Meeting of the Planning Board of the Town of Lewisboro held at the Town Offices at Orchard Square, 20 Cross River Plaza, Lower Level, Cross River, New York on Tuesday, July 15, 2014 at 7:30 p.m.

Present: Jerome Kerner, Chairman
Robert Goett
Gregory LaSorsa
John O'Donnell
Ron Tetelman
Lawrence Praga, Esq., Keane & Beane P.C., Planning Board Counsel
Greg Monteleone,, Esq., Special Counsel
David Sessions, RLA, AICP, Kellard Sessions Consulting, Wetland Inspector
Jan Johannessen, AICP, Kellard Sessions Consulting, Town Planner/Wetland Consultant
Joseph Cermele, PE, Kellard Sessions Consulting, Town Engineer
Lisa Pisera, Planning Board Secretary

Also in Attendance: Janet Andersen and Bob Carpell, Conservation Advisory Council (CAC).

The Chairman called the meeting to order at 7:30 p.m. and noted the emergency exits.

I. PUBLIC HEARING

Rudolph C. Petruccelli, Oscaleta Road, South Salem, New York - Application for Subdivision Plat Approval and Wetland Activity Permit Approval to permit the construction of a three bedroom, single-family residence and associated deck, porch, driveway, walkway, landscaping, septic system, potable well, fencing and stormwater facilities. Cal# 8-12PB and Cal# 61-09 WP

Mr. Tetelman recused himself and stepped down from the podium.

Ms. Andersen recused herself from her role as CAC Co-Chairperson for this application. Ms. Andersen represented the Three Lakes Council.

Michael Sirignano represented the applicant. Rudolph Petruccelli, applicant was also present.

Mr. Kerner stated that the application has been before the Planning Board for an extended period of time, has elicited materials from the applicant and public, and the hearing has been held over the course of several monthly meetings.

Mr. Kerner stated that in order to assist in bringing this application to conclusion, the Board is requesting both the applicant, and members of the public, including their attorney or representatives, to submit written summations; in particular, the Board is asking for statements that identify the facts established through this hearing, and how these facts measure up against the legal standards by which this application should be decided.

Mr. Kerner stated that the Board is entertaining a motion to leave the public hearing open until August 8, 2014 for written comments only. Discussion this evening would be for any new information.

Mr. Kerner asked that written summations be funneled through a point person. Mr. Praga clarified that there can be no preclusion of submission by individuals. It is being suggested that, if possible, everything should be funneled through representatives because it provides for a clear and concise summary and argument to be made.

Mr. Kerner asked that Kellard Sessions review the last submission made by Mr. Petruccelli.

Mr. Sirignano stated that he was in agreement to the procedure proposed. Mr. Sirignano stated that Mr. Petruccelli's most recent submission contained an outdated Environmental Assessment Form (EAF), Parts 1 and 2; Mr. Sirignano stated that the applicant would submit Parts 1 and 2 of the EAF on the correct form, and asked that the applicant be allowed to supplement Part 3 of the EAF.

Mr. Johannessen reviewed the Kellard Sessions memo dated July 14, 2014.

There were no comments from the CAC.

Mr. O'Donnell asked that Mr. Sirignano confirm the purchase price of the property; Mr. Sirignano stated that the purchase price was $4,000.

Mr. O'Donnell stated that at an earlier meeting, a discussion of the Citizen Statewide Lake Assessment Program (CSLAP) had taken place. The Board had later received an article describing the program. Mr. O'Donnell suggested that some of Mr. Wright's presentation may have referenced phosphorous levels reported by the State's program. Mr. O'Donnell asked Mr. Wright to inform the Board who had supplied the information to the State, as it appeared that the information was supplied by a citizen group.

Ms. Andersen stated that there is a variety of volunteers who collect water samples that are sent to a state lab. These volunteers submit samples (not data), which goes into a state certified lab.

The public hearing was open to the public for comment.

Mr. Fred Cowles, 111 Oscaleta Road, read his memo dated July 15, 2014, and submitted photos for the file (Attachment A).

Ms. Andersen read her memo dated July 15, 2014 (Attachment B).

David Wright, Esq., attorney for the Three Lakes Council, addressed the Board. Mr. Wright stated that the appeal filed with the Zoning Board by the Three Lakes Council was denied based on untimeliness. Mr. Wright stated that the Three Lakes Council had succeeded in FOILing the Westchester County Department of Health (WCDH). As a result, a hold harmless agreement was discovered. This agreement was addressed in Ms. Andersen's memo.

Mr. LaSorsa asked if there was a provision allowing the Zoning Board of Appeals (ZBA) to overlook the timeliness of an appeal if they believe that the appeal should be granted in the interest of justice. Mr. Praga responded that there is no such provision.

A discussion of deadlines took place.

On a motion made by Mr. LaSorsa, seconded by Mr. Goett, the applicant shall have until July 25, 2014 to resubmit Parts 1 and 2 of the Environmental Assessment Form (EAF) and modifications to Part 3 of the EAF; all responses to the factual submissions of the applicant shall be filed by August 4, 2014; and summations shall be filed by August 11, 2014; whereupon the public hearing on the Petruccelli applications for subdivision approval and a wetland activity permit shall be closed at the close of business on August 11, 2014.

In Favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell.

Recused: Mr. Tetelman.

Mr. Tetelman resumed his position at the podium

II. DECISION

Oakridge Gardens (Smith Ridge Housing, LLC, owner of record), NYS Route 123, Vista – Application for Waiver of Site Plan Development Procedures - Amendment to the approval dated June 12, 2012, last amended September 24, 2012 – Cal# 2-14PB

Mr. Johannessen reviewed the proposed resolution.

The CAC had no comments.

Mr. Pine stated that he had not yet been to the WCDH

On a motion made by Mr. O'Donnell, seconded by Mr. LaSorsa, the resolution dated July 15, 2014 granting Amended #6 Approvals to the October 12, 2010 resolution granting Wetland Activity Permit, Town Stormwater Permit, and Site Development Plan, to Oakridge Gardens (Smith Ridge Housing, LLC, owner of record), NYS Route 123, Vista was adopted.

In Favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

Connie Plaehn, 14 Gilbert Street, South Salem – Application for Wetland Activity Permit Approval to install a 312 square foot floating dock and approximately 64 square foot garden shed at Lake Truesdale – Cal# 16-14WP

Michael Sirignano, Esq., represented the applicant.

Mr. Johannessen reviewed the proposed resolution.

Mr. Johannessen stated that the proposed resolution contains a condition that the construction authorized by the permit will commence on or after September 2, 2014, and shall be completed within four weeks of commencement of construction. The proposed resolution also states that the wetland activity permit shall expire on October 31, 2014 unless extended by the Planning Board.

The proposed resolution contains a condition regarding items prohibited from being stored in the shed, as discussed at a previous meeting. Mr. Goett expressed concern that any future owners may not be aware of the restrictions. Mr. Sirignano agreed that a sign would be posted on the inside of the shed door with regard to the prohibited items.

Mr. Sirignano stated that the applicant submitted"dock application permission" to the Truesdale Estates Association (TEA) and Truesdale Lake Property Owner's Association (TLPOA), and that the revised plan was approved.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the Board determined that the proposed action would be handled administratively by the Town Wetland Inspector.

In Favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

III. SKETCH PLAN REVIEW

Lukoil Service Station (Formerly Getty Service Station) - Smith Ridge Associates, Owner of Record – Application for Waiver of Site Development Plan Procedures for rebranding from Getty Service Station to Lukoil Service Station - Cal# 3-14PB

Matt Zambrano, Tyree, represented the applicant. Phil Pine, Smith Ridge Associates, was present.

Mr. Zambrano stated that the applicant is proposing to put in a small free-standing sign and landscape area in the top corner of the property.

Mr. Johannessen reviewed the Kellard Sessions memo dated July 9, 2014.

Mr. Johannessen stated that the gas station is located on the Oakridge Shopping Center parcel. The paperwork submitted by the applicant shows the gas station as a separate parcel. The applicant was requested to submit a survey, and update the site plan to accurately show the boundary lines. Mr. Johannessen stated that the applicant is proposing some removal and replacement of curb in proximity to the right of way.

Mr. Johannessen stated that one free standing sign is proposed, in addition to a number of sign modifications. The proposed sign is approximately 30 square feet. The sign law allows one free-standing sign, up to 30 square feet, per lot. Oakridge has a number of free-standing signs. Subsequent free-standing signs are allowed, each up to eight square feet. Mr. Johannessen stated his opinion that a sign variance is needed.

Mr. Johannessen stated that he was in favor of the landscape island proposed in the northeast corner of the site, as it may help traffic circulation. Cars currently park along both sides of the parking lot, perpendicular to the edge of the asphalt. The landscape island will help push the cars away from the entrance drive. Mr. Johannessen recommended that a second landscape island be placed at the exit.

Mr. Kerner questioned whether the parking is in compliance with the original site plan approval. In response, Mr. Johannessen stated that the site plan of record shows a total of eight parking spaces: two on the south side of the service building; and six on the north side. There is no other parking allowed on either side of the parking lot from the street to the building. Aerial images appear to show that cars are parking on both sides of the parking lot. Mr. Johannessen stated that the site plan of record does not allow for parking in the above-mentioned areas.

Mr. Johannessen stated that Kellard Sessions is willing to visit the site to determine whether there are any other potential non-compliance issues on the site.

Mr. Kerner suggested that a plan showing the approved lot, as compared with the plan proposed by the applicant, be submitted. At that point a determination as to whether or not a variance is needed could be made.

Mr. Johannessen stated that if a variance on the sign was needed, the procedure would be as follows: the Planning Board would refer the applicant to Architectural and Community Appearance Review

Council (ACARC); ACARC would review the application and refer the applicant to the ZBA for a variance; the applicant would go back before ACARC for approval of the sign, and then; the applicant would come back to the Planning Board for site plan approval.

Mr. O'Donnell asked if there was any encroachment into the state right-of-way. Mr. Johannessen stated that the only right-of-way issue is with respect to the unknown property line, and the proposed removal and replacement of the curb.

It was the consensus of the Board that the applicant be referred to ACARC.

Mr. Johannessen stated that a previously proposed, 30 square foot, sign was not approved.

Mr. O'Donnell requested that a copy of the above referenced decision, the prior resolution, and prior site plan be provided to the Board.

IV. PROJECT REVIEW

JT Farm (Peace & Carrots, LLC), 1125 Route 35, South Salem – Application for Final Subdivision Plat Approval Subdivision – Lot Line Change - Cal# 9-13PB

Stephen Spina, Civil Engineer, John Meyer Consulting, represented the applicant.

Mr. Spina stated that the owner would like to sell one of the lots. The lot line change is being proposed in an attempt to evenly distribute pasture for horses.

Mr. Johannessen reviewed the Kellard Sessions memo dated July 9, 2014.

Mr. Johannessen reviewed Planning and Engineering Comment 2 of the memo. Mr. Johannessen stated that it appears that one or more buildings on Lot #1 will be located within 100 feet of the proposed lot line and recommended that the Building Inspector make an interpretation as to whether the proposed lot line change will require a setback variance. Mr. Spina stated that he has not spoken to the Building Inspector regarding this issue.

Mr. Johannessen stated that there is a parking area on Lot 1 that is against the proposed property line, and a portion of the parking area must be removed in order to comply with the 20 foot setback requirement between property lines and parking areas.

The CAC had no comments.

Mr. O'Donnell asked if a referral to the County was needed (because the property is on Route 35). Mr. Johannessen responded that this application is considered a subdivision. The county does not review subdivisions unless a new street is proposed, or unless a new street will connect directly into a state or county road, or a new drainage line will connect directly into a county drainage channel. In the case of JT Farm, a County referral is not required.

Mr. O'Donnell raised the possibility of asking the applicant to notify the Westchester County Parks Department because the property is contiguous to Ward Pound Ridge Reservation.

Mr. Spina confirmed that both properties would be horse operations.

It was the consensus of the Board that should a variance be needed, the Planning Board would send a positive recommendation to the ZBA.

