

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, November 17, 2015 at 7:30 p.m.

Present: Jerome Kerner, Chairman
John O'Donnell
Greg La Sorsa
Ron Tetelman
Judson Siebert, Esq., Keane & Beane P.C., Planning Board Counsel
Greg Monteleone, Esq., Special Counsel
David Sessions, PE, Kellard Sessions Consulting, Town Engineer
Jan Johannessen, AICP, Kellard Sessions Consulting, Town Planner/Wetland Consultant
Ciorsdan Conran, Planning Board Secretary

Also in Attendance: Robert Karpel, Conservation Advisory Council (CAC).

Absent: Robert Goett

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

I. PUBLIC HEARING

Cal# 12-10PB

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 and Final Subdivision Plat Approval in connection with a three-lot subdivision.

Mr. Kerner requested to commence the public hearing and asked if anyone had any objection to the Notice of Public Hearing. There were no objections to the time, place or advertisement of the public hearing. Ms. Conran received the required documentation associated with the public hearing.

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 presented the submission as a procedural lot realignment to meet the Town's subdivision requirements with no improvements to be considered for this application. He noted that the tax lots were created by deed and at the request of the Building Department the applicant made a formal subdivision proposal. The applicant has received fire department approval from the Goldens Bridge Fire Department and a curb cut on Todd Road was approved by the Town's Highway Department.

Mr. Delaney described testing the three large lots for stormwater, septic and water supply and noted that there is no intention to develop the properties. If that were to happen the applicants will come back to the Planning Board and ask for individual site plans for each lot. Mr. Delaney said his office was able to prove that the proposed lots can stand on their own.

Mr. Palmer noted that the applicant provided a Certificate of Occupancy, which includes an accessory dwelling on the property confirming that it is a pre-existing non-confirming use. He also noted that the change in lot lines is to create proper frontage on one of the lots.

Mr. Johannessen stated that after the lot line change both the frontage and side yard setbacks would be conforming.

Mr. Tetelman asked if all the dwelling units had COs. Mr. Taylor stated there was a CO for the primary dwelling unit and the accessory dwelling unit. Mr. Johannessen stated that CO for the accessory dwelling unit was dated 1945.

Mr. Johannessen stated that all the wetlands were delineated and confirmed by Kellard Sessions and the NYS DEC. All the proposed lots are zoning compliant and meet the contiguous buildable area requirement.

Mr. Karpel stated that the CAC had no further comments.

Mr. Tetelman asked if there were any other dwelling units on the other two lots. Mr. Sirignano responded that the only building was the Hayes residence on the lot where they bumped the line out.

Mr. Kerner asked if anyone were present to speak at the public hearing.

John Phelan, Esq. of Harris Beach, spoke on behalf of Adam Rose, 188 North Salem Road, and requested that the application be denied in order to have time to review the plans submitted. Mr. Phelan suggested that there are people living on the property in non-conforming units and if the Board were to approve the subdivision it should do so only if all the uses are legal.

Mr. Kerner asked Mr. Siebert if by approving the subdivision would the Board be endorsing illegal uses.

Mr. Siebert responded that the Building Inspector would be the one to determine what is and what is not legal on the property. The subdivision application was spurred by the Building Inspector who recommended that the applicant gain Board sanction for three tax lots that have been in existence for years, with some adjustment of the lot lines. If there are violations on one of the lots then it is the Building Inspector who would have to make that determination.

Mr. Johannessen stated that the applicant had not skipped any of the steps and submitted all the requisite applications. Combining Preliminary and Final Subdivision Plat Approval in this case was entirely appropriate.

Mr. Rose addressed the Board and called attention to a stop-work order from the Building Inspector on one of the Hayes-Stein drawings; the site was described as a dance studio. Mr. Rose questioned if the Building Inspector had ever gone to conduct another inspection. He requested that prior to any approval from this Board that the Building Inspector inspect the property.

There were no other comments from the public. The Board discussed closing the public hearing.

On a motion made by Mr. O'Donnell, seconded by Mr. LaSorsa, the public hearing remained open until the next meeting.

