

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, October 20, 2015 at 7:30 p.m.

Present: Jerome Kerner, Chairman
Robert Goett
John O'Donnell
Greg LaSorsa
Ron Tetelman
Judson Siebert, Esq., Keane & Beane P.C., Planning Board Counsel
Greg Monteleone, Esq., Special Counsel
Jan Johannessen, AICP, Kellard Sessions Consulting, Town Planner/Wetland Consultant
David J. Sessions, RLA, AICP, Kellard Sessions Consulting, Town Wetland Consultant
Danielle Cinguina, Kellard Sessions Consulting, Interim Planning Board Secretary

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

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

I. PUBLIC HEARING

Cal# 53-15WP and Cal# 11-15SW

Kelly, David and Judy, 57 South Shore Drive, South Salem, Sheet 33D, Block Camp, Lot 1 (David and Judy Kelly, owner of record) - Application for Wetland Activity Permit and Town Stormwater Permit associated with the construction of an addition to a residence, new garage and rain garden.

Mr. Kerner recused himself from the project.

Jeri Barrett from J.D. Barrett & Associates, LLC, was present on behalf of the applicant.

Mr. O'Donnell asked Mr. Barrett to explain the additions to the site plans.

Mr. Barrett presented the project and the updates to the plans regarding the existing conditions of the home and that the plans have been approved by the South Shore Association. He noted the development of the rain garden, the realignment of the driveway, the repositioning of the generator, as well as the proposed fencing and landscaping. He described the construction details, erosion controls, gravel driveway details and stormwater management calculations. He then described the wetland mitigation proposed for the site and showed the additional measures of protection.

Mr. O'Donnell requested to commence the public hearing and asked if anyone had any objection to the Notice of Public Hearing.

Mr. O'Donnell asked Ms. Cinguina if she had received the required documentation associated with the public hearing and Ms. Cinguina replied yes.

Mr. O'Donnell asked if anyone was present to speak at the public hearing.

Mr. Johannessen reviewed his memo and noted the applicant had addressed all comments. The two major questions were the soil testing and zoning compliance; both matters have been resolved to the Town Engineer's and Building Inspector's satisfaction.

Mr. O'Donnell asked Mr. Johannessen to expound on the wetland mitigation plantings. Mr. Johannessen noted that all new impervious areas are being treated and that the applicant is treating more than is required. Mr. O'Donnell noted that non-native plantings are included and Mr. Barrett stated that the non-native plantings are included around the foundation and are deer-resistant. Mr. Johannessen noted that the proposed plantings will not have a negative impact on the surrounding area.

Ms. Anderson revisited her previous comments and the comments about the definition of property lines on the site. Ms. Anderson also noted the need for the holding tank alarm and Mr. O'Donnell noted that the alarm is now shown on the plans.

Mr. O'Donnell asked if Mr. Siebert had any questions and he refrained.

Mr. Tetelman said that Mr. Barrett has prepared an adequate plan.

Steve Olson, neighbor at 61 South Shore Drive, stated that he is not happy to be at the meeting and said he has lived on the street his entire life. He noted that his biggest concern is the protection of the lake and he is concerned the project is only 120 feet from the lake. He also noted the grandfather clause regarding the change of building footprint.

Alan Mason, neighbor at 26 South Shore Drive, stated that he is one of the most senior members of the Lake Association. He noted that there will be a change of view for Mr. Olson, a better view, an enhancement. He also noted he is the attorney for the Lake Association.

George Peterkin, 5 South Shore Drive, stated he is the president of the Lake Association and provided a detailed history of the plans presented to the lake association.

Ms. Anderson questioned if the squaring off the homes in this community is a normal practice and the attorney for the Lake Association confirmed this.

Mr. Tetelman stated that since the project is within the 150' wetland buffer, a wetland permit is required from the Planning Board and that is why all the beneficial stormwater mitigation is being designed.

