

Meeting of the Planning Board of the Town of Lewisboro held via the videoconferencing application Zoom (Meeting ID: 981 9796 0165) on Tuesday, October 20, 2020 at 7:30 p.m. The audio recording of this meeting is 201020_001 and the YouTube link is https://www.youtube.com/watch?v=RPF2BWxX4Wk&t=23s&ab_channel=LewisboroTV

Present: Janet Andersen, Chair
Jerome Kerner
Richard Sklarin
Greg La Sorsa
Maureen Maguire
Judson Siebert, Esq., Keane & Beane P.C., Planning Board Counsel
Jan Johannessen, AICP, Kellard Sessions Consulting, Town
Planner/Wetland Consultant
Ciorsdan Conran, Planning Board Administrator
John Wolff, Conservation Advisory Council

Approximately 33 participants were logged into the Zoom meeting and 7 viewers on YouTube.

Ms. Andersen called the meeting to order at 7:30 p.m.

Janet Andersen: So, let me get started. I'm Janet Andersen. I call to order the Town of Lewisboro Planning Board meeting for Tuesday, October 20, 2020 at 7:30 pm. Before I go any further, I want to confirm that Ciorsdan has started recording this meeting, which I can see and this meeting is also live streaming to YouTube and it's on the Lewisboro TV channel. The public can view the meeting there and we have confirmed that the feed is active and working, I believe. Yes. Okay. In accordance with the Governor's Executive Orders, no one is at our usual meeting location at 79 Bouton. I have confirmed again with Ciorsdan, our Planning Board administrator, that the meeting has been duly noticed and legal notice requirements have been fulfilled. Notice has been placed on the Town of Lewisboro website.

Joining me on this Zoom conference from the Town of Lewisboro are members of the Planning Board: Jerome Kerner, Greg La Sorsa, Maureen Maguire and Rich Sklarin. We do have a quorum and thus we can vote on any members that come before the Board. We also have the planning/wetland consultant Jan Johannessen and counsel Judson Siebert. I've already mentioned that we, that the planning board administrator Ciorsdan Conran is on this call and I don't yet see the CAC chair.

Jerome Kerner: Oh yeah, John Wolff is here.

John Wolff: Yeah, I'm here.

Janet Andersen: There he is. Sorry. Okay. The CAC chair John Wolff has also joined. Thank you. Okay, the Governor's Executive Order 202.1, which has been renewed, enables the Planning Board to meet remotely and electronically to function on behalf of the Town. In accordance with the Executive Order we intend to post both the recording and later a transcript of this meeting to the Town website. A recording will be available on the Town's YouTube channel and of course, we will have the meeting minutes to document our actions. We do have a public hearing scheduled for tonight. That is the only time we expect to take public comments and I will describe the process in a few minutes. The public has joined muted and without video until that point. We ask any applicants that are not currently engaging in dialogue to mute their lines, this will help everyone to hear over the inevitable background noises and to those of you whose lines are open, I remind you that we should do our best to avoid cross talk and if possible, to remain muted until it's necessary to talk. To ease the recording of our votes, I will poll the Board members individually. Okay, I want to thank everybody in advance for understanding as we continue to work to improve and learn on this process. Okay, let's get started. Now the very first item on the

agenda is an extension of time request and I am recused from the first item, so I will ask Jerome to take that portion.

I. EXTENSION OF TIME REQUESTS

[Cal #08-12PB

(3:50 – 8:54)

Petrucelli/Badagliacca, Oscaleta Road, South Salem, NY 10590 Sheet 33B, Block 11157, Lot 46

(Steven Petrucelli and Teresa Badagliacca, owners of record) - Request for a 90-day Extension of Time to resolution granting Preliminary/Final Subdivision Plat, Negative Declaration Under SEQRA, dated October 21, 2014.]

Jerome Kerner: I will Janet. So, the first item is Cal #08-12PB Petrucelli/Badagliacca, Oscaleta Road, a request for 90-day extension of time to a Resolution granting Preliminary/Final Subdivision Plat, Negative Declaration Under SEQRA, dated October 21, 2014 and I think that Michael Sirignano is here for that.

Michael Sirignano: Good evening. I know you have a busy agenda, so I'll be brief. For those board members who were not on the board when this matter was approved that final subdivision was approved. I represent Steven and Teresa, that the son and daughter of Rudy. The late Rudy Petrucelli. Rudy had put this application in front of the planning board for the subdivision, and for a wetland permit to construct a proposed house that he wanted to build for his family. A wetland permit was denied, the subdivision was approved by your board and essentially the subdivision is only memorializing or confirming the the separate property boundary lines that the two owners of this undivided property as yet undivided property, although it has subdivision approval. One is the Petrucelli family, the children now and the other is Three Lakes Council and both property owners by deed had owned different portions or different halves, if you will, of this property and the subdivision approval simply utilized the deed dividing line between the two owners' properties and and granted subdivision plat. We, we have been unable to date, to get the Board of Health to sign the final plat, even though we're not proposing to build anything because they their regulations require the signature of all owners of the property and Three Lakes Council has declined to cooperate in that in that endeavor. With COVID, it's just been very difficult to to get get a face-to-face meeting, certainly with with the health department and with Rudy's passing and his firm has now dissolved, the the kids really don't have any engineers that are familiar with this project that can go sit with Board of Health folks so that's the long version. I was hoping to be shorter, we're asking for an additional extension which I believe we are entitled to as of right and we would ask for as long as you're comfortable with, given the COVID pandemic that continues to to hamper everybody and all their endeavors. Thank you.

Jerome Kerner: Thank you, Michael. So, Jud, what is the limit of extension that we can we can offer?

Judson Siebert: Well, with the change in the Town law that was made several years ago. Your you can continue to extend as long as you see fit. We do this generally in in kind of following the old rule in increments generally of 90 or 180 days. We've been doing this one on a succession of 90-day extensions, while Michael has had to contend with both Rudy's passing and also as he mentioned this sort of Catch-22 that the property owner's end and with the health department. So, I think just in light of where we are, I think, an 180-day extension in this instance, which would be helpful. I just, I don't see anything happening over the next three months that is going to change the situation. Hopefully we get it to the New Year and a number of things change hopefully, and we can we can gain some traction with this.

Jerome Kerner: So, having heard that is there a motion from the members of board that would reflect that?

Judson Siebert: For a 180-day extension.

Gregory La Sorsa: Yes. I'll make the motion for a 180-day extension.

Jerome Kerner: Motion by Greg. Second?

Richard Sklarin: I'll second.

Jerome Kerner: Seconded by Rich. Any further questions or discussion. None. All in favor.

Gregory La Sorsa: Aye.

Richard Sklarin: Aye.

Maureen Maguire: Aye.

Jerome Kerner: Aye. Any declining. No. Passes unanimously.

Janet Andersen: Okay with I'm recused. Just a reminder.

Jerome Kerner: And one recusal from Janet Andersen.

Janet Andersen: Thank you.

Michael Sirignano: Thank you.

Jerome Kerner: Okay, thank you Michael.

[On a motion made by Mr. La Sorsa, seconded by Mr. Sklarin, the Board granted two 90-day extensions to the Resolution granting Preliminary/Final Subdivision Plat dated October 21, 2014; the new expiration date is April 19, 2021.

In favor: Mr. Kerner, Mr. La Sorsa, Ms. Maguire and Mr. Sklarin. Abstain: Ms. Andersen.]

[Cal #08-17PB

(8:55 – 9:06)

Oakridge Commons, 450 Oakridge Common, South Salem, NY 10590, Sheet 49D, Block 9829, Lot 10 (Smith Ridge Associates, owner of record) – Application for Site Plan Review for installation of a car wash bay at an existing gas station.

No one present on behalf of the owner.]

Janet Andersen: Okay, the next item on the agenda was to be Oakridge Commons, but the applicant has asked for us to adjourn that so we will not have that.

[Cal #03-13PB, Cal #03-16WP

(9:10 - 12:11)

“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) - Applications for Subdivision, Wetland Activity and Stormwater Permits for the construction of a 13-lot subdivision.]

Gerri Tortorella, Hocherman Tortorella & Wekstein, LLP present on behalf of the owners.]

Janet Andersen: So, the next item on the agenda is, Cal #03-13PB and Cal #03-16WP. This is Silvermine Preserve, Silvermine Drive and Lockwood Road, South Salem, New York 10590. This is a subdivision, wetland activity and stormwater permits and they are looking for an extension of time. The letter that came in said a six-month extension, but I think they asked for May, which would be seven. So, this would be if we gave a six-month extension, it would be until April 13, 2021 though, and I see Gerri's on the meeting.

Gerri Tortorella: Good evening. I hope you all been well, Gerri Tortorella of Hocherman Tortorella & Wekstein. I apologize that I can't count to six clearly there's my issue. We this is an application that was granted preliminary subdivision approval and we had been working with the health department. Since I submitted my letter, I actually have learned that we did get the plat back from the health department, so now we're in a situation where we are working on the application for final approval. But it's unclear to me and I'm reluctant to commit to a finite period of time within within make that application just given the demands on all of the design professionals in the field these days, as well as just other uncertainties and things that people can't control. So, we would like the extension. We will be working on the application for final approval. I do not anticipate having to request another extension. I think that we will certainly be in position to apply for final well within the six months that I intended to ask for.

Janet Andersen: Great and it's good to hear that there is some forward progress on this. Okay, so I would look for a motion to grant an extension for the Silvermine Preserve.

Jerome Kerner: So, moved.

Janet Andersen: Right. Jerome, and this will be until April 13th [2021]. Do I have a second?

Maureen Maguire: I'll second.

Janet Andersen: All right, that's a second by Maureen. So, let me poll. Maureen?

Maureen Maguire: Aye.

Janet Andersen: Okay, Jerome?

Jerome Kerner: Aye.

Janet Andersen: Rich?

Richard Sklarin: Aye.

Janet Andersen: Greg? Oh, you're muted.

Gregory La Sorsa: Aye.

Janet Andersen: Okay, good. And I also am in favor of this so the the motion passes. And we will see you soon, I hope, Gerri.

Gerri Tortorella: Thanks very much. Stay well and have good holidays, if I don't see before then.

Various voices: You too.

[On a motion made by Mr. Kerner, seconded by Ms. Maguire, the Board granted two 90-day extensions of time to the Planning Board Resolution Cal #3-13PB issued on April 18, 2017 to the Silvermine Preserve

Subdivision granting Preliminary Subdivision Plat Approval and a Negative Declaration of Significance; the new expiration date is April 13, 2021.

In favor: Ms. Andersen, Mr. Kerner, Mr. La Sorsa, Ms. Maguire and Mr. Sklarin.]

II. PUBLIC HEARING, CONTINUATION

[Cal# 91-19WP, Cal# 10-19SW

(12:12 - 52:55)

McArthur and Salazar Residence, 40 Old Pond Road, South Salem, NY 10590 Sheet 33C, Block 11155, Lots 16, 17 & 44 (William McArthur, owner of record) - Application for Wetland Activity Permit Approval and Stormwater Permit Approval in connection with the reconstruction of a lakeside residence and cottage.

William McArthur, owner; Michael Sirignano, Esq.; Jeri Barrett, Stephen Coleman and Alan Pilch, PE; were present.]

Janet Andersen: And the next item on the agenda is a continuation of a public hearing. So, as we start the public hearing, I want to remind people that the purpose of a public hearing is for members of the public to understand the proposal and for the board to get the concerns and comments of the public. The comments should be addressed to the planning board, not to the applicant. A public hearing is not meant to be a dialogue and in general, the board will not respond to comments at the public hearing. The board will take public input into consideration as we continue to review the application. Again, let me put on the record that because of Executive Order 202.10, we're not meeting at the common location. We're holding the meeting via video and telephone in accordance with Executive Order 202.15. We invited public comments by email before the meeting. The public can comment during the meeting by sending an email to planning@lewisborogov.com In addition, the public can speak at the meeting. If you want to speak at the meeting, please raise your Zoom hand, to do that if you're on Zoom cursor at the bottom of the window and you should see an image of people labeled participants. If you click on that you'll get a panel on the right-hand side with icons at the bottom and then you can click raise hand. Participants who have raised their hand will show up on the host screen and the host will then unmute you and tell you, you have the floor. You may also have to unmute yourself if your microphone isn't active. If there is anyone that dialed in on a phone and I don't believe we have one and you can raise your hand to indicate, you want to talk by pressing *9. We will ask people to give their name and address upon entering and to keep their comments to three minutes. Okay, so with that we this is for Cal# 91-19WP, Cal# 10-19SW the McArthur and Salazar Residence, 40 Old Pond Road in South Salem. We had a public hearing that opened on August 18, 2020, it was continued on September 15th and adjourned until tonight. We have received some additional submissions and some information from the Zoning Board, and I see that that Jeri has already at has already started to screen share so I will turn this over to him now.

Jeri Barrett: Thank you and good evening, everyone. I'm here this evening with Billy McCarthy and his project team including Michael Sirignano and Stephen Coleman and Alan Pilch and I think Teo Sigüenza may be joining us as well. As you said, we've been working through the comments and trying to satisfy all the outstanding issues that have been have can come up and we'd like to briefly go through them. I'll just briefly, you know, this is our site. This is the existing condition. This is the existing home that will be taken down. This is the existing garage that will be added on to it to create the new home and you see the photographs of the of the condition of the property. Let me go right to the before we get going, we do we do recognize that we do have to go to the Zoning Board. I think Michael is scheduled for next week to go to the Zoning Board and that is because this right of way, if you will, this piece of property that runs down to Old Pond Road, it needs to be this frontage area right here needs to be 25 feet and in the existing conditions it is 20 feet. So, Michael will be discussing that with the ZBA next week. Other than that, the project has been granted the various variances that it needed previously, because

it's in the existing condition, it was too close to the property lines in, you know, in the back to the patios, there were four variances that were granted, that's all done and over with. So now we just need to clear up that frontage variance and so the project can move forward.

