

Telephone 1  
(914) 277-5366

FAX  
(914) 277-4093

PLANNING DEPARTMENT

TOWN HOUSE  
335 ROUTE 202  
SOMERS, NY 10589

*Town of Somers*

WESTCHESTER COUNTY, N.Y.



John Currie, *Chairman*  
Fedora DeLucia  
Christopher Foley  
Vicky Gannon  
Nancy Gerbino  
Eugene Goldenberg  
Dennis McNamara

3

**SOMERS PLANNING BOARD MINUTES  
FEBRUARY 11, 2015**

4

5

6

**ROLL:**

8

**PLANNING BOARD**

**MEMBERS PRESENT:**

Acting Chair Gerbino, Mrs. DeLucia,  
Ms. Gannon and Mr. McNamara

12

**ALSO PRESENT:**

Consultant Town Engineer Joseph Barbagallo  
Planning Board Town Attorney Joseph Eriole  
Planning Board Secretary Marilyn Murphy

16

**ABSENT:**

Director of Planning Dym  
Mr. Foley, Mr. Goldenberg and Chair Currie

19

The meeting commenced at 7:35 p.m. Planning Board Secretary Marilyn  
Murphy called the roll and noted that a required quorum of four members  
was present in order to conduct the business of the Board.

23

**APPROVAL OF DRAFT MINUTES FOR MEETING HELD ON  
JANUARY 14, 2015**

26

Acting Chairman Gerbino noted that Planning Board Secretary Marilyn  
Murphy prepared and submitted for the Board's consideration approval of  
the draft minutes of the Planning Board meeting held on January 14, 2015.

30

1 The Acting Chair asked if there were any comments or corrections from the  
 2 Board on the January 14, 2015 Planning Board minutes and no one  
 3 replied.

4  
 5 On motion by Ms. Gannon, seconded by Mrs. DeLucia, and unanimously  
 6 carried, the draft minutes of January 14, 2015 were approved.

7  
 8 Acting Chair Gerbino noted that the DVD of the January 14, 2015 Planning  
 9 Board meeting is made a part of the approved minutes and is available for  
 10 public viewing at the Somers Public Library and the text of the approved  
 11 minutes is also on the Town's website [www.somersny.com](http://www.somersny.com) and is available  
 12 for public review at the Planning & Engineering office at the Town House.

13  
 14 Acting Chair Gerbino said that she is changing the order of the agenda in  
 15 order to give time for the Planning Board Town Attorney to attend the  
 16 meeting.

17  
 18 **TIME-EXTENSION**

19  
 20 **HAFT/RIDGEVIEW DESIGNER BUILDERS, INC.**

21  
 22 Acting Chairman Gerbino explained that this is a request for a 90-day time  
 23 extension for Amended Final Approval for Section II from February 9, 2015  
 24 up to and including May 10, 2015 under Town Law Section 276 (7) (c). She  
 25 mentioned that this is the first request for a time-extension.

26  
 27 Acting Chair Gerbino read from the Director of Planning's memo dated  
 28 February 4, 2015. *On August 13, 2014, the Planning Board granted*  
 29 *Amended Final Subdivision Approval for Ridgeview Builders by Resolution*  
 30 *2014-01 to permit the Final Plat to be filed in two sections. Section I was*  
 31 *filed on September 25, 2014 in the Westchester County Clerk's office. The*  
 32 *Resolution stated that the amended approval was to expire on February 9,*  
 33 *2015 and Ridgeview and Haft are not prepared to file Section II at this time.*  
 34 *This is the case even though they have three years from September 25,*  
 35 *2014 to File Section II. To avoid any confusion, the applicant's attorney is*  
 36 *requesting a ninety-day (90) extension of approval until May 10, 2015.*  
 37 *Given the filing of Section I in a timely manner and submission of the*  
 38 *request for extension of approval for filing of Section II prior to the*  
 39 *expiration date, she has no problem with the Board granting this request.*

40

1 On motion by Mrs. DeLucia, seconded by Mr. McNamara, and unanimously  
2 carried, the Board moved to grant the 90 day time-extension for Amended  
3 Final Subdivision Plat Approval for Section II from February 9, 2015 up to  
4 and including May 10, 2015 under Town Law Section 276 (7)(c).