Mr. LaSorsa questioned if the issue of the building height is under the Board's jurisdiction. Mr. Siebert stated that the Board's jurisdiction is the wetland buffer disturbance and stormwater activity.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the public hearing was closed.

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

Mr. Johannessen reviewed the draft resolution prepared for the project. He noted the few conditions and stated that all review comments had been satisfied.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the resolution dated October 20, 2015, granting Wetland Activity Permit Approval and Town Stormwater Permit Approval, was adopted.

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

Cal# 6-12PB

Verizon Wireless - Leon Levy Preserve, Route 35, South Salem, Sheet 40, Block 10263, Lots 1 & 62 (American Towers LLC, owner of record) - Application for a Special Use Permit and renewal for replacement and installation of antennas on an existing communication tower.

Michael Sheridan, Esq., from Snyder & Snyder, was present on behalf of the applicant.

Mr. Sheridan noted that Verizon Wireless intended to upgrade their existing facility at the Leon Levy Preserve and to upgrade and replace the existing antennas. The applicant requested to extend the special permit for the existing facility for a period of 5 years.

Mr. Kerner asked if anyone had any objections to the Notice of Public Hearing.

Mr. Johannessen noted that the applicant addressed all comments and the project had once before received approval by the Planning Board and it expired. The plan submitted was the previous plan that the Board had approved. The Zoning Board variance and ACARC approval are in the process of being obtained.

On a motion made by Mr. Tetelman, seconded by Mr. Goett, the public hearing was closed.

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

Mr. Johannessen reviewed the draft resolution prepared for the project; AAB, ACARC and Zoning Board variances are currently being obtained by the applicant and are conditions of approval.

Mr. Siebert stated that the resolution also included a negative declaration and a 5-year renewal.

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman, the Negative Declaration, dated October 20, 2015, was adopted as a standalone document.

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

On a motion made by Mr. O'Donnell, seconded by Mr. Goett, the resolution dated October 20, 2015, granting Special Use Permit Approval and Renewal, was adopted.

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

II. SKETCH PLAN REVIEW

Cal# 9-15PB

Kempo Academy of Martial Arts - 20 North Salem Road, Cross River, NY, Sheet 17, Block 10533, Lot 89 (EK Cross River, LLC, owner of record) - Application for Change of Use/Waiver of Site Development Plan Procedures to convert existing space from office/retail to indoor recreation, specifically a martial arts academy.

Michael Nahan, regional manager of Kempo Academy, and Kenneth Deegan, owner of Kempo Academy, were present on behalf of the project.

Mr. Deegan stated that his Academy is hoping to get approval for change of use.

Mr. Kerner questioned if a bathroom would be provided and Mr. Nahan stated there is a bathroom. Mr. Kerner asked that to be noted on the plan.

Mr. Johannessen described the change of use application. He noted that the typical items to be reviewed are zoning regulations and parking standards which are compliant in this case. He requested that the applicant apply to ACARC for signage. He also requested that the plans be signed and sealed by the Design Professional.

Mr. O'Donnell noted that this application applies appropriately for a site plan waiver.

Mr. Siebert stated that a resolution should be drafted noting site plan waiver and that no public hearing will be required.

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman, the Board moved to adopt a waiver of site development plan procedure.

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

Mr. Johannessen confirmed that a resolution will be prepared for the next meeting.

III. PROJECT REVIEW

Cal# 12-10PB (THIS APPLICATION WAS TAKEN BEFORE FORTUNE HOME BUILDERS)

Hayes/Stein Subdivision, 124 North Salem Road, South Salem, NY, Sheet 15, Block 10533, Lots 7, 8 & 9 (Jocelyn Hayes and Janet Stein, owners of record) – Application for Preliminary Subdivision Plat Approval in connection with a three-lot subdivision.

Taylor Palmer, Esq., from Cuddy & Feder, Michael Sirignano, Esq. and Ed Delaney from Bibbo Associates, LLP, were present on behalf of the applicant.

