

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

128 NORTH DIX
(2015-22)

128 North Dix Avenue
Section 73; Block 7; Lot 22.1
R-3 Zone

----- X

SITE PLAN/ADDITION

Date: January 21, 2016
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: ANTHONY COPPOLA

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1

2

3

4

5

CHAIRMAN EWASUTYN: Good evening,
ladies and gentlemen. I'd like to welcome
you to the Town of Newburgh Planning Board
meeting of January 21st.

6

7

At this time I'll call the meeting
to order with a roll call vote.

8

MR. GALLI: Present.

9

MR. MENNERICH: Present.

10

CHAIRMAN EWASUTYN: Present.

11

MR. DOMINICK: Present.

12

MR. WARD: Present.

13

14

15

16

17

CHAIRMAN EWASUTYN: The Planning
Board has consultants that make
recommendations and advise the Planning
Board. I'll ask that they introduce
themselves.

18

MR. DONNELLY: Michael Donnelly,

19

Planning Board Attorney.

20

MS. CONERO: Michelle Conero,

21

Stenographer.

22

MR. CANFIELD: Jerry Canfield, Code

23

Compliance Supervisor.

24

MR. HINES: Pat Hines with McGoey,

25

Hauser & Edsall Consulting Engineers.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

128 NORTH DIX

3

MR. WERSTED: Ken Wersted, Creighton,
Manning Engineering, Traffic Consultant.

CHAIRMAN EWASUTYN: Thank you. At this
time I'll turn the meeting over to Frank Galli.

MR. GALLI: Please stand to say the
Pledge.

(Pledge of Allegiance.)

MR. GALLI: Silence your cell phones,
please.

CHAIRMAN EWASUTYN: The first item of
business this evening is 128 North Dix. It's
located on North Dix Avenue, it's in an R-3 Zone,
it's a site plan application and it's being
represented by AJ Coppola.

MR. COPPOLA: Thank you, Mr. Chairman.
I was last here in front of the Planning Board in
the beginning of September, about three months
ago.

What this project is, real quickly, is
just a second floor addition to an existing two-
family or mother/daughter house for Delores
Wright at 128 North Dix.

Because this project was an expansion
of a pre-existing mother/daughter, we ended up

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

going to the Zoning Board in November -- Delores ended up going to the Zoning Board and successfully ended up getting four area variances that were part of this application. We were just under in terms of the overall square footage, and some of the other variances had to do with some of the pre-existing conditions we couldn't conform to. We received those variances.

There were a short list of items from Pat's review comments in September. The ZBA referral was one. The second was the letter to the City of Newburgh for the water sharing. As I understand it -- I had been in contact with Jim Osborne, written him a letter in November, and he told me in December that he had written and sent the correspondence to the City of Newburgh. So I'm thinking that that was done. We cleaned up one of the details that Pat had in his review comments. So that's basically it.

I just also wanted to state that at the Zoning Board meeting that Delores attended, no one -- no public came for the public hearing. So nobody came for that. I don't know if we need to have a public hearing here too or where we stand

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

128 NORTH DIX

5

on that. We're working towards final approval.

CHAIRMAN EWASUTYN: Michael, will we need a public hearing on this?

MR. DONNELLY: A two-family home is a special permit use and it does require a public hearing.

I don't think we have the City flow acceptance letter yet but hopefully we will by the time you have your hearing.

MR. COPPOLA: I was told it went out a month ago. I'm trying to track it down.

MR. HINES: It's a two-step, going out to the City and then we need a letter from them coming back. That's what we're looking for.

MR. COPPOLA: Did the Board receive Jim's letter going out?

MR. DONNELLY: We have your letter.

MR. COPPOLA: We're just waiting on the City for it. Okay.

CHAIRMAN EWASUTYN: Pat, do you have anything to add?

MR. HINES: My first comment is the City of Newburgh flow acceptance letter.

The other identified that the variance

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

128 NORTH DIX

6

was granted contingent on some code compliance issues. We heard at work session from Jerry that those issues have been resolved.

Four parking spaces have been shown consistent with the requirements.

The Board will have to perform architectural review. It's an existing structure. I think some information has been submitted.

Then my last comment is that a public hearing is required for the two-family use.

CHAIRMAN EWASUTYN: AJ, I'm going to move for a motion to schedule the public hearing for the 18th of February.

MR. COPPOLA: Okay. That's fine by me.

CHAIRMAN EWASUTYN: At that time maybe you could have some renderings that we could act on also.

MR. COPPOLA: I will. You still have that form to fill out, correct, --

CHAIRMAN EWASUTYN: Correct.

MR. COPPOLA: -- the materials? I'll do that, too.

CHAIRMAN EWASUTYN: Any questions from

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

128 NORTH DIX

7

Board Members? John Ward?

MR. WARD: No.

MR. DOMINICK: No.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: No.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: I'll move for a motion to set the public hearing for 128 North Dix Avenue for the 18th of February 2016.

MR. HINES: Do you want to make a neg dec with that, too?

CHAIRMAN EWASUTYN: I'll rescind that motion and make it two things. One, to declare a negative declaration for 128 North Dix Avenue and also to schedule a public hearing for the 18th of February 2016.

MR. GALLI: So moved.

MR. DOMINICK: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Dave Dominick. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

128 NORTH DIX

8

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye. Motion
carried.

You'll work with Pat Hines as far as
the mailing list and everything.

MR. COPPOLA: Yes. We'll be in contact.
We'll get right on that. We'll get in all the
materials included in the ARC form as soon as
possible.

CHAIRMAN EWASUTYN: You'll submit to
Cindy Martinez and so on.

MR. COPPOLA: Yes. Thank you.

CHAIRMAN EWASUTYN: One more time,
Delores.

MS. WRIGHT: Thanks.

(Time noted: 7:06 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 1st day of February 2016.

Michelle Conero

MICHELLE CONERO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

MATRIX BUSINESS PARK AT NEWBURGH
(2015-26)

Route 17K
Section 95; Block 1; Lot TBD
IB Zone

----- X

CONTINUATION OF PUBLIC HEARING

Date: January 21, 2016
Time: 7:06 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: CHARLES UTSCHIG

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: The following item on this evening's agenda is Matrix Business Park at Newburgh. It's a continuation of a public hearing. The property is located on Route 17K in an IB Zone and it's being represented by Langan Engineering.

MR. UTSCHIG: Mr. Chairman, Members of the Board, my name is Charles Utschig with the firm of Langan Engineering. We've been before this Board five or six times now. We've given our presentation a few times. This is a continuing of a public hearing. We are, as we would be, glad to answer any questions the Board might have or be interested in public comment.

