

John Currie, *Chairman*
Jan Corning
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
Dennis McNamara
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Town of Somers
WESTCHESTER COUNTY, N.Y.



SOMERS PLANNING BOARD MINUTES
NOVEMBER 14, 2018

ROLL:

PLANNING BOARD Chairman Currie, Ms. Corning,
MEMBERS PRESENT: Mr. Goldenberg, Ms. Gerbino, Mr. McNamara and
Ms. Gannon

ALSO PRESENT: Director of Planning Syrette Dym
Consulting Town Engineer Joseph Barbagallo
Town Attorney Joseph Eriole
Planning Board Secretary, Barbara J. Sherry

ABSENT: Mr. Prince

The meeting commenced at 7:30pm. Intermediate Clerk Barbara J. Sherry called the roll and noted that the required quorum of four members was present in order to conduct the business of the Board.

Chairman Currie asked if there were any comments or questions from the Board on the September 26, 2018 draft minutes; there were none.

On a motion by Chairman Currie, seconded by Ms. Corning, Mr. McNamara abstaining, the minutes of September 26, 2018 were approved.

Chairman Currie asked if there were any comments or questions from the Board on the August 8, 2018 draft minutes, there were none.

37 On a motion by Chairman Currie, seconded by Mr. Goldenberg and unanimously
38 carried, the minutes of August 8, 2018 were approved.

39

40 **GRANITE POINTE SUBDIVISION TM: 27.05-3-2&5**

41

42 Chairman Currie stated this is the fifth request for a 90 day time extension
43 for the Re-Grant of Final Subdivision Approval, Wetland, Steep Slopes, Tree
44 Preservation and Stormwater Management and Erosion and Sediment Control
45 Permits, as per Resolution #2017-10, from November 3, 2018 up to and including
46 February 1, 2019 under Town Law Section 276 (7) (c) and Town Code Section
47 150-13M. The Property is located on the east side of Route 118/202, adjacent to
48 the Amawalk Reservoir and is located in an R-40 Zoning District for the
49 development of 23 lots in a Cluster Subdivision.

50

51 On a motion by Chairman Currie, seconded by Ms. Corning and unanimously
52 carried, the Board moved to grant the fifth request for a 90-day time extension for
53 the Re-grant of Final Subdivision Approval, Wetland, Steep Slopes, Tree
54 Preservation and Stormwater Management and Erosion and Sediment Control
55 Permits as per Resolution #2017-10 from November 3, 2018 up to and including
56 February 1, 2019.

57

58 **MANTEAU WETLAND PERMIT: TM 48.13-1-27**

59 Mr. Peter Gregory of Keane Coppleman Gregory Engineers approached the Board
60 and stated that since their last appearance before the Board and the two site walks,
61 they were able to locate and now show some of the large maple trees that were out
62 beyond the garage area and have realigned the pool to be more in line with the
63 garage for a better layout. The disturbance and the access will not change and,
64 based on discussions in the field, everything remains the same.

65

66 Engineer Gregory stated he has had conversations with Steven Woelfle, Principal
67 Engineer Technician, regarding the drainage and it is his understanding the Town
68 has been out to the site to clean out some of the drain outlets down in the lower
69 basin to the rear of the site.

70

71 TCE Barbagallo stated he and Principal Engineer Technician Woelfle had been to
72 the site today and discussed the drainage easement that the Town has and that it
73 needs to be on the plans. As for the work, discussion was held with Superintendent
74 of Highway Chiaverini, Principal Engineer Technician Woelfle, Mr. Thomsen and

75 Mr. Manteau and all have agreed that while the equipment is there the
76 Superintendent of Highways will get this cleaned up.

77

78 TCE Barbagallo added this should not be connected to this application as they are
79 separate issues and this is a Town obligation. This is a one-time activity where the
80 homeowner is cooperating with the Town to everybody's mutual benefit and it not
81 to be contemplated as part of this application and that the easement needs to be
82 shown on the map.

83

84 Ms. Gerbino stated she wants it clear so that in the future the Town has access to
85 that site without any difficulty and that the owner understands this.

86

87 TCE Barbagallo stated there is an existing maintenance easement over that.

88

89 Discussion ensued about the necessity of the easement, the difficulty of access to
90 the easement and possibly widening of the easement to get around the basin.

91

92 TCE Barbagallo asked Engineer Gregory to speak to his client to see about easier
93 access.

94

95 Ms. Gerbino stated in her neighborhood, with houses that have been there up to
96 forty five (45) years, about two (2) years ago there was an issue with a storm
97 drainage problem that overlooked the Amawalk Reservoir. The Highway
98 Department went in, across the homeowners yard about 300' with heavy
99 equipment and after reconstruction of the trap the lawn was successfully rebuilt by
100 the Town.

