

## **Planning Board Minutes September 26, 2016**

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A meeting of the Planning Board, Town of Yorktown, was held on September 26, 2016, at the Yorktown Town Hall Board Room, 363 Underhill Avenue, Yorktown Heights, NY 10598. The Chairman, Rich Fon, opened the meeting at 7:00 pm with the following members present:

John Flynn  
John Savoca  
John Kincart  
Anthony Tripodi  
Bill LaScala, Alternate

Also present were: John Tegeder, Director of Planning; Robyn Steinberg, Town Planner; Tom D'Agostino, Assistant Planner; Michael Quinn, Town Engineer; Bruce Barber, Town Environmental Consultant; Anna Georgiou, Planning Board Counsel; and Councilman Gregory Bernard, Town Board Liaison.

**Correspondence:** The Board reviewed correspondence.

### **Minutes:**

**Upon a motion by Tripodi, seconded by Flynn, and with all those present voting aye, Kincart abstained, the Board approved the September 12, 2016 minutes by the Chairman's corrected copy.**

### **REGULAR SESSION**

#### **Stephen Brophy Site Plan**

**SBL: 35.08-1-17**

#### **Public Hearing**

Location: 3787 Crompond Road

Contact: Site Design Consultants

Description: Proposed to convert existing building into a restaurant with a patio for outdoor seating and parking to accommodate 20 cars.

**Upon a motion by Tripodi, seconded by Kincart, and with all those present voting aye, the Board opened the Public Hearing.**

Joseph Riina, project engineer, Phil Grealy, project traffic engineer, and Stephen Brophy, the applicant, were present. Riina described the property and its current use. The front building on the site was used as a used car dealership. There is a single-family residential building and paved area used for commercial storage of a landscaping business in the rear of the property, which has a special permit. The project was originally subject to a site plan approval in 1979 for both uses. The current proposal by Mr. Brophy is to convert the existing approximately 800 square foot front building into a sandwich shop that would operate for breakfast and lunch. Delineated parking would be provided. The required parking for this use is 17 parking spaces, and 20 spaces are provided. One space may be lost because the Building Inspector may not allow the propane tank to be buried. A patio is proposed around three sides of the building. At the rear portion of the patio and on the west side of the building, tables will be provided. The restaurant will provide walk up counter service only. There will be no wait service. In the future Mr. Brophy would like to add an outdoor smoker to offer BBQ. There are no proposed

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changes to the existing curb cuts. The western curb cut will be most used by the patrons. The eastern curb cut will be used for delivery vehicles to exit. A cross-hatched area shows the loading zone on the east side of the building. There is no issue with trucks accessing this side of the site. Signage will be added that tells patrons not to use this as an exit. Raised planters have been added in front of the first two parking spaces to block patrons from pulling forward and leaving through the eastern curb cut. The entire site is currently asphalt except for the existing landscaped islands. The existing landscaped islands will be replanted with approval from the DOT. There are three existing security lights at the front of the site that will be removed. One existing security light in the rear of the site will remain. Wall mount fixtures will be added to the building for patrons.

The exterior of the building will be renovated. All the existing siding will be removed. Wood siding will be installed to make it look more like a log cabin. The shop will be named Little Cabin Sandwich Shop. Riina reviewed the proposed floor plan of the building. The front section will be for patrons, including 10-12 counter seats and unisex bathroom. The rest of the building will be used for food prep.

Phil Grealy of Maser Consulting performed a traffic study for the conversion to this site use dated July of this year. The data collected documented traffic volumes in May and June of this year. Documenting traffic volumes on Route 202 in this section as well as looking at historical traffic volumes. The sandwich shop is expected to be open in the morning and for lunch. The afternoon peak hour is the peak traffic volume on Route 202. There are over 2,000 vehicles passing the site in the afternoon. In the morning there are about 1,700 vehicles passing the site, primarily eastbound. The use will draw from this flow attracting vehicles traveling eastbound to the Taconic. The site distance is very good at this location in both directions. Improvements made by the DOT east of the site have improved the flow of traffic. There will be limited traffic generated from this use at approximately 25 trips within an hour period in and out of the site. There are gaps from the existing traffic lights in the corridor. Exiting would be similar to leaving any other facility along 202.

Flynn asked about the ABACA comments on one-way in and out access to the site. ABACA preferred one-way around the building. Riina stated the site is laid out the best way. The east side of the building is narrower and best used for occasional delivery trucks. Grealy stated he agreed with keeping delivery vehicles separate, but also keeping the western curb cut as a two-way drive, left turns in and left turns out can see each other. Maybe for a more intensive use this would not work as well, however with this use, it is better to have the turning movements at the same curb cut.

