discussed the location of the generator pad and Mr. Kaufman stated that the building department raised some concerns about the location of the pad as well and a CO was not issued yet and that would be looked into. He reviewed the generator setback sections of the code for the boards reference.

Mr. Summers was also concerned about the proposed reduction of landscaping on site and the proposed retaining walls. As noted in the applicant's submission letter there were "unexpected field conditions", "minor changes" and "aesthetics" he wanted a better understanding of what unexpected field conditions and minor changes were as they specifically relate to this site. Mr. Summer asked the builder after two weeks of chipping how much longer and the builder said two more weeks and he asked again after two more weeks and he was told two more weeks and this went on all summer. Mrs. Ifshin stated this chipping went on six days a week from 8:00 a.m. – 5:00 p.m. for six months straight from March through August.

Mr. Summer was also concerned about the veneer wall on site and the concrete unitary block on the left side of the driveway. He referenced sections of the code regarding the walls and its appearance. He opined that the retaining wall at parts were taller than 6' which were part of the boards jurisdiction. He raised concerns that the details of the veneer wall were not on the plan. He suggested the applicant clean up the rock edge with some hanging hydrangea instead of the veneer wall.

Mr. Summers stated that this applicant is getting extension after extension and he urged the board to have the applicant complete what was originally approved prior to all of these field changes being done. He was also concerned about the appearance of the stone veneer on site as well as all of the proposed aesthetic changes. He also noted this applicant has a stop work order on site and that is why he is back before the board.

Mr. Summers expressed concern about the 10' tall chimney in the rear of the site by the fire place. He opined that the applicant should finish all of their work for the original approval before approving any of the field changes. He was upset about the reduction of landscaping proposed along the driveway.

Mrs. Ifshin was not happy that the generator was closer to her house than the Gecaj house and wanted the present location reviewed against what was shown on the map. She was concerned that the present location of the generator would not be corrected. She does not want forgiveness after doing the work, she wants it built per the approved plan. She noted that she was not able to be outside and enjoy her pool all summer due

to the chipping six days a week for six months all day long. Mr. Ryan noted the chipping was completed at this point and took longer than they anticipated due to the quality of the rock.

Mr. Carthy inquired about the stop work order. Mr. Ryan stated there is a stop work order regarding this lot and his client was not aware that they needed a building permit for the veneer wall. Mrs. Ifshin stated the original resolution stated that they could remove the rubble and scrape which was another two weeks – all day long, six days a week. Mr. Summer reiterated that the original changes should be completed before the field changes are done.

Mr. Carthy requested another site walk based on comments made this evening.

Mr. Summers requested more details regarding the rock veneer and the terms of the veneer. He stated once again that he was not happy that the landscaping was being reduced.

Mr. Carthy requested details of the veneer wall and more details of the landscaping. He also suggested that the town engineer and building inspector join the board on the site walk.

A site walk was scheduled for Wednesday, September 25, 2019 and applicant was scheduled to come back before the board at the next meeting for discussion of site walk.

**SWISS RE SOLAR PANELS [16-013]
175 King Street
113.04-1-2
Amended Site Plan
Gerhard Schwalbe, PE Divney Tung Schwalbe
Lucia Chiocchio, Esq. Cuddy & Feder LLP
Consideration of Restoration Bond from Town Engineer**

Mr. Sauro made a motion to recommend to the Town Board the restoration bond as recommended by the Town Engineer. Mr. Carthy second the motion and it was approved with four ayes, Mr. Pollack was not present for the vote.

Mr. Carthy made a motion to adjourn, Mr. Sauro second the motion and it was approved with four ayes. Mr. Pollack was not present for the vote. Meeting adjourned at 9:22 p.m.