Mr. Palmer described the project for preliminary subdivision approval. He noted that Goldens Bridge Fire Department and Town Highway Department correspondence had been received.

Mr. Siebert said the Goldens Bridge Fire Department letter speaks to exactly what the Board was looking for.

Mr. Johannessen noted that the 3 lots exist today and applicant has no intention to build the lots right now. The applicant had demonstrated that each lot is zoning-compliant and stormwater management systems had been designed.

Mr. Palmer established the existing and non-conforming accessory apartment through the Building Department.

Ms. Anderson stated there are no additional comments from the CAC.

Mr. Kerner stated the next step is a public hearing, preliminary subdivision approval and negative declaration.

Mr. O'Donnell requested Mr. Johannessen to prepare the resolution and negative declaration for the November 17th meeting.

Cal# 32-15WP (THIS APPLICATION WAS TAKEN BEFORE FORTUNE HOME BUILDERS)

Pinnetti, Stuart and Nicola – 33 Hillside Avenue, Goldens Bridge, NY, Sheet 7C, Block 12667, Lot 1 (Stuart Pinnetti, owner of record) – Application for Wetland Activity Permit for construction of a new residence and associated improvements due to destruction of previous residence by fire.

Nick Pinnetti, owner, was present on behalf of the project.

Mr. Pinnetti described the project.

Mr. Johannessen reviewed his memo. He stated that Mr. Pinnetti hired an engineer to satisfy the engineering comments and that all stormwater-related comments were addressed. He noted that the zoning issues, tree plan and bedroom count/floor plan must be addressed on the future plans.

Mr. Pinnetti noted that the Health Department information was given to the Building Department.

Mr. Johannessen suggested that the engineer for the project contact him.

Mr. Tetelman asked if there was an urgency to get the project started before the winter and if it could be handled administratively.

Ms. Anderson stated that the CAC had no additional comments.

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

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

Mr. O'Donnell abstained.

Cal# 31-15WP

Fortune Home Builders - Duffy's Bridge Road, Goldens Bridge, NY, Sheet 2, Block 10516, Lot 1 (Glickenhau Bedford Development, owner of record) - Application for Wetland Activity Permit for the construction of a single-family residence on an undeveloped lot.

Mr. Johannessen, Mr. Sessions and Mr. Siebert recused themselves from the project.

Anthony Mole, Esq., attorney, and Rich Williams, P.E., engineer, were present on behalf of the Town.

Robert Sherwood, RLA, was present on behalf of the applicant.

Mr. Sherwood presented the project, noted where the project was located. He pointed out where the wetlands are on-site and the ridge that runs through the center of the site. He also discussed the site constraints and who would obtain ownership of Duffy's Bridge Road.

Mr. Kerner noted the issue of the contiguous building lot and Mr. Mole noted that since this is a prior subdivision, that it does not apply to this lot.

Mr. Mole discussed the frontage of the property and the emergency access of the lot through an easement.

Mr. O'Donnell asked what Fire Department this property is in and Mr. Mole said it was in the Goldens Bridge Fire District. Mr. O'Donnell requested information from the Fire Department if this property has sufficient emergency access.

Mr. Sherwood referenced a letter from 2000, from the Highway Superintendent confirming that the Town would maintain the road.

Mr. Kerner preferred a legal description of this issue.

Mr. Sherwood referenced a previous letter from Kellard Engineering regarding the road.

Mr. Mole said there was not a copy of an agreement from years ago with the Town and applicant regarding maintaining the road.

Mr. Williams noted the letter said that the Town would plow and maintain the road as it deemed necessary.

Mr. Kerner wanted to know where access makes sense for this lot.

Mr. O'Donnell requested a legal opinion and Mr. Mole said there are more questions than answers, as the information provided was limited.

Mr. Sherwood said he would provide more information and do more research regarding the road.

Mr. Mole said there was very little maintenance on this road recently and Mr. Williams stated he was able to drive through the road, but the road widths were minimal and the power lines were hanging; no emergency vehicles could get through.