**Upon a motion by Kincart, seconded by Savoca, and with all those present voting aye, the Board closed the Public Hearing.**

**Upon a motion by Savoca, seconded by Kincart, and with all those present voting aye, the Board declared Lead Agency.**

**Upon a motion by Tripodi, seconded by Savoca, and with all those present voting aye, the Board adopted a Negative Declaration.**

Tegeder asked the Board about including some of the items listed in the ABACA memo dated September 16, 2016. Flynn suggested adding ABACA memo #10 – adding additional bollards around entire outdoor patio – be required. Riina did not see the need for it because the 8 ft x 2.5 ft wide planters are located between the parking and the patio. The Board required the applicant include the bollards or reinforce the planters if needed, to the satisfaction of the Planning Board.

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Tegeder asked the Riina his opinion on ABACA memo comments #4 & #5 regarding moving the existing curb cuts. Riina was not interested in changing the existing curb cuts at this point. It's not necessary because the site works at this time. Changing the curb cuts would require NYS DOT approval, which adds time and expense to the project. The Board has already limited the use of the curb cuts. Steinberg recommended adding the approval of the NYS DOT as a condition of the resolution.

**Upon a motion by Kincart, seconded by Savoca, and with all those present voting aye, the Board approved the Brophy Site Plan, subject to conditions of approval.**

### **Triglia & Rezi Subdivision**

**SBL: 16.17-1-51**

#### **Public Hearing**

Location: 1415 Christine Road

Contact: Keane Coppelman Gregory Engineers, P.C.

Description: Proposed 2-lot subdivision on a 1.145 acre parcel in a R1-10 Zone with one existing home.

**Upon a motion by Tripodi, seconded by Kincart, and with all those present voting aye, the Board open the Public Hearing.**

Al Capellini, project attorney, and Peter Gregory, project engineer, were present. Capellini stated the application is for a two-lot subdivision in Mohegan Lake on Baker Highway; bounded by Christine Road and Turus Lane. The site is shown on a block of a plat filed in 1941. The area in which this lot is located is a neighborhood that was created by subdivision starting in the 1920s, prior to zoning which was enacted in 1932. Presently there is a home under construction on the property. The existing lot was granted a variance by the Zoning Board of Appeals for no frontage on a public road. The proposed development before the Board shows an extension of Baker Highway to be a town road. The neighborhood is benefitted by public sewers and public water. The application has several aspects to it that have upset the neighbors, however Capellini stated he thought there were no violations on the property as of today. The proposed development meets the zoning regulations. Depending on whether the road is taken, the subdivision is approved as a major subdivision or a minor subdivision.

Gregory stated the application is to create a two-lot subdivision to create a new building lot on the northern portion of the property. Gregory described the location of the property in the R1-10 zoning district. The lot is approximately 1.1 acres in size. The subdivision will create two lots that conform to zoning aside from road frontage only. The house currently under construction is on the southern portion of the property. Sewer is available along Baker Street. A water main is located in Christine Road. The property owner agrees to construct an improved road approximately 200 feet long and 18 feet wide road with drainage directed towards the subject property and to the drain at the corner of Christine and Baker. A new catch basin will be located at this corner to collect runoff from the new lot as well as from flow coming down Christine Road. Roof and driveway runoff will be collected behind the proposed home before released to the system on Christine Road. There is a 5 foot wide road widening strip (approximately 1,100 square feet) to be dedicated to the town.

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Savoca asked about the drainage on Christine Road. Gregory stated there is a swale that collects runoff. Hopefully the new catch basin will capture some of that runoff. Savoca suggested more be done.

Fon invited the public to speak:

### **Joan Shiland, 3300 Chelsey Street**

Neighbors have struggled for over a year and a half with difficulties at the property. Shiland stated she has questions about the house currently under construction, the proposed subdivision, and the proposed roadway. She asked the Board to take into account the effect of the small subdivision on the dirt road neighborhood. Residents have been concerned regarding the changes on the site. The Board and staff have visited the site. Shiland reviewed the history of the applicant's applications to the Town and the troubles during construction of the first home on the site mentioned in her previous letters to the Board. Shiland listed the concerns the neighborhood has had and still have:

