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PLANNING DEPARTMENT

TOWN HOUSE
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Town of Somers

WESTCHESTER COUNTY, N.Y.



John Currie, *Chairman*
Jan Corning
Fedora DeLucia
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
Dennis McNamara

3

**SOMERS PLANNING BOARD MINUTES
NOVEMBER 9, 2016**

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:**

Chairman Currie, Ms. Gerbino,
Mr. Goldenberg, Mr. McNamara,
Ms. Gannon and Ms. Corning

11

12

13

14 **ABSENT:**

Mrs. DeLucia

15

16 **ALSO PRESENT:**

Consultant Town Engineer Barbagallo
Director of Planning Syrette Dym
Planning Board Town Attorney Eriole
Planning Board Secretary Murphy

17

18

19

20

21 The meeting commenced at 7:30 p.m. Planning Board Secretary Marilyn
22 Murphy called the roll and noted that a required quorum of four members
23 was present in order to conduct the business of the Board.

24

25 **APPROVAL OF DRAFT MINUTES AND DVD OF THE PLANNING
26 BOARD MEETING HELD ON SEPTEMBER 14, 2016**

27

28 Chairman Currie noted that Planning Board Secretary Marilyn Murphy
29 prepared and submitted for the Board's approval the draft minutes and
30 DVD of the Planning Board meeting held on September 14, 2016.

31

1 The Chair asked if there were any comments or corrections from the Board
2 on the draft minutes and DVD and no one replied.

3
4 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
5 carried, the draft minutes and DVD of the September 14, 2016 Planning
6 Board meeting were approved.

7
8 Chairman Currie stated that the text of the approved minutes is available
9 on the Town's website www.somersny.com and is also available for public
10 review at the Planning & Engineering office at the Town House. The
11 approved DVD is available for public viewing at the Somers Public Library.

12
13 **PUBLIC HEARING**

14
15 **GREENBRIAR SOMERS CORP. [TM: 6.11-1-77, 78]**

16
17 Chairman Currie said that this is a Public Hearing for the application for
18 Preliminary Subdivision, Wetland, Steep Slopes, Tree Preservation and
19 Stormwater Management and Erosion and Sediment Control Permits for
20 property located on Driftwood Drive and is part of the Greenbriar
21 development for the construction of one residential house for the re-
22 subdivision of Section 6, Lots 77 and 78.

23
24 Chairman Currie asked the Planning Board Secretary if the legal notice
25 was published and the adjoining property owners notified of the Public
26 Hearing.

27
28 Planning Board Secretary Murphy said that the legal notice was published
29 in the Somers Record on October 27, 2016 and the adjoining property
30 owners were notified by mail on October 28, 2016 and the sign was posted
31 on the property on October 25, 2016 giving the date, location and time of
32 the Public Hearing.

33
34 The Chair asked the applicant's representative to explain the application for
35 the benefit of the Board and the public.

36
37 Joseph Buschynski, the applicant's engineer, explained that he represents
38 Greenbriar Somers Corp. and 2436 Green LLC, the owners of the property.
39 He explained that Section 6 lots were created in 1987 and at that time most
40 of the lots were under construction in the mid 1990's. Engineer Buschynski

1 noted that the lots back up on Greenbriar Brook. He said that the DEC,
 2 subsequent to the creation of the lots, determined that the Greenbriar
 3 Brook wetland was subject to State regulations. He mentioned that the
 4 wetland buffer from the State Wetland encompassed Lots 35 and 36.
 5 Engineer Buschynski said a few years ago plans came about to develop
 6 the lots. He said with the constraints to the wetlands the Town and the
 7 State Regulations require mitigation of construction activity. He explained
 8 that mitigation for this project was to eliminate one of the lots and
 9 consequently one house could be constructed. Engineer Buschynski said
 10 that the project will include mitigation of a drainage outfall (velocity
 11 dissipater) that receives piped runoff from Driftwood Drive. He said that the
 12 Mitigation Plan will also include taking the runoff from the new roof and
 13 putting it into the ground in an infiltration system located at the south side of
 14 the house. He noted that the house will be connected to the water and
 15 sewer services.

16
 17 Chair Currie asked Consultant Town Engineer Barbagallo if he had any
 18 comments.

19
 20 Consultant Town Engineer Barbagallo said he spoke about a maintenance
 21 agreement to make sure that the stormwater structures are maintained. He
 22 said that the maintenance agreement has been provided that includes
 23 language granting the Town access to perform necessary maintenance
 24 on stormwater infrastructure and to affix said costs of maintenance against
 25 the Homeowners Association.

26
 27 Consultant Town Engineer Barbagallo said that his comments have been
 28 addressed and if the Planning Board wants the Board can move to the next
 29 step which is drafting a Resolution.

30
 31 Chair Currie opened the Public Hearing and asked if anyone from the
 32 public would like to be heard.

33
 34 George Semmens, resident of 46 Driftwood Drive and Vice President of the
 35 Greenbriar Homeowners Association (HOA) Board of Directors, said that
 36 he reviewed the plans and has some concerns. He noted that Greenbriar
 37 is a unique community that has 200 acres in a common area. He
 38 mentioned that the lots are small and the homes are close together but
 39 people buy into the environmental sensitivity. Mr. Semmens said that there
 40 was an event recently with the Westchester Land Trust. He said that the

1 Offering Plan dated June 26, 1981, amendment 7 that talks about the
2 townhouses. He said that he bought into the idea that there would be two
3 or three attached houses. Mr. Semmens said that the Board is not
4 opposed with having two lots and two homes that are attached but
5 disagrees with the proposal for a single family residence. He said that a
6 letter of consideration has been given to the developer to be able to build a
7 single, stand-alone home that is in an attached unit cluster. He opined that
8 it makes no design sense. He commented that when you drive in the first
9 thing you see is a stand-alone home where all the other homes are
10 attached. Mr. Semmens said that the developer is not the most
11 environmentally sensitive developer as a few years ago he cut down a 200
12 year old historic oak tree. He said that the visual of a stand-alone home
13 will look very odd and doesn't make sense and may affect property values.
14 Ms. Semmens said that the new home will not have a basement where all
15 the other townhouses have three stories. He mentioned that it will have
16 less square footage than the other homes. He asked why the Board is
17 creating this orphan and is allowing this to happen. Mr. Semmens said that
18 there are architectural controls that are part of the prospectus that keep the
19 same colors and visual impact. He said that he has not seen any
20 architectural plans that is in keeping with the community.