CHAIRMAN EWASUTYN: Mike Donnelly, would you entertain giving information to the public as far as the public hearing?

MR. DONNELLY: The purpose of a public hearing is for you, the members of the public, to bring to the attention of the Planning Board issues that they may not have yet realized or appreciated. After the applicant gives his presentation, which has already been done in brief, the Planning Board Chairman will ask those

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

of you who wish to speak to please raise your hand and you will be identified. We'd ask you to come forward so we can hear you better. Tell us your name, spell it if you would for our Stenographer, tell us where you live in relation to the project. Address your comments to the Board if you would. If you have questions and they can be easily answered, we'll either direct them to the applicant's representative or one of the Town's consultants.

CHAIRMAN EWASUTYN: Okay. We'll open up the meeting now to the public, as Mike Donnelly said.

Sir.

MR. BAKER: Thank you, Mr. Chairman. My name is Jeff Baker with the law firm of Young, Sommer in Albany on behalf of Biss Realty and Mickey Biss who owns the property adjoining the Matrix property.

We've previously sent you a letter outlining some of our concerns. As I'm sure you know, we were constrained to file a lawsuit in late December challenging the negative declaration that was issued for this. No offense

1
2 intended by bringing the lawsuit. It was
3 necessary to preserve our rights for the concerns
4 that Biss Realty has about the access and the
5 stormwater issues associated with the project. I
6 don't know if you've seen them. I'll give them
7 to you now as part of the record, copies of
8 affidavits that we submitted as part of the
9 litigation by our engineers at Barton & Loguidice
10 addressing both the traffic and the stormwater
11 issues. I have multiple copies here.

12 As we articulated in the litigation and
13 the original comments, the concerns are with the
14 access for the Biss Realty -- I'm sorry, for
15 Matrix. It will essentially preclude the access
16 into a large part of the Biss Realty project
17 because of putting in the signalized intersection
18 for Matrix, the proximity of another entrance
19 along the road, that it is extremely unlikely
20 that DOT would permit another access point on the
21 road, and therefore it's just as a matter of
22 sound planning. What we've asked is that the
23 Planning Board mandate an easement, and at this
24 point I would suggest a floating easement because
25 we have not had an opportunity to discuss the

1 specific point of easement with Matrix, to allow
2 access into the Biss property. Obviously, you
3 know, based on our review, and I'm not an
4 engineer but with our engineers, it would be an
5 access point probably coming off the curve in the
6 access road that is the closest to the Biss
7 Realty property and allow a means of access in
8 there for when the development plans go forward.
9 I've had to put a call in to Biss Realty's
10 attorneys. It was not returned so I was not able
11 to have a discussion as to their willingness to
12 voluntarily agree to something like this. We're
13 certainly open to continued discussions about it.
14 That would be one condition that we would be
15 concerned about.

17 We also lay out in here, in the
18 affidavits, some concerns about the stormwater
19 plan lack of detail. Details of the provisions
20 for discharge is towards the Biss Realty
21 property. If they are not properly designed it
22 could result in channeling and damage into the
23 Biss Realty property. We request that more
24 stormwater be directed in the opposite direction
25 as a matter of roof leaders and so forth. Again,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to maintain the stormwater on site in accordance with the requirements of the SPDES permits. Those are not issues that we think are major deal breakers for the project but are necessary to protect our client's properly.

Unfortunately, again no criticism, the minutes from the December 17th meeting were not available online as of at least earlier this afternoon, so I don't know what was in there on that. I do note that in the packet of materials that are posted on the website for tonight's meeting you have a letter from your consulting engineer noting that there are outstanding questions and comments that have been made, presumably at that hearing, that still hadn't been addressed, and apparently there's no new information being provided by Matrix yet. I would submit and request that that additional information be provided and give us the answers to the questions that have been raised, the questions that we've raised, and that the public hearing be continued so obviously we have a right to review whatever the new information that's been provided and the answers that are there. If

1
2 it's a question of the FAA signoff, that's not an
3 issue we're raising a question on. If there are
4 issues on traffic, the access points that we're
5 raising and the stormwater issues, obviously, you
6 know, our goal is to try and resolve this issue
7 and preserve Mr. Biss's ability to develop his
8 property instead of do some permanent damage to
9 it by precluding meaningful access. We'd like to
10 resolve that either through the conditions of
11 this Board or working it out with Matrix.

12 That's our primary concerns. I
13 appreciate your consideration. I'm happy to
14 answer any questions.

15 CHAIRMAN EWASUTYN: Okay. We'll make
16 this a two-part or three-part conversation. Ken
17 Wersted is our Traffic Consultant with Creighton,
18 Manning. I'll first turn to him as far as would
19 the DOT ever deny the Biss property access onto
20 Route 17K?

21 MR. WERSTED: I don't think they would
22 because they're obligated to provide access to
23 properties that front it. In certain
24 circumstances they wouldn't. An example of that
25 is where they might have an interchange ramp

1 touching down and it's next to a property where
2 they would feel that access to the State highway
3 would preclude the traffic operations there. As
4 part of that DOT will buy the rights of access
5 away from that property owner such that it
6 creates an area in front of the property called
7 right-of-way without access. You see that at
8 major interchanges, that sort of thing. I'm not
9 aware that that exists in this area, so I would
10 think that they would be obligated to provide
11 access based on how the project -- how the Biss
12 property is developed and if any plans ever come
13 forward with it.

14
15 There are certain access management
16 criteria that they would look at. Ultimately DOT
17 is the approving agency of where the driveway is
18 located and the traffic control out here.

19 Through their reviews they looked at
20 the proposed location of the Matrix and
21 determined that opposite Orr Avenue was the place
22 to put it and that they would ultimately need a
23 traffic signal. I think that's come out in their
24 letters. I don't know that we -- that the
25 Planning Board can tell them -- tell Matrix that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

they have to change their driveway, particularly when DOT is the approving jurisdiction, out in the right-of-way, the frontage there.

MR. BAKER: Well I'm not saying you have to change Matrix's driveway or their access to the road, but it's a matter, and it's common in most towns, that you provide, to minimize the number of access points, a development scheme that allows for some shared access of the driveways where it makes sense. In this area you're likely to be putting a driveway in very close proximity to the Matrix driveway. So it's a matter of -- you know, it just makes sense to try to combine things together. Obviously my client doesn't have a specific plan yet going forward for development, but there will be one at some point and that will get considered through normal site plan or special permit. It would make sense -- your opportunity here now is to put a condition on the Matrix permit to allow for a floating easement for access, constructed obviously at Biss's expense, but it allows that opportunity to come in. If you give an approval for the Matrix project without that condition,

1
2 it's much harder for you, if not impossible for
3 you, to then require that kind of connection to
4 be put in. So it is a matter of simply just
5 reserving a right if the review of a future
6 project on the Biss property makes sense to come
7 through in that manner. You know, it's just --
8 in our consultant's experience, DOT will be very
9 unlikely to grant an approval through there for
10 that, and it would constrain then the development
11 of the Biss property.

