

Meeting of the Planning Board of the Town of Lewisboro held at the Justice Court at 79 Bouton Road, South Salem, New York on Tuesday, July 18, 2023 at 7:30 p.m. The audio recording of this meeting is Lewisboro Planning Board 230718\_001.MP3

Present: Janet Andersen, Chair  
John Gusmano  
Charlene Indelicato  
Jerome Kerner  
Bruce Thompson  
Robert Zitt, Esq., Keane & Beane P.C., Planning Board Counsel  
Joseph Cermele, P.E., Kellard Sessions Consulting  
Ciorsdan Conran, Planning Board Administrator  
Kevin Kelly, Building Inspector  
John Wolff, Conservation Advisory Council (CAC)

Absent: None.

Ms. Andersen opened the meeting at 7:30 p.m. and noted the exits.

## I. DECISIONS

### **Cal #01-23WV, Cal #27-23WP**

(1:57 – 5:11)

**Ference and Malan Residence, 72 Chapel Road, Waccabuc, NY 10597; Sheet 23, Block 10802, Lot 30 (Ashley Ference & Michael Malan, owners of record) - Application for remediation of wetlands.**

No one was present on behalf of the owner.

Mr. Zitt reviewed the draft resolution.

On a motion made by Mr. Kerner, seconded by Mr. Gusmano, the resolution dated July 18, 2023, disposing of a wetland violation with no civil penalty to Ashley Ference & Michael Malan, 72 Chapel Road, Waccabuc was adopted. In favor: Ms. Andersen, Mr. Gusmano, Ms. Indelicato, Mr. Kerner and Mr. Thompson. Absent: None. A copy of the Resolution is attached and is part of these minutes.

### **Cal #05-23PB**

(5:12 – 8:17)

**Moran Deck, 119 Willow Court, Cross River, NY 10518; Sheet 17B, Block 10533, Lot 319 (Kristie Moran, owner of record) - Application for a deck in a multi-family zone.**

Kristie Moran, owner, was present.

Mr. Cermele reviewed the draft resolution.

Ms. Andersen noted the resolution cites that this is a deck expansion and recalled from last month's board discussion that it was a new deck. Ms. Moran stated that there has never been a deck at this location; the resolution will be updated to cite this as a new deck.

On a motion made by Ms. Indelicato, seconded by Mr. Thompson, the resolution dated July 18, 2023, for the Moran deck, 119 Willow Court, Cross River, as amended was adopted. In favor: Ms. Andersen, Mr. Gusmano,

Ms. Indelicato, Mr. Kerner and Mr. Thompson. Absent: None. A copy of the Resolution is attached and is part of these minutes.

## II. EXTENSION OF TIME REQUEST

### Cal #03-13PB, Cal #03-16WP, Cal #19-21SW

(8:18 – 10:49)

**“Silvermine Preserve,” Silvermine Drive & Lockwood Road, South Salem, NY, 10590 Sheet 48, Block 10057, Lot 15 and Sheet 51, Block 10057, Lot 104 (Ridgeview Designer Builders, Inc. & Daniel Higgins, owners of record)** – Request for two 90-day extensions of time to the Resolution granting Final Subdivision Plat Approval, Wetland Activity and Stormwater Permits, dated August 16, 2022 for the construction of a 13 single-family houses; the current expiration date is August 14, 2023.

Eric Moss, owner, was present.

Mr. Moss stated the trees are marked, site and erosion controls have been staked out, but he is waiting for a NYS DEC permit to be issued.

Mr. Cermele stated the pre-construction site meeting was held, the bonds amounts have been approved and the plans are on his desk for signature.

On a motion made by Mr. Thompson, seconded by Ms. Indelicato, two 90-day extensions of time to the Resolution granting Final Subdivision Plat Approval, Wetland Activity and Stormwater Permits; dated August 16, 2022, for “Silvermine Preserve,” Silvermine Drive & Lockwood Road, South Salem were granted. In favor: Ms. Andersen, Mr. Gusmano, Ms. Indelicato, Mr. Kerner and Mr. Thompson. Absent: None. The new expiration date is February 14, 2024.

## III. SITE DEVELOPMENT PLAN REVIEWS

### Cal #02-23PB

(10:50 – 11:05)

**20 Boutonville LLC Horse Farm, 20 Boutonville Road South, Cross River, NY 10518; Sheet 18, Block 10526, Lot 10 (20 Boutonville LLC, owner of record)** - Application for a Waiver of Site Development Plan Procedures for an existing horse farm.