21
22 Mr. Semmens suggested that the Town work with the developer and his
23 engineer to relocate the house or find another solution. He said that the
24 items in the Site Plan do not show a high level of environmental sensitivity.
25 He said that the applicant is putting in gravel filters in the middle of the
26 developments road.

27
28 Consultant Town Engineer Barbagallo asked Mr. Semmens what he means
29 about putting in gravel filters.

30
31 Mr. Semmens said that there is going to be a stone filter at each of the
32 catch basins. He opined that stone filters in the road is not practicable. He
33 mentioned that the catch basin on the west side is a curved catch basin
34 and he questioned how this will be handled. He said that the new water
35 mitigation measures will connect back into the Greenbriar storm drainage
36 system that is maintained by the HOA. Mr. Semmens said that the
37 applicant wants to turn this over to the Greenbriar HOA to maintain. He
38 noted that water and new sanitary connections will be cut through the road
39 that was just paved.

40

1 Mr. Semmens said that the Site Plan shows that the back of the new unit
2 will be right up against a slope. He said that there is nothing that talks
3 about environmental sensitivity. He opined that the selection of plants does
4 not make sense as they will not do well and will die. Mr. Semmens said
5 that the outflow will be rebuilt with runabank gravel and if soggy conditions
6 happen there is no condition to remove it but will leave it for future
7 maintenance. He asked the Board to reconsider this application from a
8 visual standpoint and look at other solutions.

9
10 Nuncio Pulsone, resident of 37 Driftwood Drive, said that he lives adjacent
11 to the lot in discussion. He noted that the developer wants to build on lots
12 35 and 36 that were deemed unbuildable. He mentioned that in the mid
13 1990's Greenbriar Brook was designated a wetland and lots 35 and 36 are
14 located within 100 feet of the wetland. Mr. Pulsone said that the
15 Department of Environmental Conservation (DEC) determined that the
16 disturbance associated with the development of both lots was excessive
17 and recommended that the project scope be reduced. He noted that the
18 developer submitted a revised Stormwater Pollution Prevention Plan
19 (SWPPP) but he found that nothing had changed. He said that the footprint
20 of the building structure is smaller but the disturbance will still be excessive.
21 Mr. Pulsone opined that the plan is inadequate and will not prevent problems
22 with wetland protection and will create drainage problems that the
23 homeowner and Greenbriar Homeowners Association will have to deal
24 with. He said that the developer is proposing a change in the natural
25 drainage of the topography by requesting a Wetland Alteration Permit,
26 Subdivision Approval, Stormwater Management and Erosion and Sediment
27 Control Permits. Mr. Pulsone said that in the 30 years he has lived at 37
28 Driftwood Drive adjacent to the proposed site he has not experienced any
29 flooding or erosion nor has there been a history of such. He commented
30 that the developer's plan will lead to drainage issues and will not protect the
31 wetland. Mr. Pulsone said that the developer is proposing to build a
32 structure on a hill which slopes negatively down to lot 37 which will create
33 drainage and flooding issues. He said he experiences downpours
34 periodically throughout the year. He noted that in the past large volumes of
35 water were absorbed and drained through the fine sandy loam on the site
36 and the natural water channels that have developed over time. He said
37 that area will now be covered by a building structure. Mr. Pulsone said that
38 part of the project will include remediation of an existing velocity dissipation
39 structure. He said that runoff from the house roof will be drained to the
40 infiltration system and will have a 1500 gallon septic tank. Mr. Pulsone said

1 that the drainage channels proposed will not handle the sudden downpours
2 and will flow to the negative slope on lot 37. He mentioned that the
3 proposed system will require annual inspections with cleaning by a vacuum
4 truck pump out as needed. Mr. Pulsone asked who or what determines as
5 needed. He said that when the property floods maintenance of the pre-
6 treatment chambers will be the responsibility of the Greenbriar
7 Homeowners Association. He said that he does not believe that the
8 developer has communicated this requirement or shared the SWPPP with
9 the Greenbriar HOA. Mr. Pulsone said that the developer is also seeking a
10 Steep Slopes Protection Permit because the development of the site
11 proposes safety and hazardous issues on the steep slopes around the
12 perimeter. He mentioned that the developer's solution is to put a post and
13 rails fence around the perimeter of the property. Mr. Pulsone said that plan
14 submitted by the developer raises red flags. He said that the members of
15 the Planning Board should go to the site and observe as others have over
16 the years that development of these two lots defies common sense. He
17 said that he is not an expert but he lives in the community and is
18 knowledgeable of the properties in and around the development. Mr.
19 Pulsone said he hopes the Board listens to the concerns and factors them
20 into the decision which will be to reject the developer's application.

21
22 Sergio Delaparra, resident of 62 Driftwood Drive, said he believes that this
23 project will have a negative impact on the community. He asked the Board
24 to look at alternatives to the plan and review all the issues that were stated
25 this evening.

26
27 Hillary Evans, resident of Driftwood Drive, said that she has lived in her
28 home for 18 years and is a realtor with Houlihan Lawrence and has sold
29 many units on Driftwood Drive. She opined that having a single family
30 house at the end of the street surrounded by townhouses makes no sense.
31 She said it will bring down the values of the other properties. Ms. Evans
32 said that the property is dangerous because of the steep slopes and
33 wetlands. She said that she can't see how you can avoid endangering the
34 environment.