12 CHAIRMAN EWASUTYN: Michael Donnelly,
13 Planning Board Attorney, can we mandate --

14 MR. DONNELLY: No. From a legal side I
15 would encourage you to explore that. If you can
16 reach agreement it would make sense to have one
17 driveway. I don't believe the Planning Board
18 would be exercising it's authority properly to
19 compel that. As a matter of fact, in the law of
20 property right, the Supreme Court has told us the
21 most important stick in the bundle of rights that
22 together constitute the property right is the
23 right to exclude others. So by mandating such a
24 condition we would arguably be accomplishing the
25 taking of one stick in the Matrix bundle of

1
2 property rights. So I would not recommend to you
3 that you do it but I would encourage the property
4 owners to discuss the issue. If they can reach
5 agreement, that would be fine.

6 CHAIRMAN EWASUTYN: I think we have a
7 letter in our file dating back almost two years
8 ago where you did try and make contact in
9 reference to access.

10 MR. EVERETT: It was about six weeks
11 ago, Mr. Chairman. May we respond to the access
12 issue?

13 My name is Dave Everett, Counsel for
14 Matrix. We have our traffic engineer here
15 tonight. You've heard from your traffic
16 engineer. We'd like Karl Pehnke from Langan, who
17 has coordinated with DOT and worked on the access
18 issues for this project, to basically address
19 that issue, if that's okay with you.

20 CHAIRMAN EWASUTYN: By all means. It's
21 a three-part conversation.

22 MR. PEHNKE: Again, my name is Karl
23 Pehnke. Very briefly, I concur with the
24 statements Mr. Wersted just made shortly ago.
25 The assertion that the approval of this

1 application is going to preclude access to the
2 Biss property and the approval of same from DOT
3 does not stand in the course of the process with
4 DOT and the legal rights of a property fronting a
5 public roadway to have a form of access. The
6 form of access that DOT would consider would
7 relate to whatever development application
8 occurred on that property.
9

10 I will point out that nothing that is
11 being done with this application is changing the
12 configuration of the Biss property with regard to
13 the frontage it has on Route 17K. Our driveway
14 is located as far away as possible from the Biss
15 property, and the improvements being constructed
16 in no way change the opportunities or constraints
17 that that property has to gain some form of
18 access from the State. The State would have to
19 consider any application based on those merits.

20 So I basically concur with what Mr.
21 Wersted just advised the Board.

22 CHAIRMAN EWASUTYN: Any comments from
23 Board Members at this time?

24 MR. GALLI: In our experience I think
25 -- I don't think the DOT has denied access to any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

individual property owner that we've been --
since I've been on the Board as far as access to
the road, to have a driveway on it.

CHAIRMAN EWASUTYN: Mr. Baker,
comments?

MR. BAKER: We have a difference of
opinion. Our expert's opinion is that DOT would
not allow an access in this area. With all due
respect to Mr. Donnelly, this is not a taking
that we're asking for that would be involved. It
is certainly common, and I think I quoted it in
the letter I sent you before, you know, near site
plan provisions you look at and have the right to
try and consolidate access points to minimize
interference and multiple access points in the
road. So all you're simply saying is that they
should provide room for that access point to come
in there. Obviously that's going to be
contingent upon whatever gets approved or
proposed at the Biss property and whether it
makes sense from a traffic perspective on that
use for it to come through that driveway. We're
just asking for you not to preclude that as a
possibility and leave that open, and it is a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

matter of again just, you know, sort of sound planning where you've got multiple parcels that are next to each other that are vacant or getting developed is -- you know, just because one came in through first should not then preclude the ability to have comprehensive planning on the others. Many other towns, when you're going through, will say maintain a floating easement or maintain an opportunity for a driveway or a shared driveway access between two commercial properties. You know, you're not making -- we're not asking or expecting that Matrix has to pay for that or spend anything out of their pocket in order to make that happen. It's just providing a legal access through that which would get developed at the Biss property developer's expense. I just think it's a sound plan for it to happen. There's nothing I've heard that, you know, says that that won't work, is per say compatible or will adversely impact Matrix's business. That's an issue that will come up whenever something specific is proposed for the Biss property.

CHAIRMAN EWASUTYN: Okay. Do you want

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to talk about the drainage issue now as it relates to the Biss property?

MR. EVERETT: Yes, we would like to do that, Mr. Chairman.

I would first note the SWPPP, or stormwater pollution prevention plan, for this project has been reviewed by two professional engineers, your consultant and also by our consultant. Both engineers are highly experienced in the preparation of SWPPPs. The SWPPP was also reviewed by the County Department of Planning who also lauded it as a model stormwater design that they would like to see future projects in the County use. Clearly the SWPPP has met a high standard, and we don't think there's going to be any potential stormwater impacts on the Biss property whatsoever. In fact, we actually think it's going to reduce the impacts on that property. Because it's a technical issue, I'd rather not you listen to me as a lawyer speak about it. I'm going to turn it over to Chuck Utschig who is the professional engineer who prepared the SWPPP who can address some of the comments that Mr. Baker asked.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. UTSCHIG: The comments that we got were approximately nine, and I can just quickly go through kind of each one of them.

One relates to the discharge from this stormwater management basin which is located right in this area. What we've done is we've designed that so there's really a very low velocity. The New York State DEC regulations talk about maximum discharge rates and velocities. This system has been designed, as is demonstrated in our SWPPP, we're only at one or two feet per second. We've matched that existing condition pretty well. The other thing that we've done is when you look at the topography here, there's a large portion of this area that naturally drains in that direction. As you go through the controls of our stormwater management system you'll see that we've actually reduced the amount of runoff discharge rate that's going to the Biss property, and that is, you know, between -- in the one-year storm it's almost thirty percent, in the ten-year storm it's almost twenty-seven percent. What those percentages are is a reduction in the rate of runoff between the

1 pre-existing condition and our design. So it's
2 actually quite the contrary. We're actually
3 controlling stormwater runoff to the Biss
4 property to a greater extent through our
5 stormwater management system.
6

7 Another one of the comments suggests
8 that there's a question as to why there should be
9 the five-acre waiver. I think we went through
10 that pretty well. We all know this is a 530,000
11 square foot building, and in order to efficiently
12 manage the earthwork here it's impractical to
13 even think about trying to do this within the
14 five-acre requirements. In addition to that, we
15 provided phasing that demonstrates to your staff
16 and to New York State DEC, who is about ready to
17 issue our authorization to proceed with work,
18 that we've appropriately demonstrated we can
19 manage that process. That waiver and that
20 requirement is really about making sure that
21 there's sediment erosion control from the site.
22 We've demonstrated that. It's detailed in the
23 drawings that we've submitted.