The applicant was instructed to meet with the Building Inspector to determine course of action.

The applicant was informed that a public hearing will be scheduled once information is obtained from the Building Inspector. The applicant was instructed to review the publication requirements of public hearings. No public hearings will take place in August.

Estate Motors Mercedes Benz, (Charisma Holding, Inc., owner of record), 321 Main Street (NYS Rte. 22), Goldens Bridge - Application for Waiver of Site Plan Approval Procedures – Approval to demolish two old wood frame buildings located on property - Cal# 4-13PB

Bob Roth and Stephen Spina, John Meyer Consulting, were present on behalf of the applicant.

Mr. Roth stated that a meeting took place with Mr. Johannessen and Peter Barrett, Building Inspector, in May, 2014 to discuss the expiration of the previously approved site plan and the fact that the current conditions of the site do not comply with the site plan on record with the Town.

In approximately 1982, the service building was constructed and the parking area behind it was built. After that time the owner purchased the neighboring property and demolished the Texaco Station which was on that lot. The applicant has been parking cars on the (Texaco Station) lot ever since, which is one of the reasons for the violation, along with some other areas on the site which were not built according to the plan.

Mr. Roth stated that the current application deals with two issues: the demolition of the two houses and; the development of the berm, landscaping, and drainage which were part of the previously approved plan.

Mr. Kerner clarified that the berm was not a stand-alone solution to the drainage problem.

Mr. Kerner stated that the approved 1982 plan includes a drainage pipe on the east side which refers to a retention trench on the north side.

Mr. Roth stated his belief that the drainage on the approved plan was not built because it was not practical.

Variances between the 1982 approved plan and what is currently on the site were discussed. Mr. O'Donnell noted that the Texaco Station was purchased and demolished; a circular parking area that appears on the 1982 plan was not built and; a pipe on the north area which is shown on the 1982 plan was not built. Mr. Roth added that the total number of parking spaces of 104 differs from the approved plan. Mr. Roth stated that the service building was built, and a Certificate of Occupancy was issued.

Mr. Monteleone stated that the underlying violation has to do with the front part of the site (Texaco parking), although there are issues with the north part of the site as well.

Mr. Tetelman noted the concern of the neighbor, Mrs. DeNicola and asked how the drainage on the northeasterly corner of the property is being addressed.

Mr. Roth stated that the drainage options of the applicant are limited by the setbacks from the septic system. Rather than planning for drainage in the corner, a berm would be built, and left open at the eastern end. Water coming from the parking lot would go around the corner of the berm and into the upper portion of Mrs. DeNicola's yard, away from her house and septic system. Water coming from the Castelli property, which drains onto the Estate Motors property, would also be handled in this matter, keeping it away from the house.

Mr. Roth stated that he and Mrs. DeNicola had spoken in the past month. Mrs. DeNicola had contacted the town regarding trash along the fence. Estate Motors cleaned out the property, and raked the leaves along the fence. This created a problem because the leaves had been filtering the water that came off of the property.

Mr. Roth suggested that the berm be placed on a bed of gravel, functioning similarly to a bioretention system.

The majority of the water will go around the berm.

Other drainage options were discussed.

Mrs. DeNicola stated that she does not get water from Mr. Castelli's hill. She gets water from the Estate Motors property.

Mr. Tetelman stated that he would like to see what happens to the water once it goes around the berm.

Mr. Roth stated that the proposed berm will handle an average storm.

In response to Mr. Tetelman, Mr. Roth stated that if the northeasterly section of the berm was sealed to force the water to go through the berm, stay in the gravel, and eventually back up into the Estate Motors parking lot, then the lot would be flooded which is unacceptable because of the expensive cars parked on the lot.

In response to Mr. O'Donnell, Mr. Roth stated that the north parking lot is part of the 1982 approved plan.

Mr. O'Donnell asked that when Kellard Sessions reviews the Planning Board Estate Motors file, it be determined what the size of the approved parking lot was, and what the size of the existing parking lot is.

Mr. Kerner asked for quantification of what rainfall the berm could handle. Mr. Cermele suggested starting with 90% rainfall (1.2 inches – 1.3 inches of rainfall) as a target, and looking at the tributary area to the northeast corner, including the hill behind the property in order to determine whether the proposed drainage feature could handle the 90% rainfall before entering the DeNicola property.

In response to Mr. O'Donnell, Mr. Roth demonstrated on the plan what is currently in the State right-of-way. Mr. Roth stated that a large percentage of the cars that are seen when driving by the site (along the existing curbs) are parked on the State right-of-way. The applicant is proposing to close some of the curb cuts to create a canoe shaped island where cars can be parked perpendicular, while allowing enough width for the cars to back up and trucks to get through. Mr. Roth stated his belief that the NYS DOT would be receptive to the plan, however, he does not want to go forward without Planning Board approval.

Mr. O'Donnell stated that he is not in favor of Estate Motors using the State right-of-way, as it may be used for something else, such as a bike path, or the state may decide that they would like to expand it. And importantly, Mr. O'Donnell pointed out that the arrangement of automobiles along the State right-of way is inconsistent with the general appearance of the Town and a portion of Route 22 in the Town.

Mr. O'Donnell asked the applicant to consider a plan that does not use the State right-of-way.

Mr. Johannessen clarified that the required parking should be based on current data, not what is indicated on the 1982 site plan.

Options for parking on the site were discussed.

Mr. Johannessen pointed out that the previously proposed demolition plan proposed to knock down the buildings and vegetate the area with grass. This plan proposes an additional parking lot.

Mr. Tetelman noted that the potential for a future bike path in State right-of-way should be taken into consideration. Mr. O'Donnell stated that the old statewide bike plan included a bike path along Route 22.

At the request of Mr. Johannessen, Mr. Roth reviewed the proposed curb cuts as they compare to the prior plan. Mr. Roth stated the utility pole in the island must be moved.

Mr. Johannessen stated that the prior plan included two curb cuts, and asked Mr. Roth to show the location of those curb cuts. Mr. Roth showed the location of the curb cuts on the plan displayed.