Moving on to our, our site plans. The site plan, of course, is to to come in, remove this building that's down in this area, build this lakeside cabana if you is it is what it's called, it's about eight or nine feet above grade here. What's as a result of this Billy McCarthy [sic] has elected to take all this existing development away from the edge of the lake and use his cabana here, he'll have his patio about eight or nine feet up. There's a retaining wall here with some steps to access the lower area and then there's some steps to get up to what will become the house and that will be access, there'll be a garage that will park underneath and then it will come up in there are some patios and we work through this. We spent a lot of time on this and Alan Pilch will be talking a little bit about the storm water and how we handle that. But one of the, one of the things that I think was was was was that came out of the site visit when we had way back when with the Planning Board saw this water coming rushing down this hill and rushing right down this driveway into the lake and that we felt was kind of a big problem. And of course, this, this proposal takes this whole driveway, this sluice, if you will, that was just shucking water right into the lake untreated and what we've done now is we've created a diversion up on top so all the, we call this the water that's coming down toward the development we're going to capture that. We have a staked coir log in this area, it's going to bring the water over there is a drainage, existing drainage ditch here and when we're in the field with the Planning Board it was discussed that gee wouldn't it be great if we could renovate that and get that water around, bring it over to this eroded gully, we would shore up this eroded gully, by putting a gabion dam, which is nothing more than a wire basket filled with rock, so the idea is the water hits it, slows down, breaks the velocity, drops the sediment, let's the water leave at a non non erosive rate. And so, once that's in place, that'll be one of the first things that goes, that happens with this project, so as they're building that, you know, we don't have to worry about this water coming through and washing out all the new work that's going to be taking place. These are the removals, of course, this is the or the area down below, all of this is, is the removal that's coming out. We worked through the erosion control plan, along with Alan Pilch, who has done the stormwater management but again, here's that diversion, there will be, you know, silt fences silt fences, coir logs, hay bales, sediment traps down below, belt and suspenders type things. Silt fence backed up by coir logs, everything we can do to try to capture anything from you know this is the grading limit line you see in that dashed area and you know, so what we're going to be trying to do is we're going to be trying to take the capture anything where we have to disturb the soil. We have redundant erosion controls going throughout the area. So we think we can we can we can work on that and we can be able to manage that and again, I think the big thing is to get this big wash of water that's coming down toward this thing and to get this water and get it to go around the development and then all we have to worry about is the water that actually falls on it and that will be much more easily managed than if you know we were getting washed out from above. One of the comments that came up was was was the elevation of the flood zone. We did put the FEMA map on there. I'm going to ask Alan Pilch when he gets into his stormwater discussion to talk a little bit about that because the comment is asking for elevation and Alan has explained to me in zone X that there is not a designated elevation but Alan's much more familiar with that, so I'll be asking Alan to talk about that when he gets toward his presentation. My office and Stephen Coleman have worked together to develop the wetland mitigation plan, which essentially is designed to revegitate the site once everything is back in place. We've tried to do it to try to try to provide a 1:1 impact mitigation ratio and I think we've, we've done a good job. We've, we've, you know, listened to the comment of the board and I know Jan had some some comments. And so, we've added more plantings down below, so what we've done is we've only left a little area of the shoreline here that will be open for the family to get access to the water. We do need to add the location of the dock and I apologize that slipped through the cracks. Billy asked me to put that on the plan, and I did not get that so we will be showing that and but that'll just be a floating dock type thing. It's not gonna be anything anchored to the bottom of the lake. So, we have plantings going all along. We have trees coming back in. We're going to be planting up above the wall. We're planting around the house. This is kind of a depression area here; this will be planted in a bunch of fern. We have, you know, all kinds of native shrubs and trees and then we have on the slopes here we have native seed mixes on the slopes that will be sown in and you know we'll, we'll get the slopes graded out and stabilized and netted and planted and then that's what what's happening in here. So, the only area

where there's actually going to be some grass, it's down here, the flat area for the for the children to play on. There's a little area of grass here we are going to be doing some wetland mitigation plantings here and we're going to be pulling out some of the invasives in this area. I know that one of the comments was to provide more information on the the protocols on the mitigation and the long term maintenance and I thought it was time maybe Steve would you want to talk a little bit about the mitigation concept and how we're going to be, you know, implementing this, and what some of the protocols will be Steve, can you hear me. Can you hear me? Can anyone hear me?

Various voices: We can hear you.

Alan Pilch: Steve's microphone isn't on. He's muted.

Stephen Coleman: Can you hear me now?

Jeri Barrett: There we go.

Stephen Coleman: Based on feedback that we received from the Planning Board, you know, at the prior meetings, we've changed the strategy for the management of the invasive plants on the Westchester Land Trust property. We're no longer going to be using, you know, fire as a management tool of the Japanese barberry will instead be mechanically cut and then the remaining root system will be treated with a glyphosate herbicide and so we will prevent any disturbance of the existing, you know, soil substrate and then once the Japanese barberry is taken care of then we looked at how to mitigate that area, the most effectively, and so the strategy is to look at how we can maximize, you know, nutrient uptake and and retention of any nutrients, you know, further upslope before it gets down near the water. And so we have a combination of native ground covers and a shrub layer proposed along the drainage channel and where needed, the drainage channel will be stabilized, you know, with some stone check dams and, you know, just to maximize the opportunity to allow infiltration to occur and and settling and then down here. So overall what we looked at is really trying to maximize you know the diversity of the plant material. You know, so that we can improve the habitat, but also more importantly, improve the function for water quality maintenance and I think we've accomplished that with, you know, pretty dense plantings of ground covers and perennials and native shrubs and trees where we could place them. In terms of monitoring, we've recommended a three year monitoring, you know, program, you know, for the Land Trust which and we're comfortable with and it's supported in there you know correspondence back to the, you know, to the applicant. I mean, that's a real short, you know, rundown, but as Jeri mentioned, you know, the combination of the storm water plan with the redundant measures, the use of the coconut fiber logs and and the plantings will really give an opportunity to take a site that pretty much had no infiltration or no real habitat and turn it into, you know, a really highly functioning, you know, system that you know can really, you know, really make an impact on water quality. I mean, if you remember the site, you know, with the driveway and you know we had run off going you know just impervious surfaces and run off going directly into the lake with minimal treatment. So, you know, I think overall, we're going to see a tremendous benefit, you know, for the lake and also for the, you know, for the MacArthurs as well because they will be the beneficiary of the beautiful gardens and you know landscaped areas that will be created.

Janet Andersen: Steve, I do have a question for you. I know that there's down in the, close to the lake are is where there's also, there's going to be stormwater basically level spreaders and you have some vegetation there as well. Is there any, you know, is there any special kind of of plantings that are required because of that, or is that is that, is it not that much of an impact that you, that the sort of ordinary selection of products is of plants is fine.

Stephen Coleman: What we try to do is is really in my experience the denser the ground cover layer is, you know, it really provides the, you know, the last measure for filtering anything that may come from the level spreader areas. I mean, for the land trust property, we felt that the changes that are made further upslope will slow down and reduce the rate of flow so then when it gets down towards the bottom there's ample opportunity with the

amount of vegetation existing vegetation and then you know the shrubs that will be planted and the ground cover, you know, and then by the where the storm water. I think you can see on the plan where the rectangles are shown on the near the, what side is that the west east.

Various voices: East.

Stephen Coleman: You know down the overflow from that, I mean we we purposely tried to create a really dense, you know, planting in that corner so that if any water does come and then during the bigger storm events, it'll still you know some of it will be taken up, you know, that areas kind of serving more as a vegetative filter, but it also be a pollinator garden and a, you know, and also be create a good network once the roots get established to absorb more the water and, you know, and you know, soften the you know the the rate of flow that could occur beyond that. So, I think the vegetation will work. I mean, I, you know my our preference was to create more diversity, instead of, you know, doing you know like one species of grass or, you know, other things to to maximize the you know the functionality of it.

Jeri Barrett: And what you can see is that, you know, we do have the the woody shrubs in here, but we have a lot of these these perennials that you see in these in these clouded areas and these areas will spread and they will continue to thicken and fill that area in. So, this will become quite dense and it's also going to be quite showy with some of the things we got there, but I think maybe this would be a good time for Alan to pick up with the storm water because Alan, do you anticipate, do you anticipate overflows on a regular basis, or do you think you got a conservative design here.

Alan Pilch: Okay. Hi, Alan Pilch. I think it is a pretty conservative design because there is at least some attempt to trap some of the runoff that's coming off of the roof of the building and the flows aren't really all that large that go to these level spreaders. Maybe I could just see the actually, the latest iteration of the design was response to comments we received from the engineering consultants, Mr. Cermele and Mr. Johannessen, which took the run off the run out from the roof of this portion of the upper portion of the of the residence goes into, call it a depressed planting area which is really functionality like a rain garden, it will capture the one-year storm in there. Which is nearly three inches of precipitation and the outfall from there instead of just going to the drainage system will actually go to the catch basin, which goes into then a hydrodynamic separator. I'm just saying that that's how it's been modified into the hydrodynamic separator, which also removes course sediment, any leaves or anything that comes out through the rain garden, then it is conveyed into a subsurface detention system, which is what this is. This is in order to accomplish the peak rate attenuation of the one through 25 years storm as required by the Town and the outflow goes to a level spreader which again when designed is is placed really in the midst of this very dense vegetation and as Steve says it will help dissipate it, it will help infiltrate it into the ground and provide an additional level of treatment of the runoff, because it will be some of it will infiltrate into the ground there and there will also be a term I like to use is biological uptake of any nutrients that are in there into the vegetation and that's essentially how this storm system works. A portion of the so the only portion of the runoff of the new residence, it doesn't, I'll just say the driveway goes into the catch basin, which goes to the hydrodynamic separator. So if there's in any unlikelihood but if there was any grease that will get trapped in there and that's a good thing it's a much better than what's happening here presently with the driveway being you know so close to the lake and there's no treatment whatsoever. So, it is a very big improvement over what what is there presently.

With regard to, by the way, the comment too about the flood zone, the FEMA mapping for Lake Waccabuc indicates that it's in Zone X, and Zone X does not have elevations that are actually determined for the lake. So, all it does is it shows a, I'll call it a color blob essentially that covers a portion of the site but there's no elevations associated with it. So, you know, if you go from property to property if you actually took a look at the actual elevations of what's being shown here, it'll be all over the place, just because, you know the topography may be going up and down, but they just show a single blob that's on it so we can illustrate it on the map, of what it is, but it really has no relationship to actually where the flood zone would be during the 100-year storm only because FEMA has not mapped an elevation for that 100-year storm at all. That's why it has assigned it a Zone X. They

just haven't, you know, perhaps it's the haven't doing calculations for it and I just want to make that clarification. So although on this map, you see the extent of this blue blob, if you will, it's not related to elevations on the property, it's just, it's just a representation of where FEMA estimates the hundred-year storm would be without really taking into account elevations because they have not calculated it. So, if you were actually to follow the shoreline from property to property, normally you would anticipate on a lake it would all essentially be the same elevation, that's not what you'll find here.

Jan Johannessen: Janet, just on that FEMA comment, the property is in the flood zone, it is in Zone X. What the Town law requires per flood plain development permit regulations, that if your property, regardless of development occurring in the in the zone, if the property is within the 100-year flood plain, which it is, they're required to get a flood development permit from the Building Department. They're also required to get an elevation for the building and that's a document by engineer or surveyor that certifies the elevations of the buildings. So that the crux of the comment [static] before and that's what needs to be done. It's a flood development permit [static] flood elevations are different [static] property location.

Jeri Barrett: We will will work with the surveyor and Alan on that and we'll get that elevation certificate into the satisfaction of the of the Building Department.

Jan Johannessen: That's not something that needs to be done at this stage. You know, could be done prior to the issuance of the Building permit. Just wanted to put it out there.

Janet Andersen: I see Jerome has a hand up.

Jerome Kerner: Jan does that flood elevation permit affect any, any structure, even if it's not habitable. In other words, it's not a residence.

Jan Johannessen: I believe in this case it would, would be the cabana and the house, both those buildings are so far above the lake, it is not an issue but that's what the law requires that you get [static].

Janet Andersen: And this is an anecdote, but it might be I know that some of the people in order to get insurance who live very close houses are very close to the edge of the shore have had to have surveys done that indicate where the you know, the height above a certain a certain level as a certain elevation is that so there's probably some experienced surveyors around who have have worked on Lake Waccabuc before sorry.

Jan Johannessen: That's why we need the elevation indicated [static] so the owner [static] demonstrate of the elevations where they are built if they are not required to have flood insurance as the buildings are so far away from the flood zone.

Janet Andersen: Jerome.

Jerome Kerner: Yeah, I want to say I feel this is an exemplary project and it raises the bar for some future submissions that develop lake properties. I'm really extremely impressed by the professionalism and the willingness of the applicant to move forward with this kind of improvement. I would, I'm not sure where we are in the procedure this evening, but I'd like to move that we close the public hearing and see this project move forward to final approval.

Janet Andersen: Well, I think before we close it. Let's see if there's anyone in the public. There are a number of people on this this Zoom meeting and see if anyone wants to raise their hand and I also want to ask perhaps while we're let me talk about how to raise your hand again. If you're on a phone, and I think we now do have somebody on the phone. If you want to talk you hit *9 otherwise, again, if you if you wish to have a comment on this application you may raise your hand by clicking on participants and then there should be a little icon that has a

hand on it and you can raise your hand. So, while we're seeing if any and and Ciorsdan has told me that we have not gotten any emails at this point, any new emails with comments on this, but perhaps I can ask Jan to go over your memo, a little bit.

Jan Johannessen: Sure. I think since the last meeting. I had met out in the field with [static] Alan Pilch, representatives of the Land Trust and Jeri Barrett. We walked the subject property, the second or third time I was on that site. I had an opportunity to walk the land trust property for the first time, and it was helpful to have representatives of the land trust there in the field and we talked about some of the protocols for the mitigation, removal of the invasiveness and we were both on the same page that we're concerned about the fire burn approach of the barberry just given the location of the property, its difficult nature to get to and its steepness and that it's surrounded by, you know, a lot of trees. So, I think that the new approach for the removal the mechanical removal and the treatment with an herbicide is a step in the right direction for sure. And the other kind of main item was the license agreements or, you know, the intent, letters of intent from the land trust and making sure it includes the thing that was being proposed, and I found that the new letters that were submitted did just that. Of course, we'll need the license agreements and they can be developed over time as potential conditions of approval, but I was satisfied with the letters of intent that were submitted by the land trust and felt that they dealt with everything that we've been talking about, including the future use of the the patio and there's going to be some some permissions given to the applicant to continue to use that so I thought that that was important.

The overall mitigation plan, I think is in great shape. I don't have any real comments on what's being proposed. I think we could fine tune some of the maintenance protocols and plans, especially for the long-term maintenance of the mitigation and making sure it complies with the Town's policies and durations for for maintenance and reporting to the Planning Board on a yearly basis. The three years is I think is appropriate and I just want to see that in writing.

The applicant also committed verbally to me and was it [static] all sprinkler system in house that was a mitigation for the fact that they're on a very private road and kind of remote. It would be a difficult time in trying to access the property around fire apparatus, so the South Salem Fire Department had written a letter requesting the sprinkler system and the applicant [static] has that. I had put in my memo, the residence and the cabana, I just wanted to make sure that was correct, and not sure if, I know the residence was included, I wasn't sure if the cabana was. I might have misspoken on that. So, I'd like the applicant to clarify that this evening.