101

102 TCE Barbagallo stated the map should show the easement and a way to get into
103 that easement so that the maintenance may be accomplished in the future. If there
104 are any features that are inside of the easement, language such as what the obstacle
105 is that is in the way and that the Town has the right to move it at that location
106 should also be included.

107

108 Ms. Gannon stated that at the site walk she attended she got the sense that all
109 parties concerned want to do the right thing, not only on this application but also in
110 the future.

111

112 TCE Barbagallo stated he does not see the clean-up in any way connected to the
113 mitigation of this project; the mitigation needs to stand alone.

114

115 Engineer Gregory stated he is not looking to replace the cleanup but thought that
116 while everyone was there it was an opportunity to cooperate.

117
118 Engineer Gregory continued, stating that something to consider is that the
119 applicant would like to maintain some of the screening between their property and
120 the adjacent property. They are concerned if part of the maintenance is about
121 going in there and clear cutting the entire basin. They would like the ability to go
122 back in and reestablish some screening along the property line if possible. Maybe
123 if they had some control, the issue might be forcing them to clean things.

124
125 TCE Barbagallo stated if your client is willing to think about that and take over
126 the maintenance in perpetuity, a lot of these challenges will go away, relative to
127 getting in and modifications to the easement, etc.

128
129 Engineer Gregory stated that they can discuss and come back with both, showing
130 what it takes to get access to the rear of the property and what their feelings are
131 about taking this over.

132
133 TCE Barbagallo stated he was speaking to the homeowner and it struck him that
134 they are not adverse to the rain gardens that are being asked for, for mitigation
135 purposes.

136
137 Engineer Gregory stated he was considering possibly placing some rain gardens
138 over by the garage downspouts then possibly picking up the roof drains from the
139 garage, directing them to the rain garden and then keeping the work around the
140 pool to a minimum. That allows them to preserve the access to walk around the
141 pool.

142
143 TCE Barbagallo stated that the impervious area of the roof which will be collected
144 and treated through a rain garden is probably multiples of the amount of
145 impervious surface you are creating around the pool.

146
147 Engineer Gregory stated that the area of disturbance will increase as a result of this
148 and they will be going over 5,000 square feet so they will obtain coverage.

149
150 Chairman Currie asked if the applicant were to take over the maintenance, would
151 they be held to a different standard than the Town.

152
153 TCE Barbagallo stated the enforcement body for the Town is the New York State
154 Department of Conservation (NYSDEC). If the applicant should take over the

155 responsibility for the maintenance, the Town becomes the enforcement body, so
156 the Town may enforce in a different way than NYSDEC.

157

158 Chairman Currie asked if there are any existing easements that fall under this
159 category.

160

161 TCE Barbagallo stated yes, there are private systems that do not get maintained at
162 the level we want. It is something that he has spoken to Principal Engineering
163 Technician Steve Woelfle about, issuing a Town wide initiative to get all of those
164 private systems maintained, or at least inspected. That has not gotten very far and
165 obviously there are a lot of complications around this when you go townwide. We
166 know what the past enforcement has been and things change. The NYSDEC could
167 change the enforcement to the Town and as the delegated authority we would start
168 doing so. But the obligation would remain consistent for maintenance and an
169 annual maintenance agreement in accordance with the schedule that was agreed
170 upon would be part of the agreement. If the easement agreement is modified the
171 applicant could get some rights to planting on the berm. Relative to the rain
172 gardens, as long as we are treating a greater impervious surface than we are going
173 to install, it is a net positive.

174

175 Chairman Currie asked Director of Planning if she had any comments. She had
176 none.

177

178 Chairman Currie asked if there were any Board Member comments, there were
179 none.

180

181 Discussion ensued regarding installation of the pool. There will be a relief opening
182 at the bottom of the pool to relieve the hydrostatic valve. Water will come into the
183 pool under construction and once the water is in the pool, that keeps everything
184 balanced.

185

186 Ms. Corning added there will be three valves.

187

188 CTE Barbagallo asked if this is a one way valve so that water can enter and not go
189 out, adding that is a critical point, as we need to ensure that the chlorine does not
190 get into the groundwater.

191

192 CTE Barbagallo also asked what happens in the future, if a different homeowner
193 has to empty the pool for some reason, do these valves remain operational.

194

195 Engineer Gregory stated he believes they will, but he will check with Bedford
196 Poolscares.

197
198 A brief discussion ensued regarding the scheduling of a Public Hearing and
199 required changes on new plans i.e. easement, drip line of the canopy on the trees
200 and raingardens.

201
202 On a motion by Chairman Currie, seconded by Ms. Corning a Public Hearing was
203 scheduled for December 12, 2018.