35
36 Serena Berger, resident of 58 Driftwood Drive, said that she bought into a
37 townhouse community where there is great communication with the
38 neighbors. She said that everyone paints at the same time. She said that
39 a single family home is not attached and is not a townhouse. Ms. Berger
40 said that she is concerned about property values as the new single family

1 house will have less value as it doesn't even have a basement. She
2 mentioned that no one has fencing in the development and having fencing
3 in this single family house is not why she moved into Greenbriar. Ms.
4 Berger said that this new house is not in the interest of the people that live
5 there. She said that the builder killed a giant Oak tree to put up units that
6 are not being built.

7

8 Amy Horowitz, resident of 59 Driftwood Drive, said she moved to
9 Greenbriar two years ago from a single family house on 4 acres. She
10 noted that when she decided to move to a townhouse she looked
11 everywhere but the best day of her life is when she drove down Driftwood
12 Drive. She said Driftwood Drive is unique, it is a tiny street with
13 townhomes. Ms. Horowitz said she was concerned when she thought of
14 moving to Greenbriar because there are covenants and restrictions. She
15 said that one of the items in the covenants is that the development and the
16 units be harmonious. She commented that you have to go before the
17 Board to ask if you can plant a certain type of tree. Ms. Horowitz said that
18 the proposed single family home will be the first house you see when you
19 drive in and it is totally unharmonious to Driftwood Drive.

20

21 Consultant Town Engineer Barbagallo said that the intention of the
22 maintenance agreement is that the stormwater that is on the private
23 property has to be maintained by the owner of the property. He said the
24 HOA is responsible for the maintenance of the energy dissipater.

25 Consultant Town Engineer Barbagallo said that the road to the energy
26 dissipater is interesting as the HOA has not been taking care of that road
27 and when it rains there is a problem. He said that the silt is pushed into the
28 wetland. He said he likes the idea that there will be access to get to that
29 road but he understands people do not want to look at it. Consultant Town
30 Engineer Barbagallo said that alternatives can be looked at if concerns are
31 that the gravel can dissipate through the area with traffic.

32

33 Ms. Gerbino asked if Town counsel has agreed to the existing agreement
34 provisions. She mentioned that the Consultant Town Engineer's memo
35 says that *Our office is comfortable with the existing agreement provisions*
36 *providing no objection from Town Counsel.* Ms. Gerbino noted that says to
37 her that Somers Town Counsel hasn't seen the agreement provisions.

38

1 Consultant Town Engineer Barbagallo explained that the Town Board has
2 to approve the agreement provisions. He said that the agreement is a
3 standard form and will be a condition in the Resolution.
4

5 Ms. Gerbino noted that when she was a reporter she covered the
6 development of Greenbriar and it has turned into a real gem. She
7 explained that she is on the Planning Board and this is one of those painful
8 times. She mentioned that the Somers Land Trust went on a hike through
9 the Greenbriar community. Ms. Gerbino explained that the Somers Land
10 Trust is comprised of 7 people and the Somers Open Space Committee
11 who advises the Board does not like this plan. She said that taxes have
12 been paid on the vacant lots and now they want to build on them. Ms.
13 Gerbino said that one home will be built and not two homes that would
14 have been negative to the environment. She noted that the Board finds
15 this a plus but apparently the Greenbriar community does not agree. Ms.
16 Gerbino said that the Board has a job to do and that is to make something
17 work. She said that the Board is listening to the concerns that have been
18 brought up.
19

20 Mr. Goldenberg said that when residents of Greenbriar bought their homes
21 they were shown plans and what was going to be built. He asked if anyone
22 saw a plan or map of what is now being proposed. Mr. Goldenberg asked
23 if the owner ever talked about putting in a single family home. He said that
24 people are disappointed because the community will be changed. Mr.
25 Goldenberg asked who maintains the property now.
26

27 Mr. Semmens said that the developer over the years left it to rubble and
28 rocks. He noted that about ten years ago the residents seeded and
29 maintained the property. He mentioned that the HOA paid their landscaper
30 additional money to maintain the property.
31

32 Mr. Semmens said that no one told him that a single family home
33 surrounded by townhomes would be built.
34

35 Consultant Town Engineer Barbagallo asked if there is an agreement with
36 the owner to enter the property and seed it.
37

38 Mr. Semmens said that there is no agreement from the owner to enter the
39 property but there is a 15 foot wide easement from the curb line back and
40 the HOA is required to remove snow and there is a small portion on the

1 corner of the property that is in fact an area that is owned and maintained.
2 He said that the Homeowner's By-Laws state that if an owner in the
3 community is not maintaining their property the HOA can maintain the
4 property and back charge the owner.

5
6 Consultant Town Engineer Barbagallo asked if the owner has been back
7 charged and Mr. Semmens said that the owner has not been back charged.

8
9 Ms. Evans said for years the lot has been a complete mess and the way it
10 was not maintained was an embarrassment. She said that the street
11 looked like a construction site for years. Ms. Evans said in order to
12 maintain property values and make the street livable was to have the HOA
13 pay to maintain it.

14
15 Chair Currie asked Director of Planning Dym to weigh in on planning
16 issues.

17
18 Director of Planning Dym said originally she thought this was a straight
19 forward issue and did not go into the history of the development. She
20 asked that originally when there were two lots did they have townhouses on
21 them.

22
23 Mr. Semmens said that originally there were 2 or 3 attached houses and
24 that is consistent in the whole development.

25
26 Director of Planning Dym said that part of this is a visual community impact
27 issue and not necessarily a single family unit depending on what the
28 environmental constraints are. She said that this can be developed in a
29 way to look similar to the townhouses and architecturally has the
30 characteristics of the adjacent townhouses so it appears like two units.
31 Director of Planning Dym said that the Board may want to consider this.

