Meeting of the Planning Board of the Town of Lewisboro held at the Town House, 11 Main Street, South Salem, New York on Tuesday January 22, 2008 at 7:30 P.M.

Present:  
P.J. Rossi, Chairman  
Joseph Decaminada  
John Gusmano  
Richard Ellrodt  
Maureen Maguire  
William Agresta, Matthew D. Rudikoff Associates, Planning Consultant  
Thomas Altermatt, Town Consulting Engineer  
Bruce Barber, Interim Wetland Inspector  
Lawrence Praga, Esq., Planning Board Counsel  
Margaret Clark, Esq., Special Counsel  
Janet Anderson, CAC Chairwoman  
Aimee Hodges, Planning Board Secretary  

The Chairman called the meeting to order at 7:30, PM, introduced the Board and its consultants and pointed out the emergency exits.

I. DECISIONS

Shaul Dover, 11 Mount Holly Road East, Katonah – Wetland Activity Permit  
Cal. #72-06 W.P.

Shaul Dover was present.

Mr. Barber reviewed the draft resolution he prepared for the Board’s consideration.

Mr. Decaminada read into the record Condition 14 of the resolution noting that this is a challenged property with regard to the septic system and it was imperative that the property owner complied with this condition requiring that written documentation be submitted indicating that the septic system had been tested and inspected by a licensed septic system contractor on an annual basis.

Noting that Mr. Dover had no other representation other than himself during the approval process, Ms. Maguire stated that she wanted to ensure that he would read through the entire resolution as there are many stipulations that he needed to comply with.

Mr. Ellrodt advised that he had always been uncomfortable with the placement of the structure and believed that there was a better location for it.

Mr. Rossi noted that the applicant had expressed concern with the access to bring equipment through to the rear of the property and asked Mr. Barber whether a satisfactory agreement had been made.

Mr. Barber advised that a 10 foot temporary access between the existing house and proposed addition is shown on the latest plans. Prior to the issuance of the Certificate of Occupancy this temporary access is required to be reclaimed as wetland buffer enhancement and planted with native buffer species so that it would not be a permanent access to the addition.
On a motion made by Mr. Gusmano, seconded by Mr. Decaminada the resolution issuing a Negative SEQR Declaration and Wetland Activity Permit Approval for Shaul Dover, Cal. #72-06 W.P. was adopted.

Vote: Yes: Decaminada, Gusmano, Rossi, Maguire
No: Ellrodt

Vanessa Bailey, 9 Truesdale Lake Drive, South Salem – Cal. #12-07 W.V.

Michael Sirignano, Esq. was present.

Ms. Clark reviewed the draft resolution she prepared for the Board’s consideration.

Ms. Maguire noted that the second whereas paragraph on page two of the resolution stated that counsel admitted in part to the violation and questioned what was not included.

Ms. Clark advised that an issue had been raised as to what was an in-kind replacement and what was beyond an in-kind replacement. The admission was to that which was beyond what was originally there.

On a motion made by Ms. Maguire, seconded by Mr. Ellrodt the resolution Violation of Wetland and Watercourse Law, Vanessa Bailey, Cal. #12-07 W.V. was adopted.

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

In response to Mr. Sirignano’s question as to when this matter would be placed on the next agenda the Chairman asked that he contact the Planning Board Secretary with regard to the schedule.

At the completion of her services for the evening, Ms. Clark exited the meeting at 7:41 P.M.

II. PUBLIC HEARING

Elliot Lebowitz, 7 Laurie Lane, South Salem – Application for Wetland Activity Permit Approval to permit the construction of an attached garage and deck within the regulated wetland buffer – Cal. #48-07 W.P.

(Reconvened)

The Chairman reviewed the public hearing format. There were no objections to the time or place of the public hearing and there were no requests to have the notice of public hearing read aloud.

Viktor Solarik, AIA was present representing the applicant.

Mr. Solarik advised that he had responded to the November 8, 2007 NYC DEP comments and received a response from them dated December 17, 2007 advising that the submission had been approved. Mr. Solarik reviewed the proposal advising that it had been agreed that there were no alternatives for the location of the garage. The wetlands boundary had been delineated by Paul Jaehnig on March 29, 2007. The driveway that exists is paved 25 feet in from the road; the remainder of the driveway would be maintained as gravel. The existing access to the back of the property is to be abandoned and the existing storage shed will be removed. The applicant has
proposed to install landscaping as well as a stormwater drainage system to treat runoff from the garage as well as the main house. He noted that the site is constrained and reviewed the alternatives that had been considered.