Some additional just comments kind of repetitive comments on the on the dock and the seawall and getting some more specificity from the applicant exactly what is going to happen on the seawall repair. Getting a plan for that or detail for that. There are still outstanding approvals from the Health Department, Zoning. The Zoning Board acted on on some of the area variances, the dimensional variances already indicated that they're going back to the ZBA for a variance but also the 280a variance, which is variance of the New York State Town Law which requires a variance if you're seeking to obtain a building permit on a private road. So, there's two variances, I believe that are still outstanding. Any retaining walls greater than four feet need to be designed by an engineer. We're looking for construction details and specs on those and some of these kind of in the weeds comments could certainly expect to be done you know, prior to the issuance of a building permit, but it is not unusual that they're not done at this stage. The survey has been submitted but we do not have a signed and sealed copy. The surveys you know, that keep on getting submitted are unsigned so we're looking for a certified copy. We talked, we talked about the floodplain and the certificate, that can be handled in the future. The rest are really in the weeds [static] I don't think I need to bore you with very technical and after reviewing with Joe in the office, I don't think there's anything that can't be resolved and we're comfortable handling as a as a condition if the Board thought it appropriate.

Janet Andersen: Okay, and I will just comment that we did receive the ZBA resolutions for the for the prior meeting for the prior approval. So, we do have that document, does any other members of I do not see any hands

raised or any comments from the public or for requests for comments from the public. So, any other board members have any comments they or questions. Okay and so did I hear something, I guess, Jerome has. Go ahead.

Jerome Kerner: Yeah, I'd like to restate my motion to close the public hearing.

Maureen Maguire: I'll second that.

Janet Andersen: And that was a second by Maureen. I'm gonna, if it's all right, stop the screen sharing so I can see people. Can I do that?

Jeri Barrett: I think I need to do it. Let me just....

Janet Andersen: So, I'm so we have a motion by Jerome and a second by Maureen to close the public hearing. And so, I will go and ask poll the Board, Maureen?

Maureen Maguire: Aye.

Janet Andersen: Jerome?

Jerome Kerner: Aye.

Janet Andersen: Rich?

Richard Sklarin: Aye.

Janet Andersen: Greg?

Gregory La Sorsa: Well, did we have any discussion on that motion.

Janet Andersen: I asked if anybody wanted to say anything because we...

Gregory La Sorsa: I didn't think it was related to closing the hearing, because I think you want to find out if there are any people here wanting to speak on this, which I don't think we've done.

Maureen Maguire: We asked.

Gregory La Sorsa: Okay.

Janet Andersen: I've asked, and I have confirmed with Ciorsdan that there have been no emails that have come in, you know either prior to this meeting or during the meeting.

Ciorsdan Conran: That's correct, and no one has raised their hand or Zoom hand.

Janet Andersen: Okay. So, Greg, I think.

Gregory La Sorsa: I'll vote to close the meeting.

Janet Andersen: Okay, and I do as well. So, the motion carries and we've we have a we have the public hearing closed. We will hear about you are going for the ZBA approval at the end of this month so is it an appropriate time to ask Jan to prepare a resolution.

Jan Johannessen: Fine by me.

Janet Andersen: Everyone would feel comfortable with that.

Various voices: Yes.

Janet Andersen: Do I need a motion for this Jud?

Judson Siebert: No, no. Consensus right and I mean the applications like this that are subject to public hearing and you know, have been through the type of review, we typically ask Jan to prepare a resolution for board adoption, rather than having the permits sent to you know an administrative approval. So, if it's sort of, if there's a consensus that Jan should prepare it.

Jerome Kerner: Yeah.

Judson Siebert: The Board should indicate so and Jan can do that so we can be back in November.

Janet Andersen: Okay, so I think I've heard from three or four anybody that everybody okay with having Jan prepare the resolution?

Maureen Maguire: Yes.

Jerome Kerner: Aye.

Gregory La Sorsa: Yes.

Richard Sklarin: Yes.

Janet Andersen: Okay, Jan you have some work to do. And I think we are now, unless there are any other comments, I want to say thank you to the MacArthur team and we will see you in November.

Jan Johannessen: Janet can we get clarification from the applicant on the sprinkler system on the cabana.

Billy McArthur: Yeah, sorry, Jan. We are we, we discussed as a team we're definitely having the sprinklers on the house. We feel that the the lake cabin, because it's going to be a very simple structure without any space to put any tanks on top plus, it's not going to be an inhabitable structure you know, I guess structure, we thought it would probably be okay if we just do it on the residence. I also want to say I do have the the signed and stamped survey, and I apologize nobody told me I needed to submit this with the application, but it's sitting on my desk. So, you know, unless Jan you think or anybody from the Board thinks we should have sprinklers on the on the lake cabin as well, but we don't think because again will be inhabitable structure, you know, we think that the the residence would partly suffice for that as a commitment.

Michael Sirignano: Be clear, it will be a habitable structure it just won't be slept in on a regular basis like a home.

Billy McArthur: That's what I meant.

Janet Andersen: Is the bedroom floor on a floor that has an exit on it.

Billy McArthur: It's got a door directly directly out. You don't have to go down. You can go straight out.

Janet Andersen: You can go straight out from the bedroom.

Jerome Kerner: Are there any open flame devices fireplace fireplace or cooking.

Billy McArthur: No, no cooking we you know we have a basically we've, we've gone through this comment but it's it's basically just a sink and, you know, a small kind of fridge, but there's no no range or stove or anything like that inside the property.

Janet Andersen: But you don't have a fireplace, right?

Billy McArthur: Yeah, it will have a fireplace.

Jerome Kerner: Yeah. Would you consider a gas with an enclosure?

Billy McArthur: I mean, guys, I can do the sprinklers. It's fine. I mean, the only thing is we need to figure out where to put a tank. And again, just very small structure, so no need to deal with with having an area to put a tank. You know I you know I personally thought it was partly you know, reasonable, not to have it but I'm perfectly as I've been through the process if you guys feel it's needed I'm more than happy to do it it's it's really, you know, I'm really looking forward to move forward.

Jerome Kerner: Perhaps you could check with the Building Inspectors, he might accept a modified sprinkler using domestic water for that structure which is not habitable. He might accept that.

Billy McArthur: Sure. I guess I think I mean Jan for you for your standpoint, I guess I'm willing to do whatever, I'm advised to do from from this Board and and the Building Inspector that's that's what I would say.

Jan Johannessen: I don't have a preference either way. I just want to know how to, you know, prepare the resolution so it's like it's not this evening, certainly by next month, we should have some conclusion on that and I can keep it open ended in the resolution and if everybody wants to think about it a little bit we can come back, November with the definitive.

Michael Sirignano: Oh, give us a couple of weeks, we'll get you an answer.

Janet Andersen: Right. I mean, I'm, I, I think my primary concern is the ability of people to get out. I mean, unfortunately, if you lose the building, you lose the building, but I want people to be safe. So, you know, I'm thinking about the I think there's access from both levels or access basically from both levels. But yes, if you will, if you will think a little bit about that and we can we can ask Jan to make the, the resolution vague I guess in or so that in two versions and we can put in, put in whichever whichever is agreed to. Okay, right. Thank you.

Michael Sirignano: Thank you.

Jeri Barrett: Thank you very much.

Billy McArthur: Thanks everyone.

[On a motion made by Mr. Kerner, seconded by Ms. Maguire, the public hearing for McArthur Residence, 40 Old Pond Road, South Salem was closed at 8:16 p.m.]

In favor: Ms. Andersen, Mr. Kerner, Mr. La Sorsa, Ms. Maguire and Mr. Sklarin.]

III. SKETCH PLAN REVIEW

[Cal #03-20PB, Cal #37-20WP

(52:55 - 1:27:29)

Gossett Brothers Nursery, 1202 Route 35, South Salem, NY 10590 Sheet 31 Block 10805 Lot 46 (Thomas Gossett for T. Gossett Revocable Trust – owner of record) - Application for Site Development Plan Approval and Wetland Activity Permit Approval for an existing nursery.

Thomas and William Gossett, owners, John Vuolo, South Salem Winery; Tim Cronin, Cronin Engineering; and Michael Sirignano, Esq.; were present.]

Janet Andersen: So okay, I'm gonna I'm gonna move on to the next item on the agenda is a sketch plan review, Cal #03-20PB and Cal #37-20WP. This is the Gossett Brothers Nursery. They have appeared before us on August 18 and September 15[, 2020]. I should say first, so it's Gossett Brothers Nursery on 1202 Route 35, South Salem and it's an application for site development plan approval and the wetland activity permit approval for an existing nursery with a and this will have be going to the ZBA for approval of a winery. We have some lead agency responses and a new submission since last month. So, um, I don't know if you want to, maybe, Michael, it sounds like you're ready to present something.

Michael Sirignano: Well, I think I'm gonna let Tim take the lead here because he's really shepherding the site plan work. As the board knows there's never been a comprehensive approved site plan for the nursery and and I think with other sites in town when new construction came up, I'm thinking of Ring's End up, I'm thinking of King Lumber and some other sites that were there there has never been as an approved site plan, the Planning Board takes the new opportunity to get one. So essentially, it's, it's, we start with basically an as-built conditions that have been proven to work well for decades. So, I'll let Tim take it from there and there are some minor improvements or changes being proposed as well.

Tim Cronin: Thank you Michael. Good evening Chair Andersen and members of the board. My name is Tim Cronin and my office put together the plan that for the site plan approval for the Gossett Brothers Nursery. Joining me tonight, in addition to Michael are Tom and William Gossett and as representing nursery and John Vuolo he is the one, the person responsible for the winery. Since our last meeting the actually the August meeting, we received the review memo from Jan Johannessen. We addressed those comments in advance of this meeting and received a second memo from Jan asking for some additional information or some clarification. We've looked over that memo and there are some things that we would like to discuss with the board and I don't know what the most advantageous way would be we would go through point by point or bring up the issues we feel need some clarification on. What do I do? Can you hear me? Is my microphone muted?

Michael Sirignano: No, we can hear you, Tim. Tim is asking how you'd like him to proceed. There's some, there's some open issues that need some feedback from the board and its consultants. So, it's your call, how you want to proceed. What do you want Jan to go through his comments or Tim to point out open issues?

Janet Andersen: Yeah, I'm sorry. I was muted. So, I think if we could ask Jan to go through the the highlights of the memo. I think there are some questions on there that would be helpful to have us understand and discuss a bit.

Jan Johannessen: Sure. First, just for the board understanding. I had prepared a resolution declaration of lead agency for this evening. Before we leave tonight, we can review it and react on it. The board had declared its intent to be lead agency a couple of months ago. We circulated to the involved agencies, none of the involved agencies objected to the Planning Board being the lead agency and 30 days passed circulation, so, it's ready for you to declare yourself agency. So that's out there.

Judson Siebert: Jan, Jan, it's Jud, it's Jud, you broke up. And I think just to clarify that there was no objection, voiced by any of the other involved agencies. And or or no response, yet it was just your audio broke up, so I just wanted to clarify that.

Jan Johannessen: Hopefully it clears up. Can you hear me okay?

Jerome Kerner: Yeah.

Jan Johannessen: Since the last board meeting, I walked the property with Beth Evans. We walked the wetland boundary line saw the site. I confirmed the wetland boundary line as being accurate. Really no issue. We went over some of those wetland mitigation and she indicated to me that was a desire to focus on on the nursery building rather, which is exactly what they did in their recent plan and it's very nice plan. I don't have any comments on its native species. I think it'll be a nice showpiece nursery and it'll certainly benefit the pond and surrounding wetland. So, I'll just go through the comments and Tim, feel free to jump in if there is a comment that you want to further discuss. I might as well just do it as we go through it. The application has been referred to the Building Inspector for zoning compliance. I believe the Building Inspector has written to the board identifying some comments. Since Joe had reviewed that, the plan has evolved. I mean, there's a lot more information than there was previously, and he may want to take another look maybe it eliminates some questions. The plans have come a long way since it was first referred to him, so I recommend that he have another look at it.

Tim Cronin: Jan, do we would send that to the Building Inspector or does the Planning Board.

Jan Johannessen: You send it directly to Joe, hard copy and digital.

Tim Cronin: All right.

Jan Johannessen: But also set up a Zoom meeting if you want to have a call with the three of us, it's fine.

Tim Cronin: All right.

Jan Johannessen: All right. Second comment dealt with some of the historical records on the property. The applicant did submit some prior building permits, certificates of occupancy, a couple of plans but those COs, referenced Zoning Board Resolutions for the nursery in 1968 and 1973. And I think at that time, nurseries were allowed by special permit through the ZBA and and that's kind of the avenue in which the use was approved. So, I think those resolutions are important to see is that the applicants submit those Resolutions.

Michael Sirignano: I've already requested those of the Zoning Board and the Zoning Board secretary is working on it.

Tim Cronin: For number two, so the information we submitted is the COs for the house and for the site plans and going back to the 80s that information is okay and this comment would be addressed, once Michael gets the Resolutions from the Zoning Board.

Jan Johannessen: Yeah, I would just you know that the two plans that were submitted I you know they don't really reflect what's on the property today. I don't know which permit they went along with kind of. They were it was kind of I wasn't sure what they were really all about. So, if they're fine, if those two Resolutions referred to a different plan, certainly prepare, you know, submit the plan that it's referenced in those Resolutions. If they don't, then you're fine. You submit submitted everything that the Building Department has but we need those two Resolutions.

Tim Cronin: Okay, we'll cross-reference the two the Resolutions that have plans. And Michael, do you think the Zoning Board would actually have copies of the site plans going back to those Resolutions.

Michael Sirignano: I asked for both the Resolutions and any site plans in their files. That's being searched

Jan Johannessen: Section 220-43.6 of the Zoning Code is the section that deals with wineries and there's a bunch of specific permissions and standards that the applicant has to meet. We had asked that they go line by line, here's the condition or the requirement, this is how we're addressing it. The applicants indicated that [static] the ZBA which is understandable. They're the ones that are issuing the special permit, but the boards issuing the neg dec, which needs to be done prior to the ZBA acting and I think that information is relevant to the Planning Board as well. So I'd ask that that'd be prepared and submitted to the Planning Board.

Michael Sirignano: No problem there. We have to make the case to the Zoning Board and we're happy to make the case to you as well.

Jan Johannessen: The applicant did provide a more robust business plan to the landscape nursery aspect and the winery. There was we did request in our prior memo that they indicate if there going to be any outdoors outdoor seating in connection with the winery, that was the one item that wasn't included in the business plan so that could just be clarified.

There was it appeared to be [static] number of seats associated with the last application indicated ten seats. We counted a total of 30 on the architectural plans that were submitted. This is, I believe, the first-time architectural floorplan noted 30 seats.

Richard Sklarin: Jan's cutting out a little bit here and again. Is that just me or is that everybody?

Janet Andersen: No, it's everybody. I don't know if you can get closer, Jan, perhaps, or....

Jan Johannessen: I don't know if I'm having an Internet connection issue or if it's a....

Jerome Kerner: Well, that's better.

