

Meeting of the Planning Board of the Town of Lewisboro held at the Town House, 11 Main Street, South Salem, New York on Tuesday February 23, 2010 at 7:30 P.M.

Present: Jerome Kerner, Chairman  
Joseph Decaminada  
John Gusmano  
Richard Ellrodt  
Maureen Maguire  
Jan Johannessen, Kellard Sessions Consulting, Planning Consultant  
Bruce Barber, Interim Wetland Inspector  
Margaret Clark, Esq., Special Counsel  
Janet Andersen, CAC Chairwoman  
John O'Donnell, CAC  
Aimee Hodges, Planning Board Secretary

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

## **I. PROJECT REVIEW**

### **Four Winds Hospital, Inc., 800 Cross River Road, Cross River – Application for Waiver of Site Development Plan Procedures – addition of door and small deck on existing building – Cal. #4-10 P.B.**

Joseph Ackilli was present representing the applicant.

Mr. Ackilli advised that the application before the Board pertains to the construction of a deck allowing for egress from a nurses station. This application is before the Board as the applicant has a Special Use Permit requiring all changes to be approved by the Planning Board.

Mr. Johannessen reviewed his memo to the Board dated February 19, 2010.

Mr. Barber indicated that there are no wetland permit requirements.

The Board directed Mr. Johannessen to draft a resolution for the March 9, 2010 agenda.

### **Lewisboro Baseball Association, applicant (Town of Lewisboro, owner of record), Town Park, Route 35, South Salem – Applications for Waiver of Site Development Plan Procedures, Amended Site Plan & Wetland Activity Permit – Cal. #7-09 P.B.**

Dana Mayclim, Superintendent of Parks & Recreation was present with Dean Travalino and Greg LaSorsa representing Lewisboro Baseball Association.

Ms. Mayclim advised that the applicant had come to the Planning Board in November to address the field improvements. The application before the Board this evening is to address the ADA concerns near the concession stand. She advised that they would like to add a railroad tie staircase from the parking lot up to the concession stand to address the erosion created by pedestrian traffic on the hill. In addition they are proposing to add a ramp from the parking lot onto the field which would allow children in wheelchairs who participate in the program direct access to the field.

Mr. Travalino noted Schedule E which outlines the Federal ADA requirements that must be met. Removing the batting cages, no longer allowed by the Little League Baseball, will allow for the placement of the ramp to the field. The asphalt has settled up above on the route connecting the parking lot to the seating area creating a problem with the cross slopes. He advised that to correct this they have proposed to install a small half wall of railroad ties to stabilize the area. This half wall will be utilized for the railroad tie staircase being proposed to address the erosion.

Mr. Kerner advised that he had prepared the sketch submitted for the ADA compliance and as such recused himself from this project.

Mr. Travalino showed the Board a sample of a material made up of recycled tires that act as a pervious surface that may be used in the areas that are asphalt. Mr. Travalino advised that LBA is looking to move the scoreboard now located 300 feet away in left field to the right field line. The advantage is that it would be perpendicular to the roadway. Moving the scoreboard will require two 30" circumference holes, six feet deep. The scoreboard was approved by ACARC; in concept the remaining work was approved but the contractor will provide better detail.

Mr. Barber advised that the relocation of the scoreboard involves a minor trench to install electrical within the Town and NYSDEC wetland buffer. He noted that the work was not a substantive impact as the work would occur within the disturbed turf surface and asked whether the Board would consider authorizing him to issue an amended wetland activity permit required on an administrative basis. He will forward these changes to the NYSDEC to consider as part of their permit package for the fence relocation and warning track.

Ms. Maguire questioned whether these changes now being proposed bring everything up to compliance with ADA.

Mr. Travalino advised that Joel Smith is working on the ADA punch list from the architects with respect to the interior bathroom upgrades. It is the applicant's hope that as part of their project that the all of the exterior issues on Schedule E will be taken care. The ADA issues relative to the baseball field are all contained within Schedule E.

Mr. Gusmano questioned whether all of the improvements would be shown on one drawing.

Mr. LaSorsa questioned whether the contractor could provide a drawing that would satisfy the Board's requirements with respect to the ADA upgrades.

Mr. Johannessen expressed concern with the time and cost it would take to design and add the ADA upgrades to the plans Kellard Sessions drew for the field improvements.

Mr. Gusmano advised that he would like to see an as-built drawing that included the location of all improvements noting that he was not looking for engineering details.

Mr. Johannessen suggested that he add the locations of the improvements on the Kellard Sessions plans with a note stating "designed by others" and iron out the construction details at a later date.