Mr. Tetelman stated that the demolition and water mitigation should be seen simultaneously. Mr. Roth responded that because the process to obtain the necessary approvals from the NYS DOT, NYS DEC, NYC DEP, and Planning Board may be a lengthy one, the applicant is requesting that the demolition of the buildings be handled separately. The Board was receptive, but determined that this issue would be further discussed after a site walk has taken place.

A site walk was scheduled for August 9, 2014, at a time to be determined.

Barry Bocklet, 15 South Shore Drive, South Salem – Application for Wetland Activity Permit Approval for drainage improvements and replacement of existing terrace – Cal# 38-14WP

Michael (Barry) Bocklet, property owner, and Barry Naderman, P.E. were present.

Mr. Naderman stated that he had met with Mr. Johannessen to discuss the project and proposed mitigation. Mr. Naderman reviewed his June 26, 2014 memo to the Planning Board (included in the July Agenda Packet) and showed the proposed drainage mitigation on the plan displayed. The catch basin at the bottom of the driveway will discharge to a new drain inlet at the base of the driveway to a proposed rain garden off the back left corner of the house. Mr. Naderman stated within the rotted timber terrace, a pipe was found that discharges into the lake. This pipe will be intercepted and brought into shallow cultecs. The existing roof leaders will be brought into an infiltration system.

Mr. Johannessen stated his agreement with the general concept proposed.

Mr. Naderman and Mr. Bocklet confirmed for the CAC that there is no sump pump in the basement of the house.

On a motion made by Tetelman, seconded by Mr. LaSorsa, the Board determined that the proposed action would be handled administratively by the Town Wetland Inspector.

In Favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

Mr. O'Donnell stated that because this application is the result of a violation, a penalty must be set and recommended that the cost of the project be determined before setting the penalty.

Mr. Bocklet stated that because of Association guidelines, he may not be able to start the project until after Labor Day.

The Board agreed on a control date of October 30, 2014.

Mr. Naderman agreed to submit a cost estimate.

The applicant was instructed to copy Mr. Monteleone on any correspondence submitted with regard to the penalty for the violation.

The Board and Mr. Monteleone confirmed for Mr. Johannessen that the permit can be issued prior to the adoption of the resolution and issuance of the penalty.

Mr. Johannessen stated that he will discuss with the Building Inspector the existence of any ZBA procedures for this development (Block, CAMP). Mr. O'Donnell requested that this information be shared with Mr.Siebert.

VI. DISCUSSION

Greg and Dawn Plunkett, 53 Truesdale Lake Drive, South Salem – Application for Wetland Activity Permit for approval to install a floating dock

Dawn Plunkett, owner was present.

Mr. Johannessen reviewed the application with the Board.

Mr. Johannessen stated that the dock is an existing dock that is located elsewhere and is being transferred to the Plunkett's.

The dock is currently oversized, and does not meet the TEA/TLPOA standard, but because it is being moved, it was grandfathered by the TEA/TLPOA dock association, and has received TEA/TLPOA approval.

The CAC noted concern regarding the use of treated wood. The CAC stated that the recommended treated wood to use is cedar. Ms. Plunkett was agreeable to the suggestion.

It was the consensus of the Board that the proposed action would be handled administratively by the Town Wetland Inspector.

Frederick and Babette Kiesel, 49 Truesdale Lake Drive, South Salem– Application for Wetland Activity Permit for approval to install a floating dock

Clifford Munz, AIA, represented the applicant.

The project is for one large dock that is being purchased by two separate property owners.

Mr. Munz stated that the applicant has filed for TEA/TLPOA approval. The applicant has an appointment for septic pumping on the 25th, and that the payment of dues remains outstanding.

The size of the dock and property were discussed.

Mr. Praga stated that the Planning Board's determination is completely independent of TEA/TLPOA approval. If the Planning Board feels that a dock is too large, regardless of approval from a private entity, the Planning Board can take whatever action deemed appropriate based on the Board's determination.

The Board discussed the surveying of docks by the TEA/TLPOA which had taken place when creating their guidelines for dock approval. The Board noted that the guidelines appear to apply to new docks as opposed to existing docks on the lake.

Ms. Andersen questioned whether the TEA/TLPOA guidelines are lake specific or if they apply to other Town lakes.

Mr. Tetelman suggested that guidelines be developed by the Lakes Committee. Ms Andersen was agreeable to advise the Lakes Committee of this recommendation.

It was the consensus of the Board that the proposed action would be handled administratively by the Town Wetland Inspector.

The Board confirmed for Mr. Johannessen that the wetland permit and the TEA/TLPOA approval are independent of one another. Should the TEA/TLPOA make changes to the plan, it would be subject to Planning Board review.

VII. TOWN BOARD REFERRALS

Proposed paving of Boway Road and Schoolhouse Road

Boway Road

Peter Parsons, Town Supervisor was present. Peter Ripperger, Highway Superintendent was also present.

Mr. Parsons stated that the Town is applying for Wetland Activity Permit and Stormwater Permit approvals for the paving of Boway Road.

Mr. Parsons shared photos with the Board (Attachment C).

Mr. Sessions reviewed the project with the Board.

It was the consensus of the Board that the proposed action would be handled administratively by the Town Wetland Inspector.

Mr. O'Donnell abstained due to lack of information available to the Board.

School house Road

Kevin Fitzpatrick, Project Manager, East of Hudson Watershed Corporation (EOH), and Zach Pearson, Consulting Engineer, Insite Engineering, were present.

Mr. Fitzpatrick stated that the project has full funding from the EOH funds that have come from the State.

Mr. Fitzpatrick stated that 750 feet of new paving is being proposed.

Mr. Fitzpatrick described the water flow along Schoolhouse Road.

Mr. Pearson stated that a permit from the NYS DEC is needed because of the ponds on the Amsterdam property. No NYC DEP permit is needed. Ms. Amsterdam is in favor of the project.

Mr. Parsons stated that a Public Hearing was held at the July 14, 2014 Town Board meeting. Mr. Parsons stated that there was unanimous support.

Mr. Sessions stated that he feels that the project is beneficial and could be handled administratively.