24 One of the other comments relates to
25 providing an inspector. Our SWPPP indicates that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

an inspector will be provided in accordance with the DEC regulations. In this case, because we asked for the five-acre waiver, we're required to provide inspections twice a week versus the normal once a week, and that's accounted for.

There's a couple of other kind of minor comments about details on our structures. One of them was we should provide track racks. In fact, our drawings have a detail where the outlet structures are provided with track racks.

That's really the meat of their comments. Some of them were a little technical in nature. Once you really go through our drawings, I think we're confident that the appropriate details there.

I think as Mr. Everett said, your consultant and the County all feel like this is a pretty well done plan. We think we've done a pretty good job on complying with the underlying regulations from New York State DEC.

CHAIRMAN EWASUTYN: Pat Hines with McGoey, Hauser & Edsall, you reviewed the SWPPP.

MR. HINES: Yes. My office reviewed the stormwater pollution prevention plan. We

1 provided numerous comments in the months
2 preceding the December meeting. We concur that
3 the project -- that the stormwater pollution
4 prevention plan meets the intent of the DEC
5 regulations and the Town of Newburgh regulations.
6

7 It's important to note that the
8 stormwater pollution prevention plan went above
9 and beyond those regulations, because it's a
10 policy of this Board to require the treatment of
11 110 percent rather than 100 percent of the water
12 quality volume due to the fact that the portions
13 of this project are tributary to the City of
14 Newburgh's watershed. So the stormwater
15 pollution prevention plan went above and beyond
16 what is required by the DEC and the Town of
17 Newburgh. It is again our policy working with
18 the City of Newburgh in their watershed to
19 require that, and many projects in the watershed
20 have complied with that. So the stormwater
21 pollution prevention plan that was developed does
22 meet that.

23 We did review the project knowing full
24 well that the five-acre waiver would be required
25 and that the inspection frequency would be

1
2 increased due to the five-acre waiver to two
3 times a week three days apart -- a minimum of
4 three days apart. In addition, because the
5 Town's a regulated MS-4, the Town of Newburgh has
6 an additional system of checks and balances where
7 a consultant through my office typically provides
8 additional level of review. We provide periodic
9 inspections of the site and coordinate the
10 submission of the field reviews through my office
11 and through the code enforcement office as an
12 extra checks and balances to meet the Town's MS-4
13 requirements.

14 We did review the tributary discharge
15 to the adjoining parcels and do concur that in
16 the post-development condition for the one-year
17 storm event there is a twenty-nine percent
18 reduction in peak flow rates, the ten-year storm
19 event has a twenty-seven percent reduction in
20 peak flow rates, and for the one-hundred year
21 storm event, which is an eight-inch storm in this
22 area, there's a six percent reduction in peak
23 flow rates to the parcel. The comment that says
24 that there should be additional runoff diverted
25 from the westerly slopes is a concern because the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

City of Newburgh watershed would definitely take exception to the diversion of a significant volume of water, I say volume, not peak, to that watershed because they are interested in having as much water tributary to their Washington Lake water supply as possible. So the diversion of flow from it's existing water course would be a concern.

There were some technical comments which we received a response from the applicant's representative just recently and we are reviewing those.

CHAIRMAN EWASUTYN: Mr. Baker?

MR. BAKER: I'd like to see the technical response so I could provide that to our engineer. That wasn't on the website. I haven't seen that.

MR. HINES: It was just received, I believe yesterday.

CHAIRMAN EWASUTYN: Additional comments, Mr. Baker?

MR. BAKER: No. That's my only comment

CHAIRMAN EWASUTYN: Thank you. Anyone else here in the audience? If you'd give your

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

name.

MR. BAZYDLO: Good evening. My name is Charlie Bazydlo, I'm Counsel for National Realty, the owners of the business park to the west of the Matrix project.

I was here last month going over some of our initial comments. We have no problem with the development. We have no problem with Matrix developing this site. We just want the Board to understand that we have a large investment in property that's to the west of this site, and more importantly downhill from this site, a good sixty feet or so downhill.

The Matrix parcel that they're trying to develop is a difficult parcel to develop. We do have concern about the potential for soil erosion and the drainage coming off the site.

We did have a chance to take a look at the SWPPP and take a look at the erosion and soil control plans. It's a very technical design. Perhaps it is above and beyond what's normally required. That's a good thing. But again, we want to make sure that it gets constructed and it's operational the way it's designed to.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I'm glad to hear Pat talk about that there will be twice a week inspection as opposed to the one. But again, we just want to emphasize that the Town, the Board, the inspection team of the Town take an extra step on this one to make sure it's built the way that it's been designed.

There's going to be at least two large retaining walls on the hill right above our project. I think those require separate building permits from the Town and a separate design that needs to be approved of. I do have faith in Langan that they'll be able to do that. Again, it's the idea to go that extra step to make sure it's done and done properly.

Then I guess the issue that still remains is this issue we discussed last month about access to Corporate Drive and the potential of an emergency access point onto Corporate Drive. We've looked at the issue again. We just -- I guess we just have a disagreement. We do not believe that there is access rights for this project for the intended use of what they are looking to do onto Corporate Drive. That's an issue that I guess we're going to have to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

disagree on. I want the Board to be aware of that since it seems to be part of the design of the project.

CHAIRMAN EWASUTYN: Thank you.

MR. BAZYDLO: Thank you.

CHAIRMAN EWASUTYN: Let's talk about assurances. What kind of assurances are there with extra steps to make sure that what is being shown on the SWPPP is being built, realizing that since you're disturbing more than five acres there's a necessity now to have twice as many inspections? So how can you advice us on that?