204
205 **ODELL WETLAND PERMIT: TM: 16.17-1-6**

206
207 Mr. Andrew Cheung PE, Watershed Agricultural Council, approached the Board
208 and asked if there were any questions from the Board regarding this application.

209
210 There were none.

211
212 On a motion by Chairman Currie, seconded by Ms. Gannon and unanimously
213 approved, a Special Planning Board Meeting will be held on November 29, 2018 at
214 7:00PM for the purpose of having a Public Hearing on the Odell Wetland Permit

215
216 On a motion by Chairman Currie seconded by Ms. Gannon and unanimously
217 carried a Public Hearing was scheduled for Thursday, November 29, 29108 at
218 7:00PM for the Odell Wetland Permit.

219
220 **PLANNING BOARD CALENDAR FOR 2019**

221
222 On a motion by Chairman Currie, seconded by Ms. Gannon and unanimously
223 approved, the 2019 Calendar for the 2nd and 4th (if needed) Wednesday of every
224 month was approved.

225
226 **NORTH COUNTY HOMES INC. – CARDINAL WAY: TM 16.17-2-7 & 4**

227
228 Chairman Currie stated this is a proposed re-subdivision of two (2) existing lots,
229 one containing an existing single family house and the second lot being a vacant
230 land-locked lot and special permits for Stormwater Management, Erosion and
231 Sediment Control, Steep Slopes and Tree Preservation. The existing single house
232 is proposed to be removed and two new houses are proposed to be constructed.
233 The homes will be served by public water and private septic systems. The lots are
234 located at 3 Cardinal Way in an R-40 Zoning District.

235 Mr. John Karrell, PE for the applicant, approached the Board and stated this is a
236 two (2) lot subdivision with an existing house that will be demolished, 2 new
237 houses are proposed with new driveways, septic's and private wells off the
238 Cardinal Way cul-de-sac.

239
240 Engineer Karell continued adding that most of the Consultant comments were
241 addressed, discussions were held with Director of Planning Dym and the
242 landscaping plan is being worked on and Mr. Karell is hoping the Board will
243 schedule the Public Hearing this evening.

244
245 Chairman Currie asked Director of Planning Dym and Town Consulting Engineer
246 (CTE) Barbagallo if they had any comments

247
248 Director of Planning Dym stated conversations were held with Mr. Karell and
249 based on that, revised plans were received on November 13, 2018. As of yet they
250 have not been reviewed. However, based on their conversations the changes
251 should be on this plan.

252
253 CTE Barbagallo stated a site inspection was made today and a fair amount of
254 progress has been made on getting their comments addressed. Discussions
255 included the 41,000 feet of disturbance limit, the possibility of a surveyed and
256 staked construction fencing around those limits to make certain they do not go
257 beyond the 41,000 foot perimeter. Some other things that came up were some large
258 specimen trees; one in the vicinity of the house and another by the pool. It was
259 stated they should be shown on the plans, and, if they are to be removed, the root
260 balls will be very large and the limited disturbance should adequately reflect this.
261 The grading should also be shown on the survey so that you do not get beyond the
262 41,000 feet of disturbance allowed. I am going to require you to survey this and put
263 up a construction fence at that limit and there will be serious consequences if there
264 is any construction beyond the fence.

265
266 Engineer Karrell stated the limited disturbance is conservative and was calculated
267 by the land surveyor, but he feels they can stay under it.

268
269 Director of Planning Dym stated early on, the question came up that you needed a
270 tree removal permit, but the Board has not received a permit and there is no
271 indication of how many trees are planned to be removed. This goes along with
272 what CTE Barbagallo is saying and this is in her memo as well. We need you to
273 identify what trees are to be removed, a tree removal permit and the appropriate
274 fee.

275 CTE Barbagallo said if you are confident that you are going to be under the 41,000
276 foot disturbance then please place a note on the plan stating the limited disturbance
277 will be staked out by a surveyor and orange construction fence will be placed at
278 that limit. He added that there are already areas of disturbance that are not shown
279 on the current map right off the cul-de-sac.

280

281 CTE Barbagallo added that Principal Engineering Technician Woelfle is
282 suggesting that you add some cultech infiltrators for these buildings to increase
283 some water quality volumes. Given the tightness of the lot, I know this may be a
284 challenge.

285

286 Engineer Karrell stated he has to maintain certain distances from the septic, but
287 will take a look at this.

288

289 CTE Barbagallo stated his concern about staying under the 41,000 because if it is
290 over that number there will be a lot more stormwater work on the site and there is
291 no drainage on this road.