Jan Johannessen: There was a change in the number of seats associated with the winery. The prior application indicated a total of 10 seats, where the the last submission illustrated a total of 30 seats on the architectural plans. I believe this is the first time we've seen the architectural plans, but it was indicated on the application materials that the winery would be 10 seats. That may impact parking. I don't know if it impacts the design of the holding tank. I don't necessarily have any concerns, it is just that there is a difference in the two submissions.

Tim Cronin: Jan, stepping back from that point and I guess the other ones as well. Is it possible for us to submit to you our architectural plans and our business plan in advance of the deadline for the planning board? So, you can look at it, say it's okay, say you need more information. This way we can we know that our next submission we've already discussed with you and essentially have addressed your concerns to your satisfaction and you can convey that to the Planning Board because if we wait to the last to the submission the formal submission we can be submitting something that generates another question which we could easily address, but we just like to nip that in the bud and sort of get everything in order so that the next submission we've already had our dialogue with you when you're onboard with what we're presenting.

Jan Johannessen: Yeah, that's fine. So that means there's [static] going to take a look.

Tim Cronin: Oh yeah. Perfect, yeah, we'll definitely do that. Absolutely, yeah. That that'll that'll help expedite because you and I can talk every other day, or every third day, once we get information and once everything's on board and you're cool with it and we can formalize the submission.

Jan Johannessen: Okay. Not a problem.

William Gossett: Hey Jan, this is Billy Gossett speaking. Just to clarify for yourself and the board, those architectural plans can be modified to meet the original application. Um, so that shouldn't be an issue.

Janet Andersen: Well, you should do what you...

Jan Johannessen: We just need to know what's what's what the proposal is.

Janet Andersen: Right, you should do what you want to do. I mean, so let us know what you want to do, obviously you don't want to have a plan that is not in with what you want. It's just it. It looked like there were 26 seats in the greenhouse and 4 either at a little bar that was either inside or outside, that wasn't not clear. And I think that would be it just would be helpful to know if that's what you plan then, then we should know it.

Jan Johannessen: Next comment really just dealt with clarification and outside perimeter of the parking areas and driveways, just using a different line weight or something on it and the plans identifying all the different services, whether they're dirt and gravel or paved, providing dimensions of the width of the driveway and driveway curb cuts, identifying any surface materials in the developed portions of the site. I expect that there are tractor trailer deliveries to the site [static] and if they could just demonstrate how the tractor trailer enters and leaves the site and demonstrate that those areas are you know those movement patterns aren't affecting proposed parking areas.

Tim Cronin: Jan, they might because if a tractor trailer, if a tractor trailer comes in, it's primarily coming in, well before business, you know, 7, 7:30 and it's going to pull straight into the entrance and pull to the western side of the site, offload the material, backup and then leave and it could if there's a car parked there it could be blocking that car in but if the car needs to leave then tractor trailer will just, you know, make an adjustment move or allow them to leave.

Jan Johannessen: But I'm not saying blocking the car, but does it hit the cars parked there, can they make the swing and not hit the car.

Tim Cronin: Oh sure, yeah, Tom Tom knows. Tom's been doing that for 40 years, so yeah.

Jan Johannessen: Yeah. Yeah, and I, you know, I'm sure this is not my experience of landscape nurseries and I'm sure maybe Tom's got it nailed down but they seem to have very little control of when plant material gets delivered, you know, and when they come into the site. If Tom can figure out a way where they come off peak that's great but I think we have to design your plan to ensure that if a truck comes in during a time when those parking spots are filled that it can make those turns and again not block a space and not hitting a car.

Tim Cronin: That's in everybody's best interest.

Jan Johannessen: The next one, I think had to do with the land bank parking There's a total of 27 parking spaces required according to the applicants' calculation and that needs to be confirmed by the team. Let's assume that it's correct, they are proposing 21 active parking spaces on the property, so that's a shortfall of six. They are proposing to land bank, I think a total of 21 spaces, which seems excessive, as they only need an additional six. Reading their business plans, it didn't look like there was ever going to be a time where you might have [static] already on the site. So that was just, if you can explain the need to land bank the 21 spaces. I'd like you to do that.

Tim Cronin: You know, Jan that may be twice or three times a year, when they're selling pumpkins on Halloween and Christmas tree at Christmas and that Tom Tom can expand on that but that may be the time where, you know, maybe we do plump up a little bit and go into those additional land bank but I just wanted to show additional just in case it was any question with additional cars parking in the property and we certainly have the the area for that.

Jan Johannessen: Maybe you call it something other than land bank, those, those extra parking spaces because that term has some real meaning from like zoning code perspective, like you have the right to develop them as real parking spaces in the future.

Tim Cronin: How about I just take the label off and we show six land bank and be done.

Jan Johannessen: That's fine and you can just say, you know, overflow parking in certain areas so on the occasion that you're, you know, some you have an event there something there you have some overflow parking and, you know, Tom's just moving material around to make that happen.

Tim Cronin: All right, that's fair, we'll call it an overflow.

Jan Johannessen: Next one, just dealt with the accessible parking spaces, making sure they meet Code. The access way being dimensioned, a minimum of four feet, all the signage that's required for the handicapped parking spaces, the maximum grades, that type of thing. And then if they the applicant can clarify why accessible spaces are perpendicular while the others are angled. It seems like if there's a one-way traffic circulation pattern proposed and instead to have them all angled, I don't know, that's a question.

Tim Cronin: The if I, if I might and Tom, you can chime in. But the as far as the perpendicular space for the handicap we just think that would be easier for someone who may be handicapped get out of the driver side as compared to having it on that angle where it's actually the door is actually going with the grade and almost fighting the grade a little bit to open that door. So, I mean, it seemed it seemed like a reasonable approach for us. And as far as the handicapped, as far as the angle of spaces Tom just felt as though you know and those days or moments when it does get crowded it just makes it a little bit easier for cars to backup if they sort of have that angled in and it just makes them, it makes it a little bit smoother for them to back up into the exit lane, if you will.

Tom Gossett: Right less of a maneuver. It'll it'll eliminate an extra maneuver. So, when they back up though they're in a better position to move forward toward the exit.

Jan Johannessen: Yeah, I think the angled spaces make sense with the one-way pattern, right. Is that designated one way is there one-way signage on the curb cuts?

William Gossett: Well we have entrance exit signs and that works out well. As far as the parking and especially when they go to leave just that it just as an added benefit to have those angular spaces, much easier.

Jan Johannessen: Okay. No problem. And then the was they have a nice detail of a like a Belgium block curb that's going to kind of designate the front of each parking space and we talked about the parking lot being gravel. We wanted these spaces to be [static] block detail would be nice. Wondering if they can get to the other kind of two sides of the far perimeters of the few back a few rows of parking. So, it would be defined the two ends and along those parking spaces.

Tim Cronin: Okay. You know that the one issue with that even though these are low reveal more like just a visual thing it's not really a curb you know it's going to be low reveal that a wheelbarrow or, you know, whatever.

Jan Johannessen: I think that could be flush even, you know.

Tim Cronin: Yeah. It's, it's, it's an so so. All right. I'm just. Yeah, that'd be fine. We can show we'll show those at the head of each parking space and then at the East and West ends if you will of the six spaces or eight space bank or whatever. All right.

Jan Johannessen: Just thought there was some, some of the proposed parking areas, there's currently you know, just based on aerial imagery materials sorting bins and nursery display areas. I know that the applicant has designated on the plan where they're just going to store plant material, but if there's going to be a relocation of any bins, we should we should see that on the plan.

Tim Cronin: Tom what do you have bins for? Mulch, seasonal mulch? You know are you gonna do. Are you dealing with like stones and crush gravel and all?

Tom Gossett: There is loose there are some loose materials, depending on what time of year it is. We offer up topsoil and several mulches as well and at the moment they're freestanding piles. Although in the back, we do have an opportunity where they are backed up by some some bin-type structures, just to keep the material intact. So, I guess what will indicate where those are and exactly how we use them as well.

Tim Cronin: Okay.

Jan Johannessen: If anything's getting relocated, you're gonna have to reposition where you typically store those those materials than just...

Tom Gossett: Yes. Will do.

Jerome Kerner: Jan? This starts to sound a lot like a work session and I'm wondering if there are any issues that the Planning Board needs to weigh in on other than, you know, going through this checklist stuff with Tim. It might not be the best use of our time.

Jan Johannessen: Okay, let me hit let me hit the couple that I think might require some board discussion and then if Tim has specific questions he can ask. Let me fast forward here then there's appears to be an encroachment along the easterly property line where there's like an existing gravel parking area that extends off property to the property to that's also within the wetland buffer area very close to a DEC wetland. We'd like to see that restored, that buffer restored.

Michael Sirignano: All right, if I may address this and then maybe Tom can give you some more details. This is a case where good neighbors don't need fences and Tom and his easterly neighbor get along famously, and the neighbor doesn't want and has not asked us to to resolve the encroachment or restore the buffer. So, and it's not our property. So, we can't really commit for him. So, we would appreciate the board's comments on how best to deal with this issue.

Jan Johannessen: And I just before you discuss it. To me, it's more more than like the civil issue between the two neighbors, it's the fact that we have a, you know, an improvement in a DEC buffer that we normally wouldn't have because it's along a property line extends into a property line. So, it's, it's something that typically wouldn't be there, shouldn't be there.

Michael Sirignano: But we're not showing on our site plan any parking or other storage uses out off off property off premises.

Jan Johannessen: I know it's very clear, it's cleverly not shown on your plan, but when you go on the field it's very clearly used.

Michael Sirignano: Yeah, no question. We don't deny that it's, it has been used in the past with the neighbor's full knowledge and consent and we do little snow plowing for him so everybody's happy and gets along.

Jan Johannessen: My problem is that it's in the wetland buffer and it's in the DEC wetland buffer.

Michael Sirignano: So, I guess this becomes a separate issue from this process and and we'll, we'll have to talk to the neighbor and you and Building Inspector about what to do.

Tim Cronin: To the extent that the majority of the developed portion of the site's in the wetland buffer on we have a mitigation plan that addresses that for on site, can we include in our wetland mitigation anything that is going on on the adjacent property to the east? And admitting, we really don't want to lose that area. So, if you and Beth can discuss a possible way to mitigate that encroachment into the buffer that will allow us to continue to use that portion of the property.

Jan Johannessen: I'll let Jud speak to the legal issue.

Judson Siebert: Yeah, I think. Yeah. And our concern is that this is something that is it from a practical and a real world perspective being utilized to support the operation and well not shown on the site plan, it's tied to the operation, it's tied to the business use and we have a an encroachment or we have a buffer disturbance. So my suggestion is, I mean, I don't know if we're going to be able to address this tonight, but perhaps Tim, Michael and Jan and I can set aside a time on a Thursday during Jan's office hours and we can we can talk this out.

Michael Sirignano: Okay.

Janet Andersen: Yes. I mean, thank you for that, because I do think it is it is more than just two neighbors on disagreeing, and I think the wetland buffer is what brings the the Planning Board concerns to a head but we are also approving the site plan so you know, we, it should reflect what the site, how the site is used. So, thank you, I think a meeting to discuss that would be helpful.

Jan Johannessen: The only other one that I think, may from my perspective, be for some comment is the lighting. There is I guess the existing lighting at the site. We had asked for a lighting plan. We have discussed that historically, you know in the evening times, the landscape nursery is generally closed for but during the holiday season where there's some Christmas trees and they they put up some temporary lighting. And I think that's fine but now we have a use that's going to be there more permanently, obviously going to have evening hours. I mean, I think that the parking lot needs to be appropriately lit for safety reasons. So they do have this lighting plan, it doesn't show any illuminates holes basically a photo representation of the lights that are there, and where they are on the property, which is helpful, but doesn't help us in terms of demonstrating compliance with Code and dealing with potential issues. The lighting fixtures are all floodlights you know angled floodlights mounted either to the building or on poles. Which I think is kind of inconsistent with the lighting code requires in the town. So that one, you know, typically we would like to see downward lit, full cut off, night sky compliant lights and because this use is going to be more than just seasonal, I think it's appropriate.

Richard Sklarin: That F.C. reference that's foot candles?

Jan Johannessen: Yes.

Janet Andersen: So, I think we have a couple of things that are before us. One is the Building Inspector's letter that came before said he did want to see architectural plans and we've just got the lighting comment too that the Building Inspector might want to look at. So, I, I think we're looking for consensus to refer this this new set of plans to the Building Inspector. So, I'd look for the board to agree to that.

Gregory La Sorsa: Yes.

Janet Andersen: Yes, Jerome.

Jerome Kerner: Just one further comment regarding the seating capacity. Can you hear me?

Janet Andersen: Yes.

Jerome Kerner: The seating capacity, in looking at the business plan, it does indicate 25 seats. So, we have you have 6, 30 or 20, 25. So that, that's got to be all in agreement, as we go forward.

Janet Andersen: Maureen, did you were you saying 'Aye,' are we did you have a comment?

Maureen Maguire: I was saying 'Aye.'

Janet Andersen: Okay. So, I think we have consensus to send this to the Building Inspector. We also have a resolution where we will take be designated lead agency that Jan has prepared and circulated. So, I'd look for a motion to say that we should accept this resolution.

Richard Sklarin: So, moved.

Janet Andersen: Thank you Rich. Second?

Jerome Kerner: Second.

Janet Andersen: Jerome, okay. Any further discussion on this resolution. And. Okay, then I'm gonna poll the board, Maureen?

Maureen Maguire: Aye.

Janet Andersen: Jerome?

Jerome Kerner: Aye.

Janet Andersen: Rich?

Richard Sklarin: Aye.

Janet Andersen: Greg?

Gregory La Sorsa: Aye.

Janet Andersen: And I also say yes. So, we will. So, the motion carries. And we are and we will sign that resolution. I guess. I mean, there are a number of open items, but we've heard that the applicant wants to plan or plans to meet with Jan to have that discussion. So, I'm wondering if we feel is appropriate to move to a very nervous. I'm hearing a lot of interference. I don't know if that's me, or so do we feel that this would be is it ready to go to a public hearing or do we want to see one more time through.

Tim Cronin: Well if I might by you, if you set it up for public hearing for December, because the deadline for these November meetings is in five days. If you set it up a public hearing in December that gives us five or six weeks or you know whatever the time frame is to meet with me Jan and resolve the issues which and I'd like to think we can do it in that time frame.

Maureen Maguire: Sounds reasonable.

Jerome Kerner: Sounds reasonable.

Janet Andersen: Okay. Um, do we need to....

Judson Siebert: This too is just that if the board is in agreement that you want to set it for December, you just, you don't need a formal motion to set that just the consensus and it will be dependent on the applicant working with Ciorsdan to prepare the public the hearing notices and hopefully we get everything in by that deadline and we will be ready to go.

Janet Andersen: Okay, and unfortunately, I don't have in front of me when the December meeting is....

Judson Siebert: The 15th.

Janet Andersen: Thank you. December 15th.

Michael Sirignano: And what's our filing deadline Ciorsdan?

Jerome Kerner: November 10th.

