

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, May 19, 2015 at 7:30 p.m.

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

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

Mr. Kerner called the meeting to order at 7:30 p.m. and noted the exit.

I. DECISION

Cal# 3-14WV

Michael Bocklet, 15 South Shore Drive, South Salem - Sheet 33D, Block CAMP, Lot 16 – Wetland Violation for construction within the Town of Lewisboro 150-foot wetland buffer without benefit of a Wetland Permit

Michael Bocklet was present.

Mr. Monteleone reviewed the resolution.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the resolution, Violation of Wetland and Watercourse Law, Michael Bocklet, Cal# 3-14WV, dated May 19, 2015 was adopted.

In favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. Tetelman.

Mr. O'Donnell stated had not been present for deliberations regarding this violation, nor did he participate in the vote on the resolution. Mr. O'Donnell had previously indicated that he had a personal relationship with Mr. Bocklet.

There was no discussion.

II. PUBLIC HEARING

Cal# 3-09PB

InSite Wireless Group, LLC (InSite), New Cingular Wireless PCS, LLC (AT&T), Sprint Corporation (Sprint), 377 Smith Ridge Road, South Salem, - Sheet 050A, Block 09834, Lots 84, 88, 94, (Vista Fire Department, owner of record) – Application for Special Use Permit Renewal

Joe Gaon, Esq., Snyder & Snyder, represented the applicant.

The Chairman announced the commencement of the public hearing. There were no objections to the time, place or advertisement of the public hearing.

Mr. Gaon reviewed the documents submitted, noting the inclusion of joinder letters from Sprint and AT&T.

Mr. Gaon stated that the Building Permit held by Sprint had been closed.

A site walk had taken place on May 23, 2015, which was attended by Robert Gaudio, Snyder & Snyder, and Mr. Johannessen.

Mr. Johannessen stated that all outstanding Kellard Sessions comments had been addressed.

Mr. Johannessen noted that the applicant is in the fifth year of 5-year Mitigation Monitoring, with a 90-95% survival rate on the mitigation plantings.

Mr. Johannessen reviewed the resolution.

Mr. O'Donnell noted that the tower has been operating with a Certificate of Occupancy since 2011. There have been no complaints. There will be no change in use. There will be no additional disturbance. The stabilization of the access driveway will be done.

On a motion made by Mr. Tetelman, seconded by Mr. Goett, the public hearing for InSite Wireless Group, LLC (InSite), New Cingular Wireless PCS, LLC (AT&T), Sprint Corporation (Sprint), 377 Smith Ridge Road, South Salem, - Sheet 050A, Block 09834, Lots 84, 88, 94, (Vista Fire Department, owner of record) was closed.

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman, the resolution, Negative Declaration of Significance, Special Use Permit, dated May 19, 2015 was adopted.

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

There was no discussion.

III. DECISION

Cal# 39-14WP and Cal# 15-14SW

J2 Boniello Builders – Property fronting Bouton Road, South Salem, Sheet 0026, Block 10803, Lot 018 – Applications for Wetland Activity Permit Approval and Stormwater Permit Approval to construct a single family residence serviced by a septic system and drilled well

Jesse and Jared Boniello, owners, were present. Gus Boniello was also present.

Mr. Johannessen reviewed the resolution.

Mr. Kerner addressed the existence of native species on the property, specifically, the Kentucky Warbler. Mr. Kerner requested that the applicant notify the Audubon Society to give them access to the property in order to determine if there are any nests in the area that could be protected during construction. The applicant agreed.

Mr. O'Donnell addressed Condition #36 of the resolution, noting that the course of action to be taken with regard to the failure to comply with the Planning Board's annual septic inspection requirement had not yet been finalized.

Mr. O'Donnell noted that he was not present for the closing of the public hearing, nor did he participate in deliberations. Mr. O'Donnell stated that he and/or his family have a personal relationship with the applicant, as well as with Mr. Nordgren who had spoken out against the project at a previous meeting. For these reasons, Mr. O'Donnell stated that he would not participate in the vote on the resolution.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the resolution dated May 19, 2015 granting Wetland Activity Permit Approval and Town Stormwater Permit Approval to J2 Boniello Builders – Property fronting Bouton Road, South Salem, Sheet 0026, Block 10803, Lot 018, was adopted.

In favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. Tetelman.

Abstain: Mr. O'Donnell.

Cal# 12-13PB and 13-14SW

Guillermo Arias, 411 Smith Ridge Road, South Salem, Sheet 0050, Block 09834, Lot 28, & Lexus Holding Company, LTD, Smith Ridge Road, South Salem, Sheet 0050, Block 09834, Lot 162 – Application for Final Subdivision Plat Approval and Stormwater Permit Approval for a two (2) lot subdivision

The applicants and their representatives were not present.

Mr. Johannessen reviewed the resolution.

On a motion made by Mr. Tetelman, seconded by Mr. Goett, the resolution dated May 19, 2015 granting Final Subdivision Plat Approval and Town Stormwater Permit Approval to Guillermo Arias, 411 Smith Ridge Road, South Salem, Sheet 0050, Block 09834, Lot 28, & Lexus Holding Company, LTD, Smith Ridge Road, South Salem, Sheet 0050, Block 09834, Lot 162, was adopted.

In response to Mr. O'Donnell, Mr. Siebert confirmed that the text of the deed restriction was approved. A condition of approval is that the metes and bounds be confirmed before filing with the County.

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

IV. PROJECT REVIEW

Cal# 14-15WP and 3-15SW

Brodoff, Alison and David – 1 Dogwood Lane, Pound Ridge - Sheet 0041, Block 10265, Lot 001 – Application for Wetland Activity Permit Approval and Town Stormwater Permit Approval to construct an in-ground concrete swimming pool with pool fence enclosure and pool patio

Craig Studer, Studer Designs, was present on behalf of the applicant. Mrs. Brodoff, applicant, was also present.

Mr. Studer displayed the plan submitted and reviewed the project description dated April 2, 2015 which was part of the submission.

Mr. Studer noted that there is a large lake in the center of the property, and a NYSEG easement. Mr. Studer pointed out the Restricted Area on the property in which no development can take place. This Restricted Area was a result of the February 27, 2001 Planning Board resolution, which was adopted due to violations by previous owners.

The previous violation on the property was discussed. Mr. Studer submitted the document, "Wetlands File Summary". (This document is now included in the Planning Board file for the project.) Mr. Studer stated that the violation was closed and fines had been paid.

Mr. O'Donnell asked if the applicant was in contract for the property at the time of the violation. Mr. Studer responded that the violations were done by the developer of the house prior to the purchase of the property by the Brodoff's, however, it was not resolved until after the Brodoff's took ownership. Mr. Studer stated his belief that the applicant was not in contract for the property at the time of the violation.

Mr. Johannessen reviewed the May 13, 2015 Kellard Sessions memo.

Ms. Andersen reviewed the CAC memo dated May 11, 2015.

The applicant agreed to replace the Norway Spruce shown on the plan with White Spruce.

The pool filtration system was discussed. The applicant plans to chlorinate the pool. Chlorine is very volatile and breaks down easily. Mr. Studer stated that a diatomaceous earth cartridge in a closed system filter would be used. This is detailed in the Engineer's report. The draw-down of the pool would be done seasonally when the chlorine level is at its lowest.

Mr. Studer discussed the discrepancy in the surveys. Small errors were made in the series of surveys previously prepared by Raymond Kihlmire. As a result, the survey submitted, which was done by Insite Engineering, contains a note indicating that the description of the "Restricted Area" is mathematically incorrect.

Mr. Johannessen suggested that the applicant show the "corrected" restricted area on the next plan submitted, and that Insite prepare a new set of metes and bounds for the restricted area. The applicant agreed. Upon review and approval by the Planning Board consultants and attorney, the applicant will file a corrected Declaration of Restricted Area.

Mr. Studer asked for clarification of the CAC comment regarding mitigation. Ms. Andersen deferred to Kellard Sessions. Mr. Johannessen stated that Kellard Sessions was satisfied with the stormwater mitigation shown. The applicant must also ensure that all mitigation previously required by the Planning Board be installed. The applicant agreed.

Mr. O'Donnell questioned it if becomes a legal issue if the previous violation took place at a time when the applicant was in contract to buy the house. This remains to be answered.

Orchard Square – North Salem Road, Cross River - Sheet 0017, Block 10533, Lot 089 (EK Cross River, LLC, owner of record) – Application for Waiver of Site Development Plan Procedures for restoration of shopping plaza courtyard.

Because the representative was not present, no discussion of this application took place.

V. REQUEST FOR EXTENSION OF TIME

Cal# 7-14PB

Oakridge Condominium Association – 400 Oakridge Drive, South Salem – Sheet 049D, Block 09829, Lot 6.2 - Request for extension of time to complete conditions 1-10 of the Planning Board Resolution granting Amended Site Development Plan Approval, Wetland Activity Permit Approval and Town Stormwater Permit Approval to Oakridge Condominiums – Pool and Recreation Area, dated November 18, 2014

Jamie Kieper, Insite Engineering, was present on behalf of the applicant. Ms. Kieper stated that they are waiting for WCDH approval, which should come through within the next month.

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman, a six (6) month extension of time to November 18, 2015 was granted to Oakridge Condominium Association – 400 Oakridge Drive, South Salem – Sheet 049D, Block 09829, Lot 6.2 to comply with the resolution dated November 18, 2014 granting Amended Site Development Plan Approval, Wetland Activity Permit Approval and Town Stormwater Permit Approval.

Cal# 73-13WP

Oakridge Gardens (Smith Ridge Housing, LLC, owner of record), NYS Route 123, Vista - Sheet 049L, Block 09830, Lots 279-317 and Sheet 049M, Block 09830, Lots 315-324 – Request for an extension of time to Wetland Activity Permit to complete the development of 46 multi-family residences known as Oakridge Gardens (AKA Laurel Ridge)

Jim DeLalla, DeLalla Associates, was present on behalf of the applicants.

Mr. DeLalla summarized the request dated May 1, 2015.

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman, 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. Kerner raised concern of the rock pile on the site. Mr. Cermele stated that the pile is stabilized.

Cal# 6-14PB

Shelby White, 199 Elmwood Road, South Salem – Sheet 049C, Block 09834, Lot 080 – Request for extension of time to complete conditions 1-12 of the Planning Board Resolution granting Final Subdivision Plat Approval – Lot Line Change and Wetland Activity Permit Approval to Shelby White, dated November 18, 2014

Joe Riina, Site Design Consultants, had notified the Planning Board prior to the meeting that he was unavailable to attend the meeting.

Mr. Johannessen confirmed that the site plan had not yet been signed.

On a motion made by Mr. O' Donnell, seconded by Mr. Tetelman, a 90-day extension of time to August 15, 2015 was granted to Shelby White, 199 Elmwood Road, South Salem – Sheet 049C, Block 09834, Lot 080 to comply with the resolution dated November 18, 2014 granting Final Subdivision Plat Approval – Lot Line Change and Wetland Activity Permit Approval.

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

It was requested that the applicant be present for subsequent submissions/requests.

Cal# 8-02PB

Pasquale Popoli & Angelo Sicuranza, 1437 Route 35, South Salem – Sheet 0040, Block 10552, Lot 003 -Request for extension of time to meet requirements of Amended Approval Resolution dated September 28, 2010

Jim DeLalla represented the applicants.

Mr. DeLalla stated that the applicant is in contract to sell the property. There are also two other interested buyers.

On a motion made by Mr. Tetelman, seconded by Mr. Goett, a 90-day extension of time to September 9, 2015 was granted to Pasquale Popoli & Angelo Sicuranza, 1437 Route 35, South Salem – Sheet 0040, Block 10552, Lot 003 to comply with the resolution dated September 28, 2010 granting Amended Approval Resolution.

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

VI. WETLAND VIOLATION

Cal # 5-14WV

Ryan and Patricia Caban, 31 South Shore Drive, South Salem – Sheet 33D, Block CAMP, Lot 13 – Wetland Violation issued for regulated activity conducted without benefit of a written Wetland Activity Permit

Ryan and Patricia Caban were present. Peter Martini, Patricia Caban's father, was also present.

Mr. Monteleone reviewed the violation. An oil spill had occurred due to a leak in an old underground oil line. The New York State Department of Environmental Conservation (DEC) has been to the property.

Mr. and Mrs. Caban entered a guilty plea for the excavation and installation of drainage pipes within the Town's 150-foot wetland buffer without a Wetland Activity Permit.

Mr. & Mrs. Caban submitted a letter to the Planning outlining the history of the violation, and plans going forward. (This letter is now included in the Planning Board file for the violation.) Mr. Monteleone informed the Board that the Caban's have retained Beth Evans, Evans Associates, to rehab the site.

Mr. Sessions stated that a large stockpile of soil had remained on the property for an extended period of time. The pile was properly covered. Mr. Sessions had been informed by Tri-State, the company hired by the DEC to address the oil spill, that the soil was re-tested and the results of the tests were acceptable. Tri-State is scheduled to take the stockpile off-site sometime next week. When the stockpile is removed, the site will be completely clear. Mr. Sessions stated that the spill had migrated down to Lake Waccabuc. The DEC and New York City Department of Environmental Protection (DEP) had been to the site and cleaned up the lake. The Lake has been cleaned and the soil has been excavated where there were hot spots. Approximately 40 – 45 tons of soil had been removed.

The Cabans were instructed to submit an application for Wetland Activity Permit Approval, the necessary application fee and escrow, as well as a map of the area involved, and plans.

The applicant was instructed to submit documentation of the cost expenditures at the conclusion of the project.

A civil penalty will be determined at a later date.

VII. DISCUSSION

Septic Compliance Administration

Discussion of Septic Compliance Administration was postponed.