- Plans for original home were changed and not submitted to the building department before the foundation was dug and approved.
- The building lot that was cleared was not the same lot that was shown to the town variance department [Zoning Board of Appeals] and approved.
- The address for the existing home is Christine, but the house and the driveway is on Baker.
- During the variance meeting it was stated that Baker is a private road.
- According to the original plan submitted to the town Mr. Triglia was only supposed to take down a number of trees. He did not stick to this plan and he cut down more. This was reported to the town.
- The modular home that was delivered was too big for Mohegan Avenue and the route to Christine. Children were stuck on the school bus behind the modular home and fences and roadways were damaged.
- Many new subdivision plans have been submitted to the Town Planning Board. Each time something requested was missing or some new change was added, which directly affected the neighborhood.
- Damage to the existing road and underground pipes has occurred and Mr. Triglia has not admitted damage. He repaired the damage without telling us or bringing it to the attention of the town. We are grateful to a town employee who brought it to the attention of one of the neighbors who was home at the time.
- No permits were given for the first water line to be dug so the water department asked him to remove it. The second line he dug was dug without notifying Dig Safe, without notifying neighbors, and causing damage to Shiland's pipe. Neighbors were stuck in their homes because they were not notified of the digging.
- Eventually the road that he had dug across for his water pipe collapsed. The garbage truck could not get to the top of the hill and once again neighbors were stuck in their homes. Neighbors witnessed Mr. Triglia driving by the collapsed road and we had to report it to the town. We are grateful to Mr. Paganelli, from the highway department, who responded immediately. Contact was made to Mr. Triglia and he stated he could not repair it at the time. The highway department made the repair and billed him.
- The current and proposed homes are reported to be in a wetlands boundary area.
- There is a high water table evident in the environmental studies which have been submitted.
- The second lot was said to have failed a perc test and considered a substandard lot by the town.

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### Concerns regarding the proposed subdivision:

- The proposed home will create a two-lot subdivision that will possibly allow for future development in the surrounding wooded area.
- The current home does not represent the character of the neighborhood. The first new home does not match the style, size, or cost of the neighborhood profile. There are homes in our three block radius that have been on the market for years; some foreclosed on and other selling below market value. The subdivision will lower the summer cottages resale value due to the lack of privacy on the road and the development of the area. The addition of a new home will hurt the value of those already around it.
- The cutting down of additional trees and the displacement of wildlife will have an environmental impact.
- The drainage issues already exist and will be made worse by the new homes being built.
- There will be an increase in traffic on Christine and Chelsey around an already dangerous corner.
- The placement of the new driveway on the latest plans is shown on the semi-private road of Christine, which will obstruct the traffic of the residents of the summer community, of the private dirt road, and create more drainage issues.
- The easement of his property to the road has all of our water lines and pipes below this, and his negligent digging has caused concern.

### Concerns regarding the proposed road:

- The proposed new segment of the curbed road is not necessary to the community. It is a want by Mr. Triglia and will change the existing landscape, drainage structure, and profile of the neighborhood surrounding Christine, Baker, and Turus. It will cause long term drainage problems for the neighbors and ultimately may cost the taxpayers of Yorktown additional money for long term maintenance and snow plowing.
- The town may need to pay additional employees to supervise the building of the road to ensure that the work done by the contractor is up to the town's standards, to ensure that it takes appropriate safety measures so it does not damage existing pipes, and so it provides proper drainage and complies with the County rules. The town will need to monitor the ongoing damage Mr. Triglia's work has done to Christine and Baker to be sure that it is repaired and safe for the current residents.
- The proposed paving of a segment of the road from the intersection of Christine to the utility pole before Turus does not align with the existing paved roadway on Christine.
- The proposed new road will create drainage and ice problems for the homeowners on Turus and Baker as the road proposal ends where their gravel road begins.
- The proposed new road will cause problems to the town plows to know where they can and can't plow or push snow as they need to lift their plows when they reach the unpaved portion.
- Proposed paving with a curb to direct the flow of water will actually cause additional drainage and ice issues for the entire neighborhood, particularly the residents at the bottom of the intersection of Baker and Christine. This includes perhaps Mr. Triglia's own subdivision and second home.
- The proposed new road shows a plan to take 3 feet of property from two homeowners and cut down their existing lines into their back lot, my property included. The proposed plans have a shoulder that will be put on Mr. Triglia's portion of the property. How can this be if there are utilities on Mr. Triglia's property? The proposed new road does not affect any of the property

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on Mr. Triglia's lot as he is not being asked to move those utility poles or to cut down any of his trees.

- The proposed road could potentially cost the town to survey the property to guarantee the correct measurements.
- The proposed new road is still in question as to what type of road it is, paper or private, and the evidence of the paperwork is missing from the public file as well as from the surveys of all the property owners. As specified in a memo from the Town Engineer, he mentioned he would talk to the Town Attorney on this topic, however no such report has yet to appear in the file.