It was the consensus of the Board that the proposed action would be handled administratively by the Town Wetland Inspector.

Proposed change to the zoning designation of property zoned R-1A to R-B affecting real property located at 5 East Street, (Cipriano, Pietro (Peter) and Jennifer – owners of record), Block 9834, Lot 36, Sheet 53

Michael Sirignano, Esq., represented the applicant. David Coffin, Architect, was present on behalf of the applicant. Mr. Peter Cipriano, owner, was also present.

Mr. Sirignano reviewed the proposed zoning change. Mr. & Mrs. Cipriano operate the Copia Garden Center which is adjacent to their residential property. The applicant has submitted a petition to the Town Board asking that consideration be given to rezoning the residential property (0.71 acres) from its current R-1A zoning classification to R-B zoning. The application has been referred by the Town Board to the Planning Board for their thoughts and recommendations.

Mr. Sirignano stated that the change to R-B zoning would allow for improvements to the site. The trucks that deliver landscaping materials and supplies would be able to unload on the premises rather than unloading on East Street. Retail materials would be better displayed, and the storage of plant materials would be enhanced.

Mr. Coffin distributed and reviewed the site plan and document, "Proposed Changes to Copia Nursery Site and Adjacent Residential Property" (Attachment D).

Mr. Sirignano stated that the intent is to keep the intense commercial operations in the front of the property and keep the "quieter" aspects of the business, such as plant storage, in the rear of the property which is adjacent to the residential zoning.

In response to Mr. O'Donnell, Mr. Cipriano stated that he has spoken to one of his neighbors, but needs to speak with another neighbor regarding their thoughts on his proposal.

In response to Mr. Kerner, Mr. Cipriano stated his willingness to extend the landscape buffer along the neighboring property line.

Mr. Kerner suggested that the neighbor's garage be shown on the plan.

Mr. O'Donnell expressed concern regarding the curb cuts on East Street, as it is a residential area. Mr. O'Donnell questioned why the trucks cannot enter and exit off of the state highway (Route 123).

Mr. Cipriano stated that Route 123 is too tight for the tractor trailers to make a turn because of the stone walls and telephone poles. Route 123 would be blocked.

Mr. Sirignano stated that the complaints that have been received by the Supervisor and Building Department are because of the trucks unloading on East Street, and tearing up the shoulder.

Mr. Tetelman suggested that the size of the curb cut be reduced.

Mr. Johannessen suggested that the rear of the Copia Nursery site, between the green houses and the property line, be modified to reduce the number/size of the curb cuts being proposed.

Mr. Kerner stated that the character of East Street is a concern.

Mr. Johannessen stated that, even if the zoning is changed, the residential (Cipriano) property must remain residential until site plan approval is received from the Planning Board.

Mr. Kerner stated that it is very positive that a new business is expanding.

Mr. Goett stated his concern regarding the fertilizer being used, and the amount of mulch that would spill onto East Street.

Mr. Cipriano stated that the trucks are not parking in the Vista playground parking lot.

Mr. Cipriano confirmed that the wine store is a tenant. There is no wine being made.

Mr. O'Donnell suggested that an alternative to a chain link fence be considered in order to present more of a non-commercial appearance. Mr. Cipriano responded that the fence does not need to be chain link; however, a rolling fence is needed.

Mr. O'Donnell suggested that Mr. Cipriano seriously consider the recommendation of Mr. Johannessen to rearrange his property in order to get by with a smaller curb cut.

The applicant was instructed to submit a new rendering showing a more residential feel based on the comments provided by the Board. The Board would like to see the conceptual maneuvers and circulation detail.

Mr. Sirignano stated that the applicant prefers not to submit a full site plan simultaneously with the application for the zoning change. If the zoning change is not approved, the site plan will not be needed.

Mr. O'Donnell suggested that Mr. Cipriano obtain the support of the two closest neighbors, and provide documentation to the Board.

Mr. O'Donnell suggested that the number of trucks coming to the site be quantified.

The applicant was instructed to send the revised materials to the Board in advance of the next appearance.

Town of Lewisboro Bike and Pedestrian Plan

Councilman Dan Welsh was present.

The Sense of the Board Resolution Supporting Planning and Designing for Bike and Pedestrian Accommodation (Attachment E) was read aloud.

Mr. Kerner stated his opinion that a stop sign at Bouton Road is needed due to the high amount of both vehicle and pedestrian traffic on the road.

VIII. MINUTES OF JUNE 17, 2014

On a motion made by Mr. Tetelman, seconded by Mr. Goett, the minutes of June 17, 2014 were adopted.

In favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

IX. ADJOURNMENT

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the meeting was adjourned at 11:22 p.m.

In Favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

Respectfully Submitted,

Lisa M. Pisera

Lisa M. Pisera
Planning Board Secretary

Attachment A

TO: LEWISBORO PLANNING BOARD

July 15, 2014

Dear Chair Kerner and Members of the Planning Board:

I am Frederick O. Cowles, residing at 111 Oscaleta Road, South Salem. My several prior letters to the Board are on file.

Hopeful that this can be my final communication in Public Hearing, I am attaching photos of the applicant's lot, taken on July 6th, 2014. Persistent surface pooling remains, even at this date.

One further observation. Applicant and his lawyers have implied that rejection of his applications would somehow discriminate against this lot compared to all the pre-existing homes along Lake Waccabuc. The inconvenient facts are that when most of the other houses were built, this lot was NOT built, and for good reason. Even before Lewisboro adopted its Wetlands Ordinance in 1974, and before applicant threw the dice on his $4000 bargain-basement purchase price in 1982, this lot was too low and too wet to build on. Mr. Petruccelli's problem is NOT that we are an unfriendly neighborhood. It is his lot and Mother Nature that are his problem. If Mr. Petruccelli wishes to provide a home for his son and son's family, as he has stated several times, there are from time to time many opportunities to purchase lake properties, and perhaps even buildable lots, all of course on appropriately higher ground. We would welcome his son into our community, show him our favorite fishing spots, encourage him to join Joe Tansey's "beaver crew", etc. But please, just don't let applicant fill and build on our wetlands lots.