Mr. Williams noted there was a difference between regular access to the site and emergency access to the site.

Mr. Tetelman asked if the road would only serve one house and Mr. Sherwood confirmed it would. Mr. Tetelman assumed the road would need to be maintained, so an emergency vehicle can enter. Mr. Tetelman said that, since there are no current improvements indicated in the application for the road, that the applicant prepare a road improvement plan and receive approval from Peter Ripperger.

Mr. Sherwood stated the applicant will not build the road up to Town road standards. Mr. Tetelman stated that the road should only qualify for emergency access.

Mr. Kerner stated that the applicant should speak with the Fire Department about their intent for the road.

Mr. Sherwood stated he is working off 15 year old documents.

Mr. Tetelman stated he would like a suitable access for a fire truck, for the truck to be able to maneuver and be able to leave the site.

Mr. Williams stated the Town's regulations for the homeowner's access into the lot and property frontage.

Mr. Mole stated the Code's frontage requirements for a lot.

Mr. LaSorsa questioned whether this lot is in Lewisboro and Mr. O'Donnell confirmed that the property is in Lewisboro and in the Goldens Bridge Fire Department District.

Mr. Kerner asked if there are property stakes on the lot, so that the Board can visit the site.

Mr. Mole referenced Section 220-11 of the Town Code regarding road frontage.

Mr. Williams mentioned the wetland buffer and stormwater issues. If the proposed septic is counted, then this project will be over threshold and a full SWPPP will be triggered. Mr. Sherwood said the applicant is trying to make the lot marketable and a SWPPP is a costly measure. Mr. Williams again noted that, if the septic is counted, then that would trigger site layout changes and it is best to iron out the issues now to prevent hold up in the future.

Ms. Anderson noted the drainage divide assessment and complying with the Code.

Mr. Tetelman said he expects a full site plan with mitigation and a proper emergency access.

Mr. Tetelman confirmed the site walk for October 31, 2015 at 9:15 a.m.

Cal# 28-15WP

Goldsmith, Jeremy and Katie – 7 Laurie Lane, South Salem, NY, Sheet 29, Block 10553, Lot 50 (Jeremy and Katie Goldsmith, owners of record) – Application for Wetland Activity Permit for an addition to a residence, including the construction of a two-car garage and expansion of an existing deck.

Victor Solarik, AIA, LEED AP, VKS Architects was present on behalf of the applicant. Jeremy and Katie Goldsmith, owners, were also present.

Mr. Solarik presented the project, explained the improvements in the wetland buffer and noted that the project had been previously approved in 2007. He reviewed the review comments received and discussed that Ralph Alfonzetti, Engineer, prepared the stormwater design.

Mr. Johannessen reviewed his technical comments regarding the Solarik and Alfonzetti plans and noted that minor comments remain and the plans would need to be coordinated.

Ms. Anderson stated that the CAC had no further comments.

Mr. O'Donnell requested that Mr. Siebert discuss the proposed easement. Mr. Siebert discussed the declaration of the restricted activity that accompanied the application and the declaration had never been formally approved by the Board.

Mr. LaSorsa suggested this application be considered under administrative review.

Mr. O'Donnell stated the prior restrictions of the backyard regarding wetlands and Mr. Johannessen stated he had visited the site and the wetlands shown on the mitigation plan are accurate.

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

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

IV. WETLAND VIOLATION

Cal# 3-15 WV – Kenneth Jacobson – 1208 Route 35, South Salem, New York 10590

Greg Monteleone, Esq., Special Counsel, stated that he had received late notice that everyone who had intended to appear could not attend the meeting and owner had acknowledged receipt. This project will be placed on the November 17th agenda.

Mr. O'Donnell asked for the name on the wetland violation and Mr. Monteleone stated that the owner is Jacobson, located on 1208 Route 35; there is currently a tenant on the property who caused the violation.