32
33 Mr. McNamara asked if the original Site Plan shows all the development in
34 the community to be multi-family units. He asked if there is anything in the
35 documents that preclude single units in the legal documents.

36
37 Chair Currie directed the applicant to prepare elevations, roof lines and the
38 proposed individual home to compare to the existing elevations and
39 existing units so you can see if there are visual impacts.

40

1 Ms. Gannon said that concern for real estate values is tied to the absolute
2 metric such as size of house in square footage. She said that the lacking
3 of a basement makes the house significantly smaller in size to the other
4 units. She noted that the residents are equating this to a lower value than
5 the other units. Ms. Gannon said a cosmetic fix will carry this only so far in
6 remedying the residents' concerns.

7
8 Chair Currie said if this unit is approved does it have to conform to the
9 same colors on the street.

10
11 Mr. Semmens said that the developer is not subject to the same restrictions
12 as a homeowner who is a member of the HOA. He mentioned that
13 residents would not be as upset as they are if the home was tucked back
14 into a corner or at the end of the cul-de-sac. He said that the proposed
15 location is not in keeping with the rest of the community.

16
17 Chair Currie asked if the Resolution could state what color the house
18 should be.

19
20 Planning Board Town Attorney Eriole said that he would have to review the
21 documents before making a decision. He noted that it is important to know
22 if the original approved plan and the Attorney General's Offering Plan
23 contemplated a specific type of unit on the lots.

24
25 Consultant Town Engineer Barbagallo asked if the owner would be willing
26 to agree to an Architectural Review Board (ARB) review for consistency of
27 color.

28
29 Engineer Buschynski said that the owner is sensitive to the need to have
30 this house conform to adjoining buildings.

31
32 Mr. Pulsone said he is concerned about the environmental pollution and his
33 drainage problem that has not been addressed.

34
35 Engineer Buschynski said that the DEC application was concerned about
36 the dissipater at the end of the existing pipe and that was corrected and it is
37 the HOA responsibility but the owner is going to fix it. He stated that the
38 DEC also has jurisdiction in the project and the applicant has to obtain an
39 individual stormwater permit. He said that some of the issues the DEC
40 wanted addressed is the drainage and how it will be drained and infiltrators

1 will be used. Engineer Buschynski said he has the endorsement of the
 2 DEC and the Department of Environmental Protection (DEP) for the
 3 proposed plan.

4
 5 Chair Currie directed that the Public Hearing be continued at the December
 6 14, 2016 Planning Board meeting.

7
 8 **PROJECT REVIEW**

9
 10 **SOMERS POINTE COUNTRY CLUB [TM: 6.17-20-1.21]**

11
 12 Chairman Currie noted that this is the application for a Site Plan for
 13 property located on the southwest side of the Somers Pointe Clubhouse at
 14 100 West Hill Drive for the construction of a swimming pool and cabana
 15 building and two tennis courts with associated parking to provide additional
 16 recreation activities.

17
 18 Chair Currie asked for the applicant’s representative to update the Board
 19 on the application.

20
 21 John Petroccione, the applicant’s engineer, said that there was discussion
 22 with the Board on the evaluation of the existing parking lots and lighting
 23 conditions. He noted that he provided a new lighting design with all the
 24 poles restored. He indicated that dark sky LED light heads will be installed
 25 on all poles. Engineer Petroccione said that the existing parking lot will be
 26 lit to the same standard as the proposed parking lots. He noted that there
 27 was concern about the paving conditions in the existing parking lots and
 28 clarification was made to the plan to identify that the existing limits of
 29 paving will be repaired as needed. Engineer Petroccione mentioned that
 30 the entire existing paved parking lot will receive a top coat.

31
 32 Engineer Petroccione said at the last Planning Board meeting the main
 33 issue was the storage area behind the existing maintenance building. He
 34 noted that the applicant has done quite a bit of work to clean up the area.
 35 Engineer Petroccione mentioned that the applicant approached the
 36 Building Inspector and received permission to put in a temporary storage
 37 area. He commented that the debris and non-functioning equipment has
 38 been removed.

39

1 Engineer Petroccione said that the main item the Director of Planning found
2 outstanding was the visual impact that the Condo 15 units will be seeing of
3 the proposed cabana. He said that Condo 15 is at the base of the slope
4 with 140 feet of disturbed wooded area. He noted that the proposed
5 cabana building will be 21 feet high. Engineer Petroccione said that many
6 of the trees are larger than 20 feet high. He said that the residents of
7 Condo 15 will not see much of the cabana building but when the leaves are
8 off the trees visibility will be increased.

9
10 Engineer Petroccione said that he spoke to the Consulting Town Engineer
11 about his comments. He said that in reference to the construction route
12 and bonding the applicant has no problem with these items but until the
13 applicant is in a position to sign a construction contract he does not know
14 the best way to enter the project site. Engineer Petroccione asked if these
15 items can be a condition of approval. He said that he provided an analysis
16 for the 10 year storm for the sizing of the storm drainage. He indicated that
17 an analysis for the 100 year storm was requested, He said that he is willing
18 to provide the analysis but the offsite structure is not capable of handling
19 the 100 year storm.

20
21 Consultant Town Engineer Barbagallo said that on June 24, 2016 he met
22 with Heritage Hills Society President to lay out a process moving forward.
23 He noted that originally the Society felt that the construction route should
24 come in through Fred's Way but after much thought the best way may be
25 up West Hill. Consultant Town Engineer Barbagallo said that this can be a
26 condition of approval but he would like to discuss issues with the Society
27 before the next meeting.

28
29 Consultant Town Engineer Barbagallo said that the Planning Board wants
30 to see a Landscaping Plan for the next meeting.

31
32 Engineer Petroccione said that the comment on the Landscaping Plan was
33 that the Board should decide if a Landscaping Plan should include areas
34 adjacent to the landbanked lot.