No one was present on behalf of the owner.

Ms. Andersen stated this application has been withdrawn.

### Cal #06-17PB

(11:06 - 20:16)

**Wolf Conservation Center, Buck Run, South Salem, NY 10590; Sheet 21, Block 10803, Lots 3, 65, 67, 77, 81, 82 & 83 plus roadbeds (Sheet 21, Block 10803, Lots 81(po), 84, 86 & 88) (Wolf Conservation Center, owner of record)** - Application for a Subdivision, Site Plan and Special Use Permit associated with a private nature preserve.

Spencer Wilhelm and William Cordiano, Wolf Conservation Center; Janet Giris, DelBello Donnellan Weingarten Wise and Wiederkehr; and Ed Delaney, Bibbo Associates; were present.

Ms. Giris stated the preliminary plat has been submitted and will be revised to incorporate the Board’s consultants’ remaining comments. She noted that an application to ACARC will be submitted shortly.

The Board reached consensus to refer the preliminary plat to the Building Inspector for zoning compliance and instructed its consultants to draft a resolution for the August 15, 2023 meeting.

Mr. Wilhelm stated the renaming of the street to Atka's Way will be noted on the plat. Ms. Andersen stated the applicant should follow the process for changing road names, including contact with the Receiver of Taxes who is the Town's E911 administrator.

Ms. Giris thanked Mr. Kerner for his service to this Board.

**Cal #01-23PB**

(20:17 – 20:59 and 47:46 – 1:02:07)

**Waccabuc Country Club pickleball courts, 74 Mead Street, Waccabuc, NY 10597; Sheet 22, Block 10802, Lot 23 (Waccabuc Country Club Co., owner of record) - Application for a Waiver of Site Development Plan Procedures for the installation of four pickleball courts on an existing residence's tennis court.**

John Assumma, Waccabuc Country Club; Dawn McKenzie, RLA, Insite Engineering; and Michael Sirignano, Esq.; were present.

Mr. Sirignano stated the ZBA granted the use and setback variances.

Ms. McKenzie stated the revised plan includes:

- more evergreens;
- an earthen berm around the west and south side of the courts; and
- a 6' wood stockade fence atop the berm.

The Board discussed drainage, wetlands, ACARC, enclosing the courts, soil source and holding a public hearing.

Jamie Spillane, Esq., who represents the neighbors at 62 and 68 Mead Street, stated her clients have no objections to the current plan.

Mr. Sirignano agreed to submit a Step I and II site development plan application since there is now construction proposed at the site (berm and fencing).

The Board reached consensus to refer the revised plan to ACARC and to the Building Inspector for a determination if a Waiver of Site Development Plan Procedures can still be granted with the proposed construction.

#### **IV. WETLAND PERMIT REVIEWS**

**Cal #34-22WP, Cal #01-21WV**

(21:00 – 21:49 and 1:02:08 – 1:07:25)

**Maple Tree Farm, 400 Smith Ridge Road, South Salem, NY 10590; Sheet 49B, Block 9831, Lot 24 (Maple Tree Farm, LLC, owner of record) - Application for remediation of wetlands.**

Brian Cooney, owner, was present.

Mr. Cermele reviewed the Kellard Sessions memo and noted that the mitigation plan was satisfactory.

Mr. Cooney asked if the proposed 4' split rail fence should include mesh. Ms. Andersen stated the fence is to demarcate the traveled ways from that area that is to be kept in its natural state and would not require mesh.

Mr. Wolff asked about the wood chips and their removal. Ms. Andersen stated the wood chips are a concern, but the wetland permit would focus on remediation of the cleared areas and cut trees.

Mr. Cooney asked if he can cut and treat the Japanese knotweed. Ms. Andersen stated that he should contact the Wetland Inspector.

On a motion made by Ms. Indelicato, seconded by Mr. Thompson, the Board determined that the remediation of wetlands at 400 Smith Ridge Road, South Salem, will be handled administratively under a permit issued by the Wetlands Inspector. In favor: Ms. Andersen, Mr. Gusmano, Ms. Indelicato, Mr. Kerner and Mr. Thompson. Absent: None.

**Cal #22-23WP**

(21:50 – 30:24)

**Samberg Residence, 6 Cove Road, South Salem, NY 10590; Sheet 33B, Block 11157, Lot 29 (Mitchell & Lynn Samberg, owners of record)** – Application for a garage renovation and installation of a driveway, walkway and steps.

No one was present on behalf of the owner.