VIII. TOWN BOARD REFERRALS

Proposed Motel Ordinance

Mr. Siebert reviewed the resolution and accompanying report to the Town Board.

On a motion made by Mr. O'Donnell, seconded by Mr. Goett, the Resolution Authorizing Submission of a Report and Recommendation to the Town Board of the Town of Lewisboro Regarding Proposed Local Law Amending §220-2(B) of Chapter 220, Zoning of the Town Code of the Town of Lewisboro was adopted.

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

Proposed Bed and Breakfast Ordinance – proposed change to zoning code

Mr. Siebert reviewed the resolution and accompanying report to the Town Board.

Mr. Tetelman requested that the resolution include the requirement of a public hearing upon Special Use Permit Renewal.

Mr. LaSorsa stated that his opinion was not completely represented in the recommendation to the Town Board.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the Resolution Authorizing Submission of a Report and Recommendation to the Town Board of the Town of Lewisboro Regarding Proposed

Local Law Amending Chapter 220, Zoning, of the Town Code of the Town of Lewisboro to Allow Bed and Breakfast Establishments as a Special Permit Use, to be amended as discussed, was adopted.

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

Opposed: Mr. LaSorsa

Proposed Hotel/Inn Ordinance – proposed change to zoning code

Mr. Siebert reviewed the resolution and accompanying report to the Town Board.

On a motion made by Mr. Tetelman, seconded by Mr. O'Donnell, the Resolution Authorizing Submission of a Report and Recommendation to the Town Board of the Town of Lewisboro Regarding Proposed Local Law Amending Chapter 220, Zoning, of the Town Code of the Town of Lewisboro to Allow and Regulate Hotels as a Special Permit Use was adopted.

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

Multi-family Housing – proposed change of zoning to allow multi-family housing in all non-residential zoning districts

Discussion of properties identified for multi-family took place.

Mr. O'Donnell referenced a newspaper article in which the Workforce Housing Coalition made a recommendation for four specific locations with density of three units per acre. Mr. Parsons could not identify these properties.

Discussion of the proposed amendment took place.

Mr. Kerner stated his opinion that the mission of the Planning Board is to uphold the Comprehensive Plan, keep it on track or to look at revisions that make sense; and to review applications as they come before the Board to determine whether they are in accordance with the Comprehensive Plan. The political and socio-economic issues should not come into play in terms of the decision-making process by the Planning Board. These are issues for the Town Board. After the Town Board sends a referral to the Planning Board, the process is that the Planning Board reviews the referral and makes recommendations using sound Planning practices. Mr. Kerner stated his opinion that it may also be beneficial to obtain the input of the Town's professionals.

Mr. Parsons stated that the objective is to make the Town zoning allow multi-family housing in a way that it currently does not.

Mr. O'Donnell asked that the areas proposed for multi-family zoning be identified. Mr. O'Donnell questioned whether any professionals have made recommendations. There have been no recommendations made by professionals.

Mr. Parsons stated that none of the areas identified in the proposal are in residential areas.

Further discussion took place, with particular attention to density and the density transition area.

Mr. Johannessen stated that reference to "RMF" in paragraph B5 of proposed amended local law should be changed to "Multi-family dwelling". Mr. Siebert agreed.

Mr. Siebert outlined three basic areas on which the Board should opine: is there an objection to the extension of the multi-family dwelling opportunities in the various commercial zones listed; is the Board comfortable with the with the modifications proposed for multi-family zones; is the Board comfortable with specific changes being made to the density calculation and the open space calculation in the multi-family district itself.

Mr. Parsons stated that he is prepared to strongly recommend to the Town Board that the Planning Board be given discretion on the issues which seem to be causing the most perplexity because specific proposals are lacking.

Mr. Siebert reviewed the threshold issues of the discussion, and a straw poll of the Board was taken on each item:

- §220-24 - Expansion/placement of multi-family dwellings in each of the commercial zones.

If the Board is comfortable with this item, the Board would like to see the density transition exclusion eliminated and the ability of the Planning Board to modify the requirement either remain or be bolstered in the existing language.

Mr. LaSorsa stated that he is hesitant about the additional discretion to the Planning Board. Mr. LaSorsa stressed his point made earlier in the evening that the Planning Board members will change throughout the years and is in favor of the idea of judging projects on an individual basis without trying to change the law or ordinances with each review. Mr. O'Donnell agreed with Mr. LaSorsa, stating that the final proposal should include that the Planning Board would like the Town Board to provide better standards. In response to Mr. LaSorsa, Mr. Siebert stated that with regard to modifying the density transition area requirement, that under the way the law is currently written, the Planning Board would have waiver authority, and final say because it is part of the Special Permit review and approval. The Board agreed that specific criteria under which the Planning Board can exercise its authority as needed.

Mr. O'Donnell, Mr. Tetelman, Mr. Kerner, Mr. LaSorsa, and Mr. Goett were in agreement, with standards.

- §220-26(A) - Lot size from 15 to 7.

All Board members, with the exception of Mr. LaSorsa, were in favor.

- §220-26 (B)(1) - Density change from two to four.

Mr. Goett, Mr. Kerner, and Mr. Tetelman were in agreement to the change. Mr. O'Donnell agreed, with standards. Mr. LaSorsa opposed.

- §220-26(B)(2) - Increase in permitted density from 40% to 50%.

The Board was in agreement.

- §220-26(D) - Decrease in open space and recreation area from 50% to 30%.

The Board was in agreement.

The Board authorized Mr. Siebert to prepare a recommendation to the Town Board for the June 16, 2015 Planning Board meeting.

IX. MINUTES OF April 21, 2015 and MINUTES OF May 7, 2015

On a motion made by Mr. Tetelman, seconded by Mr. Goett, the minutes of April 21 were adopted.

In favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. Tetelman.

Abstain: Mr. O'Donnell.

On a motion made by Mr. Tetelman, seconded by Mr. Goett, the minutes of May 7, 2015 were adopted.

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

Abstain: Mr. Kerner.

VIII. ADJOURNMENT

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the meeting was adjourned at 10:38 p.m.

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

Respectfully Submitted,



Lisa M. Pisera
Planning Board Secretary

RESOLUTIONS

**RESOLUTION
LEWISBORO PLANNING BOARD
FINAL SUBDIVISION PLAT APPROVAL
TOWN STORMWATER PERMIT**

ARIAS/LEXUS HOLDING COMPANY, LLC SUBDIVISION

Sheet 50, Block 9834, Lots 28 & 162
Cal. # 12-13 P.B.

May 19, 2015

WHEREAS, Guillermo Arias and Lexus Holding Company, LLC (“the applicants”) are proposing a 2-lot subdivision (“the proposed action”) on ±17.7 acres of land, located on Smith Ridge Road (NYS Route 123) and within the R-2A Zoning District (“the subject property”); and

WHEREAS, the two (2) existing tax lots were created by deed and were never formally subdivided, as required by Chapter 195, Subdivision of Land, of the Town Code; and

WHEREAS, on June 8, 2008, the applicants had received a Negative Declaration of Significance and Preliminary Subdivision Plat Approval from the Planning Board; however, the conditions contained within the Planning Board’s Resolution were never satisfied and approval has since expired (see Cal. #9-04 P.B.); and

WHEREAS, the applicants are proposing to legalize the formation of the two (2) lots and have reapplied to the Planning Board for subdivision approval; and

WHEREAS, more specifically, the proposed action will result in the following:

- Lot 1, owned by Guillermo Arias, is proposed to consist of ±5.001 acres of land and will contain an existing single-family residence, asphalt driveway, detached garage, barn, other detached accessory structures, and a potable water well; a new septic system and expansion area is proposed on Lot 1.
- Lot 2, owned by Lexus Holding Company, LLC is proposed to consist of ±12.7 acres of land, a proposed single-family residence, paved driveway, septic system and expansion area, potable water well and stormwater improvements.

WHEREAS, the subject property contains wetlands that are jurisdictional to the Town of Lewisboro, the New York State Department of Environmental Conservation (NYSDEC) and the Army Corps of Engineers (ACOE); and

WHEREAS, reference is made to wetland delineation reports prepared by Otto R. Theall (dated December 5, 2000 and March 6, 2007) and Stephen W. Coleman (dated December 27, 2001 and June 19, 2007); and

WHEREAS, the applicants have submitted correspondence from the NYSDEC which state that there are no known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats on or in the immediate vicinity of the subject property; and

WHEREAS, the proposed action will not result in disturbance to the wetland proper or disturbance within the Town's/NYSDEC's regulated wetland buffer or wetland adjacent area; and

WHEREAS, the applicants are proposing the establishment of a 20-foot wide landscape buffer along the existing street frontage of Smith Ridge Road and a deed restricted area over portions of Lot 1; and

WHEREAS, the proposed action will result in $\pm 40,860$ s.f. of total land disturbance and the applicants have developed a Stormwater Pollution Prevention Plan (SWPPP) in accordance with Town requirements; and

WHEREAS, reference is made to an Engineer's Report, prepared by Site Design Consultants, dated October 31, 2014; and

WHEREAS, the subject property is located within the Silvermine River Basin and the subject property is subject to the "Rules and Regulations for the Protection from Contamination of the First Taxing District of the City of Norwalk, Connecticut, Water Supply and its Sources"; and

WHEREAS, site improvements have been designed and located to minimize disturbance necessary to achieve the proposed action; and

WHEREAS, on February 25, 2014, the Planning Board issued a Negative Declaration of Significance and granted Preliminary Subdivision Plat Approval, subject to conditions; and

WHEREAS, on November 18, 2014, the Planning Board granted a six (6) month time extension, requiring the applicants to satisfy the conditions outlined in the Planning Board's February 25, 2014 resolution by May 18, 2015; and

WHEREAS, the applicants have since satisfied the conditions specified within the Planning Board's February 25, 2014 resolution and have applied to the Planning Board for Final Subdivision Plat Approval and a Town Stormwater Permit; and

WHEREAS, in addition to Final Subdivision Plat Approval and a Town Stormwater Permit from the Planning Board, the applicants require the following approvals from outside agencies:

- Realty Subdivision Approval from the Westchester County Department of Health (WCDH)
- Individual septic approval from the WCDH for the septic system proposed on Lot 1
- Individual septic approval/well permit from the WCDH for Lot 2

- Highway Work Permit from the New York State Department of Transportation (NYSDOT) associated with the driveway proposed on Lot 2

WHEREAS, the Town of Lewisboro has an ongoing need for the acquisition of land for parks, playgrounds and recreational facilities; and

WHEREAS, the population generated by the proposed action will result in an incremental increased demand for parks, playground and recreational facilities; and

WHEREAS, Section 195-26A of the Town's Subdivision Regulations recommends that the minimum acreage of land for parks, playground or recreational facilities be five (5) acres, consisting of relatively level and dry land, not less than 200 feet in width, criteria with which the current application does not comply; and

WHEREAS, in accordance with Section 195-26 of the Town's Subdivision Regulations, the Planning Board has determined that suitable land for parks, playground or other recreational facilities is limited on the subject property; and

WHEREAS, the proposed action will not result in a new street connecting to a State or County road and will not result in a new drainage line connecting to a County drainage channel; therefore, referral to the Westchester County Planning Board is not required; and

WHEREAS, the proposed action has been referred to and reviewed by the Conservation Advisory Council (CAC); and

WHEREAS, the Planning Board considered the proposed action at a duly noticed public hearing which was opened and closed on February 25, 2014; and

WHEREAS, as there was no public comment offered at the public hearing and as the Final Subdivision Plat is substantially similar to the Preliminary Subdivision Plat, the Planning Board has determined that a public hearing on the Final Subdivision Plat is not necessary; and

WHEREAS, in addition to the above, the Planning Board has considered the written and verbal comments from the Board's professional consultants, written comments from other involved and interested agencies, the verbal commentary made during Planning Board meetings, testimony of the applicant and observations made at site visits.

NOW THEREFORE BE IT RESOLVED THAT, the Planning Board finds that the Final Subdivision Plat is substantially similar to the approved Preliminary Subdivision Plat and hereby waives the final public hearing; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby grants Conditional Final Subdivision Plat Approval and approves a plan entitled "Final Subdivision Plat", prepared by Bunney Associates and dated (last revised) December 5, 2014, subject to the below conditions; and

BE IT FURTHER RESOLVED THAT, the Planning Board extends the Preliminary Subdivision Plat Approval up to and including May 19, 2015; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby approves the following Final Construction Drawings, prepared by Site Design Consultants and dated (last revised) November 11, 2014:

- Improvement Plan (1 of 3)
- NYSDOT M.P.T. Plan (2 of 3)
- Improvement Details (3 of 3)

BE IT FURTHER RESOLVED THAT, the Planning Board hereby approves the following Final Construction Drawings, DeLalla & Associates, LLC and dated (last revised) November 17, 2014:

- Subdivision Construction Plan (SP-1)
- Erosion & Sedimentation Control Plan (SP-2)
- Existing Conditions/Wetland Plan (EX-1)

BE IT FURTHER RESOLVED THAT, in consideration of the above and in accordance with Chapter 189-7B of the Town Code, the Planning Board hereby issues a Town Stormwater Permit, subject to the below-listed conditions; and

BE IT FURTHER RESOLVED THAT, the Town Stormwater Permit shall expire upon completion of work and shall be valid for a period of two (2) years from the date of this Resolution, unless extended by the Planning Board in accordance with Section 189-7G of the Town Code; and

BE IT FURTHER RESOLVED THAT, this Resolution authorizes only the activities approved herein and as shown on the Final Subdivision Plat and Final Construction Drawings. Any alterations or modification to the approved plans or approved facilities shall require the prior review and approval of the Planning Board; and

BE IT FURTHER RESOLVED THAT, Condition #'s 1 through 10, outlined below, must be completed within 180 days of the date of this Resolution. Should said Conditions not be completed within the allotted time frame, this Resolution shall become null and void unless a 90 day extension is requested by the applicant (in writing) prior to said 180 day period and granted by the Planning Board; and

BE IT FURTHER RESOLVED THAT, this approval shall expire without further notice if the signed Final Subdivision Plat is not filed in the Office of the Westchester County Clerk within 60 days of its endorsement by the Planning Board Chairman.