35
36 Consultant Town Engineer Barbagallo said that all the water coming off the
37 site will be treated in the various catch basins and the stormwater area. He
38 said that the pipes coming into the system and the connection point at
39 Condo 15 calculations say there is enough capacity. He said that he wants

1 to explore how we can minimize the flow or put storage on site. Consultant
2 Town Engineer Barbagallo said this is the primary issue to resolve.

3
4 Engineer Petroccione said that the majority of material coming into the site
5 is gravel that will go under the parking lots and the stormwater detention
6 area. He said until the contractor is determined he cannot determine the
7 construction route.

8
9 Consultant Town Engineer Barbagallo said that the Board will determine
10 the construction route.

11
12 Ms. Gannon said that determining the construction route is essential and is
13 not like telling vendors where to park as they are still parking on the road.

14
15 Director of Planning Dym said that the Open Space Committee has
16 concern with non-native species and the adequacy of the screening for
17 parking areas and the pool. She said that the Planning Board should
18 determine who will be responsible for making the determination of need for
19 repairs and whether the Town will be involved in this decision at the time of
20 construction, or will it be at the discretion of the applicant as it appears to
21 be.

22
23 Consultant Town Engineer Barbagallo said that his office will be engaged
24 during that process.

25
26 Chair Currie asked if the applicant will extend the timeframe for Site Plan
27 approval to the end of January 2017 and the Applicant agreed.

28
29 Consultant Town Engineer Barbagallo said that the Department of
30 Environmental Protection (DEP) Permit will be a condition of approval.

31
32 Chair Currie directed that a Resolution be prepared for the December 14,
33 2016 meeting.

34
35 Director of Planning Dym said that the draft Resolution will have conditions
36 but not the Whereas clauses.

37
38 **NYS MESONET – STUART FRUIT FARM [TM: 26.11-1-2]**
39 **WEATHER STATION**

40

1 Chairman Currie said that this is an application for Site Plan Approval for
2 an early warning detention system designed to measure weather
3 observations around New York State. He said that the project will consists
4 of one (1) 33' tower in an open field at Stuart Fruit Farm.

5
6 Chair Currie asked the applicant's representative to explain the project for
7 the benefit of the Board and the public.

8
9 Meredith Smith Mathias, contractor for Pyramid, explained that Mesonet is
10 a series of 125 weather stations throughout New York State. She said that
11 this station is the only one proposed for Westchester County and will be
12 located at the Stuart Fruit Farm. Ms. Mathias said that there will be a 33'
13 tower with weather instruments around it and is solar powered. She
14 mentioned that at the base of the tower is a rain gauge with source centers
15 in the ground. Ms. Mathias explained that the NYS Mesonet system was
16 proposed in direct response to Super Storm Sandy and Hurricane Irene to
17 provide localized weather data that is currently lacking in the State. She
18 mentioned that several towers are being constructed in the downstate area.

19
20 Ms. Mathias said that she has been working with the Fruit Farm for several
21 months and has a lease agreement with them. She mentioned that the
22 Mesonet station can only be used by Mesonet and cannot be modified to
23 be something other than the weather station. She explained that the
24 station transmits data back to SUNY Albany. Ms. Mathias said that there is
25 a website that the station goes on to see data for the Stuart Farm and
26 architectural purposes.

27
28 Ms. Mathias noted that she received engineering comments and also
29 spoke to the Land Trust who are in the process of placing an easement on
30 the property to prevent future development. She stated that the
31 Westchester Land Trust sent a letter dated November 1, 2016 stating that
32 the installation will likely be completed before the easement is recorded,
33 but if not, the easement will contain provisions that allow this use of the
34 site.

35
36 Chair Currie asked Consultant Town Engineer Barbagallo to review his
37 comments for the benefit of the Board and the public.

38
39 Consultant Town Engineer Barbagallo said that he asked that the Site Plan
40 show a limit of disturbance line. He also said that it appears that the

1 proposed construction activities may disturb less than 5,000 square feet
2 and will not trigger requirement for preparation of a Stormwater Pollution
3 Prevention Plan (SWPP). Consultant Town Engineer Barbagallo said that
4 based upon review of environmental mapping obtained from Westchester
5 County Department of Planning Geographic Information Systems data,
6 locally regulated wetland area appears to be located immediately to the
7 east of the proposed development area. He said that the applicant shall
8 address whether site conditions meeting the Town's definition of a
9 regulated wetland are located within the proximity of the proposed weather
10 station.

11
12 Ms. Mathias said that when the location of the station is selected they run it
13 through the State wetland and buffers and it is not in the State wetland or
14 buffer area.

15
16 Consultant Town Engineer Barbagallo said he is talking about the local
17 wetland not the State wetland. He said that he will review the area to
18 determine if a Wetland Permit is needed.

19
20 Ms. Mathias noted that whatever is disturbed during construction is
21 replanted. She explained that the tower cranks down so the technician can
22 service the tower without bringing in a crew.

23
24 Consultant Town Engineer Barbagallo said that the applicant must take
25 care of what they are building as they do not have the same obligations as
26 a cell tower. He noted that the Planning Board should consider whether
27 requirement for a Tower Abandonment is necessary in the event that future
28 conditions warrant removal of the structure and the owner has failed to
29 undertake necessary actions.

30
31 Mr. McNamara said that the tower is on private property.

32
33 Consultant Town Engineer Barbagallo said that the Westchester Land
34 Trust is granting the easement.

35
36 Ms. Mathias said that the language in the lease agreement between
37 Mesonet and the Stuart Farm states that after one year of discontinuance
38 the tower must be removed.

39
40 Ms. Gerbino asked how far is the tower from Cottage Place.

1 Ms. Gannon replied that the tower is 330’ south of homes on Cottage
2 Place.

3
4 Ms. Gerbino asked if the data that is collected is available to the public.
5 Jerald Brotzge, PH.D, program manager for NYS Mesonet, said that the
6 website is NYSMesonet.org.