Mr. Barber reviewed his memo to the Board dated January 17, 2008 and advised that several of his comments contained within his November 2007 memo had not been addressed. The only submission received after the November public hearing date was the NYC DEP sign off and the July 27, 2007 NYS DEC correspondence from Heather Gierloff advising that there were no jurisdictional DEC wetlands.

Mr. Barber advised that several options had been reviewed and this particular plan was determined to be the best feasible option. He advised that he had contacted the architect advising that he had not received any responses to his previous memo; Mr. Solarik had submitted a response memo this evening. Mr. Barber reviewed the outstanding comments. He advised that the applicant had offered substantial mitigation; the entire existing roof structure which now discharged directly into the wetlands will be treated as well as the proposed garage. All of the disturbed area behind the garage will be restored with vegetation as an enhanced wetland buffer. The plans indicate that there will not be any additional bedrooms or bathroom facilities in the garage. He advised that he would like to have the opportunity to review the memo that had been submitted this evening as he believed that most of his outstanding concerns had been addressed.

Ms. Anderson advised that the current CAC had not attended the site walk. They had concern with the large amount of impervious surface and wondered about the specific mitigation plans. There was some confusion as it appeared that there seemed to be the ability to get under the garage with a door requiring some type of embankment on plan A3. Plan A1 indicates that the drive is actually being constructed on a flat base.

Ms. Anderson advised that the CAC had questions with the stormwater management system as it appeared that the infiltrator would be below the wetlands not providing effective treatment. They were not sure that the proposed plantings were not invasives. In a continuing interest to maintain trails the CAC noted that it appeared that there might be an easement either on this property or an adjacent property which would connect to the Levy preserve and asked that this be explored as mitigation.

Mr. Barber noted that the applicant had also offered to encumber virtually the entire wetland area with a conservation easement.

There were no comments from the public.

Mr. Rossi advised that it was late in the application process to ask for the applicant to look at trail connections in addition he advised that the offer to place a conservation easement on his property was generous. In light of these facts he would feel uncomfortable asking for additional mitigation.

Mr. Barber advised that he would look into the stormwater questions raised by the CAC. He advised that this particular site is challenging because of the groundwater issues and is why he had asked for soil borings and logs. Upon receipt of that information the plans may have to be modified with something more vegetative than underground.
Ms. Maguire advised that the Board had very carefully reviewed the site noting that the site is very constrained. She stated that she is very comfortable with how this application is proceeding.

Given that Mr. Barber had just received this additional information it was agreed that it would be premature to close the hearing.

On a motion made by Ms. Maguire, seconded by Mr. Gusmano the public hearing was adjourned.

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

III. SKETCH PLAN REVIEW

Ring's End of Lewisboro, Inc., 386 Smith Ridge Road, Vista – Application for Site Development Plan Approval

Lou Reda and Gordon Milne were present with their attorney Michael Sirignano, Esq. and Rich Williams of Insite Engineering.

Mr. Williams displayed the proposed plan to rebuild a storage building in the northwest corner of the site which had been destroyed by fire. He advised that there were concerns with the stormwater management system expressed at the previous meeting especially with how it related to the proposed Oakridge drainage systems as well as the net effect on stormwater. He reviewed how the drainage worked at this particular site noting that there is effectively a drainage divide running north to south in the central portion of the property; the eastern portion is proposed to be treated by the Oakridge drainage system. He advised that at the request of the Town’s consultants the applicant had relocated their drainage system to the westerly portion of the site. In addition they have added hoods on the catch basins on the eastern portion of the site. When this system and the Oakridge system are on line they will have 100 percent treatment on the Ring’s End site. The have added inlet protection on the erosion control plan and added Norway spruce which is less prone to disease. The dumpster location has been shown. The fueling area has been upgraded by adding a concrete pad; notes have been added to the plan requiring the applicant to keep “speedy dry” and absorbent pads on site in the event of a spill. The zoning conformance chart has been updated.

Mr. Sirignano advised that they had reviewed and compared the approved site plan with what exists currently on the site and found that with two exceptions they were compliant. He advised that the applicant has applied to the Zoning Board of Appeals for a site coverage variance as they had been approved for 82%; currently they have 87%. In addition the applicant is seeking from the Planning Board a waiver of the landscaping requirements for the northern section of the site adjacent to the road within the Oakridge complex. Currently this area is partially wooded and there are no residences. He advised that Section 220-15B (7) permitted the Planning Board to waive this requirement. In response to Ms. Maguire’s inquiry as to why this request was being made, Mr. Sirignano advised that there were topographical issues and site constraints. The applicant was attempting to address the most critical concerns of the Board.