MR. HINES: The Town has a rather rigorous program on construction sites. Again, the larger the sites the more frequent the inspections. We have a system set up where the environmental professional for the project will prepare the inspections, in this case because of the five-acre waiver twice a week, three days apart, and those are submitted to my office for review. We transmit those upon receipt and review to the code enforcement office for their review and cataloging as well. In addition, representatives from my office will periodically

1 field review the site on possibly a weekly, or
2 even more frequent if there are any issues, basis
3 to make sure that the -- it's kind of a checks
4 and balances or belts and suspenders that the
5 project's environmental consultant is complying
6 with the inspections. And then we also go out
7 and field review the sites for compliance with
8 the stormwater pollution prevention plan. If
9 there are issues either identified by the
10 project's environmental consultant or my office,
11 we notify the code enforcement office, and as a
12 regulated MS-4 we take appropriate steps that
13 initially start with a notice in a typical
14 fashion, but they can jump right ahead to stop
15 work orders, a violation under the Town's
16 stormwater management ordinance and/or
17 simultaneously reporting to the DEC which will
18 also have the regulatory authority based to their
19 stormwater permit. This project being in the
20 watershed, the SWPPP took that additional step
21 for additional treatment for the water quality
22 volume to provide additional capacity in the
23 treatment system to allow for that additional
24 water quality. It's ten percent more than what
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

would be required under standard DEC design guidelines. So we have that system in place and it's functioned very well on projects in the Town.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance, your office works with Pat Hines on this topic that we discussed.

MR. CANFIELD: Yes, that's correct. Pat's overview of the process that's in place for enforcement measures is quite accurate. Our department is charged with the responsibility of the actual enforcement of any deficiencies or violations that are cited through the inspection process. As Pat had said, and nicely put, the process is real simple. A minor deficiency could be handled on site. Something more serious could result in an order to remedy and/or work stoppage, depending on the severity of the violation or the continuous of the violation. Our department does have at our disposal court appearances, and of course the local courts do have monetary fining ability. So we do have a rigorous inspection program and a cataloging and documentation program in place which does comply

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

with the DEC regulations as the Town of Newburgh is an MS-4 community.

CHAIRMAN EWASUTYN: Comments from Board Members on this topic right now?

MR. GALLI: No additional.

MR. MENNERICH: No.

MR. DOMINICK: Not at this time.

MR. WARD: No.

CHAIRMAN EWASUTYN: Let's talk about the retaining walls and what assurances that they're going to be built according to specs and what you have to see prior to issuing a building permit for these retaining walls. Anything over four feet requires --

MR. DONNELLY: Our standard condition is any retaining wall over four feet would require PE stamped plans to the satisfaction of Jerry's office.

CHAIRMAN EWASUTYN: May I call you Charlie?

MR. BAZYDLO: You sure may. Yes.

CHAIRMAN EWASUTYN: Thank you. The other outstanding issue right now, and the Planning Board was looking to have that being

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

shown on the revised site plans, which to this date hasn't been shown, was the emergency access. So we ourselves have not seen that so we can't, as an example, turn to you and say well here's where it's being laid out.

Would you like to respond to that?

MR. EVERETT: At the last meeting we did show you a conceptual drawing of the location of the emergency access road. I think chuck had gone over it. But, you know, obviously if it's something you would like to see on the plan, we'll be happy to put it on the plan.

CHAIRMAN EWASUTYN: Thank you.

Mike Donnelly?

MR. DONNELLY: In terms of the dispute, and the Planning Board is not going to be the mediator of that dispute, as to whether the access is permitted or not, that's for you gentlemen to work out or to seek redress from the courts. We made clear to the applicant that the plan that we would approve is the one that would be shown, and if it requires emergency access both the Planning Board condition and the authority of the Code Compliance Department is

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that that access point be constructed as shown on the plans. Beyond that, it's a private issue for you to work out.

CHAIRMAN EWASUTYN: Additional comments from the public at this point?

(No response.)

CHAIRMAN EWASUTYN: Mike Donnelly, would you bring us along where we are in the process right now?

MR. DONNELLY: You started the public hearing in December. You closed it as to the clearing and grading permit, you continued it as to the site plan portion. We discussed at work session the rationale for that, and it was to give the public an opportunity to comment on the proposed changes to the plans, primarily that emergency access way. They have not yet been shown on the plans. We've heard a request from at least one of the members of the public present on behalf of their clients to have an opportunity to comment on that. It's your call as to whether to close the hearing or continue it to a future date. Due to the fact that you don't have a plan set that you can approve anyway, you're not in a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

position to take action on the site plan at this time.

I think Pat said at the work session that depending upon where and how that emergency access way is proposed to be shown, it may require some modification to the SWPPP, or supplementation of it, so that the stormwater impacts of that work are also covered by the SWPPP.

CHAIRMAN EWASUTYN: Would you like to comment on that?

MR. UTSCHIG: We've taken the plan that we showed the Board last month, we've put it on the plans and we've adjusted all the details of the stormwater pollution prevention plan to accommodate it. So we are in a position to provide all of that information. We understand the potential impact of adding that disturbance to the stormwater plan and we've accounted for that.

CHAIRMAN EWASUTYN: Pat Hines?

MR. HINES: We would just like to receive that and review it.

CHAIRMAN EWASUTYN: So his office would

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

have to receive that and review it.

MR. UTSCHIG: I understand.

CHAIRMAN EWASUTYN: As far as the clearing and grading application before us, there was a topic of conversation as far as can they also begin clearing the area around where the proposed building is going in and what kind of securities would be necessary.

MR. DONNELLY: I mentioned to the Planning Board during the work session that you had requested of me on the telephone whether the Planning Board would be willing to issue a revised clearing and grading permit consistent with the original application. As you recall, the original application specified both clearing and grading. The public hearing notice identified both clearing and grading as the subject of that hearing. During the discussion, primarily, as we recall, because of the extent of the financial security to be required to be put up to do the grading, you requested that at that point the permit cover only the removal of trees and not the grading work. That permit was issued by the Planning Board. The actual permit is yet

1
2 to be issued by code compliance. You mentioned
3 to me on the phone that you were going to request
4 of the Board that they consider returning, or
5 supplementing, or modifying that permit to return
6 it to the original proposal to allow both
7 clearing and grading. We discussed that briefly
8 at the work session.

9 Since I spoke for you, why don't you
10 put your comments to the Board.

11 MR. EVERETT: Our position on that is
12 that we filed an application for clearing and
13 grading. It was very clear that it covered both.
14 We have never requested the Board to modify that
15 application in any way.

16 At the last meeting the Board was
17 gracious enough to issue the permit for the
18 cutting of trees only, and you were very specific
19 about that. It required cutting of trees only
20 and no stumping and no grading. So at this
21 point, given the fact that we've addressed all
22 the SWPPP comments and the SWPPP is in place, we
23 wanted to request the Board to basically issue
24 the other half of that permit, which is allow for
25 grading. As I said before, the permit right now

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that you issued only allows for cutting the trees.

CHAIRMAN EWASUTYN: Pat, what's necessary to grant or issue the second part which would relate to clearing?

MR. HINES: There will be a requirement for additional securities. The entire stormwater management plan would be required to be secured -- financial security to be in place for that consistent with the Town's policy. Currently I believe they have posted security for the clearing portion of the project with a standard \$3,500 per acre the Town requires for clearing along with some implementation of erosion and sediment controls. A grading permit where the ground will be physically disturbed and altered would require the implementation of the entire stormwater pollution prevention plan and the security associated with that.