Thank you for the considerable time, effort and attention you have all given to this matter.

Frederick O. Cowles

Received 7-15-14
via Email. from
Fred Cowles

View from 3LC berm of local wetland 7/06/14

Attachment B

Comments prepared for July 15, 2014 Petruccelli public hearing – Janet Andersen, President
Three Lakes Council, Inc., PO Box 241, South Salem, NY 10590

Since we last met on this in February, the Three Lakes Council has submitted several memos to the board. I want to highlight the topics that were covered and to answer any questions you may have on any of these topics.
In March, we provided some numbers to support the requirement for phosphorus reduction in our watershed. The Town of Lewisboro is part of a 10 town corporation which has to reduce 460kg, or about 1000 pounds, of phosphorus discharge. The group expects an additional 460kg reduction target to be given next year. On a more local level, the town-wide study done by Ecologic reported that Waccabuc must reduce phosphorus loads by 28%, and the tipping point concept is supported by the 2013 report by the DEC, which said that Lake Waccabuc "may be susceptible to small changes in phosphorus". We also documented that at least 19 houses are reliant upon Lake Waccabuc for their household water supply. In a separate March memo, we critiqued the March submission materials from Mr. Petruccelli, and found that the applications remain incomplete, inaccurate, and flawed.

In June, we articulated the environmental heritage of the Three Lakes Council and discussed our stewardship outreach to current owners as well as new homeowners.

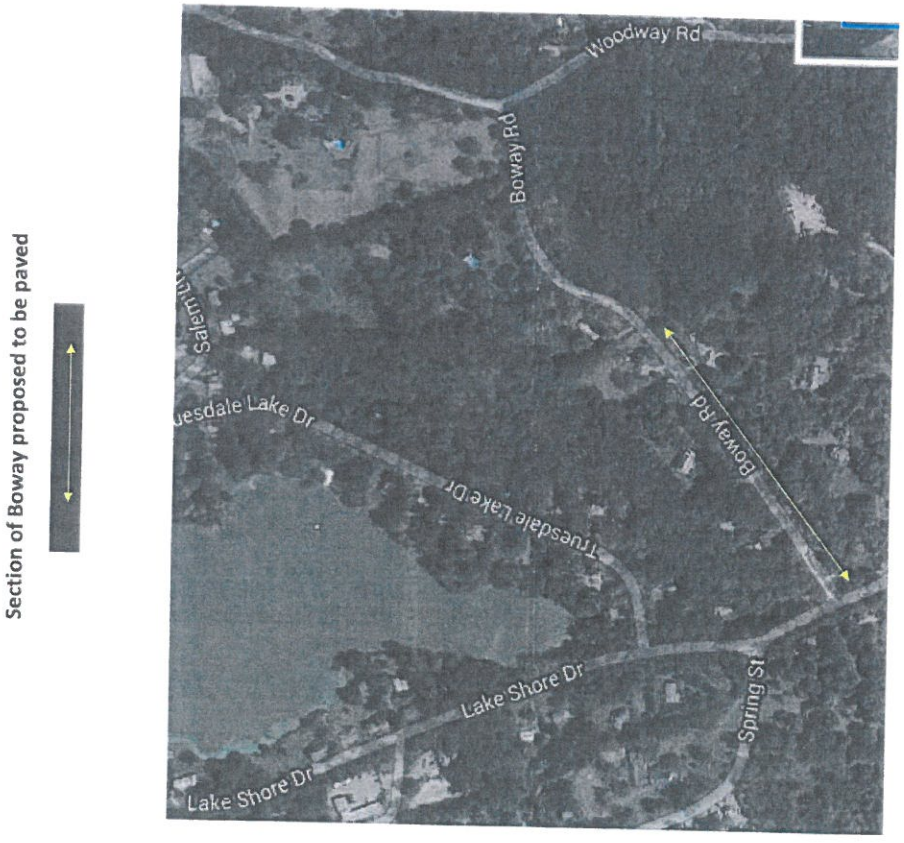
Also in a June memo, we informed you of the results of our review of the Westchester DOH files on the septic system application. At the time of our memo, the application was still under review, and the DOH had asked for data from an additional test hole, and Mr. Petruccelli had refused. We also provided a copy of the hold harmless agreement. A note on the plans referred to the existence of this document, but nature of this document was unknown until we saw the files. The declaration basically says that if the DOH does not abide by its own guidelines, Mr. Petruccelli promises not to sue the DOH and also promises to indemnify them against any claims or suits. How he will do this is not clear. And if it gets to that point, damage has already been done, and the damage may not be something that can be repaired. The DOH may decide to accept this risk, but the Town should not. If the DOH does not abide by its own guidelines because of this document, the Town cannot rely on the DOH septic approval process.