Various voices: The 24th.

Jerome Kerner: November 24th sorry. Right. It's an ongoing submission.

Ciorsdan Conran: And should I work with Michael or Tim on the public hearing notices and addresses?

Tim Cronin: Michael.

Michael Sirignano: Okay.

Janet Andersen: That's what Tim said, Okay. Um, so anything else that I missed. I think we're we're moving forward.

Michael Sirignano: Yeah, thank you. I know this was time consuming. We appreciate it. We made a lot of progress.

Tim Cronin: Exactly. I'll be making some calls to Jan straight away.

Janet Andersen: Okay, thank you.

Maureen Maguire: Thank you.

Tim Cronin: Thank you, very much.

John Vuolo: Thank you everybody.

William Gossett: Thank you, very much.

Various voices: Okay. Thank you. Bye.

[The Board reached consensus to refer the Gossett Brothers Nursery's resubmission to the Building Inspector and to open the public hearing December 15, 2020.

On a motion made by Mr. Sklarin, seconded by Mr. Kerner, the Board resolved to be Lead Agency for the coordinated environmental review of the Gossett Brothers Nursery, 1202 Route 35, South Salem application under the State Environmental Quality Review Act. In favor: Ms. Andersen, Mr. Kerner, Mr. La Sorsa, Ms. Maguire and Mr. Sklarin.] A copy of the Resolution dated October 20, 2020, is attached and is part of these minutes.

[Cal #05-20PB

(1:27:30 – 1:54:13)

Venezia lot line change, 249 Kitchawan Road, South Salem, NY 10590, Sheet 45A, Block 09827, Lot 113 (237 Kitchawan LLC, owner of record), 237 Kitchawan Road, Sheet, 45A, Block 09827, Lot 122 (William Venezia, owner of record) and No Number Kitchawan Road, Sheet 45A, Block 09827, Lot 124 (William Venezia, owner of record) - Application for a lot line change.

Michael Venezia, owner and Tim Cronin, Cronin Engineering, were present.]

Janet Andersen: Ok. The next item on the agenda is Cal #05-20PB. This is an application by Venezia for a lot line change on 249 Kitchawan Road, 237 Kitchawan Road and No Number lot on Kitchawan Road. An application for a lot line change and and I am we do have a couple of people I think here for that. So perhaps....

Tim Cronin: Good evening chair Andersen, Tim Cronin, we put together the plans for Michael Venezia who's on the screen right now for a lot of line adjustment. Recently he purchased the property that is actually has a house right on the road.

Michael Venezia: 249.

Tim Cronin: Thank you, 241 and he also owns the adjacent properties to the west and what what Michael wants to do is to preserve, I guess the open space and the privacy and so on and even though the property at 241 is encumbered by wetlands and steep slopes and it's you know it's development potential is somewhat limited Michael still felt it was be safer and better and more more conservative way to preserve the property if we executed a lot line adjustment and that's exactly what we did. The property that is being taken away from 241 will be deeded into the adjacent property, so the Venezia total parcel will be approximately 16 acres. What is it, looks like you're going from you're gonna you're gonna lose about three acres. So, you're going to get five acres, we're going to be roughly five acres larger than what you have now. So, you know we submitted the plans to Jan and there's a few comments he has. He wants us to be just some things on the plat and the one question that we had, which I think Jan, this is your major point was the the 25 foot strip which provides another means of frontage on Kitchawan road and you know what I think is going on there. And you know, we know that that that neck or that flagpole, if you will, if you will, is is encumbered between wetlands wetlands buffer. I think entire thing is in wetlands buffer. We know it's again it's development potential is limited. But I think for future and future could be 20, 30, 40 years from now, if the Venezias decided that they would like to do some of this land to a land trust or open space, it does provide another means of access to the property short of going up their driveway. So, I think you know, we know that it's not going to be developed for a driveway. But for a walking trail to get into this open space, we thought it would be a good idea to keep that additional access to the open space property that's there.

Janet Andersen: I mean, I will say that was my major when I looked at it, I, I was concerned with that that flag flag pole, whatever it is that's that's the short area that's in an additional access point. It looks like, because it really does go through the wetland, and it doesn't look like it it, it doesn't look like it could be productively used. Now for a walking trail, perhaps that's different, but it's it's, it would be tempting to a new owner, I would think to say, oh, I would want to, you know, if, if, if the property transferred that they would want to have access that way and I don't want to give someone a sense that they might be entitled to something that would be very difficult to to see through.

Tim Cronin: It would be impossible. Well, I mean, it's this, this piece of property that's leaving the 241, is gonna to be deeded to or combined with the existing house so there's no need for the second driveway because they already have the driveway to the main house coming off Kitchawan.

Jan Johannessen: If they if they decided to subdivide it, and [static] replicate what's there, you know today. They have, they have the frontage they need to resubdivide.

Tim Cronin: But Jan, it's steep slopes and wetlands. It's buffer. There's, I don't think there's a piece of property there that you can develop one. Years from now when they have 100 years from now, you have sewer in here, you may be, but right now. I mean,....

Jan Johannessen: Why don't you eliminate the flag and put an easement there for a walking trail.

Tim Cronin: Well, we could do the same thing with the driveway, if we did if that was a setup as well. You're not really preserving anything.

Jan Johannessen: Then you would have no frontage so you wouldn't be able to ever subdivide that.

Tim Cronin: Well, I'm, you know, Mike Venezia, if you want to chime in, but it just seemed like it's it gives us the opportunity to do something in the future, whether it's a walking trail. I can't see a driveway and certainly you know, knowing the town of Lewisboro things 200 years from now, maybe something but right now, impossible.

Michael Venezia: Our my thought process on that just, you know, is we can't in any way access that other half of the property from our property if for whatever reason, we may get back there, I don't have any that I can think of. But going through this process just seeing digging a having to dig three septic wells, randomly on the properties. You know, the guy getting back there with his digger because there's a pond and a stream separating those that side. So, it was just a way way to have some ability to access it by more than....

Jan Johannessen: Tim Tim, do you have [static] to bring up the drawing. If not, I could put it up so....

Tim Cronin: Okay.

Janet Andersen: And I just want to say one thing. I think you keep saying to 241, I believe it is 249.

Tim Cronin: Sorry. I'm going to try...

Michael Venezia: I might be able to.

Tim Cronin: No. No. That's not it.

Jan Johannessen: I have it in front of me. If you want me to put it up.

Tim Cronin: Yeah. If you could, I'd appreciate that.

Janet Andersen: And I think the other thing that that seemed important perhaps while Jan is doing this is that the I think there's a we have to prove that there's the new site or sorry there's new smaller lot is, is compliant.

Tim Cronin: Yes, that's that was one of Jan's comments will will will take a look at that and take care of that. If we need to adjust the property line to accommodate that and, you know, they can certainly do that because the lot that is getting the land is big enough as it is, so we have a way, we're fine.

Janet Andersen: Okay.

Jan Johannessen: Can you see the plan?

Janet Andersen: Yes.

Jan Johannessen: The screen sharing is paused.

Tim Cronin: It's working.

Jan Johannessen: So, this is the flag. Providing frontage for this potential lot. [static] Assuming you have these shaded these areas.

Tim Cronin: Yeah, you broke up a little bit, Jan. Would did you say?

Jan Johannessen: The wetland areas that are showing on this lot here, extend to over this flag and onto the other property. Correct?

Tim Cronin: Correct. That is correct.

Jan Johannessen: And then the back to the property is wetlands.

Janet Andersen: I mean, again, I don't want to it just seems like it's too tempting for a future if if the property ever sells and some future owner when you talk about you know 50 years, 100 years from now, it seems like it's too tempting for somebody to try to subdivide something which is, you know, not gonna not gonna be able to be used in the way that it looks like it could be used in this way. I like the idea of a easement in or something but I'm I'm concerned about formalizing a a flag lot with the with the frontage like this. But I'd like to hear what other people on the board feel as well.

Jerome Kerner: Yeah, well, it also looks like this easement, which creates the flag lot, would be crossing through wetlands. Which would be an exceptional condition, to put a roadway through that in my what I'm seeing is half where the blue areas they continue across that easement?

Janet Andersen: That's correct.

Jerome Kerner: But why aren't they shown on this drawing? I mean, it looks like it's truncated.

Tim Cronin: Well, it is and we can address that to the later plan, what we did is we kept the colors on 249 on the on what will be the remaining portion to 249 but we can actually add the additional color, since we have a property line demarcated we can add those colors and those wetlands actually on to the 249 that's going to be deeded to 237 and you can actually see how encumbered that rear portion of 237 or the eastern side of 237 is. 237 is the existing house that has the pond there.

Jerome Kerner: Could you excuse my ignorance here and just describe again why this, why this subdivision is occurring, what's the reasoning behind it.

Michael Venezia: Well, originally, we purchased the house from the Town, at auction. Probably two years ago, it was it was a foreclosed on for back taxes. We didn't want anyone building behind it, we had heard someone say they could build potentially build. So, we went to the auction to sort of protect it from a builder. We ended up winning it and we just want to preserve it for the future and add it to our land with my, my parents have owned. He's on the on the call also. So he's owned the other two lots since 1983 or 84, so, you know, I'm we were just

looking not to have a house built which, after doing all of this realize there's no way for a builder to go do that, it seems, but we didn't want a house built staring at ours, because it's a hill, going up to the after on the other side of the pond. So, we didn't want a big bright house built where we can stare at them was what we were trying to prevent. So, we did purchase house, we have we completely renovated it and we're in the process of selling it to a local in town.

Janet Andersen: So, I think, again, my, my sense is having that flag makes it far more likely that someone will try to get to that property at some point. I I just I, I understand what you're trying to do. But I think it I think it may cause future future mischief that's, I don't know. I am but that that isn't a reason I don't think that's a reason that we can really say no to this just that it's it's seen seems like it is something that will only cause future difficulty.

Tim Cronin: Well, the only way somebody could subdivide that piece of property once it's been combined to 237 is if they can demonstrate they have a buildable area on what would then be subdivide off of 237 which means septic system, house location, driveway, which you know, I don't think you can do it. I mean, you're going through the wetland coming into the driveway, everything is going to be with inside a wetland buffer in the back portion of a lot. You still need to deal with the health department for septic it's, it's a, you know, the, the driveway through that neck would be amongst the many, many issues that they would have to overcome before subdivision was approved.

Janet Andersen: Right.

Tim Cronin: If you look at the plan there that Jan's showing and we will show it on on the next submission all those little numbers on on 237 are marking out the wetland boundary. So, you can see there's wetlands throughout that entire back piece.

Janet Andersen: Right. Okay. Well, I mean, maybe I'm I'm worried about something that....

Jan Johannessen: If you kept the flag you could you could restrict the the flag on the plat to to prevent its use as a driveway. You know, you could say no, no, not for vehicular access or or something like that. So, it keeps the flag for frontage purposes, allows the applicant, I guess, to walk it maybe a trail, but would kind of take off the future ability [static]. Maybe that's a contract.

Judson Siebert: That couple potentially Jan with a, you know, not only a plat notation, but some sort of deed restriction.

Jan Johannessen: Yeah. Otherwise, I think, leaving the door open for the potential for the Planning Board to have to make a tough decision in the future as to whether there should be an access way through that flag. I think that should just be resolved now.

Judson Siebert: Yeah, and to avoid a future argument by somebody that you know you can't deny the permit because I need this for purposes of access and use of the property.

Janet Andersen: Right. I mean, it looks it just looks like we're creating mischief in the future. So I would love to find a way to to make it clear that is not meant to be, you know, frontage for development that's not meant to be for whatever vehicular access for something like that would make me more comfortable with it, then you know I guess I'm still kind of curious why it needs to be there but but if it was properly limited and its use I would I would feel more comfortable than I do now.

Michael Venezia: Can I ask a question, just because I don't know and I'm curious. If I cut it off and just put a right of use easement on it like put the I can't point because I don't the pointer different don't have it all. The line off. Right there. Just cut it right there. Leave that piece with the other property. And just put a rights of use

easement so I can get back there if I need to. Again my, my whole thing this we were, you know, to do this I had to dig septic holes and for the guy to do the septic holes at 249 he had to like drive his, his little thing all around the way to the back and cut and my thought was, if I ever had a reason I don't know what reason it would be, but if I needed to be back there with a backhoe or whatever I have no way of getting there because of the pond and the river and the stream. So, when I was doing it I was like, I thought I could do it either way I could do with a, with the right support access. I don't know the legal term. So, I don't to imply that I do but some sort of I own both both properties. I can just put an easement to me where I have access or something like that is another option. I'm asking if that's a plausible one.

Tim Cronin: Mike, I think that takes into take takes care of Chairwoman Andersen's concern essentially that flag then becomes part of the existing 241 and he gives himself a 15- or 20-foot easement to get to the back an access easement.

Jan Johannessen: Try to avoid the wetlands with the access easement, there's no need to to show access for the use of, you know, equipment or whatever running through the middle of a wetland that's just it's not appropriate.

Jerome Kerner: Exactly.

Tim Cronin: So, we can sort of snake it through, however, whatever makes the most sense.

Janet Andersen: Yep.

Tim Cronin: Take if you look at the edge of the blue and you see how steep that green is, you know, you're going from a flat wetland with steep slope. So, there's there's no, there's no eureka solution here. Well, I mean, we can talk to Jan about that and come up with what seems to be the most reasonable way to do it.

Janet Andersen: Right. I think that would be I think that would be very helpful. I'm I'm concerned about you know, future mischief here and and I think that that helps. I, I also I think the there were a couple other comments in the in the memo, but I think they could be there more easily to address, seeing what you're doing here.

Jan Johannessen: Janet, if I may just while Tim's on here and have the plan up. The only other real threshold item was zoning comment about buildable area and because we only we're only looking at zoning and buildable area on the lot that's getting smaller because obviously, if there's a zoning non-compliant nonconformity on the larger lot it's only going to be less than by the fact that it's getting so much larger. So Tim, rightfully so, just evaluated the smaller lot and the buildable area, just to remind you, is is land that is less than 15% slope and it is not wetland and the Code requires in stone three thousand square feet of contiguous buildable area. We can't have a little patch here and a little patch there, it's all about to be connected and it can't narrow down to less than 50' in width. So, I think you're getting pretty close here. You just go through this illustration of the buildable area, making sure that it doesn't narrow down at any point to 50 feet, you have the 40,000 sf.

Tim Cronin: I will take a look at that for sure.

Judson Siebert: And my, my point is also ultimately that call is going to be made by the building department by the Building Inspector. So, you know, before we defer or before there's a consensus referral to the Building Inspector maybe you know Jan and Tim should examine this a little more closely. Just to avoid going once and then going back again to Joe that is.

Tim Cronin: That's fine, what we can do, Jan, when you're up in town on one of these Thursdays we can maybe take a little trip out there and take a look it.

Jan Johannessen: Sure.