Further queries include:

- What is the concept of eminent domain when the road is not necessary by the town? Will it cause destruction to others?
- Why will the wants from one property owner who will profit from this construction supersede the wants of others who will lose part of their property, privacy, and potentially cost them thousands of dollars to fix the drainage issues? Who upholds the rights of the current homeowners versus the proposed subdivision contractor?
- Have all board members reviewed the lengthy file from the past year and a half?
- Have all current board members and town department heads made recent site visits?
- Who will oversee work if the proposed road passes to ensure that it is quality work and that it is safe standards for both the people of the homes and those traveling the road?
- Who will be in charge of monitoring the work on the road to check that the digging, pitching, and paving are correct?
- Why does Mr. Triglia get the grassy shoulder on his side, which theoretically appears to give him more property and us less?
- Why are plans different from other sets and shows that there is no drainage system in the existing house called a mitigation system in both yards and a swale running between the two? Now it appears that there is only one catch basin, an outlet control box, and a dry swale. What is the difference and why does it only appear on the plans for one house after the town asked for it to appear on both?
- Why is the driveway for the second house now on Christine, which is an access road for the summer cottages, when the town planner specifically instructed Mr. Triglia not to develop this side of the land? If the driveway is placed on Christine, how will the summer cottage owners park and how will they deal with the runoff?
- If the variance for one single-family home on a substandard lot was granted, how can we now after the fact have the builder submit for a subdivision? Isn't there a protocol for disclosure of all your future plans to the town at the time of the variance?
- How can a builder build on a substandard lot that has failed a perc test and has a high water table?
- Prior to fixing my drainage issue on my property, we had a sump pump and flooded continually. Our furnace, water heater, washer, and dryer are all up on blocks. Currently I have a drainage pipe going under the road and draining onto the drain on the corner of Baker and Christine. How will the road and the subdivision affect it? Who will make sure the pipe is not broken yet again by Mr. Triglia while constructing the new home and road?
- Discussion has been to include vegetation swales on each lot which will slowly release the stormwater onto the site in the backyard and will travel downhill to a State owned wetland. Has this been researched and has there been details and data to support them?
- What is the difference between a major and minor subdivision?



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- Is there a requirement by the town to have a certain allotment for backyard space if an additional drainage system is added to the homes?
- Who will take care of the culvert and drainage system on Baker, which we as homeowners currently maintain?
- The first house that was built was 25 feet closer to Baker road than originally those on the plans. Those plans were not submitted for approval. How could this be if the applicant did not know where the setback of the road was measured to as stated by Mr. Capellini at a previous meeting?
- The SWPPP plan that was developed was developed when the original plans showed two drainage systems and the driveway coming off of Baker. It may have also been developed before the plans for the new road and for the driveway off of Christine were discussed. How do all these changes affect the old SWPPP now?
- Tax payers would want to know, did Mr. Triglia pay the fine to the town for illegally digging, taking down trees, and not removing the debris from his construction site as stated in the town code?
- Has a response been given to a memo in the file documenting a memo being sent to the Lead Agency?
- Do homeowners get compensation for the taking of their property to create an unnecessary road or do their taxes change?
- Why does Mr. Triglia not have to move the telephone poles since he wants the road?
- Has anyone seen the plans for the proposed road, the proposed estimate, or specifications? Can they really be done at such a cheap cost as presented by Mr. Triglia?
- Will the road and the adjacent homeowners' property be surveyed and guarantee that the property is correct and measured the road placement or are we going off of surveys from the 1920's?
- Will the catch basin take into account my drainage?
- What is a 5 feet parcel as just explained by the project engineer?
- Who has been checking his plans and making note of the changes which keep occurring on his updates of each blueprint, particularly the drainage system and the driveways?
- Who will be responsible for planting back new trees now that it is proposed that more be cut down for the road?
- If the proposal passes, will the town adopt the road and will they pave the rest of the road to connect the existing gravel road to the new paved road?
- If the proposal passes, what guarantees will be made that the current drainage pipe below Baker is not touched resulting in the flooding of not only my home on Chelsey Street, but a home on Baker.

We ask that you hear our passionate plea to preserve our community. Do not allow this subdivision and road proposal to open doors to further changing the characteristics of our neighborhood. We are hopeful you will take the time to answer all our questions and clear up our confusions. In addition, we would like to ask your permission to read and or submit a letter from the engineer we have retained. He has his own questions and asks that you grant him the time he needs to review all the documents. If you cannot grant us the extra time to answer these questions or to supply the additional documentation to our engineer to review, then we implore the Town Planning Board to deny Mr. Triglia and Rezi to proceed with their plan to build their subdivision and their road in front of this property and to respectfully finish his existing house without further negatively affecting the area.

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Chairman Fon requested a copy of the statement read by Shiland. Shiland stated she would retype and submit her statement [a copy of which is appended to these minutes]. The Board acknowledged receipt of the letter from Hudson Engineering received today.

