

Town of Washington Planning Board
Millbrook, NY 12545

The monthly meeting and public hearing of the Town of Washington Planning Board was held on February 5, 2019 at 7:30 P.M., the Town Hall, 10 Reservoir Drive, Millbrook, New York.

Members Present: Chairman, Paul Schwartz, Donald Hanson, Ed Jorgensen, Tara Kelly, Bob Kulpa, Susan Meaney, also, ZBA Chairman, John Pairisi, Councilman/Planning Board Liaison Al DeBonis, Howard Schuman, Conservation Advisory Commission Representative.

Chairman Schwarz opened the meeting with the Pledge of Allegiance at 7:30 P.M., welcomed Susan Meaney, new board member, announced the first agenda item.

The application request of Oken Special Permit (Erik Oken) 636 Deep Hollow Road, is to renovate the existing 643 s.f. barn and convert to a guest house along with a 2,500 s.f. addition. The total proposed guest house is 3,143 s.f., also the installation of a new septic system. The property is zoned R10. **Dutchess County Tax Map Grid No. 6966-00-617541.**

Chairman Schwartz invited anyone interested in this application to come forward to view the site plan. Maryann Hegel, adjoining neighbor, 450 North Tower Hill Road viewed the site plan and was given a review of the proposal.

John Allee, Allee Architects & Design, LLC, Lakeville, CT appeared before the board representing the applicant, summarized the proposal. The site plan, project, floor plan, and color ariel photos previously submitted were reviewed by the board. John Allee said he has shown the setbacks on the site plan, also, the storage wing that was shown on the previous site plan was removed, was replaced by parking area. The footprint has been reduced from the total proposed square footage, Other changes shown are the proposed well and the setbacks, said, the Board of Health has not signed off on the application yet.

A brief discussion by the board, ZBA chairman Parisi, John Allee, relative to a breezeway, hallway, or an entrance is shown on the map. John Allee stated it is not a breezeway is an entrance, a breezeway has a definition, would imply an open area, this is a fully contained space.

John Allee presented a Dutchess County Parcel Access 2016 ariel photo and a 1980 ariel photo that shows the barn was existing prior to the adoption of the '89 zoning.

A motion to open the Oken Special Permit Public Hearing was made by chairman Schwartz seconded by board member Jorgensen, 6 ayes, 1 absent.

Noone came forward with any comments, questions, regarding this application.

A motion to close the Oken Special Permit Public Hearing was made by board member Hanson, seconded by board member Kelly. 6 ayes, 1 absent.

A motion to issue A Negative Declaration of Determination of No Significance was made by board member Meaney, seconded by board member Jorgensen. 6 ayes, 1 absent.

A motion to grant the Oken Special Permit Application Preliminary Approval was made by board member Kelly, seconded by board member Hanson, 6 ayes, 1 absent.

A motion to grant the Oken Special Permit Application Final Approval was made by board member Hanson, seconded by board member Kelly. 6 ayes, 1 absent.

Chairman Schwartz stated that the approval Resolutions will be written contingent upon Board of Health approval, the Board is not signing off on this application until Board of Health approval is received. When notified that Board of Health approval is received secretary Caul is to notify town attorney Jeff Battistoni to write a Negative Declaration of No Significance, Preliminary and Final Approval Resolutions. The plans will be signed at that time.

The application request of Levine Lot Line Change (Eric Levine) 461 Woodstock Road is to convey approximately seven (7) acres from their existing 20.88 acres lot to Randy Reiff, 527 Stanford Road, who has an existing 31.52 acres lot. The property is zoned RL 5. **Dutchess County Tax Map Grid No. 6666-00-872228.**

John Tamberino, L.S., representing Bly and Houston Land Surveyors appeared before the board, gave a review of the lot line change proposal, presented a color ariel photo of the property. Said, the lot line change is between Eric Levine who resides at 461 Woodstock Road, and lands of Randy Reiff who resides at 527 Stanford Road. Both properties are located in the RL 5 Zoning District.

The color yellow shown on the map is the Levine property, has a 20.88 acre parcel that contains a house and garage, highlighted in the color purple is the Reiff property that contains the 31.52 acre parcel. The highlighted orange line is the 7.30 acres that will be merged with the Reiff 31,52 acres parcel. There is no proposed development. The Levine property will be left with a 13.58 acres parcel, bringing the Reiff parcel to 38.52 acres parcel. Randy Reiff wanted to purchase this land as a buffer to his land.