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

Against: Mr. Kerner

Absent: Mr. Goett

II. PROJECT REVIEW

Cal #8-15PB

Wild Oaks Storage Tank Replacement, Fairmount Road, Goldens Bridge, NY 10526, Sheet 7H, Block 11139, Lot 23 (Wild Oaks Water Company, owner of record) - Application for Site Plan Review for the proposed construction of a new water storage for the Wild Oaks Water System. The replacement tank would be placed on the same site as the existing tank, on a Wild Oaks Water System property located on Fairmount Road.

Kristen Barrett, P.E., Hazen and Sawyer, and Richard Ruge, New York American Water, were present on behalf of the owner.

Ms. Barrett presented the construction of a new water tank and noted they would go before the ZBA on November 18, 2015 for height and side yard setback variance.

Mr. Johannessen stated he had a conference with the Building Inspector who stated the 35' height restriction applied to a building but not a structure like a tank and that in this case a height variance was not required. He then asked the applicant to clarify with the Building Inspector.

Mr. Johannessen noted that the Board referred the applicant to ACARC October 1st.

Mr. O'Donnell asked if there had been any Health Department activity. Ms. Barrett responded that they will submit an application to the Health Department this week and that it would be a 60-day review.

Ms. Barrett noted that all the water treatment is at the Wild Oaks well site and that this is just a water storage tank. She also noted that they have an access easement; the applicant will forward to Mr. Siebert.

Mr. Johannessen asked what is going to happen to the existing tank. Mr. Ruge responded that once the new tank is in service, that the old tank and the chain link fence around it will come down.

Applicant is to contact PB office once variances and Health Department review are completed and will be tentatively scheduled for a Public Hearing in January 19, 2016.

Cal# 9-15PB

Kempo Academy of Martial Arts – 20 North Salem Road, Cross River, NY 10518, 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 presented a floor plan that included the existing bathroom.

Mr. Kerner noted that there was no significant use change, that there would not be any impact to the existing parking and that the Board had discussed waiving a public hearing at its October 20, 2015 meeting.

Mr. Johannessen reviewed the draft resolution prepared for the project. He confirmed that the change of use from office/retail to indoor recreation did not create a change in the parking standards required by the applicant. The applicant will submit a floor plan on 24" x 36" paper with appropriate title.

On a motion made by Mr. O'Donnell, seconded by Mr. LaSorsa, the resolution was adopted.

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

Absent: Mr. Goett

Cal#3-15PB

Orchard Square Site Restoration Plan – 20 North Salem Road, Cross River, NY 10518, Sheet 17, Block 10533, Lot 89 (EK Cross River, LLC, owner of record) – Application for Waiver of Site Development Plan Procedures for the restoration of the plaza area, including tree plantings and new lighting.

Frank Giuliano, R.L.A., Frank Giuliano – Landscape Architects, was present on behalf of the applicant.

Mr. Giuliano presented the restoration of the plaza area where the bell tower formerly stood. Addressing the Board's previous concerns Mr. Giuliano noted that the lighted bollards near the retaining wall had been removed, the traffic pattern had been included on the new survey and one handicap parking space was relocated because it was too steep. There will be new trees planted, the lighting is to be redone and pavers will be installed in the cross walks throughout the parking lot and in the plaza.

Mr. Kerner said that the applicant should be referred to ACARC and asked if there was any change in signage.

Mr. Giuliano stated there was no change in signage.

Mr. Johannessen reviewed the new Stop signs and Do Not Enter signs to be installed.

The Board discussed whether or not to waive a public hearing.

Mr. LaSorsa recommended that the applicant be scheduled for a public hearing, following ACARC review and that public hearing may be held February 23, 2016.

Mr. Johannessen will prepare a draft resolution.

Mr. Giuliano will contact ACARC to learn its requirements and meeting schedule.

III. SKETCH PLAN REVIEW

Cal #10-15 PB

Wilder Balter Partners, NY State Route 22, Goldens Bridge, NY 10526, Sheet 5, Block 10776, Lots 19, 20 & 21 (Wilder Balter Partners, Inc., owner of record) – Application for a 49 unit MF development on a ±35.4 acre parcel.