Ms. Andersen reported on the site visit held on Saturday, July 15, 2023

Attendees:

Applicant: Mitchell and Lynn Samberg, and Alan Pilch, RLA

Planning Board: Janet Andersen, John Gusmano, Charlene Indelicato and Bruce Thompson

CAC: Sally Frank and John Wolff.

The group arrived at the site and observed the garage and discussed the proposed changes and location of the wetlands. They paced off the approximate extent of the proposed gravel drive and looked at the proposed mitigation area. They also looked at the side of the building where the stairs would access the second floor and discussed the dormer that would be added. Inside the current structure, they noted a gas-fueled fireplace heater, an electrical panel, and that the floor consisted of wood planks.

They noted the location of the White Knight septic system.

They discussed the currently approved plans compared to what was built and what was being requested.

Ms. Andersen stated the applicant noted they will resubmit for the August 15, 2023 meeting.

Mr. Thompson stated he reviewed the Building Dept. file and noted that the two-car garage was built in 1969 and received its CO for a recreation room in 2009. Mr. Kerner would like more information on the proposed use.

**Cal #26-23WP**

(30:25 - 47:45)

**Scott's Dam Reservoir Rehabilitation, 0 Wakeman Road, South Salem, NY 10590; Sheet 47, Block 10057, Lot 11 (Norwalk City First Taxing District, owner of record)** - Application for dam improvements and a temporary accessway.

Eleanor Militana, John Setias and Don Ukers, First Taxing District Water Dept., were present.

Mr. Ukers stated the proposal is to fortify the 120-year-old earthen B-level dam against heavy rainfalls. He noted that the spillway flows over a rock outcropping which limits its capacity, so a 5' cantilevered wall is to be

installed atop the dam to contain excessive rainwater and prevent overtopping of the dam. Mr. Ukers stated other dam improvements include:

- reworking the existing rip rap;
- lining the 12" outlet pipe;
- new inlet structure;
- installing a new sliding gate to operate the dam; and
- address the existing seepage through (bentonite) grouting the stone masonry wall near the low-level outlet and left abutment.

Mr. Ukers stated the dam holds 51M gal. of water, can be emptied in five days, and construction vehicles will use a temporary access way to reach the dam during the repairs.

Mr. Cermele reviewed the Kellard Sessions memo and noted questions about truck traffic, DEC permit, construction sequencing, dewatering and outlet protection.

Ms. Militana stated no trees are coming down. Mr. Ukers stated the staging area will be determined once the bidding process is complete.

Mr. Kerner asked if this matter could be handled administratively as it is a necessary repair to an important utility.

The Board reached consensus to schedule a site visit for Saturday, August 12, 2023 at 9 A.M.

## V. WETLAND VIOLATION

### Cal #02-23WV

(1:07:26 - 1:07:56)

**Merchan and Valencia Residence, 1324 Route 35, South Salem, NY 10590; Sheet 39, Block 10543, Lot 22 (Lina Merchan and Fabio Valencia, owners of record)**

No one was present on behalf of the owner.

Ms. Andersen stated that homeowners have a site visit scheduled with Mr. Johannessen this week, so the Board set a control date for the August 15, 2023 meeting.

## VI. CORRESPONDENCE

### Cal #10-15 PB, Cal #20-17WP, Cal #5-17SW

(1:07:57 – 1:10:07)

**Lewisboro Commons (Wilder Balter), 100 Beekman Lane, Goldens Bridge, NY 10526; Sheet 5, Block 10776, Lots 19, 20 & 21 (Lewisboro Commons Housing Development Fund Co., Inc., owner of record) - Request for a partial release of the apartments' construction performance bond.**

John Bainlardi, Wilder Balter Partners, was present.

Mr. Cermele stated he and Mr. Johannessen are making a site visit this week to confirm that the site is fully stabilized, and he congratulated Mr. Bainlardi on completing the development.

Ms. Andersen stated that this is an infrastructure bond, and this Board must be authorized by the Town Board to conduct the public hearing to discuss the partial release of that construction performance bond.

On a motion made by Ms. Indelicato, seconded by Mr. Thompson, the Board authorized the Chair to sign a memo to the Town Board notifying the Town Board of the request for partial bond release and requesting Town Board approval to entertain and act upon the request.. In favor: Ms. Andersen, Mr. Gusmano, Ms. Indelicato, Mr. Kerner and Mr. Thompson. Absent: None.