7
8 Director of Planning Dym noted that in accordance with Section 170-47 B.
9 “the height limitations of this chapter shall not apply to chimneys, church
10 spires, standpipes or water towers, flagpoles, monuments, transmission
11 towers and cable or radio or television antennas or towers.” She said that
12 since the Mesonet tower is essentially a transmission tower, its proposed
13 33 foot height is exempted from the limitations of the R-120 Zoning District.

14
15 Director of Planning Dym said that the Planning Board needs to declare its
16 intent to be Lead Agency.

17
18 On motion by Mr. McNamara, seconded by Mr. Goldenberg, and
19 unanimously carried, the Board moved to declare its intent to be Lead
20 Agency on the NYS Mesonet and circulate its intent to interested and
21 involved agencies.

22
23 Chair Currie directed that a draft Resolution be prepared for the December
24 14, 2016 Planning Board meeting.

25
26 On motion by Chair Currie, seconded by Mr. McNamara and unanimously
27 carried, the Board moved to set the Public Hearing for NYS Mesonet for
28 December 14, 2016 at the Somers Town House at 7:30 P.M.

29
30
31 **DISIENA PRELIMINARY SUBDIVISION [TM: 27.08-2-1, 2.1]**

32
33 Chair Currie noted that this is an application for Preliminary Subdivision
34 Approval, Stormwater Management and Erosion and Sediment Control,
35 Steep Slopes and Tree Preservation Permits. He mentioned that the
36 property is located at Primrose Street (Route 139) for the subdivision of two
37 existing lots into four new lots.

38
39 The Chair asked the applicant’s representative to update the Board on the
40 application.

1 Timothy Allen, the applicant's engineer, said that at the last meeting he
2 talked about the Conventional Subdivision moving toward a Conservation
3 Subdivision. He mentioned that the lot size was not 12 acres and the
4 necessity to go to the Zoning Board (ZBA) to seek a variance. Engineer
5 Allen noted that there was discussion on the Planning Board making a
6 referral to the ZBA. He noted that he submitted drawings showing the
7 proposed Conservation Subdivision having proved out the ability to provide
8 four conforming conventional lots in the R-80 Zoning District.

9

10 Engineer Allen showed the Board the new Town road and the impact on
11 visual and aesthetic characteristics of the view corridor. He mentioned that
12 the large cul-de-sac would be required to come up through the estate.
13 Engineer Allen said that there is a tree lined driveway and a bridge that
14 goes across the stream that would have to be reconstructed to
15 accommodate the road. Engineer Allen said that he is proposing a
16 conservation easement along the property frontage to protect the
17 watercourse, buffer and scenic corridor views. He explained that he is
18 proposing the creation of a conservation easement at the rear of the
19 property to protect the steep slopes. Engineer Allen said that from the
20 Conservation point of view the preservation of the overall estate quality of
21 the property is important. He said that the trees lining the driveway will stay
22 with the Conservation Subdivision but will be removed with the
23 Conventional Plan. He mentioned that the two new houses will be for the
24 family. Engineer Allen said that the purpose under the Zoning Code is that
25 the Board has to consider the conservation values of the plan and that at
26 least one objective of the Code is met.

27

28 Director of Planning Dym said that the main issue at the last meeting was
29 that the Board wanted to make a determination regarding whether or not
30 the threshold of meeting the purpose of the Conservation Subdivision
31 was met. She explained that Lot 1 is the large lot and she asked what the
32 current condition of the slopes to the rear of the existing house is. Director
33 of Planning Dym opined that it is doubtful if this area can be designated for
34 conservation.

35

36 Director of Planning Dym opined that the conservation easement on Lot 2
37 has value if the existing corridor of trees if maintained is a benefit and
38 disturbance is reduced.

39

1 Director of Planning Dym said on Lot 3 a significant portion of this lot is
 2 proposed to be contained in the proposed 2.095 acre conservation
 3 easement. She mentioned that a portion of the conservation easement
 4 contains a continuation of the brook and a portion of the wetland.

5 Director of Planning Dym said that the reason we are here this evening is
 6 for the Board to consider if the Conservation Plan meets the criteria to
 7 approve a Conservation Subdivision pursuant to Section 170-13.2 (A).
 8

9 Mr. McNamara said that preserving the vista and not allowing anything to
 10 be built there is valuable. He opined to change the entrance to the property
 11 would be criminal.
 12

13 Ms. Corning said that she remembers that the discussion was that the
 14 Board was not setting a precedent in allowing a Conservation Subdivision
 15 without actually looking at the Conservation Subdivision. She said that the
 16 vista is the primary reason for the Conservation Subdivision.
 17

18 Chair Currie directed that the Director of Planning send a memo to the ZBA
 19 recommending the granting of the variance.
 20

21 Consultant Town Engineer Barbagallo asked if the existing house is
 22 remaining.
 23

24 Engineer Allen responded that the existing house is remaining.
 25
 26

27 **MITCHELL FINAL CONSERVATION SUBDIVISION [TM: 16.09-1-9]**
 28

29 Chairman Currie said this application is for a four (4) lot Conservation
 30 Subdivision three of which are new building lots and one existing lot on a
 31 7.1 acre parcel. He noted that each lot will be serviced by individual wells
 32 and septic systems. Chair Currie noted that the owner is Gary and Ann
 33 Mitchell. He said that the subject property is located west of Tomahawk
 34 Street, Route 118, in the residential R-40 Zoning District.
 35

36 Chair Currie asked the applicant's representative to explain the application
 37 for the benefit of the Board and the public.