Board member Jorgensen spoke to the runoff, the overflow pipe of the conveyor, questioned if there is an agreement on that? John Tamberino said there wasn't anything mentioned about an agreement, its not a pipe, is an existing stream that runs through the parcel. Board member Jorgensen said if it was an overflow pipe it would have been an issue.

A motion to open the Levine Lot Line Change Public Hearing was made by board member Hanson, seconded by board member Kelly. 6 ayes, 1 absent.

Noone was present to comment on the application.

A motion to close the Levine Lot Line Change Public Hearing was made by board member Hanson, seconded by board member Kelly. 6 ayes, 1 absent.

Chairman Schwartz stated that town attorney Jeff Battistoni indicated this application is a Type II Action not requiring a Negative Declaration of Non Significance.

A motion to grant the Levine Lot Line Change Application Preliminary Approval was made by board member Meaney, seconded by board member Hanson. 6 ayes, 1 absent.

A motion to grant the Levine Lot Line Change Application Final Approval was made by board member Hanson, seconded by board member Kelly. 6 ayes, 1 absent.

The Mylar is to be signed by chairman Schwartz at a later date.

Andrew Tesoro, AIA Tesoro Architects, 1841 Broadway, New York City appeared before the board representing applicant Lee Buchheit, 345 Woodstock Road, presented completed Combined Application Form, Wetlands Permit Application, Short Environmental Assessment Form, large scale, small scale plans, and color photos of the existing barn. The property is zoned RL 5.

Dutchess County Tax Map Grid Nos. 6665=00=675957, 6666-00-624043

Mr. Tesoro said the existing residence at 345 Woodstock Road is intact and is not proposed to be modified in any way. The garage and barn complex which is across Woodstock Road is proposed to be modified.

Mr. Tesoro said it is indicated as simply being proposed to be reconstructed on the original footprint seen in the photo presented. The proposal is merely the reconstruction of exactly what was there, actually holding it three feet further back. Is aware that the existing house is not conforming with the existing setbacks or wetland setbacks. Board member Jorgensen commented that the main house has a septic, is it across the road? Mr. Tesoro said it is across the road, two one thousand gallon tanks. Board member Jorgensen questioned if they are going to tie the studio into that septic system? That is the intent.

Mr. Tesoro described the proposal as being mainly a study proposal to reconstruct the pre-existing barn, there is no bedroom, no full bathroom, only a toilet that is hooked up to the septic system, there is no second floor, the reconstructed barn will be heated. There are four bedrooms in the main house, this is not changing, is about thirty two hundred square feet not including the basement. Board member Jorgensen questioned if the plans are going to indicate that studio is not going to contain a bedroom? **Mr. Tesoro was asked to place a note in the Site Plan Legend that there are no bedrooms.** Board member Jorgensen commented that Mr. Tesoro understands that he is not getting Board of Health approval.

ZBA Chairman Parisi spoke to the application not being a conversion if there is no kitchen, no bedroom, is described as a solarium, falls under the town code section 391, non-conforming uses, buildings and structures, doesn't think it is a section 330 application.

Chairman Schwartz said this application is about overriding section 330 over section 391. Chairman Parisi's point is if it doesn't meet section 330 it is section 391. Is it considered expansion if he is not physically going beyond the confines of the original structure? Chairman Parisi said if there is no second floor he is not expanding it.

A comment was made that it's a solarium, is an improvement of this barn from a barn to a study that doesn't raise any concerns, is an addition of a solarium. Chairman Schwartz questioned if the solarium has a heated in pool, if its heated then its considered taxable space. Question is, what is the additional square footage of that relative to the existing structure? Mr. Tesoro said it is more than 1,000 sq. ft. but is well within the 25% limitation.

Upon being questioned, Mr. Tesoro stated that there will be gutters on the roof. Chairman Schwartz questioned what will happen to the runoff from the gutters? Said, it is not a bad idea that the gutters would run to a dry well outside of the wetland buffer.

Chairman Parisi questioned if the total barn pre-exists the '89 Zoning Code adoption? Chairman Schwartz said, yes, referred to the Oken application, **just having an image that came off of the Dutchess Parcel Access Map that was dated 1980. If there was a survey done at the time of 1980, Mr. Tesoro can bring that, it would codify that it preexisted the '89 code adoption.** Howard Schuman said the Dutchess County Parcel Access Maps date back to 1971 can also go to the County. Chairman Schwartz suggested before going to the County, Mr. Tesoro go the Town of Washington Assessors Office, they having a 3x5 card file with every parcel listed in the town. On those cards drawn in pencil is the structures on every property. If the assessors office still has those cards after the reevaluation, because these go back fifty, seventy five, years, that would indicate the presence of that structure at that time.