(1:10:08 – 1:10:55)

**Ridgefield, CT Planning and Zoning Commission to amend its Town Code §2.2; 7.3.C; 7.3.E; 7.3.G (related to digital signage) and §2.2;8.8 (related to outdoor eating).**

Ms. Andersen stated this matter is a referral from Ridgefield, Connecticut's Planning and Zoning Commission. She noted that Ridgefield is proposing changes to the digital signage and outdoor eating sections of its Town Code.

On a motion made by Mr. Kerner, seconded by Mr. Gusmano, the Board authorized the Chair to sign a letter to the Town Board stating that the Planning Board has 'no comment,' with regard to recent changes to Ridgefield, Connecticut's Town Code. In favor: Ms. Andersen, Mr. Gusmano, Ms. Indelicato, Mr. Kerner and Mr. Thompson. Absent: None.

## **VII. MINUTES OF June 12, 2023 and June 20, 2023.**

(1:10:56 – 1:12:06)

On a motion made by Mr. Gusmano, seconded by Ms. Indelicato, the Board approved the minutes of the June 12, 2023 joint meeting to discuss the comprehensive plan with the Town Board, ACARC, CAC and ZBA, as submitted by the Town Clerk. In favor: Ms. Andersen, Mr. Gusmano, and Ms. Indelicato. Abstain: Mr. Kerner and Mr. Thompson.

On a motion made by Mr. Kerner, seconded by Mr. Gusmano, the Board approved the minutes of the June 20, 2023 meeting, as submitted by the Planning Board Administrator. In favor: Ms. Andersen, Mr. Gusmano, Ms. Indelicato, Mr. Kerner and Mr. Thompson. Absent: None.

## **VIII. NEXT MEETING DATE: August 15, 2023.**

(1:12:07 – 1:16:09)

Ms. Andersen stated the next meeting date is August 15, 2023.

Mr. Gusmano asked that concerns about short-term rentals be brought to the Town Board's attention. Ms. Andersen stated this Board had received correspondence on this topic and it was also discussed at the July 17, 2023 comprehensive plan meeting. She noted that to date, the public has not raised this issue during the public outreach sessions. Ms. Indelicato stated that short-term rentals can be addressed with amendments to the zoning chapter of the Town Code. Ms. Andersen encouraged residents to send letters to the Town Board, Comprehensive Plan Steering Committee, and this Board.

Mr. Kelly stated that he will contact the Town Attorney about incorporating language in building permits regarding this type of accessory use.

Ms. Andersen noted this will be Mr. Kerner's last Planning Board meeting and thanked him for his 13 years of service on this board.

## **IX. ADJOURN MEETING.**

(1:16:10 – 1:16:38)

On a motion made by Mr. Gusmano, seconded by Mr. Kerner, the meeting was adjourned at 8:47

p.m. In favor: Ms. Andersen, Mr. Gusmano, Ms. Indelicato, Mr. Kerner and Mr. Thompson. Absent: None.

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 Administrator

RECEIVED BY

JUL 19 2023

Town Clerk  
Town of Lewisboro

**RESOLUTION  
LEWISBORO PLANNING BOARD**

**VIOLATION OF CHAPTER 217, WETLANDS AND WATERCOURSES,  
OF TOWN CODE OF THE TOWN OF LEWISBORO**

**Michael Malan**

**Ashley Ference**

**Cal. # 01-23 W.V.**

**July 18, 2023**

**WHEREAS**, on January 19, 2023, a Notice of Wetland Violation was issued to Michael Malan and Ashley Ference on account of activity undertaken upon property located at 72 Chapel Road, Waccabuc, New York, which is identified as Sheet 30, Block 10802, Lot 23 on the Tax Map of the Town of Lewisboro (the "Subject Property"); and

**WHEREAS**, this Notice of Wetland Violation was issued by the Wetland Inspector citing the following offense:

Alteration or modification of natural features and contours without the benefit of a Wetland Permit (Section 217-2 "Regulated Activity or Use" and 217-5 "Prohibited, allowable and regulated activities");

**WHEREAS**, the violation arose from site disturbance (including the installation of an animal recreational area) within a wetland buffer in the absence of a permit under Chapter 217, Wetlands and Watercourses, of the Town Code of the Town of Lewisboro (the "Town Wetland Law") and in a manner prohibited under the Town Wetland Law; and

**WHEREAS**, as a result, a Planning Board Summons was also issued on January 19, 2023 directing Michael Malan and Ashley Ference to appear before the Planning Board; and