38 Timothy Allen, the applicant's engineer, reminded the Board that this is a
 39 Conservation Subdivision. He explained that the Code was written to allow
 40 the project to be a Conservation Subdivision. He noted that 7.1 acres is

1 the exception to the Code. Engineer Allen said that there is one existing
2 house in the front with three lots in back. He noted that the Conservation
3 parcel is the fifth lot in the back of the property. Engineer Allen said that
4 the property is adjacent to the old church.

5
6 Engineer Allen said that he is here for final Subdivision Approval. He
7 explained that the plan remains very similar to what was approved at
8 Preliminary. He mentioned that he received comments from the Director of
9 Planning and the Consultant Town Engineer and he does not have a
10 problem with the comments but needs a few clarifications. He stated that
11 the Final Plan is in substantive conformance with the Preliminary
12 Subdivision and he is requesting that the Board waive the Public Hearing
13 on Final Subdivision Approval.

14
15 Chair Currie asked Consultant Town Engineer Barbagallo to review his
16 memo for the benefit of the Board and the public.

17
18 Consultant Town Engineer Barbagallo said that he confirmed with the DEP
19 on the stormwater and they have given their ok. He said that his only
20 concern is the landscaping and screening between this project and the
21 road.

22
23 Engineer Allen said that there will be six (6) abaverties on the top of the
24 slope for screening.

25
26 Ms. Gerbino asked if there is enough space to support the trees.

27
28 Engineer Allen explained that from the top of slope back to the property line
29 there is 7 feet and from the property line to the house there is 3 to 4 feet.

30
31 Ms. Gerbino said that about 10 years ago there was a concern because the
32 house is so close and they didn't want to undermine supporting the house
33 by putting in the driveway. She said that sometimes screening has a root
34 system that interferes with safety.

35
36 Director of Planning Dym said that typically green is preferred to a fence
37 but if the main concern is the impact on an adjacent house she asked if the
38 Board would consider a fence. She mentioned that the Historical Review
39 Board raised a comment and that had to do with the southern property line

1 on Lot 2 and they requested additional landscaping related to the adjacent
2 historical house.

3
4 Engineer Allen said that the Historical Review Board asked for a 6 foot
5 stockade fence which is shown on the plan to screen the house.

6
7 Chair Currie said that the consensus of the Board was to plant the
8 abaverties and not put up a fence on the slope.

9
10 Consultant Town Engineer Barbagallo said that he will meet with Engineer
11 Allen to review the screening.

12
13 On motion by Chair Currie, seconded by Ms. Gannon and unanimously
14 carried, the Board moved to waive the Public Hearing for the Mitchell
15 Subdivision because the Final Subdivision Plan is substantially the same
16 as the Preliminary Subdivision Plan.

17
18 Chair Currie directed that a Resolution be prepared for the January 11,
19 2017 Planning Board meeting.

20
21 **INFORMAL APPEARANCE WITH SKETCH PLAN**

22
23 **ROYAL POOLS AND SPAS [TM: 4.20-1-5]**

24
25 Chairman Currie explained that this is an informal application with sketch
26 plan to display four (4) pools on the back right section of the property. He
27 said that the property is located at 63 Route 6.

28
29 Chairman Currie asked the applicant's representative to update the Board
30 and the public on the project.

31
32 Joseph Rosati, Regional Manager of Royal Pools and Spas, said that he is
33 looking to open their fourth location on 63 Route 6. He explained that he is
34 looking to keep the property as is but is looking to take a flat portion of the
35 property on the back right section to put up four above ground swimming
36 pools. Mr. Rosati noted that the swimming pools will be fenced in with a
37 stockade fence along the back and an aluminum fencing in the front end of
38 it. He mentioned that there will be no ground disturbance.

39 Mr. Goldenberg asked if there was any problem with the water and Mr.
40 Rosati said that there is no problem with the water.

1 Ms. Gerbino asked if Royal Pools will be using the building.
2

3 Mr. Rosati said that Royal Pools will be using the building and will be
4 cleaning it up.
5

6 Ms. Gerbino said that she is concerned because pool supplies will be sold
7 and there are chemicals and she is concerned on how they will be stored.
8

9 Mr. Rosati said that there is not enough room to store bulk amounts of
10 chemicals. He noted that there will be minimal amounts of chemicals. He
11 explained that mineral systems are installed with their pools which allow
12 natural methods which limits the chlorine usage.
13

14 Mr. Goldenberg said that the Board has to look at the broader picture
15 instead of focusing in on one business.
16

17 Consultant Town Engineer Barbagallo said that the Board of Legislature
18 approved sewers and this parcel will now be in the sewer district. He
19 mentioned that construction for sewers will take place in front on this
20 business.
21

22 Mr. Rosati said that he is aware of the sewer and sidewalks that will be
23 developed in front of his building. He noted that this building meets all his
24 needs as long as the pools can be shown outside.
25

26 Chair Currie asked if the applicant needs to file for a Site Plan.
27

28 Director of Planning Dym explained that the Building Inspector asked that
29 the applicant appear before the Planning Board to decide if screening
30 is necessary.
31

32 Chair Currie said that the consensus of the Board is that no additional
33 screening is necessary and a Site Plan is not required.
34

35 **DECISION**
36

37 **IBM**
38

39 Chairman Currie noted that this is a request by IBM for the Planning Board
40 to amend Resolution 99-17 that the improvements at the intersection I-684

1 northbound exit 8 off ramp at Hardscrabble Road in the Town of North
2 Salem are no longer necessary.

3
4 Chair Currie asked the applicant's representative to explain the request for
5 the benefit of the Board and the public.