Mr. Tesoro questioned if there is a written document that refers to this structure but not by dimensions? Board member Jorgensen questioned about the foundation of the barn? Mr. Tesoro said its an all stone foundation. Board member Jorgensen said if the barn has a stone foundation he has no problem dating it.

The Board concluded that this application falls under the Code Section 391, Nonconforming Uses, Buildings and Structures.

Mr. Tesoro expressed that he doesn't fully understand how to present this project, understands that it would be sensible to address it with reference to Section 391 to clarify that the intent is that there shall be no bedroom, no sleeping. Said, he understands that the drainage needs to be clarified, and any dry well location would need to be shown, will adjust the application accordingly.

Chairman Schwartz said, because Mr. Tesoro is expanding the footprint in the wetland buffer, the application needs to go before the Zoning Board of Appeals, Chairman Parisi said according to former consultant Neil Wilson, the Planning Board needs to issue a Negative Declaration of Non Significance, then he will need to apply to the ZBA for an area variance for either a setback or the 25% rule.

Chairman Schwartz said he understands that the planning board needs to give the applicant a referral to the ZBA for the ZBA to give the applicant the variance before the planning board can take action on this project. Chairman Parisi said he had asked former consultant Neil Wilson relative to this issue, he gave him five steps that said the applicant needs to

go to the planning board first, issue a negative declaration of non significance to go before the ZBA for an area variance. Chairman Schwartz said he will telephone town attorney Jeff Battistoni on this matter, is not to say chairman Parisi is wrong. Previously was said that a referral is first, then a variance, then the process only after the ZBA has given the area variance i.e. permission to do this project. Because without ZBA permission to do this project it can't go forward without the area variance.

Chairman Parisi referred to code section 391 item #7, nonconforming structures or structures containing nonconforming uses may be enlarged, extended, reconstructed, or altered by a maximum of twenty-five percent (25%) of the aggregate gross floor space area of the structure as it existed on May 13, 1971, or up to the maximum lot coverage allowed in the zoning district in which the nonconforming structure is located.

Mr. Tesoro questioned, in going forward should he make a separate application for the solarium? Chairman Schwartz asked the Conservation Advisory Commission for an opinion on this because it is specifically under the auspices of a wetland issue. Howard Schuman, CAC representative spoke to the wetlands ordinance,

Howard spoke to the 2011 Wetlands Ordinance said, all properties both the barn and the owner residence across the road are in the wetlands buffer, does not conform to the present zoning code, it is unlikely that they would now be allowed to be constructed there if the owner wished to build today. In the Wetlands Ordinance 2011, the solarium as a new nonconforming new addition in the wetlands buffer which would not be approved on its own would have to be built outside the buffer, there is plenty of room on the sixty acres of the property. (Mr. Tesoro interjected, 53 acres). The CAC recommendation is that the solarium be placed outside the wetland buffer.

Chairman Schwartz referred to the zoning code, Section 391 #7, saying a nonconforming structure can be enlarged by 25% as it existed on May 13, 1971. If they limit their expansion to 25% why doesn't it fall under Section 391? Howard said the issue is the wetlands ordinance that says you cannot build inside the wetland buffer. If it is a pre-existing property you can modify it. The problem is that they are building a new structure in a wetland buffer.

Board member Jorgensen said one wall of the solarium is going to be attached to the renovated barn. Howard said the Board has to made a decision, the CAC would like to see this under the wetlands ordinance where it would be put normally building the solarium outside the wetlands buffer, but board member Jorgensen is saying that one wall is attached to the building. Board member Jorgensen remarked, are we going to tell the owner he has to stick his solarium 150 ft. from the barn, it would make a very odd

project. Howard expressed that the existing barn is just 30 ft. from the pond. Board member Jorgensen commented, think of the impacts on the wetland.

Board member Jorgensen said if the solarium has water, that water is going to have a drain similar to a sink, will tie into the septic, its going to the septic. Mr. Tesoro said, this is purely for recreational and horticultural. Board member Jorgensen remarked that the solarium is not going to generate any waste, it will be a positive in the wetland. Mr. Tesoro acknowledged that is correct.

Board member Jorgensen expressed that the building is going to have gutters that the water doesn't flow loosely over the soil into the wetland, is going into a dry well. Mr. Tesoro acknowledged that is correct. Board member Jorgensen said those two possible impacts have been addressed. Mr. Tesoro is asking for a variance from the normal wetland construction buffer.