John Bainlardi, Wilder Balter Partners and Jeff Contelmo, P.E., Insite Engineering were present on behalf of the owner.

John Bainlardi presented a 49 multi-family unit affordable rental community with an access road from Route 22 set on approx. 35 acres. The total area of disturbance is 8 acres of which 5 would be revegetated. The front parcel is in a commercial zone and permits the multi-family development. He noted that construction financing would be through the Westchester County per the HUD settlement funding as well as other private sources. The rear parcel is zoned residential and is proposed to house the private water supply and be maintained as open space through a conservation easement.

Mr. Bainlardi noted that the development would consist of six buildings in a four-over-four townhouse configuration without common hallways. The architecture will be similar to another Wilder Balter project, the one-year-old, fully occupied Bridleside development off June Road in North Salem.

Mr. Kerner noted that it is a rugged piece of ground and asked how the topography affects the application.

Mr. Contelmo described the site's plateau and the placement of the buildings atop that plateau. It will have a subsurface sewage disposal system and an additional well will be drilled. Being within the NYC Watershed the project will have to meet those and NYS' stormwater requirements. Along the southern border is a wetland area regulated by both the town and state.

Mr. LaSorsa asked if Lewisboro residents will be given preference for this housing. Mr. Bainlardi responded that preference is not permitted to be able to qualify for the AFFH units under the Westchester County Fund. Mr. Bainlardi indicated that 30% of the Bridleside's population is comprised of local residents and that 75% of that population's residents are from Westchester County.

Mr. LaSorsa asked for clarification on the visibility from Route 22. Mr. Bainlardi responded that at some points one building would be visible as you travel south on Route 22 and I-684. Applicant is to examine those perspectives as well as from Exit 6A.

Mr. LaSorsa asked how a sanitation or fire truck would navigate the T-shaped road when parked cars in the spaces line it. Mr. Bainlardi responded that a truck would back out.

Mr. O'Donnell asked if the applicant had done any community outreach. Mr. Bainlardi responded that they had received positive feedback from the Town's Housing Committee and the Goldens Bridge Hamlet Organization.

Mr. O'Donnell read from a memo from the CAC noting that the project is appropriate for this location. The CAC recommended community involvement, integrating bike and walking paths to the Shopping area and train station per the Complete Streets program as well as investigating connecting to trails in the Bedford Audubon.

Mr. Bainlardi noted he would submit an EAF the next day and requested a site walk. The Board discussed scheduling a site walk and applicant being placed on the December 15, 2015 agenda.

Mr. Kerner suggested that in addition to staking road centerline a high pole would be helpful. Mr. Bainlardi agreed and offered to float a balloon to represent a proposed roofline.

IV. WETLAND VIOLATIONS

Cal #4-15WV, 68-15WP

Childs, Ted – 19-11 Lost Nations Road, Pound Ridge, NY 10567, Sheet 45A & 46, Block 9825, Lot 21 (Ted Childs, owner of record)

Ted Childs, the owner and Carmine Labriola, Re Landscapes, Inc. were present.

Mr. Labriola agreed that the applicant had committed an error and would like to make restitution.

After a conference with Mr. Johannessen, Mr. Monteleone concluded that a site walk is in order.

Mr. Labriola began with a description of Mr. Childs' 40 acres where he built a basketball court, a tennis court and a golf green. This work was done under an administrative permit as it was 150' from the wetland buffer. In addition, the applicant widened and added three inches of gravel and curbing to a path system plus cut trees and undergrowth causing a wetland violation.

Mr. Labriola described a 80' x 25' pond located on a vernal pool that Mr. Childs filled with water, both trucked in and collected from roof gardens.

Mr. Sessions outlined the original permit from 2011, which was for a putting green, a basketball court and a tennis court. He noted that those three projects were permitted and outside the wetland buffer. Subsequent to that the applicant entered into activity that was beyond the scope of the permit.