In response to Ms. Maguire's concern as to who would have the liability for those improvements not designed by Kellard Sessions shown on the plan, Mr. Johannessen advised that LBA would. Ms. Maguire advised that LBA would need to be aware that Kellard Sessions is not taking responsibility for the items that are designed by others.

Mr. LaSorsa questioned whether LBA would still need to come before the Board with their contractor with respect to the details if the plans layout the location of the ADA improvements.

Mr. Johannessen advised after the Planning Board approved the plans showing the precise location of the ADA improvements that Kellard Sessions could review and approve the design of the drawings provided by others. He would prepare the revised plan for the Board's review for an up-coming meeting.

Mr. Kerner noted that the Building Department could review the cross sections.

On a motion made by Mr. Ellrodt, seconded by Ms. Maguire, Mr. Barber was authorized to review the amended wetland activity permit administratively.

Vote: Yes: Decaminada, Gusmano, Ellrodt, Maguire  
Abstain: Kerner

Mr. Johannessen was directed to prepare a draft resolution for the Board's consideration.

At the completion of his services for the evening, Mr. Johannessen exited the meeting at 7:55 P.M.

## **II. DECISIONS**

### **Matthew and Andrea Lustig, 36 Perch Bay Road, Waccabuc, New York - Application for Wetland Activity Permit Approval - Cal. #19-09 W.P.**

Geraldine Tortorella, Esq. was present representing the applications.

Mr. Barber reviewed the draft resolution he prepared for the Board's consideration. He noted an amendment on page 6 identifying Alan Pilch, PE as the preparer of the Blasting Protocol dated January 12, 2010.

Ms. Tortorella requested clarification with respect to the conditions relative to the notice to be filed in the Westchester County Clerk's office.

On a motion made by Ms. Maguire, seconded by Mr. Gusmano the resolution Matthew and Andrea Lustig, Negative Declaration, Wetland Activity Permit Approval was adopted as amended.

Vote: Yes: Decaminada, Gusmano, Kerner, Ellrodt, Maguire

## **III. SITE WALK REPORTS**

**Dardani**

Mr. Barber advised that the Board visited the site accompanied by the project architect on Saturday January 30, 2010. The Board got a sense of the proposed activity and went to the site to take a look at the possible mitigation in that a pipe discharges into Waccabuc creek. There was some discussion regarding the portion of the septic area located on lands owned by the Waccabuc Country Club and he advised that Planning Board counsel would be reviewing the licensing agreement. It was noted that the work proposed fell entirely within the disturbed lawn surface but because the addition is slightly greater than 700 s.f. the code requires that the application be reviewed by the Planning Board.

**Kola**

Mr. Ellrodt advised that the Board looked at the fence replaced with stone. There was concern with the trees possibly dying.

Mr. Gusmano advised that a number of piers had been added; the Building Inspector should review what was designed versus what had been constructed.

It was noted that four members of the Planning Board were present minus Ms. Maguire along with Mr. Barber, Mr. Johannessen and Mr. Coyne.

**Okay**

Mr. Kerner advised that the same four board members were present with Mr. Barber, Mr. Johannessen and Mr. Coyne. He advised that although the area was covered with snow that the Board observed that the grass and wetland vegetation had been removed.

Mr. Ellrodt advised that it looked as though the area had been filled and graded.

Mr. Decaminada advised that the Board looked to the left and saw the patio and adjoining properties which appeared to be wetlands.

**IV. WETLAND VIOLATIONS**

**East Street Partners, LLC, 82 East Street, Vista – Cal. #4-06 W.V.**

James DeLalla, ASLA was present representing the property owner.

Mr. DeLalla advised that he had met with Mr. Barber, Mr. Coyne and Ms. Clark to discuss changes to the mitigation plan as discussed by the Board during the last review. He displayed the mitigation plan as previously discussed as well as the revised plan. The revised plan separates the proposed work from the mitigation for the violation and has considerably less trees. They will remove the materials that have been piled up on the site by hand. He advised that a lot of the vegetation had resprouted because the stumps had not been removed. He noted the areas where a dozen trees would be planted in an attempt restore some of the canopy. In addition they would be removing invasive species by

hand and replacing them with native shrubs. He advised that there was no proposed grading as there was no disturbance to the ground itself.

Mr. Barber advised that the presentation and plans accurately depicted what had been discussed. He advised that the area had sprouted and colonized predominately with native species. However, there are invasives and the idea is to scale back the planting to allow work to be done by hand and to remove invasives over time to give the plants that exist the opportunity to succeed.