CHAIRMAN EWASUTYN: Jerry Canfield, do you have anything to add to that?

MR. CANFIELD: Nothing additional.

Just one thing for clarification. The clearing permit has not as of yet been issued.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Securities for that portion of it has been submitted, recently accepted by the Town Board. I believe just today I did receive insurances for the contractors and the contractor name. But the permit has not been issued yet.

CHAIRMAN EWASUTYN: Now that you have these insurances and the contractor's name, are you in a position to offer that permit?

MR. CANFIELD: Yes, that's correct.

CHAIRMAN EWASUTYN: So it's safe to say that will be forthcoming?

MR. CANFIELD: That's correct.

MR. EVERETT: The other thing I would add, Mr. Chairman, is if the Board has some concerns that the emergency access road hasn't been shown on the plans yet and you want to take a look at the grading related to that, I think we understand that. So one thing that I would offer is that the Board -- we would ask the Board to consider issuing the grading permit for the rest of the site and not relating to the emergency access road which we can come back and certainly discuss that with you.

MR. DONNELLY: That's correct. If the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Board was to act on the grading portion of your application, it would have to relate solely to the 54 acres which was the subject of the original application. It would not authorize clearing and grading on the area where the emergency access road would be.

MR. EVERETT: We're comfortable with that.

CHAIRMAN EWASUTYN: Any comments from Board Members on this topic? Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: Mike, do you want to give us the language for that and I'll poll the Board Members for approving that?

MR. DONNELLY: The clearing and grading permit will be an amended one. It will carry all of the conditions of the original with the additional requirement that satisfactory financial security for all of the stormwater facilities shown on the plan be posted before the permit is issued.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: Having heard the recommendations and the condition by Planning Board Attorney Mike Donnelly for the Planning Board to issue the approval for the clearing portion also on the Matrix property, I'll move for that motion.

MR. MENNERICH: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Frank Galli. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

At this point I'll move for a motion to continue the public hearing to the 18th of February, at which point the Planning Board and it's consultants will have a chance to look at

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the revised plans showing the emergency access
and if there is any potential of off-site runoff
from that access.

MR. HINES: We'll need those submitted
ten days -- consistent with the Planning Board's
deadlines prior to that.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by
Frank Galli. I have a second by Ken Mennerich.
Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a
roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried.

Thank you, gentlemen.

MR. DONNELLY: In addition, the
emergency lighting that was approved by the FAA
should be shown on the amended plans so the Board

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

has a chance to see what it looks like on the plans.

MR. UTSCHIG: Okay.

CHAIRMAN EWASUTYN: I haven't received a copy of that. From what I understand it's now available.

MR. EVERETT: It is. We provided that to Pat Hines and to Mr. Donnelly.

CHAIRMAN EWASUTYN: I always need those things in my record.

MR. EVERETT: We'll be happy to send you one as well.

CHAIRMAN EWASUTYN: It's necessary.

MR. EVERETT: Point of clarification. Is the public hearing being held open just to discuss the emergency access road at this point?

MR. DONNELLY: It's for the site plan.

MR. EVERETT: For the site plan. Okay. Thank you.

(Time noted: 7:48 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 1st day of February 2016.

Michelle Conero

MICHELLE CONERO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

WESTPORT MANAGEMENT
(2015-12)

Gardnertown Road
Section 47; Block 1; Lot 70
R-1 Zone

----- X

PUBLIC HEARING
FOUR-LOT SUBDIVISION

Date: January 21, 2016
Time: 7:48 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: LARRY MARSHALL

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: The next item of business we have is a public hearing on the four-lot subdivision for Westport Management.

I'll ask at this point Ken Wersted to read the notice of hearing -- not Ken Wersted. Ken Mennerich.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of Westport Management, project 2015-12, for a four-lot subdivision in Westport Management subdivision on premises Gardnertown Road in the Town of Newburgh, designated on Town tax map as Section 47; Block 1; Lot 70. The project involves a four-lot subdivision on a 10.3 plus or minus acre parcel of property with access off of Gardnertown Road. Said hearing will be held on the 21st day of January 2016 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m., at which time all interested persons will be given an opportunity to be heard. By order of the Town

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

of Newburgh Planning Board. John P. Ewasutyn,
Chairman, Planning Board Town of Newburgh. Dated
December 23, 2015."

CHAIRMAN EWASUTYN: Mr. Marshall.

MR. MARSHALL: Good evening. My name
is Larry Marshall from Mercurio-Norton-
Tarolli-Marshall. We are the applicant's
engineers and land surveyors.

This application is for a four-lot
subdivision on Gardnertown Road, as previously
stated. It's located in the R-1 Zoning District.
There is an existing house on the parcel. We
intend to subdivide three lots off of that parcel
and the construction of three new homes. The
lots range in size from a little over one acre to
over three acres in size. All lots conform to
the R-1 Zoning District requirements.

The lots would be served by private
wells and septic systems, all of which have been
tested for and found to be -- the soils have been
found to be acceptable for the design of septic
systems in conformance with Orange County
Department of Health and New York State
Department of Health regulations.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Regarding access from Gardnertown Road, we propose two common driveways, one serving lots 1 and 4, lot 1 being the existing home; and the second common driveway would serve lots 2 and 3.

The existing barn on the site, the small barn, would be removed as part of this application for the construction of the two driveways.

Right now the entrances -- the entrance to the site is significantly wide, and that would be narrowed into two refined entrances.

To assist in the drainage and to accommodate the runoff that would be channelized by the two driveways we have proposed a catch basin and pipe that would accept the water from this site as well as sites uphill and convey that water across Gardnertown Road, prevent any runoff running into the road and icing in the winter.

CHAIRMAN EWASUTYN: If there's anyone here this evening that has any questions or comments on the Westport four-lot subdivision presented by Larry Marshall, would you please raise your hand and give your name and your address.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(No response.)

CHAIRMAN EWASUTYN: Let the record show that there was no one here this evening from the public that had any questions or comments.

At this point we'll turn the Planning Board Consultant, Pat Hines.

MR. HINES: Our previous comments have been addressed.

The drainage easement has been added to the plan.

There is a proposed catch basin and short piece of closed pipe drainage to be installed across Gardnertown Road.

A common driveway access and maintenance agreement is required. Two of the lots -- actually four of the lots are sharing two driveways each.

There was a discussion in the applicant's letter regarding the potential to connect to sewer. We concur with the applicant that the existing environmental constraints of the topography, the flood plain and the stream would prevent that. In addition, the parent parcel is not in the sewer district. The septic

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

systems have been designed in accordance with Appendix 75-A and reviewed by my office.