Cal# 4-15 WV – Ted Childs, Jr. – 19-11 Lost Nations Road, Pound Ridge, New York 10576

Greg Monteleone, Esq., Special Counsel, stated that the owner sent a letter on October 15, 2015 and stated they were out of Town and could not attend the meeting due to late notice.

Carmine Labriola was present on behalf of the applicant.

Mr. Monteleone stated he spoke with the owner, Mr. Childs, and that the Board would need a plea and appearance on November 17th agenda.

Mr. Tetelman asked where the violation was located and Mr. Monteleone stated that the address is 19-11 Lost Nations Road, Pound Ridge, New York.

Mr. Labriola explained the property, which is 40 acres with a 30 acre buffer around a 10 acre residential home. Mr. Childs, 75 years old, represents the disabled and underprivileged and people that need passive recreation access to the home. Mr. Labriola stated the owner would like to pay the fines and remediate the problems. The owner would also like to remediate the dysfunctional pond by putting a liner in the pond (new work, not part of the current wetland violation).

Mr. Monteleone stated there is clearly a wetland violation and the Board and consultants will need to get a clear understanding of the work completed to date.

Mr. Kerner recommended that the owner prepare a comprehensive plan and noted the applicant would like to remediate the violation and perform further work on the pond.

Mr. Labriola stated the new work would improve the wetlands on-site.

Mr. O'Donnell noted the applicant should enter a guilty plea to the current violation.

Mr. Sessions described the violation details, including additional tree clearing and path improvements. He also noted that the Permit obtained did not require Board approval in 2011, since the improvements were outside the wetland buffer.

Mr. O'Donnell reiterated that certain areas need to be addressed and suggested the guilty plea to the violation.

Mr. Labriola confirmed he needed to submit a full site plan.

Mr. Sessions stated that the wetland application and escrow should be submitted to the Board.

V. EXTENSION OF TIME

Cal# 8-12PB

Rudolph Petruccelli, Oscaleta Road, South Salem, Sheet 33B, Block 11157, Lot 46 (Rudolph Petruccelli, owner of record) - Request for Extension of Time to resolution granting Preliminary/Final Subdivision Plat Approval, dated October 21, 2014.

Mr. Tetelman recused himself from the application.

Mr. Siebert discussed the request for extension and stated he received the extension request by email from Michael Sirignano, Esq. He stated there has been ongoing issues with the County Clerk regarding the acceptance of the Plat without Three Lakes Council approval. Mr. Petruccelli has potentially reached a settlement with the County for filing. The final conditions have not been satisfied and the 180-day period expired on April 20th. The Town has no limit to extensions granted and, if the Board were to extend the 90-day schedule, then it would have to authorize two (2) retroactive extensions as well. The new expiration date would be January 15, 2016. Mr. Siebert left this request to the Board's discretion.

Mr. O'Donnell asked if this has been done in the past and Mr. Siebert confirmed.

On a motion made by Mr. LaSorsa, seconded by Mr. Goett, the Board granted three, 90-day extensions (two retroactive), expiring on January 15, 2016.

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

IV. EXECUTIVE SESSION

On a motion made by Mr. LaSorsa, seconded by Mr. Goett, the Board entered into executive session at 9:24 p.m.

On a motion made by Mr. O'Donnell, seconded by Mr. LaSorsa, the Board adjourned the executive session at 9:29 p.m. and reopened the Planning Board meeting.

V. CORRESPONDENCE AND GENERAL BUSINESS

VI. MINUTES OF September 29, 2015

On a motion made by Mr. LaSorsa, seconded by Mr. Goett, the minutes of September 29, 2015 were adopted.

Mr. Tetelman abstained.

VII. ADJOURNMENT

On a motion made by Mr. LaSorsa, seconded by Mr. Goett, the meeting was adjourned at 9:30 p.m.

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

Respectfully Submitted,



Danielle Cinguina,
Interim Planning Board Secretary