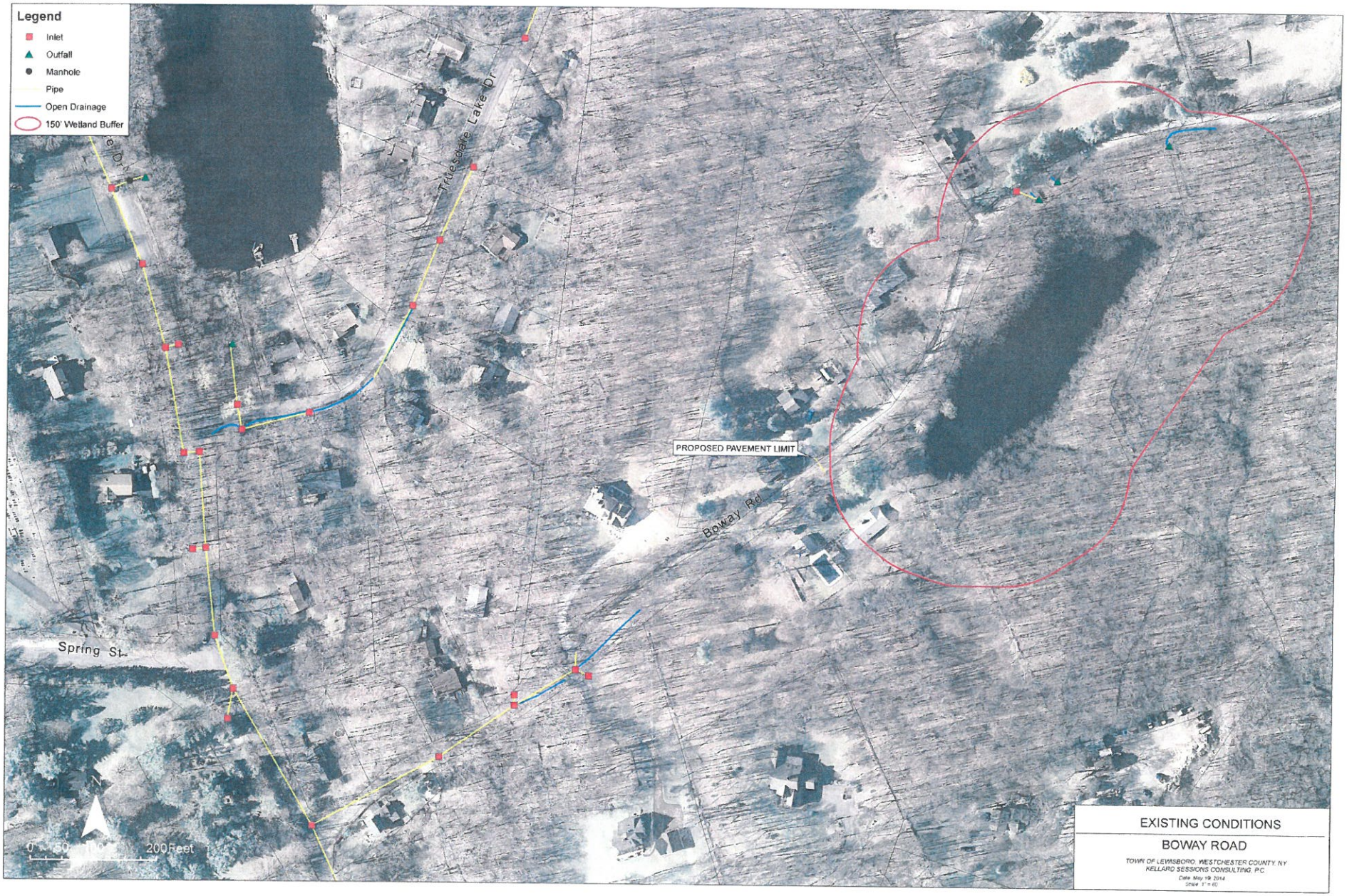
The planning board was also on copy of a memo that we sent to Steve Marino in June. Mr. Marino had directly approached the planning board with his proposal for mitigation activity on Three Lakes Council property without even notifying us of the specific proposal, much less obtaining our agreement. Indeed, we were not even copied on the proposal to you. Our memo explained that digging a ditch across our land from Mr. Petruccelli's property to let the water out was neither appropriate as mitigation nor an environmentally sound proposal. Just to put it on the record, we have asked the applicant to contact us before submitting additional proposals for our land, and to notify us and get our agreement before entering our property.

In July, we submitted a memo that again addresses the lack of proof about whether the wetland on Mr. Petruccelli's property was formed 50 years ago or 500 years ago -- and it doesn't matter. It is a wetland that is protected under the Town's wetland code. Meandering wetland flags may have shrunk it but it can't be eliminated and disregarded. No precedent exists for a wetland permit with this extent of intrusion into a wetland and buffer. Approval would not only be harmful to Lake Waccabuc, the precedent could put all Town wetlands at risk.

Your role is to uphold the law and protect the valuable shared resources of the town. You do that by denying this set of applications. Thank you for your time, and I'd be glad to answer any questions.

Attachment C




Legend
Inlet
Outfall
Manhole
Pipe
Open Drainage
150' Wetland Buffer
Tritesdale Lake Dr
PROPOSED PAVEMENT LIMIT
Boway Rd
Spring St
0
50
200 Feet
EXISTING CONDITIONS
BOWAY ROAD
TOWN OF LEWISBORO, WESTCHESTER COUNTY, NY
KELLARD SESSIONS CONSULTING, P.C.
Date: May 19, 2014
Scale: 1" = 40'

PROPOSED CHANGES TO
COPIA NURSERY SITE AND ADJACENT RESIDENTIAL PROPERTY

The attached sketch site plan, printed July 15, 2014, reflects the following:

Existing Commercial Copia Nursery Property:

1. Widen existing curb cut off East Street from 25 feet to 75 feet. Extended curb cut is needed for a tractor-trailer to turn and remain off East Street for parking and unloading, then exiting by backing up (on site) toward the Copia Building and then make a 180 degree turn back toward the intersection of East St. and RT 123. This also involves extending and relocating chain link fence and installing a new gate. The extended curb cut next to street will be stabilized with stone for tractor-trailers to drive over, rather than blacktop, which absorbs and radiates heat detrimental to plants. The remaining strip between the fence and street would be grass.

2. Provide new 20-foot wide curb cut (stabilized with gravel) and gate adjacent to existing Mulch Bins for smaller commercial landscape truck access when a tractor-trailer is unloading and blocking the widened existing curb cut. Trucks would enter at this new curb cut, take on mulch, etc. and leave through the "new connector" onto the existing blacktop driveway and exit right onto East Street.