### **Margaret McGrail, 1393 Christine Road and Pilar Olmedo, 1401 Christine Road**

McGrail stated her and her husband have personal, environmental, and ethical concerns about the project. McGrail spoke about her husband who was seriously hurt in an accident. The week the applicant was blocking the road with construction, her husband had major surgery. He needed to get to medical attention and could not get in or out of property when he needed this attention. No contact made from the applicant even after giving our contact info. Additionally the road was dug up twice. My husband met with Dave Paganelli who fixed the road collapse. The temporary solution is no longer working. The road is sinking again. We had no garbage pickup, no recycling pickup, no mail delivery, and no package deliveries for several weeks. McGrail stated that because she works full time and her husband is unable to work, she uses Amazon Mom to deliver needed supplies for her family, like diapers and formula. These items could not be delivered. Environmentally, our house is built the same way with basins around the windows. This does not work. There are always major issues with flooding in major rain falls. This is a wetlands area. One of the natural things that helps absorb water is the vegetation, but now there is less on the site. McGrail stated she has been at several meetings where items have been requested and the applicant did not come back with answers. If the applicant is not going to be responsive, they need to be held accountable. The phrase that has come up several times at these meetings is the health, safety, and welfare of the residents. In McGrail's opinion, the health, safety, and welfare of her family has not been taken into account during this experience. Olmedo stated she is also a neighbor and agrees with McGrail's concerns.

### **Judith Parkis, President of Mohegan Woodlands Coop (summer community of 28 shareholders)**

Parkis was concerned about the responsiveness of the developer and the quality of the work on the site. This particular developer has been very unresponsive. The coop residents could not enter or exit for days without damaging our cars. He broke one of our fences that we ended up fixing because we couldn't get ahold of him. Parkis expressed concern about the quality of the work on the site and in the area with the one house. With regard to drainage issues, the one house has already made it worse. The second house without a real drainage system will hurt our property.

### **Maureen O'Keefe, 3288 Chelsey Street**

O'Keefe stated she has many of the same concerns as Shiland. O'Keefe's property is on the west side of Baker where the new road with curb will be located. O'Keefe questioned how the curb will affect her property if she wants to develop or put a driveway to Baker as she owns two separate pieces of property; one fronting on Chelsey and one fronting on Baker. O'Keefe is concerned there is no drainage shown behind the first house anymore. She has experienced flooding for years on her property. Please take a long hard look at this application. At a prior meeting, Mr. Capellini said the house was put 25 feet closer to the paper road because no one knew where the road was. A survey needs to be completed for the road.

Capellini stated that the applicant has a survey of the lot and the house was setback from the lot line. The edge of pavement and traveled way is not necessarily the lot line.



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### **Tony & Ann Marie Perdichizzi, 3309 Baker Street**

Perdichizzi stated that he has always had a major water problem on driveway because of wetlands under property. The runoff floods the bottom of the driveway and he must block the bottom of his garage doors and shovel water away. The first new home was built closer to the road and high out of the ground. There will now be more runoff. A second house will make this worse. Building the road will take 3 feet of property from the neighbors because he doesn't want to move his utility poles. He asked what will happen to the water where the curb of road ends at his property? How will the alignment of the new road line up with the existing town road and how will this effect water flow? Perdichizzi is concerned if there will be proper sewer, water, and drainage pipes in the street to in front of his house. Perdichizzi has enjoyed living in the private and relaxing community for over 30 years and would like to keep this environment. Perdichizzi is strongly opposed to this project.

### **Chris Bugeya – 1415 Turus Lane**

Bugeya echoed the sentiment of all the neighbors and asked the Board to look at this project strictly. The neighbors appreciate the Board having visited the site several times. Bugeya accepts that progress must happen. The Board must look toward the future development in this area as well. The development must be done appropriately. Seven years ago I expanded my house, but I did it appropriately and got the appropriate permits. The haphazard development by Triglia is not acceptable; the Board needs to take into account future develop is this neighborhood. Bugeya is concerned about the utility easements of the other property owners' water and sewer lines under the road. The proposed road is 200 feet from Christine to Turus. He asked what happens the other 100 feet along the rest of the road to get around to Chelsey. The Town needs to look at this section of road and the potential future development. He believes that Triglia does not care about the neighbors. He will build the second home and leave. There is no longer a stormwater mitigation system behind the first house and this is a concern. If the road is allowed, the town may not adopt it. What happens then and who will be responsible for the road? The plows now go past his house and he has to plow my own section. The Town should complete the pavement along Baker to connect the roads. Please keep the character of this neighborhood and the only way to do this is if the Board makes conscious decisions about its growth.

Fon asked the applicant how much time the applicant will need to answer the questions brought up tonight. Capellini requested the Board supply the applicant with a list of questions and they will respond to them.