We did have the opportunity to review the driveway locations in the field, and during that review it was noted by the highway department personnel and the town engineer, Jim Osborne, that there were several trees, some of which needed to be removed for sight distance in the vicinity of the existing structure, and a couple of them which the health of the trees was in question. Those are identified to be removed prior to filing of the subdivision such that when the Town takes ownership of the fifty-foot dedication strip those trees will not be an issue.

I would suggest that the installation of the catch basin and pipe be a similar condition such that bonding and securities for that won't be required. It's very small, one catch basin and a length of pipe.

With that, we have no outstanding conditions -- comments.

CHAIRMAN EWASUTYN: Jerry Canfield,
Code Compliance?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. CANFIELD: There's a barn on parcel number 1 to be removed. Our department did receive a demo permit to take that down.

A variance was granted from the Zoning Board for the front yard setback of the existing house on lot 1 as well.

CHAIRMAN EWASUTYN: Thank you.

Comments from Board Members. Frank Galli?

MR. GALLI: No additional.

MR. MENNERICH: No questions.

MR. DOMINICK: No questions.

MR. WARD: No.

CHAIRMAN EWASUTYN: One more time, is there anyone here from the public who heard the conversations as it relates to the four-lot subdivision that might have any questions? The gentleman in the back.

MR. FEDDER: I'm Bill Fedder from Rockwood Drive.

Going across Gardnertown Road would you have to close the road?

MR. MARSHALL: It's one length of pipe. It's fairly shallow. We would not impede --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

there may be a temporary -- what we would probably look to do is just install half of the pipe, close that part, open the second half. So there wouldn't be a full closure of the road.

MR. FEDDER: It's only one length of pipe, you can't do it in stages?

MR. MARSHALL: No, no. It's a short length of pipe. It's not one length.

MR. HINES: It's more than one length. It's one run of pipe. There would be the requirement through the highway department to get a road opening permit and necessary traffic control.

MR. FEDDER: Thank you.

MR. CANFIELD: Just one comment. For an actual road closure in the Town of Newburgh it would require Town Board action to authorize the actual closure of the road.

CHAIRMAN EWASUTYN: If there are no additional questions or comments from the public, I'll move for a motion to close the public hearing on the Westport Management four-lot subdivision.

MR. DOMINICK: I'll make a motion.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: A motion by Dave Dominick, a second by Ken Mennerich. I'll have a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye myself. Motion carried.

At this point Mike Donnelly, Planning Board Attorney, will give us conditions for final approval for the four-lot subdivision.

MR. DONNELLY: First, did we receive a report from the Orange County Planning Department? I don't know if I saw it. Was this required to go to them?

MR. HINES: We sent it on November 30th. We haven't --

MR. DONNELLY: The time lapsed. I'll note that.

The approval is for final subdivision approval. I'll include a reference to Pat Hines' memo of January 15th, although I believe all of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the conditions noted will be incorporated into this resolution. Next, we'll need a common driveway easement and maintenance agreement to be signed off on. I will carry a condition that requires issuance of a demolition permit for the barn, although it's been reported it's been applied for. I will include the condition that the trees and branches shown on the plans to be removed shall be removed to the satisfaction of the Town before the plat is signed. And installation of the catch basin and pipe shown on the plans must also be completed before the map is signed. A portion of lot number 1 is located across Gardnertown Road from that portion of the lot to be improved. This portion of land shall remain part of lot 1 unless further subdivision approval is granted in the future. A map note to this effect shall be added to the plan if it's not there already. No structure may be built on that portion of the lot without Town approval. We will note the issuance of the Zoning Board of Appeals' variance on October 22, 2015 and incorporate any conditions contained in that as conditions of this approval. The applicant shall

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

deliver to the Town a drainage easement authorizing the conveyance of stormwater across the roadway. Finally, there are four new -- there's an offer of dedication, I believe, that has to be given to the Town and signed off on. Finally, there will be fees in lieu of parkland for the four new lots --

CHAIRMAN EWASUTYN: Three new lots.

MR. DONNELLY: I'm sorry. Totaling \$6,000.

CHAIRMAN EWASUTYN: The existing house is the existing house.

Any additional questions or comments from Board Members as far as the conditions for final approval for the four-lot Westport subdivision?

(No response.)

CHAIRMAN EWASUTYN: Having heard that as stated by Planning Board Attorney Mike Donnelly, I'll move for approval of the four-lot subdivision for Westport Management.

MR. GALLI: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: A motion by Frank

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Galli. A second by John Ward. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye myself. So carried.

MR. MARSHALL: Regarding the escrow fees for this application, the applicant indicated to me this afternoon that he would be dropping that off tomorrow.

CHAIRMAN EWASUTYN: I left a note at the window to be anticipating that.

MR. MARSHALL: Great. Thank you very much.

(Time noted: 8:00 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 1st day of February 2016.

Michelle Conero

MICHELLE CONERO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

RESTAURANT DEPOT
(2015-33)

Request to be Scheduled for Consultant Work Session
on January 26, 2016

----- X

BOARD BUSINESS

Date: January 21, 2016
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: LARRY MARSHALL

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: While I have you standing Larry, I know Andrew will allow you that moment, under Board Business we were hoping to receive your letter asking for the consultants' work session and never received that.

At this point I'm going to make a motion for the Board to set Restaurant Depot for the consultants' work session on the 26th of January.

MR. DOMINICK: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Dave Dominick and a second by John Ward. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

We always need a letter requesting that.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
25

MR. MARSHALL: Should I send that in
tomorrow?

CHAIRMAN EWASUTYN: For the record it
would be good to have that.

MR. MARSHALL: I'll send that in
tomorrow.

(Time noted: 8:01 p.m.)

C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 1st day of February 2016.

Michelle Conero

MICHELLE CONERO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

VILLARDI TWO-FAMILY
(2015-32)

2103 Route 300
Section 3; Block 1; Lot 82
AR Zone

----- X

PUBLIC HEARING
TWO-FAMILY

Date: January 21, 2016
Time: 8:01 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: ANDREW FETHERSTON

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: The next item on the agenda is also a public hearing for a two-lot two-family home. It's Villardi and it's located on Route 300 in an AR Zone. It's being represented by Andrew Fetherston.

Mr. Mennerich, would you be so kind to read the notice of hearing?

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to the Municipal Code, Chapter 185-57 Section K, of the Town of Newburgh on the application of Mario Villardi Two-Family, project 2015-32, for a site plan approval. The project is located at 2103 New York State Route 300 in the Town of Newburgh, designated on Town tax maps as Section 3; Block 1; Lot 82. The public hearing will be held on the 21st day of January 2016 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Chairman. Dated December 23, 2015."