Conditions to be Satisfied Prior to the Signing of the Final Subdivision Plat and Final Construction Drawings:

1. The applicants shall satisfactorily address any outstanding written comments provided by the Town's professional consultants.
2. The applicants shall pay to the Town of Lewisboro, by certified check, a fee in lieu of the reservation of land (recreation fee) in the amount of \$10,000.
3. The applicants shall pay to the Town of Lewisboro, by certified check, any and all outstanding professional review fees.
4. Note #9 on the Final Subdivision Plat shall be revised to reflect the most current date (last revised) of the Final Construction Drawings approved herein.
5. The applicants shall submit to the Planning Board Secretary an engineering/inspection fee equal to 5% of the estimated cost of construction; said estimate shall be prepared by a NYS Professional Engineer and approved by the Town Engineer.
6. Execution and delivery of all legal documents associated with the deed restriction on Lot 1. These documents shall be prepared to the satisfaction of the Planning Board Attorney and shall be filed with the Westchester County Clerk's Office simultaneously with the filing of the Final Subdivision Plat.
7. Execution and delivery of all legal documents associated with the 20-foot Wide Landscape Buffer Area associated with Lots 1 and 2. These documents shall be prepared to the satisfaction of the Planning Board Attorney and shall be filed with the Westchester County Clerk's Office simultaneously with the filing of the Final Subdivision Plat.
8. The applicants shall submit a "check set" of the Final Subdivision Plat and Final Construction Drawings (two (2) sets), prepared in final form and in accordance with the conditions of this Resolution, for review by the Planning Board's consultants.
9. Any revisions required as a result of the consultant's review of the Final Subdivision Plat and Final Construction Drawings shall be made. Following review and revision (if necessary), the applicants shall furnish the Planning Board with two (2) complete mylar sets of the Final Subdivision Plat and Final Construction Drawings, complete with all required original signatures, for final review by the Town Engineer and endorsement by the Town Engineer, Planning Board Secretary and Planning Board Chairman.
10. The applicants shall provide a letter to the Planning Board Secretary acknowledging that he/she has read and will abide by the Conditions of this Resolution.

Conditions to be Satisfied Following the Signings of the Final Subdivision Plat and Final Construction Drawings:

11. Following the endorsement of the Final Subdivision Plat and Final Construction Drawings by the Planning Board Chairman and Secretary, one (1) mylar set will be returned to the applicants for copying and the second mylar set will be retained by the Planning Board as a record copy.
12. Within 10 days after endorsement of the Final Subdivision Plat and Final Construction Drawings by the Planning Board Chairman and Secretary, the applicants shall deliver, to the Planning Board Secretary, nine (9) printed sets of the same, collated and folded.
13. The applicants shall demonstrate proof of filing the Final Subdivision Plat and all required easements and declarations with the Westchester County Clerk's Office. The applicants shall deliver to the Planning Board Secretary three (3) 18" x 24" copies of the Final Subdivision Plat, as filed, and showing all signatures and acknowledgements of filing.

Prior to the Commencement of Construction

14. Prior to commencement of any site work or construction activity, a site visit shall be conducted with the owner, Building Inspector, and Town Engineer. Prior to the site visit, all erosion and sedimentation controls shall be properly installed, a NYS Licensed Land Surveyor shall stake the applicable disturbance limit lines and all trees to be removed shall be marked in the field with a surveyor's ribbon.

Conditions to be Satisfied Prior to the Issuance of a Building Permit for Lot 2:

15. The applicants shall have complied with all of the above conditions.
16. Prior to the issuance of a Building Permit for Lot 2, the Town Engineer shall review the drawings submitted to the Building Department to confirm that said drawings are consistent with the construction drawings approved by the Planning Board.
17. The applicants shall provide a current and valid Highway Work Permit from the NYSDOT.
18. The applicants shall provide a current and valid approval from the WCDH for the septic system and well proposed on Lot 2.
19. The Town Engineer shall confirm that the residence proposed on Lot 2 is located within the approved building envelope as shown on the Final Subdivision Plat.
20. No Building Permit shall be issued absent compliance with Town Code Section 220-75B(3).

Conditions to be Satisfied During Construction:

21. A copy of this Resolution, the Final Subdivision Plat and the Final Construction Drawings shall be kept on-site at all times.
22. During construction, the Building Inspector, Town Engineer and/or Town Planner may require site inspections, as necessary, to determine compliance with the provisions of this Resolution, the Final Subdivision Plat and Final Construction Drawings.

Conditions to be Satisfied Prior to the Issuance of a Certificate of Occupancy for Lot 2:

23. Prior to the issuance of a Certificate of Occupancy for Lot 2, a final site inspection shall be conducted by the Town Engineer to confirm compliance with the Final Construction Drawings approved by the Planning Board.
24. Prior to the issuance of a Certificate of Occupancy for Lot 2, the septic system proposed on Lot 1 shall be installed to the satisfaction of the WCDH. The applicants shall provide all necessary permits issued by the Health Department in connection with the septic system proposed on Lot 1.
25. Prior to the issuance of a Certificate of Occupancy for Lot 2, the applicant shall submit an as-built survey demonstrating compliance with the Final Subdivision Plat and Final Construction Drawings.
26. The owner/applicant shall pay to the Town of Lewisboro, by certified check, any and all outstanding professional review fees.

ADOPTION OF RESOLUTION

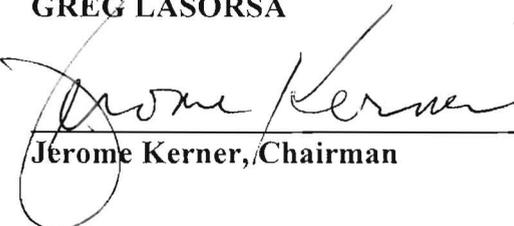
WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro as follows:

The motion was moved by: Mr. Tetelman

The motion was seconded by: Mr. Goett

The vote was as follows:

| | |
|----------------|------------|
| JEROME KERNER | <u>Aye</u> |
| JOHN O'DONNELL | <u>Aye</u> |
| RON TETELMAN | <u>Aye</u> |
| ROBERT GOETT | <u>Aye</u> |
| GREG LASORSA | <u>Aye</u> |


Jerome Kerner, Chairman

May 19, 2015

Page 7 of 7

**STATE OF NEW YORK
COUNTY OF WESTCHESTER
TOWN OF LEWISBORO**

I, Lisa M. 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 19th day of May 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 20th day of May, 2015

**RESOLUTION
LEWISBORO PLANNING BOARD
WETLAND ACTIVITY PERMIT APPROVAL
TOWN STORMWATER PERMIT**

**J2 BONIELLO BUILDERS
BOUTON ROAD**

Sheet 26, Block 10803, Lot 18
Cal #39-14WP and 15-14SW

May 19, 2015

WHEREAS, the subject property is comprised of ±4.1 acres of land and is located on Bouton Road within the R-4A Zoning District (“the subject property”); and

WHEREAS, the subject property is identified as Sheet 26, Block 10802, Lot 18 on the Town of Lewisboro Tax Maps; and

WHEREAS, the Waccabuc River, a New York State Department of Environmental Conservation (NYSDEC) Class A(T) watercourse, traverses the subject property and ultimately flows through the Ward Pound Ridge Reservation and into the Cross River Reservoir; and

WHEREAS, the Waccabuc River corridor is included within a mapped FEMA 100-year Flood Zone A; and

WHEREAS, an existing concrete bridge is located on the subject property and crosses over the Waccabuc River; and

WHEREAS, with the exception of the existing bridge and existing informal dirt driveway off of Bouton Road, the subject property is undeveloped and consists mainly of mowed field with forested and shrub areas located along the stream corridor and along the periphery of the property; and

WHEREAS, portions of the subject property have been previously disturbed, as evidenced by the existing dirt driveway, concrete bridge, mowed field, and observed soil excavations and deposits; and

WHEREAS, the Waccabuc River and associated peripheral wetlands are jurisdictional to the Town of Lewisboro and are regulated under Chapter 217, Wetlands and Watercourses, of the Town Code; and

WHEREAS, on-site wetlands were delineated by Evans Associates on October 8, 2013 and later confirmed and verified by the Town Wetland Inspector; and

WHEREAS, while small isolated pockets of standing water or hydrophytic vegetation were found within the upland areas, following extensive investigation by both the applicant's wetland professional and the Town Wetland Inspector, these areas were not consider wetlands and are not jurisdictional under Chapter 217, Wetlands and Watercourses, of the Town Code; and

WHEREAS, reference is made to a report entitled "Wetland Delineation Report", prepared by Evans Associates, dated (last revised) October 14, 2014; and

WHEREAS, reference is made to a report entitled "Wetlands Impact Assessment and Mitigation Report", prepared by Evans Associates, dated (last revised) November 17, 2014; and

WHEREAS, J2 Boniello Builders ("the applicant") is proposing the construction of a four (4) bedroom residence, gravel driveway, septic system, potable water well, and associated grading, landscaping and drainage improvements on the subject property ("the proposed action"); and

WHEREAS, the driveway, walkway, approximately half of the house footprint, the septic expansion area, and drainage improvements are proposed within the Town of Lewisboro 150-foot regulated wetland buffer area; and

WHEREAS, the proposed action will result in $\pm 71,846$ s.f. of total land disturbance, $\pm 52,467$ s.f. of which is located within the Town's regulated wetland buffer; and

WHEREAS, the project has been designed to reduce impacts to the wetland and wetland buffer to the extent practicable, including continued use of the existing dirt driveway and concrete bridge, use of a gravel driveway surface in lieu of pavement, location and orientation of the house and septic system, and implementation of a stormwater pollution prevention plan; and

WHEREAS, the applicant has developed a wetland mitigation plan which has been found to be compliant with the standards outlined in Chapter 217, Wetlands and Watercourses, which includes the following mitigation measures:

- a) Proposed conservation easement along the Waccabuc River corridor which will encompass $\pm 71,586$ s.f. of environmentally sensitive land; the conservation easement boundary line will be demarcated in the field with boundary markers; and
- b) Removal of invasive plant species including Multiflora Rose, Asiatic Bittersweet, Japanese Barberry, and Common Reed within a $\pm 15,488$ s.f. area located within the wetland buffer; and
- c) Installation of native trees, shrubs, perennials and grasses within the $\pm 15,488$ s.f. wetland buffer restoration area; and

- d) Management and treatment of existing stormwater runoff from Bouton Road that currently discharges onto the subject property and flows, untreated, to the Waccabuc River; and

WHEREAS, while the Waccabuc River is a NYSDEC Class A(T) regulated watercourse, the applicant is not proposing to disturb the bed or banks of the watercourse and a NYSDEC Article 15 Protection of Waters Permit is not required; and

WHEREAS, the New York Natural Heritage Program has identified two (2) species of concern, the Kentucky Warbler and Mocha Emerald Dragonfly, which are known to be located within the nearby Ward Pound Ridge Reservation; and

WHEREAS, the potential presence, on-site habitat, and impact of the proposed action on the above-noted species is addressed in a December 29, 2014 letter from Evans Associates; and

WHEREAS, the subject property is located within the New York City East of Hudson Watershed and the application is subject to the rules and regulations of the New York City Department of Environmental Protection (NYCDEP); and

WHEREAS, given the area of land disturbance proposed, the proposed action requires coverage under the New York State Department of Environmental Conservation (NYSDEC) SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002); and

WHEREAS, reference is made to a Stormwater Pollution Prevention Plan (SWPPP), prepared by Bibbo Associates, LLP and dated (last revised) December 30, 2014; and

WHEREAS, the above-referenced SWPPP has been prepared in compliance with Town and NYSDEC stormwater regulations; and

WHEREAS, while the applicant has demonstrated that the proposed action will not have an adverse impact on the 100-year floodplain or to downstream properties, development is proposed within the floodplain and a Floodplain Development Permit will be required from the Town Building Inspector, in accordance with Chapter 126, Flood Damage Prevention, of the Town Code; and

WHEREAS, the proposed septic system and potable water well have been approved by the Westchester County Department of Health (WCDH) and the NYCDEP; and

WHEREAS, in an effort to further reduce impacts to the wetland and wetland buffer area, the Planning Board has requested that all septic absorption trenches (aka the “primary” septic area) be relocated outside of the Town’s 150-foot wetland buffer; and

WHEREAS, access onto Bouton Road requires a driveway opening permit from the Town of Lewisboro Highway Superintendent; and

WHEREAS, the application was referred to and reviewed by the Conservation Advisory Council (CAC); and

WHEREAS, the proposed action has been determined to be a Type II Action, pursuant to the New York State Environmental Quality Review Act (SEQRA), 6 NYCRR Part 617.5; and

WHEREAS, the Planning Board conducted a duly noticed public hearing which was opened on March 17, 2015 and closed on April 21, 2015, at which time all interested parties were afforded an opportunity to be heard; and

WHEREAS, the Planning Board has considered the submitted Wetland Activity Permit Application, the submitted Town Stormwater Permit Application, other materials submitted by the applicant in support of its proposal, the written and verbal comments from the Board's professional consultants, written and verbal comments provided by the CAC, testimony of the applicant, observations made during the Board's site walk, and verbal comments made by the public.