Janet Andersen: Okay. Are there any other comments on this at the time, I think that the plan is really to, as I understand it, and to, first of all, look at the contiguous buildable area and and make sure that that is compliant and then to re-examine a different way to have the desired access without ending up with a flag lot that could cause could cause difficulty in the future.

Jerome Kerner: Well I you know I want to say here that we've taken a lot of time circumnavigating what seems to me to be a crazy rationale to subdivide and create a subdivide you create a non-billable lot in a wetlands and have a road to it or an access way to it. I mean, it could get goes against all our principles and that should be, just confusing to me why we've gone this far and spent this much time on something that's resolvable as the applicant is indicated, you know, in a much more rational way. But anyway, that's just my feeling about it, it's my time also.

Janet Andersen: Yeah, and and I think I think that's our you've you've articulated very clearly our concerns on this. I do see that someone has raised their hand, but we are, we're not currently having a public comment. So, I'm not quite sure, why that hand is up. Does anyone know if Carol Cernak is a neighbor or someone here who. Okay, um,....

Carol Cernak: Hi this is Carol Cernak. I'm at 70 Spring Street South, South Salem, New York at Farvue Farm. Um, I would just like to speak. I don't have anything specifically to say about this issue, but more generalized to speak about the Town's principles regarding wetland violations. The issue that's going over on that salt dome property is is violating a deed restriction. It's violating Town Code for waste management transfer. It's a wetland violation as the property sits in a 10-acre wetlands zone. And there's a road running through the wetlands so I would like you know, everybody to be aware, be careful who you deal with the devil, because the devil is not always in the details.

Janet Andersen: Okay, thank you, Carol. I'm not. I'm you know we are we are trying to be careful with wetlands as you know, so I'm not, I'm not really aware of of that that issue. Okay.

Carol Cernak: Thank you for your time but I will make you aware of it. Thank you.

Janet Andersen: Thank you. Okay, so if there's I'm sorry if there's, I think we're done with Venezia, Venezia. I'm sorry, I didn't say that right. And we have a path we have sort of some direction on where we're going there, right. So, so we will move on.

Michael Venezia: That's quite all right.

Janet Andersen: And we have a path we have sort of some direction on where we're going there, right. So, so we will move on.

Tim Cronin: Jan. One quick question, assuming you know well I meet with with Jan. We'll discuss the modifications made to the site plan and address the buildable area issue, for this to be approved by the Planning Board will require a public hearing?

Jan Johannessen: I can address that. I think it's in line.

Tim Cronin: That was one of the questions is the procedure that the Planning Board.

Judson Siebert: There's, there is a provision in a subdivision regulations that allows in the, in the instance of a lot line changes for the for the Board to modify the normal process proceed directly to final approval and waive a public hearing but you need to you need to demonstrate a number of things, including the fact that you're not creating any nonconformities.

Tim Cronin: Okay. All right.

Judson Siebert: And that's also a net that and the decision to do that is also, you know, a discretion call by the Planning Board.

Tim Cronin: Let's, we'll submit the next plan and hopefully it's good enough for the Board to waive it and if not, then we have the public hearing.

Janet Andersen: Okay, any, any other comments, I mean Jerome, thank you again for your, your views on this flag and if there are no others, seeing no hands waving. I will move to the next item on the agenda.

[The Board reached consensus to refer the Venezia lot line change application to the Building Inspector.]

IV. WETLAND PERMIT REVIEW

[Cal #35-20WP

(1:54:14 – 1:54:30)

Askildsen Residence, 82 Mill River Road, South Salem, NY 10590, Sheet 42 Block 10299 Lot 83

(Kenneth Askildsen, owner of record) – Application for demolition and construction of a single-family house.

No one was present on behalf of the owner.]

Janet Andersen: The next thing on the agenda that was published was the Askildsen Residence and they have a asked for it to be adjourned because of medical issue in the family. So, I believe we should plan to put that on the November agenda. If no one has a concern with that and then we'll move....

[Cal #57-20WP, Cal #09-20SW

(1:54:33 – 2:22:18)

Schwartz Residence, 66 Twin Lakes Road, South Salem, NY 10590 Sheet 34B, Block 11831 Lot 34 (Michael Schwartz, owner of record) - Application for the construction of a one-bedroom house/studio.

Michael Schwartz, owner; Alan Pilch, P.E.; and Darren Mercer, architect, were present.]

Janet Andersen: ... on to Cal #57-20WP, Cal #09-20SW. This is the Schwartz Residence at 66 Twin Lakes Road in South Salem, New York. It's an application for the construction of the one-bedroom house and studio and I'm hearing a lot of interference. So, I'm not sure if there's looking to see if everybody looks muted. Alan, we're gonna I'm okay, and so is there a representative to speak to this speak to us on on this.

Alan Pilch: Yes, Alan Pilch.

Janet Andersen: Hi, Alan.

Alan Pilch: Let me, unvideo myself or whatever it's called. Here I am. Would you like me to put up something share screen?

Janet Andersen: Sure, if you would. I think that's easiest way to talk about what the proposal is. It's, it's hard for you to see us now, but we can see this.

Alan Pilch: Okay. So, you can see the screen.

Janet Andersen: Yes.

Alan Pilch: Oh, good. Okay. So, good evening. Madam Chair, members of the board. I'm Alan Pilch and I am representing Michael Schwartz in his application for the development of this single lot. So, this application. This is the the lot in question. This is actually the current lot where Mr. Schwartz lives. So, this application is made for the site development plan approval for a one-bedroom house called studio space on this property located at 68 Twin Lakes Road. The properties about 25,000 square feet in size. It's mainly wooded this lot. There are several large outcrops, which you can sort of see the sort of shaded areas here. Maybe that'll help. Those little shaded areas are rock outcrops mainly in the southern portion of the property. Twin Lakes Road being to the north right and there's Lake Oscaleta here on the left. The only regulated wetland on or adjacent to the property then is Lake Oscaleta and the 150-foot buffer extends to about 60% of the property. So, let me also then go through. Here. Can you see that now the plan for the property?

Janet Andersen: Yes.

Alan Pilch: Okay. Um, so it's proposed to construct a new one-bedroom single-family house or an artist studio building on the property. The one-bedroom house has a footprint of only about 1,059 square feet and located about 127 feet actually from the edge of the lake. There'll be no basement to this house so there will be very low that there will not be any sort of an extensive excavation to construct it. And I'll say the applicant, Michael Schwartz, has been very adamant that they want to retain as many trees as possible on this lot. So, the attempt in planning this has been to minimize disturbance on the lot. We are planning a new nine-foot wide gravel surface driveway, which would connect to Twin Lakes Road. The I'll say the driveway and the parking area this single space would be located outside the the wetland buffer line which is actually here so you can see that portion of the house is in the 150 foot buffer, but a portion of it lies outside. There's a proposal to do a septic system between the house and Twin Lakes Road and what we're showing here is the primary and expansionary actually we're going to be doing testing on the to be witnessed by the Health Department this Friday and and also New York City DEP is this Friday. So, we're doing deep holes and percolation testing.

The disturbance area for the new house is calculated be about 9,000 square feet. It's a total area disturbance and which includes the hundred percent septic system expansion area then the 150-foot buffer area disturbances about 3,600 square feet. We are proposing, I'll call it a rain garden or here it's labeled the stormwater management area to pick up the roof of the proposed house and the reason why it's located here is to make sure that we have the minimum separations that are required from existing septic systems. There is an existing septic system in the front yard of number 66. This proposed septic system being located here for this lot and I believe the septic system for number 70 is located here. So, it really leaves I will call it an area where the rain garden is actually proposed on this lot and as we noted too the principal use of this structure will be as as an artist studio. Mr. Schwartz his companion, Claudia Aronow, is an accomplished painter. She's also photographer and sort of in response to some of the questions that were raised to the extent that it may be used to process film she will not put into the septic system any substance that would impair its functioning. You know, they have lived on this lake for about 40 years and they care very much for it. And I'll just say there are very well established ways of segregating and separately disposing of any such substance it will not go down to the lake, it won't go down to the septic system and also I'll just say there's no intention of using this structure for commercial purposes, it will be used solely for her own private artistic activity. Maybe you want to go just show some of the renderings of the house that's proposed. That's like from the south from the lake, that's looking at it. That's another view from the kind of like the southeast. It's a small structure, it's only like a 1,000 I said 1,059 square feet. That's another view of it from the southwest from the lake and finally, kind of like a rendering of the house from the northeast. That's from essentially what it would look like from the street. So, mainly the windows are really from the you know the views to the lake. Let me let me see if I can figure out how to deal with this now.

Janet Andersen: What do you what do you want to do?

Alan Pilch: I know. I'll stop share. So that's essentially what's being proposed here, but also with me by the way is Darren Mercer, the architect, is here, and I know that Michael's iPhone is Michael Schwartz he's also listening.

Janet Andersen: Okay. So, um, let's see what we have. I did have a couple of questions about this when I saw it but you have answered the question about the darkroom and the potential chemicals. That was one. I do have I sort of can't believe that somebody would have this beautiful site and not have some deck outside some seating outside and so I would I would guess I would ask if that's ever going to be a element, maybe it should be added now. Similarly steps down to the lake or access down to the lake. It just seems like there will that will be something that someone will want that at some point. So, um, I mean, if you say, no, no, but it just seems it seems odd that it's not there. And I guess the other thing I would look at is the waterline that comes in is would be disturbance that's on on the opposite side of the lot from driveway. And I don't know if that's because of a separation distance or what, but could it be one of my questions would be, whether there would be a way to maybe reduce the amount of of disturbance by not having to dig a separate line, but it might be that there's a need for separation from the septic. I'm not sure.

Jerome Kerner: It's in the driveway, Janet. You're not reading it right.

Janet Andersen: I'm not reading it right.

Jerome Kerner: Now the water line is in the proposed driveway.

Alan Pilch: Actually, the.. Can I share screen again?

Janet Andersen: Okay.

Alan Pilch: Let me do that share. The water line is shown connecting to the existing utility of the Twin Lakes Water Corp. and what it does is it comes into the I'll call it the northeastern corner of the property. There is a required separation of 10 feet from septic system and it's not shown here in the existing driveway, because it's it's just a little too tight with the septic system being here.

Jerome Kerner: On the plan, I have I've got a plan that shows it right in the driveway.

Alan Pilch: Okay, that that was not the submitted plan. I think maybe you're looking at an earlier rendition. I just was the one I think you might be looking at the old draft, but I know this is the one that was submitted. Which actually showed it here. It's this is the where, where it was proposed.

Jerome Kerner: Yeah. This one is dated September 10th.

Alan Pilch: Okay that's early.

Jerome Kerner: Okay.

Alan Pilch: The one that we have here was the one that was submitted with a date of September 28th. So, I'm not quite sure which you know that might have been very early rendition of the plan. Remember, this is just a, it's a, it's a narrow trench that gets installed, but there's requirement for 10-foot separation. Part of it too is just to in the route, it takes is to avoid trees.

Janet Andersen: Yeah.

Alan Pilch: So that's really the, you know it's it's trenching a location to put a water line you know, it's a copper water line it's you know it's probably gonna be like, 1 1/2" is pretty typical and then it's covered.

Janet Andersen: Yep, no, I just, I just was thinking disturbance. But if it, if it's necessary for a separation than that is how it is.

Jan Johannessen: Alan, did you say that driveway was existing?

Alan Pilch: No, it is not. There was an existing gravel driveway to number 66 but we do think we should have at least a separate driveway for number 68.

Jan Johannessen: Would you consider a common driveway? Just a spur over to the cottage and then if the lot were to be sold to another party, you'd have the ability to install the separate driveway then. The Code requires two parking spaces for the house.

Alan Pilch: I understand that.

Jan Johannessen: And they had to turn them around. So, I think that's going to end up getting a little bit bigger than it's shown.

Alan Pilch: Yeah, we were hoping to be able to review that. I know that the concern is of courses, you know, the amount of a disturbance. That's a concern of Michael Schwartz, the applicant and I know he just wanted to keep the impacts to trees and everything else minimized so that's why it was shown that way. I understand the fact that there's no requirement for two. It's something we can discuss as to whether or not it could be shared and at some point split off.

Janet Andersen: Yeah, if you have a spur that Jan, I like I think that's a good idea. If you have a spur off the other, then you could just do and...

Jan Johannessen: The two parking spaces, just enough width for two parking spaces they back up onto the other property and they take off. And when go to sell the lot, then you put in it separate driveway at that point, you know.

Alan Pilch: We can certainly discuss that.

Jan Johannessen: From a zoning standpoint, it has to be looked at as a single-family house instead of a cottage. It has to be standalone.

Alan Pilch: Right and it is proposed as a single-family house. Understood. And will address your comment regarding deck or steps down to the lake. And I know, presently there is, you know, there they have existing steps which crosses over the property line here.

Janet Andersen: Right.

Alan Pilch: Which to the dock. So I mean in theory, somebody could if they have some agreement obviously we've got that some type of because this is not proposed to merge these two lots you know into one, they are two separate lots so I suppose with some type of easement or something would be required.

Janet Andersen: Yeah, I mean I just see it as with all the world you know of Airbnbs and everything else. It's really hard to imagine that this will not have somebody there who wants to get who wants to A) sit outside and B) access the lake. So, there's, you know, it'd be nice to design it in. And then I think we saw a comment from a letter that I hope you got that came from Three Lakes Council and they said something about the concern about the

outflow or the outlet of this stormwater facility, whether it's a rain garden. I'm not sure what, where would that go?

Alan Pilch: Well, the rain garden would be located in this area. I know the soil would have to be tested here in accordance with the comments from Kellard Sessions. If there is an outflow, it would be to this location. I mean, somewhere on this side of the south side of it, it will be dispersed, probably through some type of level spreader. There is one I mean no matter what the runoff gets to the lake Lake Oscaleta somehow. So, it's really a matter of it's a fairly woody area here as well. So, it's just a matter of dispersing it and making sure that it is control. I understand their concerned that there is a drop there is a drop in elevation between here and there. That is correct. It's also but it's also fairly woody so it's just a matter of being able to control the runoff as it from whatever excess there is that doesn't seep into the ground within the rain garden because the rain garden will be designed to control up to the one-year storm.

Janet Andersen: Jerome.

Jerome Kerner: It appears to me there's a staircase [static] and that could be considered an additional bedroom and it's the Building Inspector's decision on that whether he opts to have the building the Health Department opine on that, but it's not being shown or or indicated matter of fact, the staircase isn't even being called out, am I reading it wrong or am I...

Janet Andersen: I think there's a staircase on the front of the kitchen and then one of the later plans. So if you're looking at the first submission, the later plan had a outline it's sort of looked like an office upstairs that had I guess maybe B.S. I don't know what that means some bulkhead storage or something.

Jerome Kerner: B.S., usually means something else I'm concerned about that it doesn't seem to be any indication of this loft and that additional square footage, which could be used for additional sleeping. Again, it's, it's not our issue it's but I think you got to be straight with the Building Inspector on this is.