Chairman Schwartz referred to Mr. Tesoro mentioning a drain or sink in the solarium, questioned where that effluent is going? Mr. Tesoro said it will tied in with the proposed toilet in the barn, into the septic to go entirely out of the buffer. Board member Jorgensen questioned if the septic itself is outside the buffer. Mr. Tesoro said entirely outside the buffer. Board member Jorgensen said there is a four inch pipe going to the septic. Mr. Tesoro acknowledged that is correct.

Howard Schuman said the CAC doesn't think it's a good idea to go down that road start building new construction in a wetland buffer when there is ample access to put the construction elsewhere. Board member Jorgensen remarked he sympathizes but disagrees.

Mr. Tesoro said in any event if the architects were asked to deny a solarium on this property, if there were no other structures on that property, would locate it more than one hundred feet from the wetland, wouldn't think twice, it would be the right thing to do. The solarium itself is not an independent structure, is an interim with the living space in the way that they are intending using it year around. Howard reiterated that he is allowed 25% expansion of a nonconforming structure.

Board member Jorgensen said he is very sympathetic to what Howard is saying, if this project contained bedrooms that would be added inside the buffer he would hesitate. If there is to be a legend on the site plan that says no bedrooms, that this is essentially a cathedral living room with three walls off the living room glassed in solarium, weighing the benefit of having a nice project in the town vs are there impacts on the wetland, to him the impacts are minimal. The board is going to legend the site plan no bedrooms, The very valid point that Howard raised is that normally you wouldn't have construction

in a buffer. Said, the applicant has agreed to note the legend on the site plan.

Chairman Schwartz referred to Mr. Tesoro saying the building is going to be shorter. Mr. Tesoro said, this is correct. Chairman Schwartz questioned the number of square feet less he is going to be covering? Mr. Tesoro said about sixty square feet less. Chairman Schwartz questioned how many more square feet is being covered? Mr. Tesoro said 240 square feet. Chairman Schwartz said he is only increasing the coverage of the wetland by 180 square feet. This is correct.

Chairman Schwartz next questioned what is being done with the water? If he is reducing the wetland recharge by 180 square feet, sending that water to a dry well it gets recharged into the system? The fact that no runoff is being created, is going to put into a dry well, the impact is pretty negligible. Board member Jorgensen said the runoff is addressing the contamination of the space, the roof has contaminates, just runs off onto the property into the wetlands. There is no asphalt runoff going into the wetlands. Mr. Tesoro concurred. Chairman Schwartz questioned about the roof material? Mr. Tesoro said the entire roof is a metal roof. The roof now is asphalt. Board member Jorgensen said this project actually reduces the possibilities of contamination of the wetlands. The project puts it into expansion of a pre-existing nonconforming takes it out of the converted barn. Chairman Schwartz stated that the offset is clearly an assisted beneficial, not negative, impact. Board member Jorgensen commented that with the new materials he thinks it reduces the impacts.

Chairman Schwartz spoke to any drains at all regardless of where they are, any drains that occur, any water either goes to the septic or a dry well located outside the wetland. **Mr. Tesoro said he will identify dry well locations.**

Chairman Schwartz asked Mr. Tesoro to note the legend that all water being generated, all runoff, that the impermeables go into dry wells or the septic. **Mr. Tesoro said all of the water will be identified as to where it is going.**

Chairman Schwartz said the area of disturbance is not big enough for a fire but suggests showing the silt fencing which will prevent any infiltration which would be a positive at the public hearing.

Chairman Schwartz stated that he is to call town attorney Battistoni regarding the procedure on this application, if a negative declaration of non significance is to be issued before the Zoning Board of Appeals can hear this application.

Mr. Tesoro questioned if there is any possibility of being done with the approval processes in March? No.

Discussion followed between chairman Schwartz and chairman Parisi regarding the possible dates of the Planning Board and ZBA public hearings. If assumed correctly, the Planning Board public hearing would be held in April, The Zoning Board of Appeals would hear the application in March.

The applicant is to return to this board for the March 5th meeting.

The Planning Board has declared itself Lead Agency, notification will be sent to the one involved agency which is the Town of Washington Zoning Board of Appeals.

There being no further discussion, comments, business, a motion to adjourn the meeting was made by board member Kelly, seconded by board member Jorgensen. The meeting was adjourned at 9:10 P.M.

Respectfully submitted,

Nikki Caul, secretary