Mr. Agresta reviewed his memo to the Board dated January 18, 2008. Noting that although the applicant is seeking a variance from the ZBA for the increase of the existing non-compliant site coverage, he believed that alternatives to this variance be explored. He noted that there were
requirements in the code with respect to screening all of the outdoor storage areas. He agreed that the Board had the ability to waive the landscape buffer but cautioned that the applicant did not have control of the adjacent area. All of the aspects of the plans that differ from the 1981 approved site plan should be labeled. He noted that the parking standards in 1981 were more stringent; based on the current plan 73 spaces are required. He advised that there are in excess of 73 spaces built on the site today.

Mr. Altermatt reviewed his memo to the Board dated January 17, 2008 advising that the applicant had revised the drainage plans as had been suggested. The concept and location of the proposed stormwater system appear to be appropriate but more detail is necessary. He suggested that they bypass the stormwater treatment system in large storm events as a large peak flow would flush out all of the sediment that had accumulated. This particular site required that they focus on fuel and chemical spills; the stormwater treatment system should be geared to collect oil. He recommended that they install a roof over the fueling area to prevent oil dripping off the truck from being washed into the drainage system during rain. In addition he recommended that a roof be installed over the dumpster as well to prevent leaching after a storm event. He noted that the parking area has been maintained but suggested that the plans include a maintenance plan. He recommended that the Vista Fire Department provide written comments noting that there is currently no fire protection on the site and did not believe that this applicant could take credit for a fire protection system on an adjacent parcel. He advised that the fence along the rear of the site had not been addressed.

Mr. Barber reviewed his memo to the Board dated January 13, 2008 noting that his review was limited given that there is no wetland or wetland buffer on the site. He noted that there had been approximately 1800 s.f. of additional impervious surface that had been added from what had been originally approved. He would like to ensure that this surface is treated so that the net would be 100% treatment coming off the site and advised that with the proposed structure being installed they will meet that goal. The structures are designed to collect and prevent pollutant elements. An erosion and sediment control plan is needed. Reviewing the treatment plans for both this site as well as the Oakridge site he advised that this is exactly what the NYS DEC is asking for in terms of retrofitting existing impervious surfaces in shopping center and highly traveled areas.

In response to a question of Mr. Rossi, Mr. Williams advised that there is currently no treatment on the site.

Mr. Praga questioned what the legal mechanism was which allowed this site to drain into the Oakridge site.

Mr. Sirignano advised that this had been provided previously; the Secretary will provide this information to the Board’s attorney for his review.

Janet Anderson reviewed the CAC memo dated January 15, 2008 noting that the biggest concern was with the applicant’s assumption that the downstream property owner would treat this commercial site. She advised that when reviewing the application that the CAC was not aware that this was an application to rebuild a structure that had been destroyed by fire. The CAC expressed concern as to how the stormwater would be treated if for some reason the Oakridge stormwater system is not built given the historical issues with the Oakridge management. She noted the CAC’s concerns with the applicant’s request for a waiver of the landscape buffer.
The Chairman noted that Steven Woodstead and Duff Price commissioners of the Vista Fire District were present. Mr. Woodstead advised that they had four points: water supply in the event of a fire, prevention, early notification and access. He advised that the fire department did not have access through the lower driveway during the fire. They would like a written agreement that would ensure clear access through up and around to the main building.

Mr. Sirignano advised that they were prepared to agree and commit to a 20 foot wide clear access around the building from the lower access through to the main entrance. The new steel building will be hardwired to a central station.

Mr. Reda advised that the middle building will also be hardwired to a central station; the main building is currently protected.

Mr. Woodstead noted that it may not be practical to provide separation between the trucks and combustibles but maybe they could install a fire suppression system inside with a standpipe coming out to the parking lot below. He noted that they did not always have access to the pond and advised that they had discussed pulling a standpipe up to the corner of the property so that they could make a connection with a truck. He advised that the fire department had a difficult time with the dry hydrant during the fire.

Mr. Sirignano advised that the applicant had agreed to obtain a price for a sprinkler system and for running a buried pipe, if it is cost prohibitive the property owner would not be agreeable to these recommendations.

Mr. Altermatt questioned whether there should be a technical meeting to discuss the location of the buried pipes.

Mr. Rossi suggested that the applicant obtain the costs prior to scheduling such a meeting. He further suggested scheduling a site walk for a later date.

Mr. Sirignano advised that the applicant would provide a roof over the fueling area but questioned whether a cover on the dumpster would suffice and was advised by Mr. Altermatt that this would address his concerns.