Alan Pilch: The plans as I say have been submitted to the health department as well, which will review it.

Jerome Kerner: But does it show the loft?

Alan Pilch: Pardon me?

Jerome Kerner: Does it show the loft and the staircase?

Alan Pilch: Yeah, we can discuss that with the Building Inspector.

Janet Andersen: Yeah, so I think we should probably refer this. Well, I think we should refer this to the Building Inspector. I think, he's probably going to have some of the same concerns that Jan pointed out about the about the parking, but it certainly helps to also have him look at the bedroom count. So, I need. I think consensus of the board to say that we will refer this to the Building Inspector.

Maureen Maguire: Janet I have a couple of comments.

Janet Andersen: Sure.

Maureen Maguire: Um, so, trees notwithstanding can this house be moved back towards the road and still have the separation that's required for the septic?

Alan Pilch: I think, in this instance, it would be very tight to do that, we are showing the 20-foot offset, which is the requirement. That's a 20-foot offset here.

Maureen Maguire: Uh huh.

Alan Pilch: And that's actually the expansion area there and this is the primary area. So, it really is fairly tight in here in order to slide this building over and I think also, there's this large oak tree here, which we're trying to preserve.

Maureen Maguire: Yeah, but you've got two thirds of the house in the wetland buffer. If I'm reading this correctly.

Alan Pilch: That is correct.

Maureen Maguire: And you could essentially turn the house. I know architecturally that may not be what you're looking for but if we're trying to, if we're concerned about the proximity to the lake and the fact that quite a bit of the house is in the wetland buffer. Isn't the applicant and someone help me out here is the applicant required to show all of the different configurations that would take the house or the structure out or minimize the impact to the wetland buffer.

Jan Johannessen: Or the board could certainly ask for alternatives and could certainly ask for alternatives that would reduce impacts to the to the buffer. Absolutely.

Maureen Maguire: Yeah. I think that this is beautiful rendition, and I could see why you would want it right there. But I don't know if that is the best place. Given its proximity to the lake so I would like to see some other options.

Janet Andersen: Yeah, I wonder if you could move the expansion area further to the, I guess, that becomes the East and maybe shove the house up and have the expansion area, you know, sort of where the, where the house butts out there which would of course be then you didn't have to move the the waterline somewhere else. But again, that it might be good to bring that out. Okay.

Alan Pilch: I think what we'll do is we'll look at some orientation of the house that would also reduce the proximity of it to the lake. I really don't believe it's it's a very, you know, I really don't believe it's feasible to move the house say to the north towards Twin Lakes Road to an extent. I think we've moved about as far as we could, but perhaps what we could do. As I said, the house is about 127 feet from the edge of the lake we could look to see if we could orient it such a way to increase that distance.

Maureen Maguire: That'll be great. Thank you.

Jan Johannessen: Alan, are you showing a one-bedroom septic system or two bedroom?

Alan Pilch: It is actually for one bedroom that is correct but I did speak with the health department whether they would entertain that they said absolutely but they said the minimum is 150 linear feet of trench, which is what is shown on this plan.

Jan Johannessen: Is there any ability to reorient the septic field, so they're more parallel to the property line and kind of swing the system closer to Twin Lakes Road?

Alan Pilch: The way it's set right now, there really follows the grade as best as possible with just a slight you know, it actually drops off a little bit in this direction from the I'll call it from west to east and this really tries to orient it with the contour room have just a slight drop across it and it would place it closer to a lot of these large trees which are in very good condition and sort of provide screening and filtering of you will the property in from

Twin Lakes Road. So, and this is kind of an open area, which is why most of the primary is here. So that was really the attempt to locate a septic system there trying to you know rotate it a little bit might be possible, but I don't know that we can gain too much here.

Maureen Maguire: And that's a septic system for one bedroom.

Alan Pilch: That is correct. We'll take a look at that.

Janet Andersen: Okay, um, any, any other comments. Thank you. Maureen that was important. Okay, um, so, again, to sort of move along I think we need to refer this to the Building Inspector. I think there is a the upstairs drawing does show a loft with someone standing in it and and whether that would be I don't believe there's a I think there's a shelf or a desk sort of area, but it doesn't look like there's a full wall. So whether that might not be considered a bedroom up there. Um, so can I have consensus of the board that we send this to the Building Inspector.

Various voices: Yes. Aye.

Janet Andersen: Okay, good. Everyone. Yes. Um, I think the other thing is, I think there's a need for wetland mitigation that we have not seen, there is stormwater, of course going on but I think there's an opportunity for mitigation and there's a need for mitigation for the the wetland disturbance wetland buffer disturbance.

Alan Pilch: Yes, yeah. That will be provided. I know there are a lot of comments and Kellard Sessions and we will be responding to all them. As well as the comments we received here this evening.

Janet Andersen: Jan? Sorry, John? Did you have different was there a CAC coming up this that we have not addressed. You're muted.

John Wolff: No, we were just looking for, in particular the wetland mitigation plan and when I saw the comments from the Three Lakes Council about the dark room I that's been addressed because having once had a dark room myself I know that you don't want to put that stuff in the ground.

Janet Andersen: Yeah, and it uses a ton of water. So, you know, we're having a lot and having a possibly oversized septic system is not a concern here. Um, okay. Anything else that we need to discuss before we let you go? Okay. Thank you very much, Alan and we'll move on to the next item.

Alan Pilch: Thank you very much. I really appreciate everyone's comments.

Janet Andersen: Okay, thank you.

Alan Pilch: We'll see you soon.

[The Board reached consensus to refer the Schwartz one-family house application to the Building Inspector.]

V. WETLAND VIOLATION

[Cal #01-20WV, Cal #12-20WP

(2:22:19 – 2:

Valencia Residence, 1196 Route 35, South Salem, NY 10590, Sheet 31, Block 10805, Lot 45 (Maria and Javier Valencia, owners of record)

Maria and Javier Valencia, owners, were present.]

Janet Andersen: The next item on the agenda is a wetland violation, Cal #01-20WV, Cal #12-20WP, the Valencia Residence at 1196 Route 35, South Salem, New York and I believe we have now a wetland application wetland permit application. So, what happens next?

Jan Johannessen: We did receive the wetland permit application, escrow has been established. The applicant submitted a, I believe it was a survey with the wetland delineation which I believe was prepared by Mary Jaehnig. I did receive a call from a representative design professional [static] and I owe him a phone call. We're going to go over what needs to be done on on the on the mitigation. So that's something I have to do if if Mr. Valencia could have him give me a ring. That we fine, we can set up a meeting or Zoom and go over that plan.

Javier Valencia: Okay.

Jerome Kerner: There's a couple of blank spaces in the permit in regard to watershed, a DEP watershed, is it or isn't it in the watershed. I assume it is.

Jan Johannessen: It is.

Jerome Kerner: That's not checked and then the total area disturbance is not indicated, either.

Jan Johannessen: Yeah, I'm not sure that they would know the disturbance area yet just because we've gotten the plan prepared. So, I can go over all that with them. We didn't review the submission just because of the survey and application form.

Jerome Kerner: Okay.

Jan Johannessen: We need to go over all of that.

Janet Andersen: All right, so, um, should we adjourn this to our November meeting then?

Jan Johannessen: What's the submission deadline for November?

Jerome Kerner: The 27th.

Jan Johannessen: I'd suggest that the December meeting.

Judson Siebert: Yeah, I, Jan[et] my suggestion would be the December meeting. And I would also suggest that just for agenda purposes that if we have a public hearing that night that we put this at the beginning of the agenda, rather than the end.

Janet Andersen: Okay.

Judson Siebert: Because it'll be a it'll be a control appearance and a status check and I think it would just be better use of time if we could do it at the beginning rather than the end.

Janet Andersen: Okay, and I do know that you guys have been on since the beginning and I appreciate your patience. So, Sorry.

Jan Johannessen: The Valencias can contact Ciorsdan to schedule a Zoom meeting for yourselves and your design professional and we could get a lot accomplished just by a phone call.

Javier Valencia: Okay, so we will be in the meeting together with you and Mr. Meir.

Jan Johannessen: Yeah. I think that'd be good, you know, you can you can set that up through Ciorsdan. I have Zoom meetings with applicants every Thursday. If want to meet next Thursday that would be fine.

Javier Valencia: All right, I'll set that up with him and I probably do it this Thursday or next Thursday.

Jan Johannessen: Okay.

Janet Andersen: Thank you, that would be great.

Maureen Maguire: Thank you.

Various voices: Good night.

Janet Andersen: Yeah, okay. Whoops. Was there a question?

Javier Valencia: No.

Janet Andersen: Okay, great. Thank you.

VI. DISCUSSIONS

Town Board to amend Town Code Sections 92-1E, 195-3D, 217-3E, 220-44E and 220-74H – addressing approvals in the case where there are violations on a property.
(2:26:14 - 46:18)

Janet Andersen: The next item on the agenda is a discussion item, and this is that the Town Board has recommended or amending the Town Board Code, a number of different sections but what they really do is address approvals in cases where their outstanding violations on a property or unpaid fees on a property. They are to me they are pretty straightforward. So, they basically require the fees to be paid before proceeding to before issuing a building permit or another permit. Yes, Jerome.

Jerome Kerner: They are straightforward, but in reading the wording doesn't include submission or review of applications that have been submitted and I would be in favor of not accepting and reviewing submissions until the fees are paid. It just applies to permit certain [static] for approval.

Judson Siebert: Yeah, Jerome I just I not that I've been involved, you know, directly in the formulation of the amendments, but you're correct that certain municipalities deal with this issue differently. Some some have a prohibition for even accepting or processing an application so that basically the admission ticket, you know, is to, you know, is to pay before you can process and others. Just taking a step back, which is apparently what the Town Board is considering doing saying you can go ahead and process, you know, it's just that the ultimate permit or approval will not be issued until you the violation's cured or the fines paid um, you know I if if it's the sense of the board that you would like to recommend or suggest that the additional step be taken, we could do that in the form of a letter to the Town Board or if the Board is satisfied with what's been proposed, we can we can indicate that was proposed is acceptable. It is really a Board call.

Jerome Kerner: Sure. Well, I mean, my opinion and recommendation would be to include a non-review of applications until that's done only because it takes our time and fills our agenda and then if they delay in paying fees, even after we've gone spending time processing it. So, you know, it could be a waste of time.

Gregory La Sorsa: Well, are these, excuse me Jerome are these is this a proposal for planning violations or violations that has been a Resolution and it has been no I guess you know penalty payment.

Jerome Kerner: Either one.

Judson Siebert: Yeah, I don't know, not...

Gregory La Sorsa: I'm not sure about that.

Judson Siebert: Yeah but but one of the one of the outs. One of the outs. That is a carve out in what's in front of the board is that it is that each of these says that, notwithstanding the above, you can go ahead and issue to specifically address an outstanding violation or an immediate hazardous condition.

Gregory La Sorsa: Well, yeah.

Judson Siebert: Yeah, so Greg, what you're saying is yet, you know, if we, if you were to say, we can't even process an application when there's a violation. What we just did, for example, with Valencia, that would all be upended because typically the wetland violation comes to the to the board and what we try to do is get the applicant of submit an application, process it and cure it. So maybe, maybe that maybe the distinction is if there are existing fines that's a, that's a, that's a bar to processing, but you know if there's a violation you can still go forward and try to, you know, get the application as intended to try to cure the violation.

Jerome Kerner: Well, I agree with that.

Gregory La Sorsa: Well, it would seem to me that we [static] might deprive someone of their due process. If there's a outstanding violation that hasn't been adjudicated or determined in some way, then you kind of have you have the applicant by the short hairs because you gotta resolve the violation and maybe he's going to resolve it to his detriment, which means I guess money to the Town. Um, you know, it's kind of like yeah it looks a little, little strange under those circumstances that a violation pops up on the time that he's looking to he or she is looking to submit an application.

Judson Siebert: Yeah, so I think I think that's a good point, and I think I think you need to I think you need to you need to remove the you know, if you're going to have if you're going to have a provision that says you can't even process something that you would have to take the violation piece out of that, you know, if it's an adjudicated fine and it's been levied and it's hasn't been paid, then that's, that's, I can see that as being a bar of going forward but if it's a violation.

Jerome Kerner: Yeah yeah. Yeah, I agree with Greg.

Gregory La Sorsa: Yeah. I agree.

Jerome Kerner: Yeah, but take the case, take the case where it's a developer or and you know he's moving. He's got a violation on one parcel, but he wants to get a second parcel approved. Thinking of the Boway property two two lots, the first lots approved, but yet there's a fee that hasn't been paid. I don't think we should be processing the second application, but not not violations, but in the normal course of development or construction.

Maureen Maguire: So, you're saying that it's not specific to a property it is specific to the applicant. If an applicant owes a fine then they should pay the fine before any other applications by that applicant are even processed started to be processed.

Jerome Kerner: Well that's, that's probably true. Yeah.

Maureen Maguire: I wouldn't, I wouldn't disagree with that because you could have someone who if they do have a large fine on a piece of property, but yet they want to develop another piece of property they could just the property with the fine could go fallow right and do nothing.

Jerome Kerner: Yeah.

Maureen Maguire: And yet. They are permitted to go forward and and have their other application heard by us. So, I don't know that might be a legal issue.

Judson Siebert: Yeah.

Gregory La Sorsa: Well, it goes, it goes back to what was saying before, I mean if if there's an outstanding fine on on the books after an adjudicated issue and an applicant comes to the Town with an outstanding fine, I guess, it could buy by the Town right Jud is that what we're talking about?

Judson Siebert: Yeah?

Gregory La Sorsa: So I mean that that's one thing and I think we have certain rights in that the Town would have certain rights in that regard and I will be greatly concerned and I don't know if we're off this now, but I will be greatly concerned if the applicant had to come and adjudicate open violations before he was able to address a new application for something. I think I would want to see that distinction.

Richard Sklarin: Is, is applicant defined? I'm just thinking about a situation hearing what everybody's talking about, let's say individual and then they acquire the property is an LLC.

Maureen Maguire: Right.

Judson Siebert: Yeah. I mean, I I if there is a definition of applicant, it would be in each of the chapters, because again, the, the amendments relate not only to the Zoning Code 220 but to the Wetland Code, the Subdivision and the Building Code. I'm not, I off hand I don't think applicant is is defined in, you know, in the definition section of any of those provisions. And then you could sidestep it, like you said, Rich by forming an LLC, you know.

Jerome Kerner: Well, I think, I think it is addressed here and where it says shall be no approval or conditional approval shall be issued pursuant to this chapter, if there is an outstanding violation or unpaid fine with regard to the property that is the subject of such application. So, it's kind of limits it so....

Judson Siebert: But Maureen is suggesting to expand that to right...

Jerome Kerner: Right. So, it is limiting it but maybe we should expand it.