**WHEREAS**, Michael Malan and Ashley Ference appeared before the Planning Board at its regularly scheduled February 28, 2023, April 18, 2023 and May 16, 2023 meetings and Michael Malan appeared before the Planning Board at its regularly scheduled June 20, 2023 meeting; and

**WHEREAS**, the Property Owners obtained a Wetland Implementation Permit on July 17, 2023 (issued under Permit #27-23 W.P.) to conduct wetland buffer restorative work upon the Subject Property; and



**WHEREAS**, the Town Wetland Inspector confirmed, by a Wetland Certificate of Compliance issued on July 17, 2023 that the work performed under this permit has been satisfactorily completed; and

**WHEREAS**, on May 16, 2023, Michael Malan entered a plea of no contest to the aforementioned violation; and

**WHEREAS**, the Planning Board entered into deliberations concerning the assessment of a civil penalty with respect to the violation of the Town Wetland Law on June 20, 2023; and

**WHEREAS**, having conducted such deliberations, and based upon the circumstances recited above, including the extent, cause and nature of the activity giving rise to the violation, and the restorative work promptly conducted by the Property Owners, the Planning Board has concluded a fine should not be imposed;

**NOW, THEREFORE, IT IS HEREBY RESOLVED**, that the Planning Board has determined to forego the assessment of a fine in recognition of the circumstances giving rise to the violation and the restorative work completed, and that this matter shall therefore be and is hereby concluded.

#### **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: Jerome Kerner

The motion was seconded by: John Gusmano

**JANET ANDERSEN** aye

**JEROME KERNER** aye

**JOHN GUSMANO** aye

**CHARLENE INDELICATO** aye

**BRUCE THOMPSON** aye

Janet E. Andersen  
**Janet Andersen, Chair** **July 18, 2023**

JUL 19 2023

Town Clerk  
Town of Lewisboro

**RESOLUTION  
LEWISBORO PLANNING BOARD**

**MORAN RESIDENCE  
SITE DEVELOPMENT PLAN APPROVAL**

**119 WILLOW COURT – MEADOWS AT CROSS RIVER**

**Sheet 17B, Block 10533, Lot 319  
Cal. #05-23 PB**

**July 18, 2023**

**WHEREAS**, Kristie Moran ("the applicant") is proposing to construct an at-grade deck ("the proposed action") attached to a residence located at 119 Willow Court within the Meadows at Cross River Condominium Development ("the subject property"); and

**WHEREAS**, more specifically, the proposed action will result in the construction of a 15' x 14' deck attached to the residence; and

**WHEREAS**, the application was referred to the Westchester County Planning Board in accordance with Section 239-m of the General Municipal Law; and

**WHEREAS**, the proposed action was approved by the Architecture and Community Appearance Review Council (ACARC) and was reviewed by the Conservation Advisory Council (CAC); and

**WHEREAS**, by letter dated August 4, 2022, the proposed action was approved by the Meadows at Cross River Condominium II Board of Directors, subject to stipulations enumerated within the referenced letter; and

**WHEREAS**, the application was referred to and reviewed by the Town Building Inspector for zoning compliance; and

**WHEREAS**, reference is made to a review memorandum prepared by the Town Engineer and Planning Consultant, Kellard Sessions Consulting, dated June 15, 2023; and

**WHEREAS**, given the site's location within a Multifamily Zoning District (R-MF), Site Development Plan Approval is required from the Planning Board prior to the issuance of a Building Permit.

**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 action qualifies for a waiver of Site Development Plan application procedures under §220-47A of the Zoning Code and that a public hearing is not required; 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,** the Planning Board hereby approves the following drawings, hereafter referred to as “the approved plans”, subject to the conditions listed below:

Plans, Prepared by Richard John Torres Architect AIA:

- Site Plan, dated May 26, 2023 (this plan illustrates the proposed deck over the originally approved Meadows at Cross River construction plan)
- Construction Drawings (A1), dated (last revised) February 3, 2023

Conditions:

1. The applicant shall address the comments contained in the June 15, 2023 memorandum from Kellard Sessions Consulting.
2. Subject to all expiration dates as specified under the Town of Lewisboro Zoning Code.
3. The applicant shall pay to the Town of Lewisboro, by certified check, 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: Charlene Indelicato

The motion was seconded by: Bruce Thompson

The vote was as follows:

JANET ANDERSEN

JEROME KERNER

CHARLENE INDELICATO

BRUCE THOMPSON

JOHN GUSMANO

aye  
aye  
aye  
aye  
aye

Janet E. Andersen  
Janet Andersen, Chair

July 18, 2023