NOW THEREFORE BE IT RESOLVED THAT, in comparing the magnitude of the proposed action and impacts to the wetland and wetland buffer to the extent and quality of mitigation offered by the applicant, the Planning Board has determined that the proposed action will not result in an adverse impact to on or off-site wetlands and watercourses; and

BE IT FURTHER RESOLVED THAT, in the granting of this Wetland Activity Permit, the Planning Board has considered/evaluated wetland and wetland buffer functions and the role of the wetland and wetland buffer areas in the hydrologic and ecological system and has determined that the impact of the proposed action upon the public health and safety; special concern, rare, threatened and endangered species; water quality and wetland and wetland buffer functions has been avoided or minimized to the maximum extent practicable. In this determination, the Planning Board has taken into account the factors listed under Section 217-8A of the Wetland and Watercourse Law; and

BE IT FURTHER RESOLVED THAT, the Planning Board has reviewed the criteria listed under Section 217-8B of the Wetland and Watercourse Law and has determined that any impacts to the affected wetland buffer are necessary and unavoidable and have been minimized to the maximum extent practicable; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby finds that the Wetland Activity Permit Application pertaining to the proposed action is consistent with the provisions and policies of Chapter 217 of the Code of the Town of Lewisboro and said permit is hereby approved, subject to the conditions set forth below; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby approves the following drawings, prepared by Bibbo Associates, LLP and dated (last revised) December 30, 2014, subject to the conditions set forth below:

- Site Plan (SP)
- Erosion Control Plan (EC)
- Sight Distance & Profiles (SDP)
- Details (D-1)
- Stormwater Details (D-2)

BE IT FURTHER RESOLVED THAT, the Planning Board hereby approves the following wetland mitigation plan, prepared by Evans Associates and dated (last revised) March 17, 2015, subject to the conditions set forth below:

- Mitigation Plan (MP-1)

BE IT FURTHER RESOLVED THAT, all work associated with this Wetland Activity Permit shall be conducted in strict compliance with the plans approved herein; and

BE IT FURTHER RESOLVED THAT, no work shall commence until a Wetland Activity Implementation Permit is issued by the Town Wetland Inspector; and

BE IT FURTHER RESOLVED THAT, this Wetland Activity Permit shall expire without further written notice if the requirements of this Resolution are not completed, as set forth herein. As provided pursuant to the Town Wetlands and Watercourses Law, this Wetland Activity Permit is subject to revocation should the applicant not comply with the terms and conditions of this Resolution; and

BE IT FURTHER RESOLVED THAT, this Wetland Activity Permit shall expire two (2) years from the date of this Resolution; and

BE IT FURTHER RESOLVED THAT, in consideration of the above and in accordance with Chapter 189-7B of the Town Code, the Planning Board hereby issues a Town Stormwater Permit, subject to the below-listed conditions; and

BE IT FURTHER RESOLVED THAT, the Town Stormwater Permit shall expire upon completion of work and shall be valid for a period of two (2) years from the date of this Resolution, unless extended by the Planning Board in accordance with Section 189-7G of the Town Code; and

BE IT FURTHER RESOLVED THAT, Conditions #1 through #17 must be fulfilled within 180 days of the date of this Resolution. Should the below-listed conditions not be completed within the allotted time frame, this Resolution shall become null and void unless an extension is requested by the applicant (in writing) within said period and granted by the Planning Board.

Conditions to be Satisfied Prior to the Signing of the Plans by the Secretary and Chairman:

1. The approved plans shall contain an updated and common revision date with notation stating “Planning Board Approval”, shall contain an original seal and

- signature of the design professional and shall contain an original signature of the owner.
2. The applicant shall submit plans executed by the WCDH demonstrating that the “primary” septic area will be located outside of the wetland buffer (2 copies).
 3. The plans shall be revised to include a detail for the conservation easement boundary marker.
 4. The applicant shall obtain and submit a driveway opening permit from the Town of Lewisboro Highway Superintendent.
 5. The applicant shall obtain a Floodplain Development Permit from the Town of Lewisboro Building Inspector.
 6. Execution and delivery of all legal documents associated with the proposed conservation easement. These documents shall be prepared to the satisfaction of the Planning Board Attorney and shall be filed with the Westchester County Clerk’s Office.
 7. The plan proposes an underground utility connection to an existing pole located on an adjacent property. The applicant shall either obtain an easement for the portion of the off-site underground installation (to the satisfaction of the Planning Board Attorney) or the plan shall be revised to specify an on-site utility pole to extend the service overhead before installing underground.
 8. The applicant shall submit to the Planning Board Secretary an engineering/inspection fee equal to 5% of the estimated cost of construction; said estimate shall be prepared by a NYS Professional Engineer and approved by the Town Engineer.
 9. Proposed wetland mitigation plantings shall be bonded in the amount approved by the Town Wetland Inspector, based upon a written cost estimate to be provided by the applicant. Said bond, or other security acceptable to the Planning Board, shall be supplied to the Planning Board and shall be released after a period of five (5) years, as measured from the issuance date of the Wetland Certificate of Compliance, provided that the Town Wetland Inspector verifies that a minimum of 85% of the planted species have survived.
 10. The name of the qualified wetland scientist that will be overseeing the implementation of the wetland mitigation plan shall be provided to the Planning Board (see Condition #33).
 11. The applicants shall satisfactorily address any outstanding written comments provided by the Town’s consultants.
 12. The applicant shall submit the Notice of Intent (NOI) and MS4 SWPPP Acceptance Form to the Planning Board Secretary for review by the Town Engineer. Following the Town Engineer’s review and approval of these documents, the Town’s Stormwater Management Officer shall sign the SWPPP

Acceptance Form. The applicant shall submit the completed MS4 SWPPP Acceptance Form, along with the Notice of Intent (NOI), to the NYSDEC, Division of Water and copy the Planning Board Secretary with same.

13. The applicants shall submit a “check set” of the approved plans (two (2) sets), prepared in final form and in accordance with the conditions of this Resolution, for review by the Planning Board’s consultants.
14. Following review and revision (if necessary) of the final plans, the applicant shall furnish the Planning Board with four (4) original copies of the final plans, complete with signatures, for final review by the Town’s consultants and endorsement by the Town Engineer, Planning Board Chairman and Secretary.
15. The applicant shall obtain a Wetland Implementation Permit, as issued by the Town Wetland Inspector.
16. The applicant shall provide a written statement to the Planning Board Secretary acknowledging that they have read and will abide by all conditions of this Resolution.
17. The applicant shall pay to the Town of Lewisboro, by certified check, all outstanding professional review fees.

Conditions to be Satisfied Prior to the Commencement of Work or Issuance of a Building Permit

18. Conditions #1 - #17 specified herein shall have been satisfied.
19. Given the properties location within the Special Character Overlay Zone, the application and plans shall be referred to the ACARC for review and approval, if determined applicable by the Building Inspector.
20. Prior to commencement of any site work or construction activity, a site visit shall be conducted with the applicant, contractor, Building Inspector, and the Town’s consultants. Prior to the site visit, all erosion and sedimentation controls shall be properly installed by the applicant, the limits of disturbance shall be staked in the field and construction fencing shall be installed as specified on the approved plans.
21. The applicant shall demonstrate proof of coverage under the NYSDEC SPDES General Permit GP-0-15-002.
22. No Building Permit shall be issued absent compliance with Town Code Section 220-75B(3).

Conditions to be Satisfied During Construction:

23. During construction, the Town Engineer and/or the Town Wetland Inspector may conduct site inspections, as necessary, to determine compliance with the provisions of this Resolution and the approved plans.
24. The applicant is responsible for completing inspections in conformance with the NYSDEC SPDES General Permit (GP-0-15-002); all required inspection reports shall be submitted to the Planning Board Secretary.
25. A copy of this Resolution, the approved final plans, the Wetland Implementation Permit, the approved SWPPP, and the NYSDEC NOI shall be kept on site at all times.

Conditions to be Satisfied Prior to the Issuance of a Certificate of Compliance

26. The applicant shall submit an as-built survey, prepared by a NYS Licensed Land Surveyor, demonstrating compliance with the approved plans.
27. The applicant shall submit the NYSDEC Notice of Termination (NOT) to the Planning Board Secretary for review and approval by the Town Engineer and Stormwater Management Officer.
28. Certification by a NYS Professional Engineer that all stormwater management practices and associated improvements have been installed in conformance with the approved plans.
29. The Building Inspector and Town's consultants shall conduct a final site visit to determine conformance with the approved plans.
30. The applicant shall obtain a Wetland Certificate of Compliance from the Town of Lewisboro Wetland Inspector.
31. The applicant shall pay to the Town of Lewisboro, by certified check, all outstanding professional review fees.

Conditions of the Wetland Activity Permit

32. All plants shall be installed between April 1st and October 15th; plant substitutions, if any, must be previously approved by the Town Wetland Inspector prior to installation.
33. The applicant shall employ the services of a qualified wetland scientist to oversee and inspect the implementation of the wetland mitigation plan. Said wetland scientist shall be on-site to inspect all phases of work associated with the invasive species removal and wetland buffer replanting program. Prior to the issuance of a Wetland Certificate of Compliance, the qualified wetland scientist shall submit a

report to the Planning Board Secretary describing the phases of work completed and certifying that the wetland mitigation plan was implemented in accordance with the approved plan and the conditions of this Resolution.

34. Wetland mitigation areas shall be monitored for the first five (5) growing seasons following construction and planting. Monitoring reports shall detail the success of the plantings (survival rate), success of the invasive species removal program, and shall provide recommendations/action items for the next year (if any). Monitoring reports shall be submitted to the Town Wetland Inspector and Planning Board no later than December 1st of each year and shall be based upon site reconnaissance conducted by the qualified wetland scientist prior to October 15th. The first year of monitoring will be the first year that the mitigation areas have completed a full growing season. For monitoring purposes, a growing season starts no later than May 31st.
35. Except for newly established lawn areas during the first growing season, the applicant, owner or future owner(s) shall not apply any lawn fertilizer on the subject property that is labeled as containing phosphorus or other compound containing phosphorus, such as phosphate. No lawn fertilizers shall be used between December 1st and April 1st or within the Town's 150-foot wetland buffer.
36. The applicant, owner or future owner shall cause an inspection of the on-site wastewater treatment system to be performed by a septage collector licensed by the Westchester County Department of Health and at a minimum frequency of once every year. During this inspection, the septic tank shall be pumped, unless determined unnecessary by the septage collector; in no case shall the pumping frequency exceed five (5) years. On or before October 1st of each year, the Westchester County Department of Health Septic Data Form and septage collector's inspection report (if any) shall be submitted to the Planning Board as proof of compliance. Failure to adhere to the required action will result in a Wetland Violation being issued and the matter being transferred to the Justice Court for Prosecution if necessary.

ADOPTION OF RESOLUTION

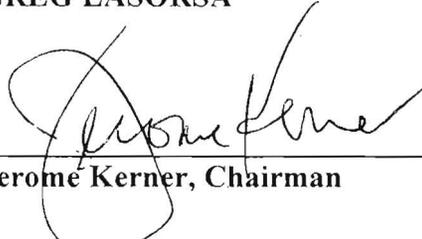
WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro as follows:

The motion was moved by: Mr. Tetelman

The motion was seconded by: Mr. La Sorsa

The vote was as follows:

| | |
|----------------|----------------|
| JEROME KERNER | <u>Aye</u> |
| JOHN O'DONNELL | <u>Abstain</u> |
| RON TETELMAN | <u>Aye</u> |
| ROBERT GOETT | <u>Aye</u> |
| GREG LASORSA | <u>Aye</u> |



Jerome Kerner, Chairman May 19, 2015

**STATE OF NEW YORK
COUNTY OF WESTCHESTER
TOWN OF LEWISBORO**

I, Lisa M. 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 19th day of May 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 20th day of May, 2015

**RESOLUTION
LEWISBORO PLANNING BOARD**

**NEGATIVE DECLARATION OF SIGNIFICANCE
SPECIAL USE PERMIT RENEWAL**

TOWER FACILITY AT VISTA FIRE DEPARTMENT

**INSITE WIRELESS GROUP, LLC
NEW CINGULAR WIRELESS PCS, LLC (AT&T)
SPRINT CORPORATION (SPRINT)**

377 SMITH RIDGE ROAD

Sheet 50A, Block 9834, Lots 84, 88, 94
Cal. #3-09PB

May 19, 2015

WHEREAS, the subject property is owned by the Vista Fire Department, consists of ±5.95 acres of land within the R-1A Zoning District, and is identified on the Town of Lewisboro Tax Maps as Sheet 50A, Block 9834, Lots 84, 88 and 94 (“the subject property”); and

WHEREAS, on December 15, 2009, Homeland Towers, LLC, together with Sprint/Nextel and AT&T Wireless, received Special Use Permit Approval and a Wetland Activity Permit in connection with a proposed 154-foot monopole tower and the installation of wireless telecommunication equipment; and

WHEREAS, the tower has since been constructed and both wireless carriers, in addition to Verizon Wireless, are currently in operation; and

WHEREAS, in accordance with the Planning Board’s approving resolution, the Special Permit issued to Homeland Towers, LLC, Sprint/Nextel and AT&T Wireless is valid for a period of five (5) years and expired on December 15, 2014; and

WHEREAS, Insite Wireless Group, LLC, the current tower owner, together with New Cingular Wireless PCS, LLC (AT&T) and Sprint Corporation (Sprint), collectively referred to hereafter as “the applicants”, have made application to renew the Special Use Permit (“the proposed action”); and

WHEREAS, the Special Use Permit for Verizon Wireless will expire on September 14, 2015 and Verizon Wireless is not part of the subject application; and