MR. FETHERSTON: Good evening, Mr. Chairman, Members of the Board. The address and the section, lot and block was accurate as Ken had read it.

The property is about 24.5 acres located on Route 300. It is just west of Rock Cut Road. The parcel contains one dwelling on that 24.6 acres. The dwelling historically is known to be a two-family house by the owner. The records for the Town show it as being a single-family home. We have been working with Jerry's office where we've been directed to come before the Planning Board to seek site plan approval for the existing two-family house. There are absolutely no proposed improvements. No improvements are proposed to the lot.

We received some comments from Pat Hines. We provided a response to his comments.

I look forward to responding to any comments that come up.

CHAIRMAN EWASUTYN: Thank you.

Is there anyone here this evening that has any questions or comments on the two-family

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

application that's before us?

The gentleman in the back.

MR. GRAZIANO: My name is Bruno Graziano, I live on Kings Drive behind that so-called development.

I'd like to know if that's going to affect the water tables at all for the wells that we have on the streets such as Vincent Lane and Kings Drive?

MR. FETHERSTON: Well there's -- the only thing -- the only action we're taking here is to have the Town's records corrected which show that it's a one-family home and it's actually a two-family home. There's no development proposed of the property whatsoever that would adversely or change anything in the surrounding area.

MR. GRAZIANO: Okay.

CHAIRMAN EWASUTYN: Are there any new wells being proposed?

MR. FETHERSTON: No. Absolutely not. We did go out. We went out and looked at the area of the septic. We didn't notice any wet areas or have any information that it was

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

malfunctioning, nor was the well, so no change is proposed.

CHAIRMAN EWASUTYN: Any other comments from the public? Questions?

(No response.)

CHAIRMAN EWASUTYN: Jerry Canfield, the history on this, please, for the record.

MR. CANFIELD: Well as Anthony had stated, this property dates back to the 1950s, 1960s, maybe even prior to that. Our assessment records list the property as a 240 property classification which is multiple buildings. It doesn't really define what's there.

The owner of the property seeks a certificate of occupancy for a two-family residence which it has been for a number of years. As Andrew had stated, there are no improvements, no changes or anything proposed. It's more or less administrative and a technical issue that we have.

In order for our department to issue a building permit and a certificate of occupancy for it to comply with today's regulations, Planning Board review and approval is required

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

beforehand.

We have no outstanding issues. The process is done as we deem is needed. Should tonight's hearing be closed and the Board choose to approve this project, we have nothing outstanding.

I know Pat has a few comments on his review on the existing conditions.

CHAIRMAN EWASUTYN: Thank you, Jerry.
Pat Hines?

MR. HINES: We had previously commented on the capacity of the subsurface sanitary sewer disposal system. Maser Consulting has provided us with a narrative letter stating that they field reviewed the site and did not identify any issues with the existing system. They did note that it is almost a 25 acre parcel with adequate land to construct the replacement septic system should it be required in the future.

The four parking spots have been depicted on the aerial photos. There are more than four parking spots currently on this site.

I know they provided photos for the architectural review of the existing structure,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

which would be required for you to approve.

We discussed at work session County Planning had come back with a Local determination but did identify that this is kind of a hybrid structure. It's too big to be an accessory apartment and too small to be a two-family. At work session we discussed it's a pre-existing nonconforming condition with no change, so that it -- we believe that it can be approved by the Board in it's pre-existing state.

That's all we have.

CHAIRMAN EWASUTYN: Do you have any kind of ARB that we should be looking at?

MR. FETHERSTON: We provided originally -- I think back in November we went out on the site originally, provided a brief report to Jerry's office with some photos. We went out a second time to get some additional photos and we provided those to Pat. With the original work that we gave to Jerry I have color.

MR. DONNELLY: You're not proposing any changes?

MR. FETHERSTON: No change.

CHAIRMAN EWASUTYN: So part of the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

motion tonight would be to -- Michael, we would do an ARB approval also?

MR. DONNELLY: The ARB approval would reflect no changes are proposed. The condition would be no changes can be made without Architectural Review Board approval in the future.

CHAIRMAN EWASUTYN: Before we move on to that step, any questions or comments from Board Members?

MR. GALLI: No.

MR. MENNERICH: No.

MR. DOMINICK: No.

CHAIRMAN EWASUTYN: A last opportunity for the public if they have any questions or comments?

(No response.)

CHAIRMAN EWASUTYN: Okay. I'll move for a motion from the Board to close the public hearing on the Villardi two-family site plan.

MR. MENNERICH: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich and a second by John Ward. I'll

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ask for a roll call vote starting with Frank
Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye. Motion
carried.

Mike Donnelly, would you give us
conditions for approval, please?

MR. DONNELLY: Yes. This is a Type 2
action under SEQRA, so there's no need to issue a
declaration of significance.

In terms of conditions, as I noted
before, no changes may be made to the structure
without Architectural Review Board approval, and
what is in existence as shown on the photos is
hereby approved. Our standard conditions that
the applicant may not build anything on the site
that isn't shown on the approved plans.

I will note in the resolution the size
issue, that the accessory apartment unit is too
big to fit both the requirement for an accessory
dwelling unit and too small to be a two-family

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

home. However, Jerry has told us the building has long been in existence and it's a protected noncomplying building and no changes are proposed, therefore the protection under the noncompliant building section of the code protects this and no variance is required.

CHAIRMAN EWASUTYN: Thank you, Michael.

Having heard the conditions of approval for the two-family dwelling and also for taking action on ARB approval for the subject property by Attorney Mike Donnelly, I'll move for that motion.

MR. DOMINICK: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by Dave Dominick, a second by Frank Galli. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: Aye.

MR. FETHERSTON: Thank you, Mr.
Chairman.

(Time noted: 8:13 p.m.)

C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 1st day of February 2016.

Michelle Conero

MICHELLE CONERO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

FIDANZA
(2011-24)

56 North Plank Road
Section 80; Block 7; Lot 7
B Zone

----- X

ARCHITECTURAL REVIEW BOARD
SIGNAGE

Date: January 21, 2016
Time: 8:13 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
GERALD CANFIELD

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FIDANZA

77

CHAIRMAN EWASUTYN: The last item is
Fidanza. It's here for signage -- amended
signage.

We haven't received anything from
the applicant. The applicant isn't here. At
this point it's off the agenda.

At this point I'll move for a motion
to close the January 21st Planning Board
meeting.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by
Frank Galli. I have a second by Ken Mennerich.
Roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 8:15 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 1st day of February 2016.

Michelle Conero

MICHELLE CONERO