6
7 Edward Noland, the applicant's attorney, said that the 1999 resolution
8 adopted by the Planning Board was in connection with IBM's request to
9 increase parking on the IBM site. He explained that the Department of
10 Transportation (DOT) suggested improvements be made at approximately
11 10 intersections. Attorney Noland mentioned that improvements were
12 made at 9 intersections. He said that the 10th intersection at the northbound
13 exit ramp at I-684 and Hardscrabble Road was not made. He said that
14 initially the improvements were not done because of opposition by the
15 Town of North Salem because of the installation of a traffic light or the
16 roundabout at the top of the exit ramp at Hardscrabble Road. Attorney
17 Noland commented that the number of IBM employees decreased so the
18 improvement was not necessary. He said that IBM questioned if their
19 traffic caused delays at the intersection. Attorney Noland noted that IBM
20 sold their complex but this obligation is still outstanding and he is
21 requesting the Planning Board amend the Resolution to delete IBM and the
22 new owner of the sites responsibility.

23
24 Mr. Goldenberg said that there is a bond on the 10th intersection
25 improvements and IBM wants their bond back.

26
27 Mr. McNamara said that IBM wanted to increase the size of their parking lot
28 and the DOT requested that improvements be made on the northbound
29 ramp at I-684 and Hardscrabble Road. He said that the work was never
30 completed and the DOT had this bond for many years.

31
32 Director of Planning Dym said that originally this was to be a simple bond
33 return. She mentioned that a lot of research was done and this request
34 from IBM required a SEQRA determination and a Resolution rescinding the
35 requirement. She said that she created an EAF where the Board can make
36 a SEQRA determination. She stressed that DOT holds the bond and
37 Resolution 99-17 approved IBM's improvements which was a greatly
38 expanded parking lot. She mentioned that this generated a traffic report to
39 utilize all the new parking spaces. Director of Planning Dym said that the
40 improvements of I-684 was only one of the suggested improvements. She

1 said that the original Resolution on Page 21, Number 3, read: *As indicated*
 2 *on page 21 of the Findings Statement, a performance bond/security is*
 3 *required to be posted by the Applicant to cover the cost of construction*
 4 *work to be performed by the Applicant at all off-site intersections for which*
 5 *it has accepted full responsibility, as set forth in the “Construction*
 6 *Implementation and Phasing Schedule”.* Such security shall be in form,
 7 *sufficiency and manner of execution satisfactory to the Town Attorney and*
 8 *approved by the Town Board.* She said that a \$250,000 surety bond in
 9 favor of New York State DOT was posted with the Town for the above
 10 specific improvements on I-684.

11
 12 Attorney Noland said that the bond was reduced by DOT to \$250,000.

13
 14 Mr. McNamara said as the work was completed the bond was reduced.

15
 16 Planning Board Town Attorney Eriole said that Mr. Goldenberg’s question
 17 was that the work was done satisfactorily as the bond would not have been
 18 reduced if the work was not done.

19
 20 Director of Planning Dym said that the WHEREAS clause should read, *the*
 21 *remaining \$250,000 surety bond in favor of NYSDOT which was posted*
 22 *with NYSDOT for the above specific improvements should be released.*

23
 24 Director of Planning Dym said that IBM sent a letter to the Town of North
 25 Salem asking if they had any objections or issues. She mentioned that in
 26 the November 2, 2016 IBM letter requested the Planning Board to amend
 27 its resolution in order to officially relieve IBM of any obligation relating to the
 28 referenced intersection.

29
 30 Director of Planning Dym said the Board considered such request by IBM
 31 and should declare itself Lead Agency on this unlisted action as part of an
 32 uncoordinated review. After reviewing a Part 2 EAF, the Board determined
 33 that, based on information provided, the proposed action would not result in
 34 any adverse environmental impacts. The Board resolved that the whereas
 35 clauses of Resolution 99-17 still stand, and are incorporated and adopted
 36 as part of this and all prior conditions and are not affected by this
 37 Resolution. The Board resolved that the prior application for Site Plan
 38 Resolution be amended to delete the required traffic improvements
 39 including a traffic signal be installed or traffic control officer be provided, the
 40 construction of a north bound I-684 off ramp at Hardscrabble Road in the

1 Town of North Salem and the posting of a surety bond with the NYSDOT.
2 The Planning Board approved the deletions of all such requirements
3 described by the materials enumerated and voted that the surety bond shall
4 be returned.

5
6 On motion by Chair Currie, seconded by Ms. Gannon and unanimously
7 carried, the Board moved to declare itself Lead Agency.

8
9 The Planning Board reviewed Resolution 2016-13.

10
11 Attorney Noland changed the wording on page 1, line 33 to read,
12 *northbound off-ramp and widened exit Ramp I-684 northbound.*

13
14 On motion by Chair Currie, seconded by Mr. McNamara and unanimously
15 carried the Board declared a Negative Declaration as the proposed action
16 will not result in any adverse environmental impacts.

17
18 On motion by Chair Currie, seconded by Mr. McNamara, and unanimously
19 carried the Board adopted Resolution 2016-13, as amended, to
20 International Business Machines Corporation and New Somers II, LLC and
21 294 Route 100 LLC.

22
23 **ADOPTION OF PLANNING BOARD CALENDAR FOR 2017**

24
25 Chairman Currie said the next item is a discussion regarding the Planning
26 Board calendar for 2017. He asked the Board if they had any changes or
27 comments on the Planning Board calendar for 2017.

28
29 On motion by Chair Currie, seconded by Ms. Gannon and unanimously
30 carried, the Board adopted the 2017 Planning Board calendar.

31
32 **EXECUTIVE SESSION**

33
34 *At this time the Planning Board went into Executive Session to discuss*
35 *Granite Pointe Subdivision to review a matter in litigation, Houslanger.*

36
37 The Board returned from Executive Session and the Chairman announced
38 that there being no further business, on motion by Chair Currie, seconded
39 by Mr. Goldenberg and unanimously carried the meeting adjourned at
40 11:15 P.M.

1 The Chair announced that the next Planning Board meeting will be held on
2 Wednesday November 30, 2016, at 7:30 P.M. at the Somers Town House.

3

4

5

6

7

8

Respectfully submitted,

9

10

11

12

Marilyn Murphy
Planning Board Secretary

13

14

15