WHEREAS, the applicants have submitted as as-built plan, entitled “Record Drawing,” prepared by APT Engineering and dated (last revised) February 16, 2015; and

WHEREAS, the applicants have submitted a letter, prepared by Scott M. Chasse, P.E. of All-Points Technology Corporation, dated April 29, 2015, which certifies that the existing wireless telecommunication facility is consistent with the Planning Board's December 15, 2009 approving resolution and the approved Special Use Permit Plans referenced therein; and

WHEREAS, reference is made to a structural analysis report for the subject facility, prepared by Bennett & Pless, dated March 20, 2015; and

WHEREAS, reference is made to a report entitled "Antenna Site FCC RF Compliance Assessment and Report", prepared by Pinnacle Telecom Group, dated February 3, 2015; and

WHEREAS, reference is made to memorandums and associated attachments, prepared by the applicant's attorney, Snyder & Snyder, LLP, dated May 4, 2015 and March 23, 2015; and

WHEREAS, the application was referred to the Antenna Advisory Board (AAB) on April 7, 2015 and the AAB offered no formal comment; and

WHEREAS, in accordance with Condition #30 of the Planning Board's December 15, 2009 resolution, the applicants have submitted yearly wetland mitigation monitoring reports and the fifth and final report is due by December 1, 2015; and

WHEREAS, a site visit was conducted by the Town Engineer's office on April 23, 2015 and it was determined that a portion of the gravel driveway, which provides access to the subject facility, requires stabilization and maintenance; and

WHEREAS, the proposed action has been determined to be an Unlisted Action, pursuant to the New York State Environmental Quality Review Act (SEQRA), 6 NYCRR Part 617.4; and

WHEREAS, the applicants submitted the Short Environmental Assessment Form (EAF), dated March 23, 2015; and

WHEREAS, the Planning Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 (c) and determined that the proposed action will not have a significant adverse impact on the environment; and

WHEREAS, the Planning Board has considered all reasonably related long-term, short-term, direct, indirect, and cumulative environmental effects associated with the proposed action including other simultaneous or subsequent actions; and

WHEREAS, the Planning Board conducted a duly noticed public hearing, which was opened and closed on May 19, 2015, at which time all interested parties were offered an opportunity to be heard; and

WHEREAS, in addition to the above, the Planning Board has considered the written and verbal comments from the Board's professional consultants, written documentation and plans submitted by the applicants in support of its application, the verbal commentary made during Planning Board meetings, and testimony of the applicant.

NOW THEREFORE BE RESOLVED THAT, the Planning Board hereby reconfirms its Negative Declaration of Significance, issued for the original tower construction and collocation, dated July 28, 2009; and

BE IT FURTHER RESOLVED THAT, the Special Use Permit for the tower facility, owned and operated by Insite Wireless Group, LLC, and wireless telecommunication equipment owned and operated by New Cingular Wireless PCS, LLC (AT&T) and Sprint Corporation (Sprint) is hereby renewed for a period of five (5) years and shall expire on December 15, 2019, subject to the following conditions.

Conditions to be Completed by the Applicants within 90-days of the Date of This Resolution:

1. The applicants shall pay to the Town of Lewisboro, by certified check, all outstanding professional review fees, if any.
2. The applicants shall submit a driveway repair/stabilization detail, prepared by a NYS Professional Engineer, for review and approval by the Town Engineer. Following approval by the Town Engineer, the access driveway shall be repaired and stabilized in accordance with the approved detail and to the satisfaction of the Town Engineer.
3. Failure to comply with the above conditions shall render this Special Use Permit Renewal null and void without further notification.
4. To the extent applicable, the conditions outlined within the Planning Board's December 15, 2009 resolution of approval shall remain in full force and effect.

ADOPTION OF RESOLUTION

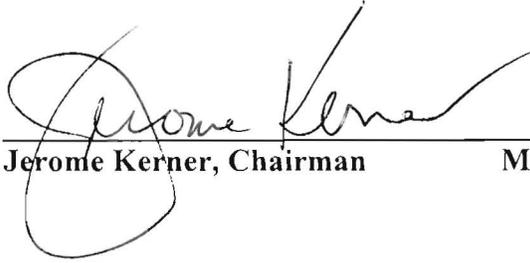
WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro as follows:

The motion was moved by: Mr. O'Donnell

The motion was seconded by: Mr. Tetelman

The vote was as follows:

| | |
|----------------|------------|
| JEROME KERNER | <u>Aye</u> |
| JOHN O'DONNELL | <u>Aye</u> |
| RON TETELMAN | <u>Aye</u> |
| ROBERT GOETT | <u>Aye</u> |
| GREG LASORSA | <u>Aye</u> |



Jerome Kerner, Chairman

May 19, 2015

**STATE OF NEW YORK
COUNTY OF WESTCHESTER
TOWN OF LEWISBORO**

I, Lisa M. 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 19th day of May 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 20th day of May, 2015

RESOLUTION
TOWN OF LEWISBORO PLANNING BOARD
May 19, 2015

VIOLATION OF WETLAND AND WATERCOURSE LAW
Michael Bocklet
Calendar #3-14WV

MICHAEL BOCKLET, the owner of record, 15 South Shore Drive, South Salem, New York 10590, for violations of Town of Lewisboro Freshwater Wetland and Watercourse Law, on Lot 16, Block Camp, Sheet 33D.

WHEREAS, on May 22, 2014, a Notice of Wetland Activity Violation was issued by the Wetland Inspector for the following offense;

A violation of section 217-5(d)(1)(a)(b), particularly construction within the Town of Lewisboro 150- foot wetland buffer without the benefit of a Wetland Permit.

WHEREAS, a Planning Board summons was issued on May 22, 2014 for this violation of the Town of Wetland and Watercourse Law; and

WHEREAS, the owner of record was notified by the Planning Board Summons to appear before the Board on June 17, 2014; and

WHEREAS, the Planning Board noticed this appearance on the wetland violations for June 17, 2014; and

WHEREAS, on June 17, 2014, the owner of record was present and was informed of his right to proceed to hearing at a subsequent meeting of the Planning Board and of his right to examine and cross-examine witnesses at that time; and

WHEREAS, on June 17, 2014, the owner of record, Michael Bocklet, entered an admission to the violation of construction within the Town of Lewisboro 150-foot wetland buffer without the benefit of a Wetland Permit; and

WHEREAS, the owner of record, Michael Bocklet, appeared before the Planning Board on July 15, 2014, with Barry Naderman P.E., and a drainage mitigation plan and work to be performed was discussed and agreed to and acceptable to the Planning Board and;

WHEREAS, the Planning Board on July 15, 2014 on motion determined that the proposed acceptable action would be handled administratively by the Town Wetland Inspector.

WHEREAS, the owner of record appeared before the Planning Board on February 17, 2015 for approval of an application for Wetland Activity Permit approval for drainage improvements and replacement of existing terrace; and

WHEREAS, the Planning Board entered into an Executive Session to deliberate, and, if necessary, to consider the issues of penalty and mitigation on March 17, 2015; and

WHEREAS, as a result of the admission of the owner, the Planning Board determines that a violation of the Town Wetland and Watercourse Law has occurred, specifically construction within the Town of Lewisboro 150-foot wetland buffer without the benefit of a Wetland Permit.

NOW, THEREFORE, be it resolved that upon full consideration of the above, Michael Bocklet, be assessed a civil penalty of \$750.00 for this violation of the Town Wetland and Watercourse law. Said civil penalty is payable to the Town of Lewisboro.

Be it further resolved, that Michael Bocklet, shall comply with the following conditions;

1. No further regulated activities are to be performed on the property without the benefit of a valid Wetland Activity Permit.

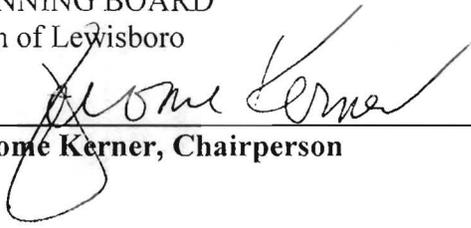
The motion was moved by: Mr. Tetelman

The motion was seconded by: Mr. La Sorsa

The vote was as follows:

| | |
|---------------|------------|
| JEROME KERNER | <u>Aye</u> |
| RON TETELMAN | <u>Aye</u> |
| ROBERT GOETT | <u>Aye</u> |
| GREG LASORSA | <u>Aye</u> |

PLANNING BOARD
Town of Lewisboro

By: 
Jerome Kerner, Chairperson

WHEREAS, the owner of record appeared before the Planning Board on February 17, 2015 for approval of an application for Wetland Activity Permit approval for drainage improvements and replacement of existing terrace; and

WHEREAS, the Planning Board entered into an Executive Session to deliberate, and, if necessary, to consider the issues of penalty and mitigation on March 17, 2015; and

WHEREAS, as a result of the admission of the owner, the Planning Board determines that a violation of the Town Wetland and Watercourse Law has occurred, specifically construction within the Town of Lewisboro 150-foot wetland buffer without the benefit of a Wetland Permit.

NOW, THEREFORE, be it resolved that upon full consideration of the above, Michael Bocklet, be assessed a civil penalty of \$750.00 for this violation of the Town Wetland and Watercourse law. Said civil penalty is payable to the Town of Lewisboro.

Be it further resolved, that Michael Bocklet, shall comply with the following conditions;

1. No further regulated activities are to be performed on the property without the benefit of a valid Wetland Activity Permit.

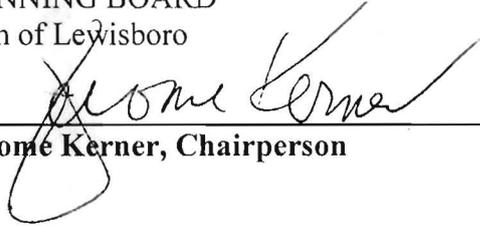
The motion was moved by: Mr. Tetelman

The motion was seconded by: Mr. La Sorsa

The vote was as follows:

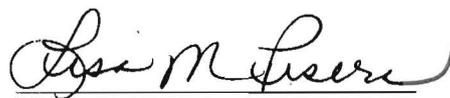
| | |
|---------------|------------|
| JEROME KERNER | <u>Aye</u> |
| RON TETELMAN | <u>Aye</u> |
| ROBERT GOETT | <u>Aye</u> |
| GREG LASORSA | <u>Aye</u> |

PLANNING BOARD
Town of Lewisboro

By: 
Jerome Kerner, Chairperson

**STATE OF NEW YORK
COUNTY OF WESTCHESTER
TOWN OF LEWISBORO**

I, Lisa M. 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 19th day of May 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 20th day of May, 2015

**RESOLUTION
LEWISBORO PLANNING BOARD**

**AUTHORIZING SUBMISSION OF A REPORT AND RECOMMENDATION
TO THE TOWN BOARD OF THE TOWN OF LEWISBORO REGARDING
PROPOSED LOCAL LAW AMENDING §220-2(B) OF CHAPTER 220,
ZONING, OF THE TOWN CODE OF THE TOWN OF LEWISBORO**

WHEREAS, a proposed Local Law amending Chapter 220, Zoning, of the Town Code of the Town of Lewisboro (the “Zoning Code”) has been referred to the Planning Board by the Town Board of the Town of Lewisboro for a report and recommendation pursuant to §220-80 of the Zoning Code; and

WHEREAS, the Planning Board has duly considered the proposed Local Law and is prepared to issue a report and recommendation as required under §220-80 of the Zoning Code; now, therefore

BE IT RESOLVED, that the Planning Board adopts the attached Report and Recommendation to the Town Board with regard to the proposed Local Law amending §220-2(B) of the Zoning Code; and

BE IT FURTHER RESOLVED, that the Planning Board Chairman is authorized to sign this Report and Recommendation; and

BE IT FURTHER RESOLVED, that the Planning Board Secretary is directed to forward a copy of the Report and Recommendation, in executed form, to the Town Board and Town Clerk.

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. Goett

The vote was as follows: _____

JEROME KERNER Aye

JOHN O'DONNELL Aye

RON TETELMAN Aye

ROBERT GOETT Aye

GREG LASORSA Aye

Jerome Kerner, Chairman Jerome Kerner, 2015

May 26

**STATE OF NEW YORK
COUNTY OF WESTCHESTER
TOWN OF LEWISBORO**

I, Lisa M. 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 19th day of May, 2015 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 26th day of May, 2015

**PLANNING BOARD OF THE TOWN OF LEWISBORO REPORT AND
RECOMMENDATION TO THE TOWN BOARD OF THE TOWN
OF LEWISBORO ON PROPOSED LOCAL LAW AMENDING
§220-2(B) OF CHAPTER 220, ZONING, OF THE
TOWN CODE OF THE TOWN OF LEWISBORO**

I. PROPOSED ZONING AMENDMENT

The Town Board of the Town of Lewisboro (the “Town Board”) has referred a proposed amendment to Chapter 220, Zoning, of the Town Code of the Town of Lewisboro (the “Zoning Code”) to the Planning Board for a report and recommendation pursuant to §220-80 of the Zoning Code. This amendment is to be made through the enactment of a local law, a copy of which is attached. The proposed amendment will delete the definition of “motel” from the Zoning Code.

The stated purpose of this amendment is to clarify the Zoning Code. At present, “motel” is a defined term in the Zoning Code. This definition is set forth in §Section 220-2(B) of the Zoning Code. This definition, which is circular in nature, reads as follows:

MOTEL

See “Hotel”.

The proposed Local Law will delete this definition. With the elimination of the “Motel” definition, only “Hotel” will remain as a defined term in the Zoning Code.

II. PLANNING BOARD COMMENTS

The Planning Board reviewed this proposed amendment to the Zoning Code at a May 7, 2015 meeting. The proposed amendment was further discussed at its May 19, 2015 meeting.