Mr. Monteleone stated that a plea has been filed.

Mr. Sessions also suggested that the Board schedule a site walk and that this project can be handled administratively.

Mr. Labriola noted that they had completed selective tree clearing and he is approaching the Board for advice on how to keep water in the pond. He is proposing a polyethylene liner be installed by hand.

Mr. Sessions could not confirm that the pond site is a vernal pool and gave two options: leave the pond alone or revegetate the pond slopes with a native meadow mix with a no-mow zone.

Mr. O'Donnell asked what Mr. Childs wanted to do and Mr. Childs responded that he wanted to install the liner.

Mr. Kerner asked that Mr. Sessions visit the site.

Mr. O'Donnell noted that the reason the Board wanted to know future plans is that the remediation would be taken into consideration when determining the fine for the initial violation.

Mr. Kerner asked if a liner can be installed and still maintain the integrity of the wetlands.

Mr. Labriola agreed to plant native plantings, which would be noted on the plan and asked if the Board can agree on the violation tonight.

Mr. O'Donnell outlined a few scenarios. The Board could request Mr. Sessions issue an administrative permit for the proposed work excluding the liner. Secondly, Mr. Childs and Mr. Sessions could meet to discuss the pond liner with two possible outcomes – abandonment of the liner or Mr. Childs return to the Board for further discussion of the liner.

Cal #3-15WV

Jacobson, Kenneth – 1208 Route 35, South Salem, NY 10590 Sheet 31, Block 10805, Lot 42 (Kenneth Jacobson, owner of record)

Kenneth Jacobson, the owner; Greg Monteleone, Monteleone & Monteleone [as Town Attorney]; and Jay Fain, Jay Fain & Associates were present.

Mr. Monteleone stated that a plea of guilty had been entered.

Mr. Fain stated that there were two aspects to the violation; one was having commercial equipment parked on the property, the other was placing sand in the wetland buffer. A tenant on the property caused the two violations and the owner now understands the violations.

Mr. Jacobson agreed to the violation and the sand was removed from the parking area. Mr. Fain prepared a mitigation plan, which included shrubs to be planted in the parking area.

Mr. Tetelman asked if there were trees cut down on the property.

Mr. Fain didn't think there were any trees cut down.

Mr. Sessions stated that it is a straightforward restoration that could be done with a wheelbarrow.

Mr. Monteleone stated that the property is located at 1208 Route 35.

Mr. Kerner asked that the applicant submit the cost of restoration in order for the Board to include that information when deliberating on a possible fine.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the Board determined to handle the Wetland Permit administratively.

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

Absent: Mr. Goett

V. REQUEST FOR EXTENSION OF TIME

Cal # 39-14 WP and Cal#15-45SW

J-2 Boniello Builders, property fronting Bouton Road, South Salem, NY 10590 Sheet 26, Block 10803, Lot 18 (Gus Boniello, owner of record) – Request for Extension of Time to resolution granting Wetland Activity Permit approval and Town Stormwater Permit dated May 19, 2015.

Mr. Jared Boniello and Mr. Jesse Boniello, the owners, were present requesting an extension of time of 90 days.

Mr. Johannessen noted the applicants are very close to satisfying all conditions and should have plans ready for the Planning Board to sign shortly.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the Board granted a 90-day extension to the applicants' Wetland Activity Permit approval and Town Stormwater Permit, expiring on February 19, 2016.

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

Absent: Mr. Goett

Cal# 8-02PB

Popoli Subdivision, 1437 Route 35, South Salem, NY 10590 Sheet 0040, Block 10552, Lot 003 (Pasquale Popoli & Angelo Sicuranza, owners of record) - Request for extension of time to meet requirements of Amended Approval Resolution dated September 28, 2010.

Mr. Jim DeLalla, DeLalla & Associates, LLC, was present on behalf of the owner requesting an extension of time of 90 days. The property is a short sale and buyer is waiting for bank approval.

Mr. Tetelman asked if a sale were made did the Wetland Permit get conveyed to the new owner.

Mr. Johannessen said yes, as long as new owner builds the same thing.