292

293 Engineer Karrell stated he would look at the driveways and the house to see where
294 some units can be placed.

295

296 CTE Barbagallo added one other item is the existing well. Is it being abandoned?

297

298 Engineer Karrell stated yes and when they go to the Westchester County Health
299 Department (WCHD) for the septic approval, they will include the abandonment of
300 the existing well.

301

302 CTE Barbagallo stated the abandoned well should be noted on the plan, and he
303 would like to see more stormwater attenuation even though he cannot mandate it,
304 but if some could be put in there it would be helpful, especially from the
305 impervious areas.

306

307 Mr. Karrell agreed.

308

309 Chairman Currie asked if there were any Board Member comments.

310

311 There were none.

312

313 Chairman Currie asked if the equipment being stored next door will be removed or
314 stay there.

315 Mr. Joseph Festo, applicant, stated the next door property was his house but the
316 equipment will be removed.

317

318 Chairman Currie made a motion to set the Public Hearing for Preliminary
319 Subdivision, Stormwater Management, Erosion and Sediment Control, steep
320 Slopes and Tree Preservation approval for December 12, 2018, seconded by Mr.
321 McNamara; the motion was unanimously approved.

322

323 **INVASIVE SPECIES**

324

325 Chairman Currie asked Director of Planning Syrette Dym to please lead this
326 discussion.

327

328 Director of Planning Dym stated questions were asked at the last meeting and
329 based on that, I forwarded to you the New York State Regulations. Since then the
330 Town Board has moved forward and drafted legislation for the Town of Somers
331 based on the Town of Soltaire, which is located on Fire Island. It is now in front of
332 you and essentially what it states is any new bamboo is prohibited and if you have
333 existing bamboo on your property you are required to make certain that it does not
334 invade someone else's property. If the property owner does not stop the growth
335 onto another property the Town will come in and make certain it is stopped.

336

337 Director of Planning Dym stated the proposed legislation is pretty straight forward,
338 but as there is State legislation of bamboo it does not hurt to have another layer.

339

340 Town Attorney Eriole stated the most important reason to address this at the local
341 level is to set forth procedures for how you follow up, once it is determined if there
342 is bamboo present. It gives the owner the opportunity to show the Building
343 Inspector there is this presumption that you allowed it to grow, if it is on your
344 property, if it predates you, that can be shown. It sets forth a specific procedure for
345 due process and how it is handled and also for what the follow up is. While it
346 addresses a situation that is also addressed by the State regulations, it does it in the
347 context of how it will actually be handled in this building and how you follow up.

348

349 Ms. Gerbino stated that since this discussion began back in September when the
350 discussion was about Invasive Species, it has evolved from there to a discussion
351 about bamboo based upon a memo from Building Inspector Thomas Tooma to the
352 Town Board for their consideration.

353

354 Ms. Gerbino added that based upon this she backs off from her original position.

355 Chairman Currie stated he read through the documents and opined that if a
356 neighbor has Bamboo and no one makes a complaint it will never come to
357 anything.

358

359 Town Attorney Eriole responded that it is written so that it would not trigger the
360 provisions of this Code. There may be other remedies available to an owner.

361

362 CTE Barbagallo asked if this regulation would come into play, let's say if a
363 resident wishes to install a pool and their property is loaded with bamboo, does this
364 regulation kick in, or is it only if someone complains or when it comes to the
365 Town's attention.

366

367 Discussion ensued regarding this matter and it was determined that the proposed
368 legislation was to prohibit the planting of Bamboo and provide the Town with
369 legislation to act upon a complaint. It also gives the Town the opportunity to make
370 certain the Bamboo is controlled.

371

372 Director of Planning Dym asked the Board if based upon this discussion should she
373 write to the Town Board stating the Planning Board's agreement with the proposed
374 legislation.

375

376 The Board was all in favor of proposed legislation and directed Director of
377 Planning Dym to relay this to the Town Board.

378

379 Director of Planning Dym also added, sometime in 2017 the Open Space
380 Committee applied for and received a grant to take care of Invasive Species for a
381 certain small area at the Angle Fly Preserve.

382

383 Additionally during the site plan process if there are Invasive Species on the site
384 the Planning Board can make that part of their approval to remove them.

385

386 Chairman Currie asked if there were any other Board comments; there were none.

387

388 There being no further business, on a motion by Chairman Currie, seconded by
389 Ms. Gerbino and unanimously carried, the meeting was adjourned at 8:20pm. The
390 Chairman announced that the next Planning Board meeting will be a Special
391 Meeting on November 29, 2018 at 7:00pm and following that the Regularly
392 Scheduled Planning Board Meeting will be on December 12, 2018 at 7:30pm.

393

394

395 Wishing everyone a Happy Thanksgiving the meeting was adjourned.

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406

407

Respectfully submitted,



Barbara J. Sherry

Planning Board Secretary

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