The consensus of the Planning Board is that the proposed amendment will serve to clarify the Zoning Code. Specifically, it will eliminate a definition that, at present, is surplus in nature and serves no purpose within the context of current zoning regulations.

In this regard, the Planning Board finds:

- There is no need for an extant definition of “Motel” in the Zoning Code, particularly as it merely incorporates the Zoning Code’s current definition of “Hotel”.

- At present, the term “Motel” is not utilized in any portion of the Zoning Code in either specifying a permitted use or for purposes of specific regulations pertaining to the development of land (such as off-street parking requirements).
- The continued existence of a “Motel” definition creates unnecessary uncertainty and ambiguity insofar as the Zoning Code is concerned and, accordingly, should be eliminated.
- The elimination of this definition produces no substantive change in local land use regulations and is therefore consistent with the Town of Lewisboro Master Plan and the purposes enumerated in §220-1 of the Zoning Code.

III. PLANNING BOARD RECOMMENDATION

After discussion and consideration of the comments provided by the Town Supervisor, the Planning Board’s consultants and its attorney, the Planning Board recommends adoption of the amendment contained in the proposed Local Law.

Dated: Lewisboro, New York
May 19, 2015

LEWISBORO PLANNING BOARD

By: Jerome Kerner / J.K.
Honorable Jerome Kerner, Chairman

LOCAL LAW NUMBER __-2015 OF THE TOWN OF LEWISBORO

SECTION 1: TITLE

This Local Law shall be known as 2015 amendment of Section 220-2(B) of Chapter 220: Zoning.

SECTION 2: ADOPTION

Now therefore be it enacted by the Town Board of the Town of Lewisboro Local Law __-2015 that this law shall take effect immediately upon its passage:

SECTION 3:

Section 220-2(B) of Chapter 220: Zoning, is hereby amended to delete the definition of motel as follows:

The Definition of "MOTEL" is hereby deleted from Section 220-2(B) of chapter 220: Zoning, of the Town Code of the Town of Lewisboro.

SECTION 4: HOME RULE

Nothing in this Local Law is intended, or shall be construed (a) to limit the home rule authority of the Town under State Law to limit the Town's discretion in setting fees and charges in connection with any applications requiring Town approval.

SECTION 5: SEVERABILITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of provision or application directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town of Lewisboro hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 6: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Dated: _____, 2015

BY THE ORDER OF THE TOWN BOARD
OF THE TOWN OF LEWISBORO

JANET DONOHUE, TOWN CLERK

**RESOLUTION
LEWISBORO PLANNING BOARD**

**AUTHORIZING SUBMISSION OF A REPORT AND RECOMMENDATION
TO THE TOWN BOARD OF THE TOWN OF LEWISBORO REGARDING
PROPOSED LOCAL LAW AMENDING CHAPTER 220, ZONING, OF THE
TOWN CODE OF THE TOWN OF LEWISBORO TO ALLOW
BED AND BREAKFAST ESTABLISHMENTS AS A SPECIAL PERMIT USE**

WHEREAS, a proposed Local Law amending Chapter 220, Zoning, of the Town Code of the Town of Lewisboro (the “Zoning Code”) has been referred to the Planning Board by the Town Board of the Town of Lewisboro for a report and recommendation pursuant to §220-80 of the Zoning Code; and

WHEREAS, the proposed Local Law will amend the Zoning Code to allow “Bed and Breakfast Establishments” as a special permit use in specified zoning districts; and

WHEREAS, the Planning Board has duly considered the proposed Local Law and is prepared to issue a report and recommendation as required under §220-80 of the Zoning Code; now, therefore

BE IT RESOLVED, that the Planning Board adopts the attached Report and Recommendation to the Town Board with regard to the proposed Local Law amending the Zoning Code so as to allow “Bed and Breakfast Establishments” as a special permit use in specified zoning districts; and

BE IT FURTHER RESOLVED, that the Planning Board Chairman is authorized to sign this Report and Recommendation; and

BE IT FURTHER RESOLVED, that the Planning Board Secretary is directed to forward a copy of the Report and Recommendation, in executed form, to the Town Board and Town Clerk.

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. Tetelman

The motion was seconded by: Mr. Goett

The vote was as follows: _____

| | |
|----------------|------------|
| JEROME KERNER | <u>Aye</u> |
| JOHN O'DONNELL | <u>Aye</u> |
| RON TETELMAN | <u>Aye</u> |
| ROBERT GOETT | <u>Aye</u> |
| GREG LASORSA | <u>Nay</u> |

Jerome Kerner, Chairman Jerome Kerner, 2015

May 26

**STATE OF NEW YORK
COUNTY OF WESTCHESTER
TOWN OF LEWISBORO**

I, Lisa M. 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 19th day of May, 2015 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 26th day of May, 2015

**PLANNING BOARD OF THE TOWN OF LEWISBORO REPORT
AND RECOMMENDATION TO THE TOWN BOARD OF
THE TOWN OF LEWISBORO ON PROPOSED LOCAL LAW
AMENDING CHAPTER 220, ZONING, OF THE TOWN CODE
OF THE TOWN OF LEWISBORO TO ALLOW BED AND
BREAKFAST ESTABLISHMENTS AS A SPECIAL PERMIT USE**

I. PROPOSED AMENDMENT

The Town Board of the Town of Lewisboro (the “Town Board”) has referred a proposed Local Law, a copy of which is attached, to the Planning Board for a report and recommendation pursuant to §220-80 of the Zoning Code. The proposed Local Law, if enacted, will implement a series of amendments to Chapter 220, Zoning, of the Town Code of the Town of Lewisboro (the “Zoning Code”). The amendments will allow the operation of bed and breakfast establishments as a special permit use in the R-4A, R-2A, R-1A, R-1/2A and R-1/4A, CC-20, SU, RB and GB Districts.

The rationale for these amendments is to promote the productive use of under-occupied homes within the Town for limited commercial purposes. Furthermore, the proposed amendments are intended to foster the creation of overnight accommodations for visitors traveling to the Town of Lewisboro and surrounding area. In this regard, the proposed amendments are intended to enhance efforts to market the Town of Lewisboro as a weekend or “short stay” destination.

The proposed amendments are intended to serve these objectives by creating a new, specific “Bed and Breakfast Establishments” use, to be defined as “[a]n owner occupied dwelling in which no more than three bedrooms are available as overnight accommodations for paying, transient guests to whom a morning meal may be served.” The amendments, if implemented, will allow the operation of a “bed and breakfast establishment” within the R-4A, R-2A, R-1A, R-1/2A and R-1/4A, CC-20, SU, RB and GB Districts. The amendments provide this use may proceed upon the issuance of a special use permit by the Planning Board. The issuance of a special use permit for this use would be subject to existing, general special permit standards set forth in §220-32(E) of the Zoning Code. In addition, the amendments provide for the enactment of a new §220-43.4 of the Zoning Code (“Proposed §220-43.4”), which enumerates specific standards for the issuance of a special use permit for the “bed and breakfast establishment” use.

II. PLANNING BOARD COMMENTS

The Planning Board reviewed the proposed amendments to the Zoning Code at a May 7, 2015 meeting. The proposed amendments were further discussed at its May 19, 2015 meeting.

Divergent views were voiced by the Planning Board membership concerning the placement of this type of use within the Town of Lewisboro and, in particular, within the R-4A, R-2A, R-1A, R-1/2A and R-1/4A Districts. Based upon its review and comments received regarding the proposed Local Law, the Planning Board identified several items of concern relative to the amendments. These include:

- The amendments will allow for a commercial use within residential districts. The introduction of a commercial use in residential areas must be carefully scrutinized because the Town Master Plan recites, as one of its goals and policies, that “business and commercial uses should not be permitted to locate in residential areas shown on the Plan map.” (Town Master Plan, Goal 1). This same goal and policy, however, recognizes that “[l]ow profile activities which are incidental to a residence, such as a home occupation, may be permitted as accessory uses.” In light of this admonition, the Planning Board maintains “bed and breakfast establishments,” if allowed, must appear and operate as a “low profile activity” within residential districts. This position informs several of the following comments and observations regarding the proposed Local Law.
- Proposed §220-43.4(5) should recite that the maximum number of bedrooms available to overnight guests is limited to three bedrooms on an individual building lot.
- Proposed §220-43.4 should expressly prohibit the utilization of any dwelling unit contained in a structure detached from the principal residence on a building lot for a bed and breakfast establishment use.
- Proposed §220-43.4 should prohibit any signage on building lots upon which a bed and breakfast establishment is to be sited that advertises or identifies the bed and breakfast establishment.
- Proposed §220-43.4(B) should require the creation of a landscape buffer on building lots upon which a bed and breakfast establishment is to be sited, for the purpose of providing screening and separation from adjacent residential parcels.

- Proposed §220-43.4(11) should provide that a special use permit for a “bed and breakfast establishment” shall be granted for an initial period of one (1) year and, thereafter, subject to renewal for additional periods of up to three (3) years. Proposed §220-43.4(11) should be revised to direct that all renewals must be approved by the Planning Board, as opposed to the Building Department. The amendment should further specify these renewal applications will be subject to a public hearing conducted by the Planning Board. These requirements and periodic time limitations will facilitate monitoring and enforcement of adherence to permit requirements on an ongoing basis.
- The Planning Board identified, as an issue that should be addressed prior to enactment of the proposed Local Law, whether the Westchester County Department of Health (the “WCDOH”) will treat the creation of a bed and breakfast establishment within a residence as an expansion of use subject to additional septic disposal requirements or approvals. The Town Board should obtain clarification from the WCDOH concerning this issue.
- The Planning Board also identified, as an issue that warrants review prior to enactment of the proposed Local Law, whether the creation of a bed and breakfast establishment within a residence will enable an adjustment to the real property tax assessment of the tax parcel on which it is sited. The Planning Board recommends that the guidance of the Town Assessor be obtained on this issue.
- The Planning Board notes Proposed §220-43.4(B)(2) sets forth that “bed and breakfast establishment” shall be sited in “an *existing*, detached single family dwelling.” The reference to an “existing” dwelling is unnecessary and ambiguous and should be removed.
- An ambiguity exists concerning the status of a “bed and breakfast establishment” use in commercial districts. Specifically, the proposed local law makes clear, in amending §220-23(A)(19), that bed and breakfast establishments will be a special permit use in the designated residential districts. It does so by utilizing an asterisk notation incorporating existing text within §220-23 specifying uses that are “subject to special permit approval as set forth in Article V.” The proposed amendments to §§220-24(A)(1)(F), 220-24(B)(1)(D), 220-24(C)(1)(O) and Section 220-24(D)(1)(I) do not incorporate this asterisk notation, although the amendments otherwise indicate that a “bed and breakfast establishment” is to be a special permit use in the commercial districts within which they may be sited. The amendments to §§220-24(A)(1)(F), 220-24(B)(1)(D), 220-24(C)(1)(O) and Section 220-24(D)(1)(I) should also include this asterisk notation.

- The proposed amendments create an ambiguity in light of an existing provision of the Zoning Code, which is contained in §220-23(D)(9). Section 220-23(D)(9) currently permits, as an accessory use in the R-4A, R-2A, R-1A, R-1/2A and R-1/4A Districts, “the renting of rooms to not more than two persons not members of the resident family” subject to certain conditions. Consequently, under this provision, a residence may be utilized under existing zoning regulations for the “renting of rooms”. In reviewing the proposed amendments, the Planning Board concluded that §220-23(D)(9) is intended to authorize the renting of rooms within a private home for periods of an extended duration, as opposed to stays of three nights or less. Specifically, §220-23(D)(9) appears to address the renting of rooms within a private residence to tenants for use as a place of temporary residence. In order to address this ambiguity, the Planning Board recommends the proposed Local Law also amend §220-23(D)(9) so as to provide that the rented quarters addressed in this provision shall be utilized for periods of one month or longer.

III. PLANNING BOARD RECOMMENDATION

After discussion and consideration of the comments provided by Town Supervisor Peter Parsons and the Planning Board’s consultant and attorney, the Planning Board recommends enactment of the proposed local law, subject to the following conditions and clarifications:

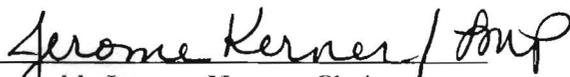
- A thorough evaluation of the standards to be imposed under Proposed §220-43.4 so as to insure that “bed and breakfast establishments” will constitute a low intensity use and one that may be integrated within a residential setting (1) without disruption and (2) in a way that comports to the objectives stated in §220-1 of the Zoning Code (including the “beneficial and convenient relationship” among residential and commercial areas within the Town of Lewisboro) and the Town Master Plan. In this regard, the Town Board is encouraged to obtain additional guidance from the Town Planning Consultants, Kellard Sessions, regarding additional operational and development measures that may be incorporated within the Proposed §220-43.4 to achieve this objective.
- In order to insure this objective, §220-43.4 should (1) recite that the maximum number of bedrooms available to overnight guests is limited to three bedrooms on an individual building lot; (2) prohibit the utilization of any dwelling unit contained in a structure detached from the principal residence on a building lot for a bed and breakfast establishment use; (3) prohibit the placement and use of

signage on the building lot on which a bed and breakfast establishment use is sited that advertises or identifies its presence; (4) require the creation of a landscape buffer on building lots upon which a bed and breakfast establishment is to be sited; and (5) provide that a special use permit for a “bed and breakfast establishment” shall be granted initially by the Planning Board for a period of one (1) year and, thereafter, renewed by the Planning Board alone for additional periods of up to three (3) years.