Mr. Delalla noted that tonight's extension of time request pertains to the subdivision and that the Wetlands Permit will expire on September 26, 2016.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the Board granted a 90-day extension of subdivision approval, expiring on March 3, 2016.

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

Absent: Mr. Goett

Cal# 9-13PB

JT Farm 1125 Route 35, South Salem, NY 10590 Sheet 26, Block 10541, Lots 27 & 28 (Peace & Carrots, LLC, owner of record) Request for extension of time granting Final Subdivision Plat Approval Subdivision – Lot Line Change – Resolution dated November 18, 2014.

Mr. Steven Spina, P.E., John Meyer Consulting, was present on behalf of the owner requesting an extension of time of 90 days.

Mr. Siebert noted that this was a retroactive request due to minor issues with the County Department of Health that require very modest changes to the mylars.

On a motion made by Mr. LaSorsa, seconded by Mr. Tetelman, the Board granted a 90-day extension to the applicant's Final Subdivision Plat Approval Subdivision, expiring on February 15, 2016.

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

Absent: Mr. Goett

Cal# PB 12-13PB and Cal# 13-14SW

Guillermo Arias, 411 Smith Ridge Road, South Salem, NY 10590 Sheet 0050, Block 09834, Lot 28, & Lexus Holding Company, LTD, Smith Ridge Road, South Salem, Sheet 0050, Block 09834, Lot 162 – Request for extension of time granting Final Subdivision Plat Approval and Stormwater Permit Approval for a two (2) lot subdivision. Applicant also requests amendment to Condition #24 of the approved Resolution.

Mr. Joseph Riina, P.E., Site Design Consultants, was present on behalf of the owner requesting an extension of time of 90 days.

Mr. Riina noted that Lex Holding, owner of Lot 2, realized that Planning Board Resolution's Condition #24 stated that the Westchester County Department of Health would require the construction of a septic system on Lot 1 in order for Lot 2 to receive a Certificate of Occupancy. Upon further clarification, the Westchester County Department of Health stated that they will not tie the issuance of a Certificate of Occupancy for Lot 2 to the installation of the septic system on Lot 1.

Mr. Kerner asked counsel how to address a change in the resolution.

Mr. Siebert responded that the Board should grant the extension and asked Mr. Johannessen to prepare a short resolution that amends the previous resolution and adopt that at the Board's December meeting.

On a motion made Mr. LaSorsa, seconded by Mr. Tetelman, the Board granted a 90-day extension to the applicant's Final Subdivision Plat Approval Subdivision and Stormwater Permit, expiring on February 17, 2016.

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

Absent: Mr. Goett

Mr. Riina inquired if the plat can be signed at the December meeting.

Mr. Kerner responded that the mylars can be delivered at the December meeting.

Cal# 115-12WP

397 Smith Ridge Road, LLC, 397 Smith Ridge Road, South Salem, NY 10590, Sheet 50A, Block 9848, Lot 2 (397 Smith Ridge Road, LLC, owner of record) Request for extension of time to Wetland Activity Permit, dated November 16, 2012.

Steven Kaplan, owner, was present requesting an extension of time of 90 days. Mr. Kaplan noted that the work was finished 3 weeks ago but the Wetlands Certificate of Compliance cannot be issued yet and that he is waiting for the final approval letter from the NYS Department of Transportation.

Mr. Johannessen commented that Kellard Sessions has made its final inspection and that everything is in good order. He concurred that until such time that the planting plan and the as-built survey are available and the NYS Department of Transportation signs off on the project the Wetlands Certificate of Compliance cannot be issued and recommended that the Wetland Permit be extended until all these items are submitted.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the Board granted a 90-day extension of the wetland permit, expiring on February 15, 2016.

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

Absent: Mr. Goett

Cal# 9-10PB, Cal #84-14WP, Cal # 14-14SW

Bacio Trattoria, 12 North Salem Road, Cross River, NY 10518 Sheet 0017, Block 10799, Lot 003 (K + K Real Estate, Inc., owner of record) Request for extension of time to Resolution granting Site Development Plan approval, Wetland Activity Permit Approval and Town Stormwater Permit Approval, dated February 17, 2015.