Capellini stated the original application was for a two-lot subdivision on the existing road. The applicant did not ask to improve the road. The applicant was happy with the existing road. Inspection fees must be paid because construction must be inspected by the town.

Fon clarified that the first home did not require any approval from the Planning Board. The applicant went to the Zoning Board, obtained a variance, and began construction on the first home. Then the applicant applied for the subdivision. Capellini stated there have been a number of homes in the area constructed as a result of 280-a variances from the Town. According to Capellini, at least three properties have been granted variances that found the existing road to be adequate. These applications were referred to the Planning Board and followed the process.

Tegeder stated staff would meet and compile questions and comments for the applicant.

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Maureen McGrail asked if all the questions submitted and said tonight will be included. Fon stated that all questions will be answered whether written or stated at the public hearing and the answers will be available to the public.

**Upon a motion by Kincart, seconded by Tripodi, and with all those present voting aye, the Board adjourned the Public Hearing.**

### **Orchard View Realty Subdivision**

**SBL: 36.06-2-78**

#### **Public Hearing**

Location: 2425 Sherry Drive

Contact: Zappico Construction, LLC

Description: Proposed 9-lot subdivision to subdivide a 9.2438 acres parcel in a R1-20 Zone with one existing home.

**Upon a motion by Savoca, seconded by Kincart, and with all those present voting aye, the Board opened the Public Hearing.**

Brian and Brenden Zappi were present. The applicant did not submit their proof of notice of the public hearing. This was not done, therefore the public hearing must be held open to the next meeting.

Brian Zappi described the proposed project location and subdivision. Currently there is a single-family home on the property at the end of Sherry Drive. The proposal is for 9 half acre lots. The applicant is proposing the continuation of the water line at the end of Sherry Drive, through the new subdivision, and looped to Pine Grove Court. The sewer line will be extended from Pine Grove Court. Soil testing was conducted on site with the NYC DEP and the town. The applicant later met with the NYC DEP to discuss proposed stormwater practices. An HOA (Home Owner's Association) is proposed to maintain the road and stormwater infrastructure. There will be no disturbance within the buffer area except for the site access road. Mitigation for this is shown on Lots 6 and 7. Lot 9 is now shown to be a similar size to the rest of the lots in the subdivision. Another lot will be created for the conservation area lot that will also be owned and maintained by the HOA. Fon confirmed that the drainage from off-site going into the existing basin is proposed to be maintained in the future by the HOA. Zappi stated the HOA will maintain the existing basin. The applicant added a planted turn around in the center of the cul-de-sac to reduce impervious surface.

Kincart asked for more description of plan. Brian Zappi stated the applicant had created several alternatives; one showing the extension of Sherry drive and a stream crossing. This plan was found to be more wetland and wetland buffer disturbance. Both the Conservation Board and Planning Board determined the hammer head road was better. The stream crossing plan also had 9 and 10 lots.

The proposed tree plan is shown on page 5, which provides additional tree planting and screening on the rear lots.

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### **Susan Siegel, 419 Granite Springs Road**

Are there any plans to do any modifications or upgrades to the existing detention pond? How will the recreation fee requirement be met? Will there be a fee in lieu and will the existing home be included in this? This application must also comply with the affordable housing law and this law does require one unit be for affordable housing.

### **Shea MacDonald, 2406 Pine Grove Court**

MacDonald had questions regarding flooding towards her house on Pine Grove Court being downhill from the proposed development. MacDonald appreciates the tree buffer to neighbors, however if water is displaced it will flow towards Pine Grove Court and Lynn Court. In the spring the water table is already high. This development is taking away the existing foliage that would hold this water. If this subdivision is built and her house floods, is the HOA or the town responsible? What are the environmental impacts to wildlife and plant life? Is there an increase in water flow to the existing basins in the area that will allow for more standing water and could lead to mosquito problems? Can the basin accept water from all of the developments in this area?

### **Frank McNamee, 2383 Pine Grove Court**

What is the guarantee that the HOA exists in the future and will properly maintain the facilities? What is their incentive to properly maintain the system since it is my basement that will flood, not theirs?

### **Arnold Loeb, 2390 Pine Grove Court**

Loeb was concerned with the same flooding problems when it rains hard. The homes all flood to some extent. If the HOA has good funding, it may work fine. What will the noise level be? Will the buffers comply with the town code?

Tegeder stated there are still open planning and engineering issues that need to be addressed.

Quinn stated he wrote a memo to the Board last week. He is still completing technical review and needs more information regarding the basin. The HOA needs some further thought. The Town Attorney must review this. There would likely be an escrow requirement so the town has some guarantee the maintenance is done. If the HOA does not perform maintain properly, the town will take over, and go after them. Fon asked if the existing basin currently is in need of maintenance. Quinn stated the basin looks like it has not been maintained in many years. Further research is needed to know the long term maintenance of the basin.