Gregory La Sorsa: But violations go with the property they don't go with the individual. Any of these violations, Wetland Code, the Subdivision and the Building Code, go to the property.

Maureen Maguire: Could someone who has a, a violation and a fine imposed on a property, could they sell that property. Where does the fine go?

Judson Siebert: The I can speak directly to the Wetland Code because that at present is really one of the weaknesses of the enforcement provision of the Wetland Code. When you impose a fine under the Wetland Chapter it does not there's no provision in the in the Town Code that that automatically converts that to a lien or anything that is recorded against the property so it doesn't show up. You know, it may show up on a municipal violation search, maybe, but even that I'm not so sure and Lewisboro but it does not it's not a recorded encumbrance against the property and at present the the way the Wetland Code is written, is that if a fine is imposed by the Planning Board and the the fine goes unpaid the Town's remedy is basically for the Town Board to authorize a lawsuit to collect the fine. It's like a, it's like, you know, another generation of legal work to to try to collect the fine.

Gregory La Sorsa: So maybe that's what this Town Board should be focusing on and instead of writing a sort of a vague type of proposed amendment that leaves these issues open. So, I think that's a separate issue Jud then.

Judson Siebert: No, yeah I yeah I think that I think this is one step that was being considered as a way to try to tighten that you know tighten up or find another way to capture some of those fines in the event you know that someone comes back, but...

Maureen Maguire: Why couldn't I sell the company to myself one one is Maureen McGuire, and one as... LLC.

Gregory La Sorsa: Well, the transaction and the circumstances of that transaction could conceivably be voided but there might be a situation where you would legitimately sell it to someone else.

Maureen Maguire: Yeah.

Janet Andersen: I do recall one where we had a person who bought something with an outstanding violation on it and he had to end up paying and fixing and...

Maureen Maguire: Really.

Janet Andersen: Yep. Yep.

Judson Siebert: Well, I think the other the other problem we've run into have been you know purchasers who acquire without a full understanding of an existing wetland permit, you know, for example, the septic pumping. That was one of the issues with septic pumping that I buy and I didn't realize that the wetland permit requires me to pump every year or every two years, or you know there's some other you know particular condition attached to the wetland permit that the you know the the new owner is unaware of.

Maureen Maguire: So, there's so there's no limiting of the C of O. In other words, if there's a fine.

Judson Siebert: We tried to tried. Yeah, I mean, internally, from an administrative standpoint, we've tried to tighten that up to make sure that our wetland permits find their way to the building department file, but that's a problem it happened in the past.

Richard Sklarin: So is there a better way to legislatively address what the Board is trying to do that another municipality may have done more effectively.

Judson Siebert: You know I I look, I think that they're trying to take, take the, the one step forward in terms of saying that there'll be no permits issued I this is pretty standard. To Jerome's point was like other municipalities that go even further and say you shouldn't even process. I think there's, I think there's a way for for language like that to be well, I think the concept can be proposed to the Town Board by the Planning Board if that's what you

want to do for fines, carving out violations, as Greg said, and then, you know, leave it to the Town Board to try to find the appropriate you know the appropriate language, it can be done.

Janet Andersen: Yeah, I think that's, that's good and if they decide, you know that it's too difficult than they won't do it but I think we should recommend that finds be paid before permits before the process before the processing of applications or for permits or for Building Building Inspector work so...

Gregory La Sorsa: I would agree with that.

Jerome Kerner: Yeah, other than for the remediation of that outstanding violation.

Janet Andersen: Yeah, and if it is an outstanding violation then obviously that's exempt, but we still would look for payment of any historical finance or something. But I think so, I think, can we....

Judson Siebert: If you, if that's acceptable in terms of what you want to say if we could just get a motion and authorize Jan[et] to sign a letter, we can get that out to the Town Board.

Janet Andersen: Okay. Does anyone want to make that motion?

Gregory La Sorsa: Well, leaving the issue of open unadjudicated violations out or....

Judson Siebert: Out, out. Leaving them out Greg. Yeah, because I think we're all in agreement that we don't want, you don't want, you don't want someone who hasn't been found guilty or is pled guilty to a violation to then be told, you're hamstrung in the.... Right.

Gregory La Sorsa: Well, since this is the Jerome clause.

Jerome Kerner: No, I'll to defer to the legal minds here.

Gregory La Sorsa: Well, I'll make I'll make the motion, whatever the motion is.....

Judson Siebert: The motion is for the board to communicate to the Town Board that they would they want the Town Board to consider expanding the amendments to prohibit the processing of applications when there is an unpaid fine on the property and/or by the property owner, I think.

Richard Sklarin: To ensure no due process implications.

Judson Siebert: Yeah, right. And, and, and to leave the end but but to allow but to allow you know those instances where there's a violation to proceed, you know, you know, produce applications to proceed.

Gregory La Sorsa: Okay. And, you know, before we make that motion which I would I would make can we just I did not look at these numbers, but a 92-1E, 195-3D, 217-3E, 220-44E and 220-74H. Can we just confirm that those are, you know, for the wetland and zoning?

Judson Siebert: Yeah, great. Yeah, and Greg. 92 is the Building Chapter is the Building Code. 195 is the subdivision regulations, 217 is Wetlands and 220 is the Zoning Code and the 220-44E involves site plan approval and 220-74 involves ZBA.

Gregory La Sorsa: Because, because we know in the past and this may be before some of everyone's time here but we have had these things come in front of us and we've talked about one thing, it turned out to be something else that you know, we're talking about so you know, just with with...

Jerome Kerner: The old bait and switch.

Gregory La Sorsa: Yeah, yeah, yeah. So with that little proviso I'm glad that we did that, but I would make the motion along the lines of what Jud had set out and along the lines of what a Jerome set forth regarding a recommendation involving on the record fines for potential applicants.

Janet Andersen: And just to clarify that that is to allow me to sign a letter drafted by Jud and send it to the Town Board.

Gregory La Sorsa: Yes.

Janet Andersen: Okay. Do we have a second?

Jan Johannessen: One suggestion. Can we add the storm water chapter 189?

Judson Siebert: Oh, that's a good idea.

Gregory La Sorsa: Yes, probably make that suggestion, because they may have had a reason for not putting it in but, we should make that suggestion to them.

Janet Andersen: Thank you. Okay, so we have a motion it's a extended motion. Do we have a second?

Maureen Maguire: I'll second.

Janet Andersen: Thank you. Maureen. Any further discussion?

Richard Sklarin: And Jud will double check the appropriate sections.

Judson Siebert: Yes, I will.

Janet Andersen: Okay, and anything else, then I'll ask for a vote Maureen?

Maureen Maguire: Aye.

Janet Andersen: Jerome? Jerome?

Gregory La Sorsa: He looks frozen. He looks frozen there.

Janet Andersen: Okay, Rich?

Richard Sklarin: Aye.

Janet Andersen: Greg?

Gregory La Sorsa: Aye.

Janet Andersen: Aye, and I say I as well and Jerome.

Gregory La Sorsa: This will be a new entry in the minutes, frozen.

Janet Andersen: I think he might have just gone away and come. All right.

Various voices: There he is.

Janet Andersen: Will you say aye to this motion? Yes, I'm... now he's frozen.

Richard Sklarin: We need a thumbs up from Jerome on the motion.

[Jerome Kerner gave a thumbs up to the motion and the Board reached consensus to authorize the Chair to sign a letter to the Town Board with further recommendations on addressing applications on properties where there are outstanding violations.]

Janet Andersen: Okay. Thank you. Okay. So then that's tough. All right.

2021 Meeting Dates and Deadlines

(2:46:19 – 2: 48:10)

Janet Andersen: Well, the next thing is we have Planning Board meeting dates a proposed set of meeting dates for 2021. So, it's really nice to think that 2020 might be coming to an end. So, I will say that we've done the normal approach of of pushing the February meeting from the back or one week later in February, which we tend to do and and I want to say thank you to Jan who actually gave the applicants a couple of days because I sort of hate it when the the next application is due on the same day as our meeting, so it's he gave us a couple of days for that as part of the proposal, but so with that, does anyone have any concerns or conflicts or anything with this this proposed calendar? Do we have to make a motion to accept the calendar?

Judson Siebert: Yeah. I would make a motion to accept the calendar.

Jerome Kerner: I'll move to accept the calendar as submitted.

Janet Andersen: Okay, Jerome, a second?

Gregory La Sorsa: I'll second.

Janet Andersen: Greg. Okay. And we'll go through Maureen?

Maureen Maguire: Aye.

Janet Andersen: Rich?

Richard Sklarin: Aye.

Janet Andersen: Greg?

Gregory La Sorsa: Aye.

Janet Andersen: Jerome?

Jerome Kerner: Aye.

Janet Andersen: And I also say aye. Okay, in case that wasn't clear, I'm not sure I said I to the end of the Town Board discussion, but I, I meant to I'm okay after we were trying to get Jerome so hard I don't know that I ended up saying, right.

[On a motion made by Mr. Kerner, seconded by Mr. La Sorsa, the Board approved the proposed meeting dates. In favor: Ms. Andersen, Mr. Kerner, Mr. La Sorsa, Ms. Maguire and Mr. Sklarin. A copy of the 2021 meeting dates and deadlines is attached to these minutes.]

VII. MINUTES OF September 15, 2020.

(2:48:11 - 2:49:11)

Janet Andersen: The next one is the Minutes.

Jerome Kerner: I move we approve the September minutes as submitted.

Richard Sklarin: Okay, I just caught one typo in the first page. So, I'm Janet Anderson and I'm here by call just to clean that up at the first sentence on page one.

Janet Andersen: Okay, geez. Thank you. So, as amended, you was were you seconding it as amended?

Jerome Kerner: I accept that amendment.

Janet Andersen: All right, the second.

Richard Sklarin: Second.

Janet Andersen: Okay, further discussion? Okay. Maureen, and we're good looking for vote on this for the. Oh, you weren't here last week. Nevermind. Last week, last month. Rich?

Richard Sklarin: Aye.

Janet Andersen: Greg?

Gregory La Sorsa: Aye.

Janet Andersen: Jerome?

Jerome Kerner: Aye.

Janet Andersen: and I also say, fine.

[On a motion made by Mr. Kerner, seconded by Mr. Sklarin, the Board approved the amended meeting minutes from September 15, 2020.

In favor: Ms. Andersen, Mr. Kerner, Mr. La Sorsa and Mr. Sklarin. Abstain: Ms. Maguire.]

VIII. ADJOURNMENT

(2:49:12 – 2:49:48)

Janet Andersen: So, with that, our next meeting date is November 17 and I'd look for a motion to adjourn.

Maureen Maguire: I'll make a motion.

Janet Andersen: Okay, so it looks like I think Rich moved first and then Maureen, I'll take yours as a second so assuming no discussion.

Janet Andersen: Maureen?

Maureen Maguire: Aye.

Janet Andersen: Rich?

Richard Sklarin: Aye.

Janet Andersen: Greg?

Gregory La Sorsa: Aye.

Janet Andersen: Jerome?

Jerome Kerner: Aye.

Janet Andersen: And I will also adjourn so have a wonderful Halloween everyone and however, however.

Gregory La Sorsa: Social distanced Halloween.

Maureen Maguire: Zoom Halloween.

Janet Andersen: Yeah, and I think we will call it an evening. Thank you again.

Judson Siebert: Thank you.

[On a motion made by Mr. Sklarin, seconded by Ms. Maguire, the meeting was adjourned at 10:19 p.m. In favor: Ms. Andersen, Mr. Kerner, Mr. La Sorsa, Ms. Maguire and Mr. Sklarin.]

Respectfully Submitted,



Ciorsdan Conran
Planning Board Administrator

**RESOLUTION
TOWN OF LEWISBORO PLANNING BOARD**

DECLARATION OF LEAD AGENCY

**Gossett Brothers Nursery
1202 Route 35
Sheet 10805, Block 46, Lot 31**

October 20, 2020

WHEREAS, the subject property consists of ±5.5 acres of land and is located at 1202 NYS Route 35 within the R-2A Zoning District; and

WHEREAS, the subject property contains an existing landscape nursery and is developed with several detached buildings, gravel parking, and inventory display and storage areas; and

WHEREAS, an existing residence is located on the same parcel, located to the rear of the site; and

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

WHEREAS, Gossett Brothers Nursery, LTD (“the applicant”) is proposing to establish an accessory winery business to be located within the existing nursery building and is also proposing the installation of a water treatment system and a wastewater holding tank; and

WHEREAS, the existing nursery is considered an existing, non-conforming use and the winery is permitted within the underlying zone, subject to the issuance of a Special Use Permit from the Zoning Board of Appeals; and

WHEREAS, the following potential Involved and Interested Agencies have been identified:

INVOLVED AGENCIES

1. Town of Lewisboro Planning Board
2. Town of Lewisboro Zoning Board of Appeals
3. Westchester County Department of Health
4. New York State Department of Environmental Conservation

INTERESTED AGENCIES

1. Westchester County Planning Board
2. New York State Department of Agriculture and Markets

WHEREAS, the proposed action has been identified as an Unlisted Action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, on August 26, 2020, the Planning Board Declared its intent to serve as the Lead Agency for the environmental review of the proposed action pursuant to the State Environmental Quality Review Act (SEQRA) and authorized the Lead Agency Notice, Agreement, Planning Board Application, Part 1 of the Full Environmental Assessment Form, project plans and supporting documentation to be circulated to the Involved and Interested Agencies; and

WHEREAS, after 30 days of circulation of Notice of Intent to Declare Lead Agency, including the documents identified above, no Involved Agency objected to the Lewisboro Planning Board acting as Lead Agency.

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board of the Town of Lewisboro hereby declares itself the Lead Agency for the coordinated review of the proposed action described above.

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: Richard Sklarin
The motion was seconded by: Jerome Kerner

The vote was as follows:

JANET ANDERSEN	<u>aye</u>
JEROME KERNER	<u>aye</u>
GREG LASORSA	<u>aye</u>
RICHARD SKLARIN	<u>aye</u>
MAUREEN MAGUIRE	<u>aye</u>

Janet Andersen ^{cc}
Janet Andersen, Chair October 20, 2020

**2021 PLANNING BOARD
MEETING DATES/
SUBMISSION DEADLINES**

Town of Lewisboro

Planning Board meetings are typically held on the third Tuesday of the month.

Meeting Date 7:30 p.m.	Initial Submission Deadline by 10:00 a.m. - 5 Tuesdays before meeting -	Re-submission Deadline by 10:00 a.m. - 3 Tuesdays before meeting -
January 19	December 15	December 29
February 23	January 19	February 2
March 16	February 9	February 26
April 20	March 16	March 30
May 18	April 13	April 27
June 15	May 11	May 25
July 20	June 15	June 29
August 17	July 13	July 27
September 21	August 17	August 31
October 19	September 14	September 28
November 16	October 12	October 26
December 21	November 16	November 30

Special meeting(s): TBD