No owner or representation was present for this agenda item.

Mr. Kerner asked Mr. Johannessen to comment on this extension of time request.

Mr. Johannessen reported that with the exception of filing the Stormwater Declaration, which was filed today, all the conditions have been met. As the resolution expires next week this request for extension of time is to ensure that the resolution doesn't expire while the applicant is finalizing everything and getting the mylars signed.

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa, the Board granted a 90-day extension to the applicant's Site Development Plan approval, Wetland Activity Permit and Town Stormwater Permit, expiring on February 15, 2016.

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

Absent: Mr. Goett

VI. SITE VISIT REPORTS

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)

Mr. O’Donnell reported that on October 31, 2015 the members of the Board, with the exception of Mr. Goett, met along with Janet Anderson of the CAC, and Rich Williams, P.E., from Insite Engineering. Mr. Williams indicated that he had walked the site with Town Attorney Anthony Mole, Esq., Superintendent of Highways Peter Ripperger and an applicant’s representative.

Mr. O’Donnell noted that the group walked from Duffy’s Bridge Road to the current emergency access road and up the proposed driveway slope, building envelope and septic fields. The group observed two wetland areas, multiple steep slopes and various rock outcroppings.

Mr. Kerner added that via a memo dated November 17, 2015, Mr. Williams requested that the applicant provide a stormwater pollution prevention plan that reflects the total amount of site disturbance that is proposed.

Cal# 8-14PB, Cal# 95-14WP, Cal# 20-14SW

Goldens Bridge Village Center, NYS Route 22, Goldens Bridge (Stephen Cipes, owner of record)

Mr. O’Donnell reported that on October 31, 2015 the members of the Board, with the exception of Mr. Goett, met along with Janet Anderson of the CAC; Robert Laurie, the owner’s representative; Peter Helmes, Helmes Architects; Tim Allen, Bibbo Associates; and Scott Rivetto, owner and operator of Little Feet, the proposed child care center.

Mr. O’Donnell noted that the site was staked and flagged. The Board discussed the site’s topography, shielding the site from Route 138, the proposed parking, the possibility of having employee parking away from the storefronts, truck access and the relocation of a footpath onto DEP property.

VII. REFERRALS FROM THE TOWN BOARD

Local Law Proposed Amendments of Town Code to Chapter 220, Section 220-10, entitled “Building Lots.”

Contiguous Building Area Effective Date

The intent of this amendment is to clarify that only new lots created after the adoption of 220-10 E. (2).

Mr. Siebert provided the Board with comments on the proposed changes to Local Law Chapter 220. He noted that the Public Hearing is December 21st and that the first amendment, the lot/new lot piece, is easy to remedy as it was a drafting oversight. Mr. Siebert suggested a change such as a new subdivision created as of a certain date would subject to the amendment.

Mr. Siebert stated that the Town Attorney was charged with drafting this in 2009 and it was to pertain to new subdivisions only.

Mr. Johannessen noted that a 2008 or 2009 Wetland Permit application on Truesdale Lake triggered this amendment. It was a single vacant lot and the question arose should the Town apply the contiguous building area requirement. The law was intended to apply to subdivisions but it was not written as clearly as it should.

Mr. O'Donnell suggested that the Board make a favorable recommendation to the Town Board to adopt this amendment to avoid confusion.

Mr. Siebert will draft a report for adoption at the December 15, 2015 meeting.

Accessory Buildings on Other Lots

Mr. Siebert explained that the second amendment concerns a residence that can't accommodate an accessory structure and that either an adjoining property or a property across the road is owned where an accessory use would be permitted by right. Mr. Siebert noted that if there is an accessory structure on an adjoining lot that there is already the remedy of merging parcels.

Mr. Siebert went on to discuss that building stand-alone, accessory structures on lots across the road may not allow for one structure to be subordinate to the other and would be contrary to the concept of accessory use.