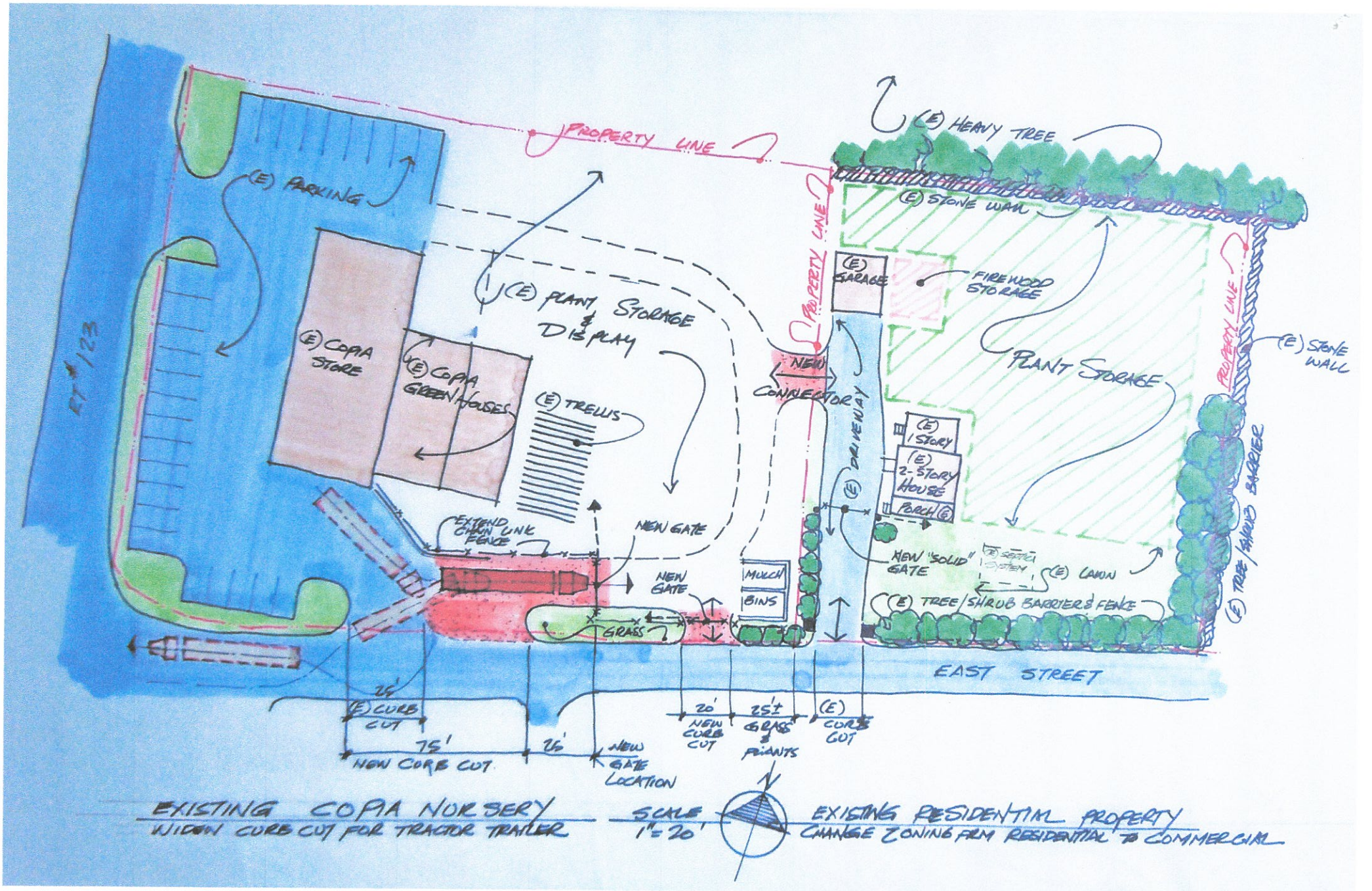
3. Install new connector (stabilized with gravel) connecting the existing Copia Nursery property and the existing residential driveway adjacent to the existing Garage (on Existing Residential property).

Existing Residential Property:

1. Change Residential Zoning to Commercial.

2. Install new "solid" gate adjacent to front porch to provide a visual barrier between front of property/street and the rear/garage of the property. Shrubs would be planted adjacent to the gate as needed to further restrict the view from the street. The existing plantings and fence along the front (East Street) of the property remain as a visual barrier. The intent is to maintain and present a residential view from the street. Likewise the existing plantings along the east side of property line remain to provide visual barrier between the adjacent residential property. The rear of the property is totally screened by dense woods on the adjacent property.

3. Plant storage will be along the rear and east side of the property; the front yard remains lawn and free from plant storage, especially since the existing septic system is there. Firewood storage will be located adjacent to the garage and driveway.



Printed 07/15/2014

Attachment E

SENSE OF THE BOARD RESOLUTION SUPPORTING PLANNING AND DESIGNING FOR BIKE AND PEDESTRIAN ACCOMMODATION

WHEREAS, the Lewisboro Master Plan plays an important role in protecting the natural beauty and rural character of the town; and

WHEREAS, although natural spaces have been well preserved, the increasing density and traffic of the remaining area has caused the roads to become less hospitable to bikes and pedestrians; and

WHEREAS, residents often opt to drive otherwise walkable distances to local destinations such as shops, schools, and parks; and

WHEREAS, those who choose to exercise their prerogative to walk or bike are exposed to unnecessarily unsafe conditions; and

WHEREAS, planning and designing for bike and pedestrian accommodation will have positive impact on mobility, safety and economic vitality; and

WHEREAS, this resolution expresses the Planning Board's support to implement such improvements; and

NOW THERFORE, BE IT RESOLVED THAT the Planning Board hereby expresses its general support for measures implementing bike and pedestrian accommodation within the Town of Lewisboro.

ADOPTION OF RESOLUTION

WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro as follows:

The motion was moved by: Mr. O'Donnell
The motion was seconded by: Mr. Tetelman
The vote was as follows:

JEROME KERNER	**Aye**
ROBERT GOETT	**Aye**
GREG LASORSA	**Aye**
JOHN O'DONNELL	**Aye**
RON TETELMAN	**Aye**

Jerome Kerner, Chairman July 15, 2014

STATE OF NEW YORK
COUNTY OF WESTCHESTER
TOWN OF LEWISBORO

I, Lisa Pisera, Secretary to the Planning Board of the Town of Lewisboro, County of Westchester, State of New York, do hereby certify that I have compared the preceding copy of a resolution adopted by the Planning Board of the Town Lewisboro, County Westchester at a meeting held on the 15th day of July, 2014 and that the same is a true and correct copy of said original and of the whole thereof.

Lisa M. Pisera
Planning Board Secretary

Dated at Cross River, New York
This 16th day of July, 2014