Tegeder stated the existing regional basin serves part of Bethel Acres, part of Park Lane Estates, has future capacity for Daronco Estates, and was originally designed to include the self-storage. The self-storage site entered an agreement with BJ's to use their basin instead. The regional stormwater basin therefore still has capacity for other yet unbuilt subdivisions. There is a plan and stormwater plan from when the basin was designed.

Flynn asked the square footage of the proposed homes. Brian Zappi responded the homes will be between 2,700 – 2,900 square feet.

**Upon a motion by Kincart, seconded by Flynn, and with all those present voting aye, the Board adjourned the Public Hearing.**

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**Upon a motion by Savoca, seconded by Kincart, and with all those present voting aye, the Board adjourned the Public Hearing.**

### **WORK SESSION**

**Featherbed (Colangelo)**

**SBL: 35.16-1-4**

**Discussion Subdivision**

Location: 1805 Jacob Road

Contact: Site Design Consultants

Description: Proposed to subdivide the subject property into 6 residential lots with single family homes. This parcel is in both an R1-40 and R1-160 Zones. Applicant is requesting to use Town Code Section 300-22 Flexibility.

Joe Riina, project engineer, Bruce Donahue, Al Capellini, and Maria Constanza, project manager, were present. Riina stated that he made a few changes to the plans after the site walk with staff. The analysis between the conventional and flexibility subdivisions was also revised by Bruce Donahue. Riina stated that there will be one sheet showing the entire parcel submitted to the Board. All the trees that were located are shown. The flexibility plan has not changed. The site is not in the sewer district. The applicant will have to petition the Town Board.

Donahue, summarized his analysis which showed the advantages of the flexibility plan over the conventional plan. The flexibility plan leaves a larger amount of land out of potential development by future homeowners. Donahue submitted his latest revision to the analysis dated today. The conventional subdivision homes would be between 5,000 – 6,000 square feet. The flexibility plan showing lots closer to 1 acre in size show homes 2,500 – 3,500 square feet. The number of trees that would be removed is substantially less. Of those trees to be removed, 38% fewer are specimen trees; trees 18 inches or larger. The stormwater will be designed around the property owner's preference to be self-sufficient. For example, permeable pavement will be used, driveways can be gravel or permeable asphalt, there will be vegetative swales, etc. These practices could not be done if the road were built to town standards. The road is shorter and will remain private on the flexibility plan. The road, farm stand, and remainder of the property are all on Lot 6.

Barber asked if the potential barn would be included on the conventional subdivision because the future plans of the lot may include future pasture land. Riina stated that both plans include the potential for farming in the future. Barber asked if the assumption can then be made that the flexibility plan could lead to more land disturbance in the future because more land would be undeveloped with homes. Barber stated that if the property were included in the agricultural district in the future, it would be exempt from many town zoning laws, although the NYC DEP would still review clearing more than 2 acres at a time. Barber recommended the barn and public access be shown on the conventional plan as well so the comparison is the same.

Tegeder stated the intent of the Town Code Section for Flexibility Standards is to lay out a development that is more sensitive to the land, not necessarily to preserve conservation land. Flexibility is not used only for environmental considerations.

Fon suggested the Board refer the plan to the Town Board for the flexibility authorization. The applicant should show the barn on the conventional plan.

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Tripodi asked whether the remaining large lot could be further subdivided in the future. Tegeder stated the Board should be comfortable with the maximum lot count is 6 lots. The Board can include a condition in the resolution that no further subdivision is allowed. Barber stated the Board could restrict development on the steep slopes with a conservation easement.

Fon suggested the Planning Board make a site visit while the applicant was referred to the Town Board. Steinberg will schedule with the applicant.

### **Lowe's Home Center former Costco Wholesale**

**SBL: 26.18-1-17, 18, 19 & 26.18-1-1**

#### **Discussion Amended Site Plan**

Location: 3200 Crompond Road

Contact: Provident Design Engineering

Description: Proposed Lowe's with two restaurant buildings and a bank building on the former approved Costco Wholesale Club site.

Fon requested clarification on the process and confirmed that the Board must adopt a resolution memorializing their position on whether a supplemental EIS is needed. Fon summarized his review of the technical memo submitted by the applicant. Fon thought the viewshed still needed some work. More landscaping could be shown up front on the site. The applicant stated the Lowe's building was different in that it did not have the same continuous roof height as the Costco building had. The Lowe's roof steps down. Fon asked if the Lowe's building will include any use of solar. Fon stated the architecture for the front buildings that was presented was very attractive. The parking is improved as there are less spaces and shared parking is used between the buildings. The stormwater is now being proposed on the added rear lot and will be for storage using conventional methods. The traffic shows that everything is improved other than morning hours. Fon asked specifically about Table 8 on page 20 of 30. Fon asked the applicant to confirm that traffic has improved since the Costco review and if the additional morning peak traffic would be as intense as Costco.