Mr. Kerner noted that the town has several lakes resulting in long narrow lots that slope down to a lake making a garage difficult to construct. If that lot owner also owns the high side of the road they can use that parcel (the one across the street) for parking.

Mr. Johannessen said that the way the law is written now one doesn't have to own both lots.

Mr. O'Donnell summarized that this Board must figure out the across the road portion of this amendment.

Mr. Siebert suggested there could be a Special Use Permit that includes a zoning mechanism that ties the two parcels together by a deed restriction.

Mr. Johannessen noted that in Putnam Valley two parcels of this type are linked by deed and a Special Use Permit is issued by the ZBA.

Mr. Kerner raised the concern of the garage across the road becoming an accessory dwelling and suggested utility restrictions.

Mr. O'Donnell suggested that Mr. Siebert draft language for the adjoining parcel portion of the amendment and that Mr. Johannessen draft language for the across the road portion of the amendment limiting the type of structure that can be built with a Special Use Permit including a deed restriction.

VIII. MINUTES OF October 20, 2015

On a motion made by Mr. Tetelman, seconded by Mr. LaSorsa the minutes of October 20, 2015 were adopted.

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

Absent: Mr. Goett

Abstained: Mr. O'Donnell

IX. EXECUTIVE SESSION

On a motion made by Mr. LaSorsa, seconded by Mr. Tetelman, and in order to preserve attorney client privilege, the Board entered into executive session at 10:07 pm.

On a motion made by Mr. LaSorsa, seconded by Mr. Tetelman, the Board adjourned the executive session at 10:29 pm.

V. ADJOURNMENT

On a motion made by Mr. LaSorsa, seconded by Mr. Tetelman, the meeting was adjourned at 10:30 p.m.

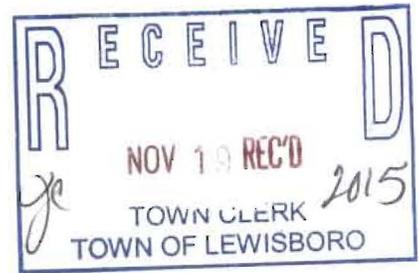
In favor: Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell and Mr. Tetelman.

Absent: Mr. Goett

Respectfully Submitted,

A handwritten signature in black ink that reads "Ciorsdan Conran". The signature is written in a cursive, flowing style.

Ciorsdan Conran
Planning Board Secretary



**RESOLUTION
LEWISBORO PLANNING BOARD**

SITE DEVELOPMENT PLAN APPROVAL

ORCHARD SQUARE SHOPPING PLAZA – KEMPO ACADEMY OF MARTIAL ARTS

Sheet 17, Block 10533, Lot 89
Cal # 9-15PB

November 17, 2015

WHEREAS, the subject property consists of ±5.39 acres, is located at the intersection of NYS Route 35 and NYS Route 121, and contains the Orchard Square Shopping Plaza (“the subject property”); and

WHEREAS, the subject property is located within the RB Zoning District; and

WHEREAS, Kenneth Deegan, on behalf of Kempo Academy of Martial Arts (“the applicant”), is proposing to convert ±1,670 s.f. of existing vacant retail/personal service space to indoor recreation, specifically a martial arts training studio (“the proposed action”); and

WHEREAS, indoor recreation is a permitted use within the RB Zoning District; and

WHEREAS, as the proposed use requires one (1) parking space per 200 s.f., which is the same parking formula used for the former retail/personal service use, the proposed use will not require additional parking spaces from a zoning perspective; and

WHEREAS, in accordance with §220-44 of the Zoning Code, a change of use requires Site Development Plan Approval from the Planning Board; and

WHEREAS, in accordance with Section 220-47A(1) of the Zoning Code, the application qualifies for a waiver of Site Development Plan application procedures; and

WHEREAS, a “notification referral” has been made to the Westchester County Planning Board in accordance with Section 239-m of the General Municipal Law; and

WHEREAS, the Planning Board is familiar with the subject property and the general surrounding area; and

WHEREAS, reference is made to the site plan of record for the subject property consisting of four (4) sheets, prepared by Design Development, signed by the Planning Board Chairman on October 25, 2010; and

WHEREAS, the proposed use will not result in a zoning nonconformity; and

WHEREAS, the Planning Board has considered the submitted Site Development Plan Application, materials submitted by the applicant in support of its proposal, the written and verbal comments from the Board's professional consultants, the verbal commentary made during Planning Board meetings, and testimony of the applicant.