Mr. DeLalla advised that he had contact the NYSDEC who advised that as this proposed work is mitigation required by the Town that no additional permit would be required by their agency. However, any additional work will require NYSDEC approval.

Mr. Gusmano noted that the front of this property floods during heavy rains and questioned whether the new trees could withstand this amount of water.

Mr. Barber advised that the species chosen by Mr. DeLalla will withstand the variable hydrology in the area the trees would be planted.

Mr. Ellrodt questioned whether removing the materials would do more damage to the site and was advised by Mr. DeLalla that the materials would be cut by hand and carried off the site.

Mr. DeLalla estimated that the cost of mitigation to be \$15,000. He noted that 12 trees were being planted as well as 111 shrubs and seed mix.

Mr. Barber advised that the optimal time to implement the plan is between April 1<sup>st</sup> and October 1<sup>st</sup>.

**Cross River Westchester Associates, 890 Route 35, Cross River – Cal. #3-08 W.V.**

John Cano, property manager and John Kalin, PE project engineer were present representing the property owner.

Mr. Kalin displayed a plan as remediation for the wetland violation. He advised that he had walked the site with Mr. Barber to identify some potential areas for improvement noting that the constrained site is mostly built out with a small strip in the rear that is steep and terminates with a stone wall. He advised that he had reviewed a draft plan with Mr. Barber to capture currently untreated runoff from the parking lot at two points which now discharges directly into the wetlands. He reviewed the plan to install two deep sump catch basins which will capture some of the sediment before discharging to a water quality swale. Once the pollutants are discharged to the water quality swale the water will be discharged into a riprap swale to grass cells. Ultimately the water will drain to another rip rap swale before being discharged into the wetlands. Approximately 750 cubic feet of runoff will be treated; given the constraints of the site and the Westchester County Health Department requirements relative to well separation he advised that there was not much more he could do. In addition the garbage and debris will be cleaned up, the dead wood would be mulched and the area planted with a New England erosion control mix.

Mr. Kalin advised that the NYCDEP had run random tests on the new septic system and the waste water coming out of the tail pipe is now clean. The system is functioning as designed.

Mr. Barber advised that he reviewed the plans and advised that the mitigation proposed is reasonable noting that currently there is absolutely no stormwater remediation on the site.

Mr. Gusmano questioned whether there would be a maintenance plan for the sumps and was advised by Mr. Barber that the Board could request an annual maintenance report.

Mr. Kalin advised that the estimated cost for the remediation is between \$10,000 and \$17,000; it depends on what is encountered in terms of what it would cost to construct the basin.

**John Eckerson, 27 Old Oscaleta Road, South Salem – Cal. #1-09 W.V.**

John Arons, Esq. was present and provided Mr. Eckerson's authorization to represent him this evening.

Ms. Clark noted that this was the first time this matter was before the Board. She advised that it was her understanding that there would not be an admission or a request for a hearing this evening and asked Mr. Arons to state what his intentions going forward would be.

Mr. Arons advised that he would like to address the substance of the violation after the Board had the opportunity to visit the property. He advised that there seems to be a question as to whether a violation exists and whether permits would have been required. He advised that it was a long walk to the area in question and if the Board wished to drive they would have to wait until the driveway dries out.

Ms. Clark read into the record the violation as stated in the Notice of Wetland Activity Violation dated December 31, 2009 issued to John Eckerson.

The Board agreed to visit the site prior to discussing the violation.

**Anton Kola, 230 Spring Street, South Salem – Cal. #2-09 W.V.**

Anton Kola was present with his environmental consultant Paul Jaehnig.

Ms. Clark noted that an admission had been entered with an explanation on January 26, 2010; a site walk occurred and there had been a meeting with Mr. Kola, Mr. Jaehnig, Mr. Barber and Ms. Clark.

Mr. Jaehnig advised that the stonewall was built on an existing stonewall and did not believe that the trees would be any more affected than they had been before; they stayed within the footprint.

Mr. Kerner advised that it appeared as though fill had been added.

Mr. Barber advised that they had discussed some grading and minor changes around the stonewall.

Mr. Gusmano advised that there was some concern with the wells around the trees and that because the soil around them had been raised it was possible that the trees would be lost.

Mr. Decaminada advised that they discussed perhaps planting some vegetation along the south side that would nurture the wetlands.