Grealy stated that traffic has improved as a result of the DOT improvements, which rerouted traffic getting off the northbound Taconic and continuing west to the Bear Mountain Parkway extension to Route 202. Traffic increases have not occurred on the corridor. The site traffic generation in the PM and Saturday will be less than Costco. The morning peak is higher, however the same improvements are still proposed by the applicant, which include the added lane and reconfiguration of left turn lanes between the Taconic ramps. These improvements will accommodate the increase in traffic. The operations will be better because of the improvements. Tegeder asked what times the highest traffic generation for the project are. Grealy stated the highest traffic generation is on Saturday, in the PM peak, and then in the AM; in that order. The largest increase in traffic generation is in the morning, but none of the conditions are worse than the worst condition of Costco. Grealy stated the applicant is ready to reinitiate the NYS DOT permitting process with the new plans.

Fon asked what the applicant's status was with the NYC DEP. Panayotou stated the team met with the DEP last Thursday. The applicant had completed infiltration testing ahead of testing to be witnessed by the DEP to be sure the plan would work. The DEP is scheduled to witness testing on October 25th & 26th. Barber will witness the testing for the Town. Panayotou explained that the applicant needs permission from the DOT to permit the testing since the applicant does not own the land. Hopefully

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this permission will fall in line with the scheduled dates, otherwise he will advise the Town if they are rescheduled. Panayotou stated he did review the plan concept with the DEP at the Thursday meeting. At that time the DEP stated they may request to have infiltration separate from abatement to take the pressure off the infiltration system. If the DEP does prefer this approach, the plan will be revised. Fon asked if the DEP does like the amended site plan better because it uses the surface stormwater practices they had wanted the last time around. Panayotou confirmed the DEP was happier with the amended plan.

Barber stated staff would be meeting with Evans Associates this coming Thursday to walk the 3.3 acres of DOT property.

Flynn asked if the applicant would be clearcutting 3.5 acres of land to build the new stormwater facility and if so wouldn't this be a significant impact in itself. Barber stated that the change does pose a new impact, however if that can be mitigated, it wouldn't be considered a significant impact. The plan shows 100 trees being planted on site. In addition, the new tree ordinance allows for greater options for the Board to consider for mitigation.

Capellini asked about a projected timeline for the Board's review. Georgiou noted that the Board can make a preliminary determination that no supplemental EIS will be needed. Tegeder asked the applicant if there was anything the applicant needed from the Board before they could move forward with the NYCDEP. Panayotou stated the applicant was not waiting for anything from the Board. Fon suggested the Board make a preliminary determination whether a supplemental is needed at the next meeting. If the Board agrees at that time, then we can move on to tweaking the site plan, and then a Public Hearing on the amended plan. The Board will refer the technical memo and plans to the ABACA, Conservation Board, and the Tree Conservation Advisory Committee.

Flynn asked if Lowe's policy has changed from installing solar to buying solar power. Panayotou will ask Lowe's.

Capellini asked if the applicant would separate the tenant lots by subdivision or a lot line adjustment. Capellini stated that all the lots are now owned by same property owner. Tegeder was concerned with the lot lines defining the building and leaving the stormwater and wetlands separate. There would have to be a restriction that the parcels could never be sold to separate owners.

Panayotou reviewed the PowerPoint presentation from last meeting for the Board members that were not present at that meeting.

### **Saccante**

**SBL: 26.05-1-18**

**ZBA Referral #33/16**

Location: 3197 Rocky Place

Contact: JMF Architect, PLLC

Description: This is an application for a variance to allow an addition that will have a rear yard setback of 39.2' where 45' are required as stated in the decision of the Zoning Board of Appeals on May 24, 2001 and to allow a wall & fence in the side & rear yards with a maximum height of 10'9" where the maximum height permitted is 4'5" in the side & 6.5' in the rear, as per 300-13 of the Town Zoning Code. This property is in an R1-10 Zoning District.



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Jim Flandreau, project engineer, and Mr. Saccente the property owner, were present. Flandreau stated the drainage must be along the retaining wall and not through the pool because no drainage was found when the pool was constructed. Tegeder requested the outflow pipe be shown on the plan. Then he will send a memo to the Zoning Board that the Board has no objection to the variance.

**Upon a motion by Kincart, seconded by Tripodi, and with all those present voting aye, the Board closed the meeting at 10:30 pm.**