Mr. Reda advised that there had been discussions with regard to replacing the chain link fence in the rear with a wood fence. He advised that Oakridge did not have an issue with the location of the fence as the terrain made it difficult to locate it anywhere else.

Ms. Maguire asked that the applicant consider a board fence.

Mr. Sirignano advised that they would respond to the concerns with the stormwater treatment system. He advised that screening the dumpster which is not visible would take up critical space and asked that they not be compelled to screen it or the outdoor storage. He advised that the natural topography around the perimeter of the site provided screening. He added that the architectural plans would be included in the next submission.

In response to Mr. Ellrodt’s question as to what the view would be for the proposed units in Oakridge Mr. Williams advised that they would likely see the fence and the roofline of the proposed structure.
Mr. Sirignano asked that the applicant not be required to remove the additional macadam if the ZBA granted the requested site coverage variance.

Mr. Decaminada asked that if there were any changes to the signage or the lighting that this be discussed now.

Mr. Gusmano advised that it appeared that the applicant had worked hard to respond to the Board's previous concerns adding that the proposed mitigation was good and that he appreciated the efforts.

It was noted that the existing black chain line fence would remain along the northern property line. The applicant has proposed to plant Norway spruce along the north western border to screen the proposed building. The applicants have agreed to replace the existing chain line fence along the western property line with a wood fence.

Mr. Rossi stated that this project is moving in the right direction adding that he was very pleased with the proposed stormwater treatment. The applicant had made a lot of concessions to make this a better project.

The Board members approved a technical meeting between the consultants once the issues had been worked through with the Vista Fire Department.

Mr. Sirignano asked that the Board consider waiving the Public Hearing.

IV. CORRESPONDENCE & GENERAL BUSINESS

Ms. Maguire noted that currently some retail space in Goldens Bridge is being renovated and wondered whether the Town Code required a bathroom for a facility with ten seats or less.

Mr. Agresta advised that this is subject to the Westchester County Health Department regulations.

Mr. Altermatt advised that he and Mr. Barber had technical meetings with the Thistlewaithe and Waccabuc Country Club projects. They reviewed the drainage concepts for Thistlewaithe. He stated that it was his belief that the applicant should return to this Board with the latest plan to ensure that they are on the right track. They will be submitting the traffic report and a summary of the stormwater report. The NYS DEC appeared to be on board with their direction but it was his understanding that they had asked that the applicant stay 50 feet away from the pond.

Mr. Altermatt advised that the engineers for the Waccabuc Country Club project showed that it was feasible to move the treatment plant closer to the existing residences but doing so would create other issues with having to remove three cells of the existing septic system. Mr. Barber suggested that they consider providing a stormwater treatment system as mitigation and keeping the building where it is being proposed currently.

Mr. Rossi advised that Tim Allen of Bibbo Associates had requested that the Secretary refer the Silvermine Subdivision proposal to the Vista Fire Department.

Eric Moss who was present advised that it was his impression that they were waiting for feedback from the Fire Department.
The Secretary advised that a referral had been made to the Highway Department but did not believe that a referral request had been made to the Fire Department as access had not been determined.

Mr. Rossi agreed that at the appropriate time this would be referred to the Fire Department but at this juncture it would be premature.

At the conclusion of his services for the evening Mr. Agresta exited the meeting at 8:50 P.M.

Mr. Barber advised that in early December he had received a complaint with regard to a property located at 5 Brook Manor Road. He reviewed the sketch prepared by the property owner noting that in preparation to address a drainage issue they had dug up an area to install curtain drains within the wetland buffer. In addition several trees were removed within the buffer adding that there were replacement trees on site that were balled and burlapped. Noting that the open trench presented a safety hazard he questioned whether the Board would agree to the lifting of the stop work order to allow the back filling of the trench. He suggested that an interim wetland permit be issued to remedy the safety hazard. A violation has been drafted for the activity that occurred within the wetland buffer. The Board agreed to the issuance of an interim wetland activity permit to back fill the open trench.

Mr. Barber advised that as a result of the Building Department’s request prior to their issuance of the Certificate of Occupancy he inspected a site on Elmwood Road for compliance with the Wetland Activity Permit issued to Ridgeview Designer Builders (Eric Moss). He noted that there were some inconsistencies between what had been approved by this Board and what had been constructed. The first modification was to the drainage adjacent to the driveway which he reviewed with the design engineer and did not appear to be a major issue. He advised that the second modification was that a stone retaining wall was moved closer to the wetlands by approximately ten feet.