NOW THEREFORE BE IT RESOLVED THAT, the proposed action is a Type II Action under the State Environmental Quality Review Act (SEQRA); and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby determines that the proposed change of use qualifies for a waiver of Site Development Plan application procedures under §220-47A(1) of the Zoning Code; and

BE IT FURTHER RESOLVED THAT, the Planning Board finds that the proposed action will not require physical site work that is subject to Planning Board review; and

BE IT FURTHER RESOLVED THAT, given the limited scale of the proposed action and in accordance with Section 220-46D of the Zoning Code, the Planning Board hereby waives the requirement for a public hearing; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby grants Site Development Plan Approval, subject to the below conditions; and

BE IT FURTHER RESOLVED THAT, Conditions #1- #7 must be fulfilled within six (6) months of the date of this Resolution. Should these 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 six (6) month period and granted by the Planning Board; and

BE IT FURTHER RESOLVED THAT, Site Development Plan Approval, defined as the signing of the floor plan by the Planning Board Chairman, shall expire unless a Building Permit is applied for within one (1) year of the date of the signing of the plan or if all required improvements are not completed within three (3) years of the signing of the plan or if the construction or use shall cease for more than one (1) year; and

BE IT FURTHER RESOLVED THAT, any subsequent alterations, modifications, additions or changes to the approved and/or constructed improvements shall require the prior review and written approval by the Planning Board as a new, modified and/or amended application for Site Development Plan Approval; and

BE IT FURTHER RESOLVED THAT, failure to comply with the approved drawings or any of the conditions set forth herein shall be deemed a violation of Site Development Plan Approval, which may lead to the revocation of said approval or the revocation by the Building Inspector of any issued Certificate of Occupancy.

4. The applicant shall submit the floor plan, prepared in final form and in accordance with the conditions of this Resolution, for review by the Planning Board's consultants.
5. Following review and revision (if necessary) of the final floor plan, the applicant shall furnish the Planning Board with two (2) complete mylar sets of the final floor plan for final review by the Town Engineer and endorsement by the Town Engineer, Planning Board Chairman and Secretary.
6. The applicant shall pay to the Town of Lewisboro, by certified check, all outstanding professional review fees.
7. 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.

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

8. Following the endorsement of the floor plan by the Town Engineer, Planning Board Chairman and Secretary, one (1) mylar set will be returned to the applicant for copying and the second mylar set will be retained by the Planning Board as a record copy.
9. Within 10 days after endorsement of the floor plan by the Town Engineer, Planning Board Chairman and Planning Board Secretary, the applicant shall deliver to the Planning Board Secretary six (6) printed sets of the signed floor plan.

ADOPTION OF RESOLUTION

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

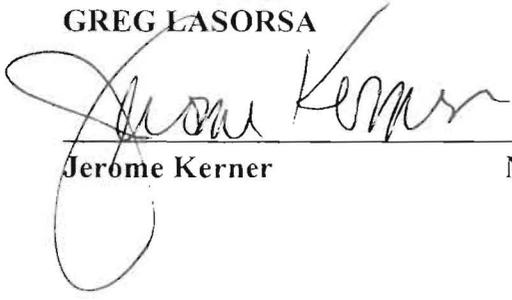
The motion was moved by: JOHN O'DONNELL

The motion was seconded by: GREG LASORSA

The vote was as follows:

The vote was as follows:

JEROME KERNER	<u>✓</u>
JOHN O'DONNELL	<u>✓</u>
RON TETELMAN	<u>✓</u>
ROBERT GOETT	<u>ABSENT</u>
GREG LASORSA	<u>✓</u>



Jerome Kerner

November 17, 2015