- The revisions noted in the Planning Board comments regarding the ambiguity as to the status of a ‘bed and breakfast establishment’ in commercial districts should be addressed. The amendments can do so by incorporating the asterisk notation that accompanies all special use permit uses identified in the Zoning Code.
- The Town Board should inquire and examine whether the WCDOH will treat the creation of a bed and breakfast establishment within a residence as an expansion of use subject to additional septic disposal requirements or approvals prior to enactment of the proposed Local Law.
- The Town Board should obtain the opinion of the Town Assessor concerning the real property tax assessment ramifications of creating a bed and breakfast establishment on a residential tax parcel.
- Section 220-23(D)(9) of the Zoning Code should be amended to provide that that the renting of rooms is a permitted accessory use within residential district provided they are rented for periods of one month or longer.
- Proposed §220-43.4(B)(2) should not reference an “existing” dwelling, which is ambiguous.

Dated: Lewisboro, New York
May 19, 2015

LEWISBORO PLANNING BOARD

By: 
Honorable Jerome Kerner, Chairman

LOCAL LAW NUMBER __-2015 OF THE TOWN OF LEWISBORO

SECTION 1: TITLE

This Local Law shall be known as 2015 amendment of Section 220-2(B), enactment of Sections 220-23(A)(19), 220-24(A)(1)(f), 220-24(B)(1)(d), 220-24(C)(1)(o), 220-24(D)(1)(i), and enactment of Section 220-43.4 of Chapter 220: Zoning.

SECTION 2: ADOPTION

Now therefore be it enacted by the Town Board of the Town of Lewisboro Local Law __-2015 that this law shall take effect immediately upon its passage:

SECTION 3:

Section 220-2(B) of Chapter 220: Zoning, is hereby amended to add the definition of bed and breakfast establishments to read as follows:

§220-2. Definitions and word usage.

- B. For the purposes of this chapter only, certain words and terms used herein are defined as follows:

BED AND BREAKFAST ESTABLISHMENTS -- An owner occupied dwelling in which no more than three bedrooms are available as overnight accommodations for paying, transient guests to whom a morning meal may be served.

SECTION 4:

Section 220-23(A)(19) of Chapter 220: Zoning, is hereby enacted to read as follows:

§220-23. Schedule of regulations for residential districts.

- A. Permitted principal uses in R-4A, R-2A, R-1A, R-1/2A and R-1/4A Districts are as follows:

(19) *Bed and breakfast establishments.

SECTION 5:

Section 220-24(A)(1)(f) of Chapter 220: Zoning, is hereby enacted to read as follows:

§220-24. Schedule of regulations for nonresidential districts.

A. Permitted uses in CC-20 Districts.

1. Permitted principal uses. All uses must be conducted from fully enclosed structures, except as may be otherwise expressly provided in this chapter. Permitted principal uses are as follows:

- (f) Bed and breakfast establishments in existing residential buildings used for residential purposes, in accordance with §220-43.4.

SECTION 6:

Section 220-24(B)(1)(d) of Chapter 220: Zoning, is hereby enacted to read as follows:

§220-24. Schedule of regulations for nonresidential districts.

B. Permitted uses in SU Districts.

1. Permitted principal uses. All uses must be conducted from fully enclosed structures, except as may be otherwise expressly provided in this chapter or as may be approved by the Planning Board as part of site development plan review. Permitted principal uses are as follows:

- (d) Bed and breakfast establishments in existing residential buildings used for residential purposes, in accordance with §220-43.4.

SECTION 7:

Section 220-24(C)(1)(o) of Chapter 220: Zoning, is hereby enacted to read as follows:

§220-24. Schedule of regulations for nonresidential districts.

C. Permitted uses in RB Districts.

1. Permitted principal uses. All uses must be conducted from fully enclosed structures, except as may be otherwise expressly provided in this chapter. Permitted principal uses are as follows:

- (o) Bed and breakfast establishments in existing residential buildings used for residential purposes, in accordance with §220-43.4.

SECTION 8:

Section 220-24(D)(1)(i) of Chapter 220: Zoning, is hereby enacted to read as follows:

§220-24. Schedule of regulations for nonresidential districts.

D. Permitted uses in GB Districts.

1. Permitted principal uses. All uses must be conducted from fully enclosed structures, except as may be otherwise expressly provided in this chapter. Permitted principal uses are as follows:

- (i) Bed and breakfast establishments in existing residential buildings used for residential purposes, in accordance with §220-43.4.

SECTION 9:

Section 220-43.4 of Chapter 220: Zoning, is hereby enacted to read as follows:

§220-43.4. Bed and Breakfast establishments.

- A. Purpose. It is the specific purpose and intent of this provision to address the need of residents to locate convenient accommodation for visitors, to provide local accommodation for short-term visitors to the community, to encourage preservation of large older dwellings by providing a cost-effective alternate or adaptive use that can relieve the maintenance burden on the owners of such buildings and to encourage the preservation of large residential lots and their open space character by permitting an alternative use consistent with the residential character of the community. Furthermore, it is the purpose and intent of this provision to provide economic support for present resident families, to protect and preserve property values, to ensure healthy and safe living conditions and to have more effective regulation and control of Town growth and development. In furtherance of these purposes, specific conditions are set forth herein for bed and breakfast establishments.
- B. Bed and breakfast establishments shall be special uses as follows:
 - (1) In addition to the specific requirements set forth herein, the property and the principal and accessory structures located thereon shall conform to the lot area, yard and other requirements for the zoning district in which the property and structures are located unless a variance therefor shall have been granted by the Board of Appeals.
 - (2) The building housing a bed and breakfast establishment shall be an existing, detached single-family dwelling and its use as a bed and breakfast establishment shall not conflict with its appearance or function as such.
 - (3) The minimum lot size on which a bed and breakfast establishment may be located is two (2) acres. A bed and breakfast establishment may be permitted

on a lot with a smaller area only if such lot is located in a nonresidential district, the Planning Board finds that a bed and breakfast establishment can be adequately accommodated within the existing principal dwelling building, that it will not overburden the property, and that it will be a use compatible with the surrounding properties.

- (4) The owner of the lot upon which the bed and breakfast establishment is to operate shall occupy and maintain the bed and breakfast establishment as his/her primary legal residence. The owner of the lot must reside in the premises at the time rooms are being used by guests.
- (5) The maximum number of bedrooms that may be available to overnight guests shall be three (3) bedrooms. The Planning Board shall be responsible for determining and limiting the number of bedrooms in each dwelling in connection with its review of the special use permit application.
- (6) Guests in such bed and breakfast establishment may reside in such establishment for a maximum of three (3) nights. The maximum occupancy of each guest room in the bed and breakfast establishment shall be two (2) adults and their minor children, as long as such occupancy is in compliance with the New York State Uniform Fire Prevention and Building Code.
- (7) Meal service shall be limited to a morning meal served to overnight guests of the bed and breakfast establishment only.
- (8) There shall be one price per night for overnight guests of the bed and breakfast establishment, which price shall include the morning meal.
- (9) No less than one (1) off-street parking space shall be provided per bedroom designated as available for overnight guests. Said parking shall be in addition to the parking required by this chapter for the single-family dwelling use. The Planning Board shall be responsible in connection with its review of the special use permit application for determining that the required number of parking spaces can be provided in a safe manner on the subject lot so as to not establish a nuisance or burden for adjacent and surrounding lots.
- (10) Evidence of the approval of the proposed method and adequacy of water supply and sewage disposal shall be obtained from the Westchester County Department of Health.
- (11) The special use permit shall be granted for a period of three (3) years and may be renewed for additional three (3) year periods. An application, and a renewal, of the special use permit shall be made to the Building Department on a form provided by the Building Department for such purpose, and by payment of a fee in an amount set forth in a Fee Schedule as adopted and as may be amended from time to time by resolution of the Town Board. The

Building Department, after receiving the completed application and fee, shall reissue the special use permit if inspection of the premises finds it to be in compliance with all applicable codes including the New York State Uniform Fire Prevention and Building Code, the requirements of this section and the provisions of the original special use permit approval. If the Building Department finds that the property is not in compliance with all applicable codes including the New York State Uniform Fire Prevention and Building Code, the requirements of this section and the provisions of the original special use permit approval, then the Building Department shall refer the application to the Planning Board for action.

- (12) Each property for which a special permit has been issued for use as a bed and breakfast establishment is subject to periodic inspections by the Building Department and Fire Inspector to ensure continued compliance with all applicable codes including the New York State Uniform Fire Prevention and Building Code, the requirements of this section and the provisions of the original special use permit approval. Such inspections shall be conducted at least annually, and may be conducted more frequently if the Building Department or Fire Inspector reasonably suspects that more frequent inspections are necessary to ensure the safety of the bed and breakfast establishment.
- (13) If any inspection of the property and dwelling by the Building Department or Fire Inspector for the purpose of ensuring compliance with the provisions of this section is refused by the owner, when said inspection occurs at any reasonable time during daylight hours, or if the continuing conditions of the special use permit are violated, the special permit shall be subject to revocation after a hearing by the Planning Board at which the permit holder is provided an opportunity to be heard.
- (14) When during the review of an application the Planning Board finds that significant site work will be required to increase parking areas, to enlarge subsurface sewage disposal areas or to otherwise alter the physical site conditions, the Planning Board shall require the submission of a site plan which shall be processed concurrently with the application for a special use permit. In all other situations, site plan approval by the Planning Board shall not be required.
- (15) In addition to the special standards described above, bed and breakfast establishments shall comply with any other requirements of this chapter and any special requirements deemed appropriate by the approving agency in accordance with the requirements of Section 220-32 herein.

SECTION 10: HOME RULE

Nothing in this Local Law is intended, or shall be construed (a) to limit the home rule authority of the Town under State Law to limit the Town's discretion in setting fees and charges in connection with any applications requiring Town approval.

SECTION 11: SEVERABILITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of provision or application directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town of Lewisboro hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 12: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Dated: _____, 2015

BY THE ORDER OF THE TOWN BOARD
OF THE TOWN OF LEWISBORO

JANET DONOHUE, TOWN CLERK

**RESOLUTION
LEWISBORO PLANNING BOARD**

**AUTHORIZING SUBMISSION OF A REPORT AND RECOMMENDATION TO
THE TOWN BOARD OF THE TOWN OF LEWISBORO REGARDING
PROPOSED LOCAL LAW AMENDING CHAPTER 220, ZONING, OF THE
TOWN CODE OF THE TOWN OF LEWISBORO TO ALLOW AND
REGULATE HOTELS AS A SPECIAL PERMIT USE**

WHEREAS, a proposed Local Law amending Chapter 220, Zoning, of the Town Code of the Town of Lewisboro (the “Zoning Code”) has been referred to the Planning Board by the Town Board of the Town of Lewisboro for a report and recommendation pursuant to §220-80 of the Zoning Code; and

WHEREAS, the proposed Local Law will amend the Zoning Code to revise the definition of “Hotel” and allow the development and operation of “Hotels” as a special permit use in specified zoning districts; and

WHEREAS, the Planning Board has duly considered the proposed Local Law and is prepared to issue a report and recommendation as required under §220-80 of the Zoning Code; now, therefore

BE IT RESOLVED, that the Planning Board adopts the attached Report and Recommendation to the Town Board with regard to the proposed Local Law amending the Zoning Code so as to allow “Hotels” as a special permit use in specified zoning districts; and

BE IT FURTHER RESOLVED, that the Planning Board Chairman is authorized to sign this Report and Recommendation; and

BE IT FURTHER RESOLVED, that the Planning Board Secretary is directed to forward a copy of the Report and Recommendation, in executed form, to the Town Board and Town Clerk.

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. Tetelman

The motion was seconded by: Mr. O'Donnell

The vote was as follows: _____

JEROME KERNER Aye

JOHN O'DONNELL Aye

RON TETELMAN Aye

ROBERT GOETT Aye

GREG LASORSA Aye

Jerome Kerner, Chairman *Jerome Kerner* 2015
May 26

STATE OF NEW YORK
COUNTY OF WESTCHESTER
TOWN OF LEWISBORO

I, Lisa M. 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 19th day of May, 2015 and that the same is a true and correct copy of said original and of the whole thereof.

Lisa M. Pisera

Lisa M. Pisera
Planning Board Secretary

Dated at Cross River, New York
This 26th day of May, 2015

**PLANNING BOARD OF THE TOWN OF LEWISBORO REPORT
AND RECOMMENDATION TO THE TOWN BOARD OF
THE TOWN OF LEWISBORO ON PROPOSED LOCAL LAW
AMENDING CHAPTER 220, ZONING, OF THE TOWN CODE
OF THE TOWN OF LEWISBORO
TO ALLOW AND REGULATE HOTELS AS A SPECIAL PERMIT USE**

I. PROPOSED AMENDMENT

The Town Board of the Town of Lewisboro (the “Town Board”) has referred a proposed Local Law, a copy of which is attached, to the Planning Board for a report and recommendation pursuant to §220-80 of the Zoning Code. The proposed Local Law, if enacted, will implement a series of amendments to Chapter 220, Zoning, of the Town Code of the Town of Lewisboro (the “Zoning Code”). The amendments revise the current definition of “Hotel,” as set forth in §220-2(B) of the Zoning Code. The amendments also explicitly allow the operation of “Hotels” as a special permit use in the R-4A, R-2A, R-1A, R-1/2A and R-1/4A, CC-20, SU, RB and GB Districts.

The rationale for these amendments is to promote the creation of overnight accommodations for travelers visiting the Town of Lewisboro and surrounding area, thereby enhancing the Town of Lewisboro’s status as a weekend or “short stay” destination and allowing visitors to remain within the Town and patronize its restaurants and businesses.