Eric Moss was present and advised that this was done to facilitate the machine work. He stated that the elevations were substantially higher than the wetlands and it didn’t work. The retaining wall ten feet off the house did not work as it left too much of the house exposed and they would not have been able to do the site work that was needed to be done without having a 20 foot wide area around the house.

Mr. Barber advised that there had also been approved an existing drainage swale. There was a tremendous endeavor to preserve this area as it was covered with an easement. The builder extended this swale up towards the west, up the hill and adjacent to the property line. In doing so, the builder came within several feet of the septic system leaching area. This was of concern because of the possibility of leaching into the resource via the drainage system. He directed the contractor and his consultants to speak with the Health Department to obtain whatever information they had.

There was obviously a lot of work done on the approved site plan and questioned whether this Board would want to review the changes.

Mr. Moss advised that the site has been stabilized; the house is ready for the C.O. and is currently on the market.
At the request of Ms. Maguire, Mr. Barber described the area where the retaining wall had been constructed noting that the wall was moved back and additional fill had been brought in to create more of a side yard.

Ms. Maguire questioned why the wall could not be moved to the approved location.

Mr. Moss stated that it was a tremendous wall which took a lot of effort to put together and is serving its purpose that was intended to keep people out of the wetland area. He stated that the fact that is wide enough, it absolutely keeps the potential for someone going into the wetland area to service the backyard. In addition, because of the grade and the house elevations, the fill placed around the house gives the feeling that the house is not towering over the wetlands. The house was built high up on the rock; if the retaining wall was built closer to the house it would appear to be another full story.

The Board discussed scheduling a site walk.

Mr. Praga indicated if the Wetland Inspector wanted to a wetland violation could be issued as there was work performed within the wetland area without the proper permit.

Mr. Barber advised that he had already put in a call to counsel with this point. He noted that the permit is null and void because it is noncompliance.

A site walk was scheduled for February 9th; Mr. Moss indicated that he would be away but would have someone at the site. The Chairman requested that Mr. Moss stake the area where the wall had been approved.

Mr. Barber advised that he was in receipt of a mitigation plan for Scully. He advised that he found the plans complete and will place them on the agenda to finish.

Mr. Barber advised that he had received correspondence from the wetland consultant for Deepwell Farms (Clark) which he had reviewed and found that he now had adequate information to render an opinion with respect to the fill.

Mr. Rossi stated that they should move forward on this application.

Ms. Maguire advised that she had been notified that the Katonah Lewisboro School Board has scheduled a meeting for this Thursday at 7:30 PM to discuss the proposed plans to build fields on the former Andes property. She advised that she would be attending.

Mr. Rossi advised that he along with Mr. Gusmano and Mr. Barber had attended a Lake Committee meeting on the previous Wednesday. They discussed how the Lakes Committee could be more involved in the planning process and be more engaged in development projects that are in front of the Planning Board during the review process. Mr. Barber spoke with them about developing a list of 20 most common questions lake residents had as to when a wetland activity permit is required. It is the intention to put together some type of brochure for the residents of the lake communities. Given that the CAC is involved with the Lakes Committee and an advisory council to this Board they will reach out to the Lakes Committee when there is a project being reviewed on the agenda within one of the lake communities.
Mr. Decaminada expressed concern with some of the items listed within the January 16, 2008 minutes of the Lake Committee.

Ms. Anderson advised that the list could be useful in any future clarifications of the Wetland Regulations.

Mr. Rossi advised that he would be meeting shortly with the Supervisor with regard to some of the concerns he had with what had been written recently in the Lewisboro Ledger regarding the Supervisor’s plans for the Planning Board.

In response to Mr. Decaminada’s question as to if it ever had been determined who controlled the bridge with regard to the Wild Oaks WWTP Mr. Altermatt advised that he had just received the report.

V. MINUTES OF January 8, 2008

Ms. Maguire noted a typographical error on page three.

On a motion made by Mr. Ellrodt, seconded by Mr. Gusmano the minutes of January 8, 2008 were adopted as amended.

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

On a motion made by Mr. Gusmano, seconded by Mr. Decaminada the Board entered into Executive Session with Mr. Barber to discuss wetland violation Cal. #12-07 W.V. at 9:21 P.M.

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

On a motion made by Mr. Decaminada, seconded by Ms. Maguire the Board exited the Executive Session at 10:21 P.M.

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

On a motion made by Mr. Decaminada, seconded by Mr. Gusmano the meeting was adjourned at 10:22 P.M.

Respectfully submitted,

Aimee M. Hodges
Planning Board Secretary