Mr. Barber advised that the Board expressed concern with the viability of the trees in connection with the work done of the wall. In addition there were some questions relative to the limit of disturbance in terms of activity occurring in the vicinity of the septic and septic expansion areas and would like to ensure that the staking around those areas are adequate. The Board discussed having some assurances with respect to the tree longevity by removing some of the soil to give the trees a chance for survival. In addition the Board discussed excavating the area where the debris and fill were being removed to create a more varied habitat.

Mr. Jaehnig questioned whether it was the Board's intent to have the Building Department come out and look at the piers.

Mr. Kerner advised that the question was not about the piers but whether the framing had been modified from the original plan.

Mr. Barber advised that the Building Inspector had requested an updated signed and sealed set of plans reflecting what is there now as well as what other changes are being anticipated. The Building Inspector has a stop work on the interior work and is allowing the exterior work to be completed. He advised that he had discussed with Mr. Kola and Mr. Jaehnig the need for an amended wetland activity permit reflecting the changes and any other anticipated changes. Mr. Barber requested that Mr. Jaehnig prepare a plan reflecting the changes to the mitigation that had been discussed and submit it to the Board.

Mr. Jaehnig advised that they did not have any objections to what had been requested.

Mr. Kerner asked that a cost estimate for the mitigation be submitted.

**Devin J. Okay, 126 Elmwood Road, South Salem – Cal. #3-09 W.V.**

Devin Okay was present with his contractor Anthony Leggio.

Dr. Okay indicated that he had submitted a guilty plea in writing for both violations.

Mr. Leggio displayed the plan reflecting a design for mitigation as well as for additional work. He reviewed the proposed planting plan as shown on the plan.

Mr. Kerner advised that the proposed plan fits the goal. He noted though that the continuation of the privet hedge was contradictory in front of the meadow.

Mr. Barber advised that it would be more desirable to plant native vegetation rather than the ornamental privet hedge. He questioned what assurances the Board would have that the meadow mix would be nonmanaged in the future as a native area rather than a managed lawn area.

Mr. Leggio distributed information on the wildflower mix and advised that they would not have the ability to mow the area more than once a season.

Mr. Barber advised that the species chosen are well suited for the area and would give the property owner the ability to mow the areas in the spring and fall. He questioned whether the Town could have the right to inspect this area periodically to ensure that it is being maintained. He noted that any type of hedge in the front would require ACARC approval.

Mr. Barber asked that the drawings are amended to reflect a better suited hedge. The Board will resolve the violation portion; the drawings should be submitted with an application for Wetland Activity Permit approval. The appropriate elements would be referred to ACARC.

Mr. Leggio advised that the estimated cost for the planting is roughly \$4000. He will find a more acceptable hedge.

## **V. REQUEST FOR EXTENSION OF TIME**

### **Two West Road, LLC & Frank & Teresa Catallo (Pound Ridge Stone & Landscaping), 2 West Road, Vista – Site Development Plan Approval, Special Use Permit Approval & Wetland Activity Permit Approval – Cal. #2-05 P.B.**

Janet Moorman, principal of Two West Road, LLC was present with James DeLalla, ASLA.

Mr. DeLalla advised that the applicant had requested a 90 day extension of time as they are struggling with the cost to implement the approved plan. In addition, they may be back requesting an amendment to the approval.

Mrs. Moorman advised that they were very excited to move forward with the approval. Unfortunately with the economic situation they are unable to move forward with the conditions as approved. She advised that they are considering phasing the project. She noted that they would like to review the bonds being requested for the landscape improvements.

On a motion made by Mr. Ellrodt, seconded by Mr. Gusmano the Board granted the February 5, 2010 request of James DeLalla, ASLA to extend the Site Development Plan Approval, Wetland Activity Permit Approval, and Special Use Permit approval dated September 25, 2009 an additional 90 days.

Vote: Yes: Decaminada, Gusmano, Kerner, Ellrodt, Maguire

## **VI. CORRESPONDENCE & GENERAL BUSINESS**

The Board agreed to schedule the site walks at the March 23, 2010 meeting.

On a motion made by Mr. Ellrodt, seconded by Mr. Decaminada the Board entered into Executive Session with counsel under Attorney/Client Privilege at 9:16 PM.

Vote: Yes: Decaminada, Gusmano, Kerner, Ellrodt, Maguire

On a motion made by Mr. Gusmano, seconded by Ms. Maguire the Board exited the Executive Session at 9:49 PM.

Vote: Yes: Decaminada, Gusmano, Kerner, Ellrodt, Maguire

On a motion made by Ms. Maguire, seconded by Mr. Ellrodt the meeting was adjourned at 9:49 P.M.

Respectfully submitted,

Aimee M. Hodges  
Planning Board Secretary