The proposed amendments are intended to serve these objectives by amending the current definition of “Hotel” contained in the Zoning Code; explicitly permitting the development and operation of “Hotels” within the R-4A, R-2A, R-1A, R-1/2A and R-1/4A, CC-20, SU, RB and GB Districts; and limiting the placement of “Hotels” by categorizing this use as one requiring a special use permit to be issued by the Planning Board. The issuance of a special use permit for a “Hotel” would be subject to the existing, general special permit standards set forth in §220-32(E) of the Zoning Code. The amendments seek to augment these standards by enacting a new §220-43.3 of the Zoning Code (“Proposed §220-43.3”), which enumerates additional requirements for the issuance of a special use permit for “Hotel” use.

II. PLANNING BOARD COMMENTS

The Planning Board reviewed the proposed amendments to the Zoning Code at a May 7, 2015 meeting. The proposed amendments were further discussed at its May 19, 2015 meeting.

The Planning Board membership expressed reservations regarding the placement of this type of use within residential districts and in portions of the Town that are not serviced by State highways capable of supporting the traffic demands that may be associated with a “Hotel,” as defined in the Zoning Code. A principal concern voiced by the Planning Board is that varied types of establishments fall within this proposed zoning classification, which is broadly defined and regulated under the proposed amendments. Consequently, the Planning Board voiced objections to the amendments, in their current iteration, due to the absence of more detailed locational, dimensional and operational standards and requirements governing this type of use. Although the Planning Board has not voiced a blanket objection to this type of use within the Town of Lewisboro, it cannot conclude the amendments are in harmony with the Town Master Plan, nor consistent with the purposes of local land use regulations as enunciated in §220-1 of the Zoning Code.

Accordingly, the Planning Board recommends further, detailed examination of this use by the Town Board and suggests it obtain the guidance of the Town Planning Consultant, Kellard Sessions, regarding use-specific measures that may be incorporated within Proposed §220-43.3 to (1) allow “Hotels” as a special permit use in designated locations and (2) insure that the introduction of a “Hotel” within the Town of Lewisboro will not disrupt existing development and land use objectives and patterns, nor give rise to undesirable impacts within the community.

In order to assist the Town Board in this endeavor, and to specify its particular objections and observations concerning the proposed amendments, the Planning Board offers the following comments:

- The amendments revise the current definition of “Hotel,” set forth in §220-2(B) of the Zoning Code, by renaming it “Hotel/Inn” and inserting a single, concluding phrase: *“For purposes of this chapter, the term ‘Hotel’ shall also include ‘inns’.”* Otherwise, the existing definition of “Hotel” remains unchanged. The assumed purpose of this additional language is to recognize, and perhaps encourage the creation of, smaller, countryside houses of lodging within existing structures, as opposed to the development of traditional hotels offering a large number of rooms, recreational amenities, conference and meeting space and a bar/restaurant. Yet, the substance of the existing “Hotel” definition remains in place and embraces a wide range of lodging accommodations. Thus, in the opinion of the Planning Board, this amendment will not achieve a

substantive change in existing regulations. In other words, the proposed “Hotel/Inn” definition would continue to apply to a national chain hotel (such as a Hampton Inn) as well as a small, locally-owned inn. The Town Board should consider creating a separate “Inn” definition and zoning classification, which may be limited to the number of rooms, guests and attendant amenities that may be incorporated within this stand-alone use.

- Similarly, although the “Hotel” definition is to be changed to “Hotel/Inn”, the proposed amendments to §§220-23(A), 220-24(A)(1), 220-24(B)(1), 220-24(C)(1) and 220-24(D) specify that “Hotels,” rather than a “Hotel/Inn,” shall be a special permit use in the R-4A, R-2A, R-1A, R-1/2A and R-1/4A, CC-20, SU, RB and GB Districts. This, again, underscores that the amendments draw no distinction between the placement of a traditional hotel and a smaller inn within these zoning districts.
- The amendments allow for a commercial use within residential districts. The effect of this change warrants close scrutiny because the Town Master Plan recites, as one of its goals and policies, that “business and commercial uses should not be permitted to locate in residential areas shown on the Plan map.” (Town Master Plan, Goal 1). In light of this admonition, the Planning Board is of the opinion that the proposed amendments, as drafted, are inconsistent with this objective. In adopting this position, the Planning Board reiterates that it is not rejecting, on a conceptual basis, the formulation of regulations pertaining to the placement of houses of lodging within residential and commercial districts under controlled conditions. However, the amendments, in their current form, do not adequately address the potential impacts of a “Hotel” use.
- Proposed §220-43.3(A) would limit the location of hotels “only in locations fronting or having direct access to major or collector roads as determined by the Planning Board and shown on the Town Development Plan Map.” The Planning Board has concluded the potential placement of a hotel (which, under the current and proposed definition, has no limitation on the number of rooms, guest, meeting space, accompanying dining facilities and the like) on certain major roads and all collector roads is not consistent with the Town Master Plan. The Town Master Plan states: “[t]he State Road network in Lewisboro has limited capacity. The level of development recommended by this Plan does not support and is not consistent with major reconstruction or widening of these roads.” (Town Master Plan, Goal 5[A]). With regard to collector roads, it further recognizes: “[l]ocal roads are established to provide safe and adequate access between Town’s residences and the State roads.” (Town Master Plan, Goal 5[B]). These findings evince a land use objective of limiting commercial

traffic to major roadways. In this instance, the Planning Board maintains that, under the proposed amendments, a hotel should be limited to the Route 22 and Route 35 corridors alone.

- The amendments delegate the authority to issue a special use permit for a “Hotel” to the Planning Board. This delegation must therefore be accompanied by meaningful standards to delineate and contain the Planning Board’s discretion. Although the issuance of a special use permit would be governed by the general standards set forth in §220-32(E) of the Zoning Code, Proposed §220-43.3 should buttress these standards with conditions specific to a “hotel” or, if distinguished through further revision to the amendments, an “inn” use. At present, the standards recited in Proposed §220-43.3 pertain only to location, coverage, setbacks, buffer area and parking. The Town Board should examine these standards and secure the assistance of the Town Planning Consultant, Kellard Sessions, in developing a more comprehensive set of requirements that address, without limitation, lot size, room limitation (by way of a specified number or a formula related to location, lot size and related site constraints), spatial relationship of lodging area to areas devoted to associated on-site functions (such as dining, food and beverage service, recreational space, spa and/or other amenities), hours of operation and staffing, limitations on occupancy (by restricting the length of stay) and limiting the number of occupants per room.
- Proposed §220-43.3 should provide that a special use permit for a “hotel” or, if distinguished through further revision to the amendments, an “inn” use shall be granted by the Planning Board for an initial period of one (1) year and, thereafter, subject to renewal for additional periods of up to three (3) years. All renewals should be approved by the Planning Board to facilitate monitoring and enforcement of adherence to permit requirements on an ongoing basis.
- An ambiguity exists concerning the status of a “Hotel” use in commercial districts. Specifically, the proposed local law makes clear, in amending §220-23(A)(18), that “Hotels” will be a special permit use in the designated residential districts. It does so by utilizing an asterisk notation incorporating existing text within §220-23 specifying uses that are “subject to special permit approval as set forth in Article V.” The proposed amendments to §§220-24(A)(1)(E), 220-24(B)(1)(C), 220-24(C)(1)(N) and Section 220-24(D)(1)(H) do not incorporate this asterisk notation, although the amendments otherwise indicate that “Hotels” are to be a special permit use in the commercial districts within which they may be sited. The amendments to §§220-24(A)(1)(E), 220-24(B)(1)(C), 220-24(C)(1)(N) and Section 220-24(D)(1)(H) should include this asterisk notation.

III. PLANNING BOARD RECOMMENDATION

After discussion and consideration of the comments provided by Town Supervisor Peter Parsons and the Planning Board's consultant and attorney, the Planning Board finds that the proposed local law, in its current form, is not consistent with the Town Master Plan the objectives stated in §220-1 of the Zoning Code (including the "beneficial and convenient relationship" among residential and commercial areas within the Town of Lewisboro). In making this finding, the Planning Board does not conclude that a specifically defined "hotel" or "inn" use cannot be incorporated within local zoning regulations in a way that conforms to the policy objectives enunciated in the Town Master Plan and codified in the Zoning Code. For this reason, it recommends that the proposed Local Law and the amendments contained therein be further examined by the Town Board, with the assistance of the Town Planning Consultant and in consideration of the comments stated above. The Planning Board maintains that further analysis and refinement of this proposed legislation is warranted and necessary due to its potential impacts on future development within the Town of Lewisboro.

Dated: Lewisboro, New York
May 19, 2015

LEWISBORO PLANNING BOARD

By: Jerome Kerner / JMK
Honorable Jerome Kerner, Chairman

LOCAL LAW NUMBER __-2015 OF THE TOWN OF LEWISBORO

SECTION 1: TITLE

This Local Law shall be known as 2015 Amendment of Section 220-2(B), enactment of Section 220-23(A)(18), enactment of Sections 220-23(A)(18), 220-24(A)(1)(e), 220-24(B)(1)(c), 220-24(C)(1)(n), 220-24(D)(1)(h), and Section 220-43.3 of Chapter 220: Zoning.

SECTION 2: ADOPTION

Now therefore be it enacted by the Town Board of the Town of Lewisboro Local Law __-2015 that this law shall take effect immediately upon its passage:

SECTION 3:

Section 220-2(B) of Chapter 220: Zoning, is hereby amended to add "Inn" to the definition of "Hotel," to read as follows:

HOTEL / INN – A building or portion thereof containing rooms, without individual kitchen facilities, occupied by transient guests who are lodged with or without meals, which rooms have primary access from public halls, and in which building or portion thereof there are certain public rooms or halls for the service of food and drink, with or without entertainment, and other facilities intended to provide customary accessory conveniences or services normally incidental to and associated with such a use. For purposes of this chapter, the term "Hotel" shall also include "Inns."

SECTION 4:

Section 220-23(A)(18) of Chapter 220: Zoning, is hereby enacted to read as follows:

§220-23. Schedule of regulations for residential districts.

A. Permitted principal uses in R-4A, R-2A, R-1A, R-1/2A and R-1/4A Districts are as follows:

(18) *Hotels.

SECTION 5:

Section 220-24(A)(1)(e) of Chapter 220: Zoning, is hereby enacted to read as follows:

§220-24. Schedule of regulations for nonresidential districts.

A. Permitted uses in CC-20 Districts.

1. Permitted principal uses. All uses must be conducted from fully enclosed structures, except as may be otherwise expressly provided in this chapter. Permitted principal uses are as follows:

- (e) Hotels in accordance with §220-43.3.

SECTION 6:

Section 220-24(B)(1)(c) of Chapter 220: Zoning, is hereby enacted to read as follows:

§220-24. Schedule of regulations for nonresidential districts.

B. Permitted uses in SU Districts.

1. Permitted principal uses. All uses must be conducted from fully enclosed structures, except as may be otherwise expressly provided in this chapter or as may be approved by the Planning Board as part of site development plan review. Permitted principal uses are as follows:

- (c) Hotels in accordance with §220-43.3.

SECTION 7:

Section 220-24(C)(1)(n) of Chapter 220: Zoning, is hereby enacted to read as follows:

§220-24. Schedule of regulations for nonresidential districts.

C. Permitted uses in RB Districts.

1. Permitted principal uses. All uses must be conducted from fully enclosed structures, except as may be otherwise expressly provided in this chapter. Permitted principal uses are as follows:

- (n) Hotels in accordance with §220-43.3.

SECTION 8:

Section 220-24(D)(1)(h) of Chapter 220: Zoning, is hereby enacted to read as follows:

§220-24. Schedule of regulations for nonresidential districts.

D. Permitted uses in GB Districts.

1. Permitted principal uses. All uses must be conducted from fully enclosed structures, except as may be otherwise expressly provided in this chapter. Permitted principal uses are as follows:

- (h) Hotels in accordance with §220-43.3.

SECTION 9:

§220-43.3. Hotels

Hotels shall be special uses as follows:

- A. Location. The special use listed in this section may be permitted in a residence district only in locations fronting on or having direct access to major or collector roads as determined by the Planning Board and shown on the Town Development Plan Map.
- B. Coverage. Building coverage, including accessory buildings, shall not exceed 20% of the lot area, nor shall the sum total of the land covered with buildings and parking, including driveways, exceed 50% of the lot area, within any residence district.
- C. Setbacks. All new buildings shall be set back from adjoining properties in residence districts and street lines directly opposite properties in residence districts a distance equal to at least twice the normally applicable front yard setback requirement for detached one-family dwellings in the zoning district in which they are located, but in no case less than 50 feet. Setback requirements may be modified by the Board of Appeals in case of conversions of existing buildings.
- D. Buffer area. A landscaped buffer area, meeting at least the minimum requirements of Section 220-15 of this chapter, shall be required along all lot lines adjoining properties in residence districts, except where determined by the approving agency that a lesser width or no buffer will meet the purpose of this requirement.
- E. Parking. Parking shall be in accordance with Section 220-56(D) of this chapter.
- F. Other requirements. In addition to the special standards described above, hotels shall comply with any other requirements of this chapter and any special requirements deemed appropriate by the approving agency in accordance with the requirements of Section 220-32 herein. Further, hotels shall be subject to review

and recommendation by the Architecture and Community Appearance Review Council.

SECTION 10: HOME RULE

Nothing in this Local Law is intended, or shall be construed (a) to limit the home rule authority of the Town under State Law to limit the Town's discretion in setting fees and charges in connection with any applications requiring Town approval.

SECTION 11: SEVERABILITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of provision or application directly involved in the controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town of Lewisboro hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 12: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Dated: _____, 2015

BY THE ORDER OF THE TOWN BOARD
OF THE TOWN OF LEWISBORO

JANET DONOHUE, TOWN CLERK