5

6 **CONTINUATION OF PUBLIC HEARING**

7

8 **AVALONBAY SOMERS [TM: 4.20-1-13, 14 15, P/O 12]**

9

10 Acting Chairman Gerbino explained that this is a continuation of the Public  
11 Hearing from January 28, 2015. She said that this is an application for Site  
12 Plan Approval, Steep Slopes, Tree Removal and Stormwater Management  
13 and Erosion and Sediment Control Permits for AvalonBay Communities,  
14 Inc. for the construction of 152 residential units within 17 buildings with 23  
15 affordable units on 45.1 acres. She mentioned that a community recreation  
16 building, pool and 324 parking spaces are also proposed. Acting Chair  
17 Gerbino noted that the property is located on the south side of Route 6 and  
18 Clayton Blvd. and east of Mahopac Avenue and is in the Planned Hamlet  
19 (PH) Zoning District.

20

21 Acting Chair Gerbino said that there was a concern in regard to a fire at the  
22 AvalonBay facility in New Jersey and the AvalonBay Architect Ray Sullivan  
23 is present to discuss the use of building materials.

24

25 Mark Weingarten, the applicant's attorney, noted that at the last meeting  
26 there were questions regarding fire issues related to an unfortunate event  
27 in New Jersey. He stated that he is unable to comment specifically on the  
28 New Jersey issue as there is an active investigation and ligation.

29

30 Ray Sullivan, the applicant's architect, said that the common element in all  
31 the buildings is that there are four (4) units on a floor. He noted that there  
32 is a series of buildings that have one bedrooms, a series of buildings with  
33 two bedrooms and a series of buildings with three bedrooms. Architect  
34 Sullivan mentioned that typically there are two floors but when the grade  
35 slopes off there can be two units on the third terrace level.

36

37 Architect Sullivan explained that under the building code this is defined as  
38 an R2 use under the construction type of 5A. He said that initially he  
39 reviews the Code which gives guidelines to follow and what is needed to  
40 construct the buildings. Architect Sullivan mentioned that you look at the

1 use group and the construction classification. He indicated that the base  
2 code allows a building floor plan of 12,000 square feet. Architect Sullivan  
3 commented that the one bedroom apartment is less than 4,000 sf and the  
4 two bedroom units are a little less than 5,000 sf and the three bedroom  
5 units are 6,000 sf. He mentioned that under the base requirements the  
6 buildings are only half as big as they could be. Architect Sullivan said that  
7 when you apply sprinklers to a building you are allowed to increase the  
8 footprint of the building on average 200%. He said that the buildings are  
9 much smaller than they could be according to Code.

10  
11 Architect Sullivan said that the construction type is 5A which means it is  
12 wood frame protected so that any structural element in the building has a  
13 one hour rating on it. He mentioned that the entire perimeter walls of the  
14 building have a one hour and protected fire rating as well as common wall  
15 or a wall that separates the living room from the bedroom. Architect  
16 Sullivan explained that there is a double wall with fire rated sheetrock on  
17 the other side with a one hour separation between each unit on a horizontal  
18 basis. He noted that the attic has to be broken down into draft stopped  
19 areas. Architect Sullivan said that besides all the fire protection the  
20 buildings and balconies have sprinklers (FPA13R) in accordance with the  
21 National Fire Protection Agency. He mentioned that the sprinkler system  
22 has an alarm that runs to a monitoring system that contacts the Fire  
23 Department and a local horn bell that will go off.

24  
25 Ms. Gannon asked if there is anything that alerts the hearing impaired.

26  
27 Architect Sullivan replied that there is only a standard response system.

28  
29 Mr. McNamara asked if the alarm goes off in the entire building and not just  
30 the unit where the fire is. He said that he prefers the systems that have  
31 speakers within each unit.

32  
33 Architect Sullivan explained that the alarm is external but he is prepared to  
34 look into the communication system that Mr. McNamara prefers.

35  
36 Mr. McNamara said his concern with fire protection is because the Town of  
37 Somers has a volunteer Fire Department although they are very good may  
38 not be as efficient or equipped as Towns where AvalonBay usually builds.

39

1 Architect Sullivan mentioned that there is smoke and CO detection in the  
2 units.

3  
4 Mrs. DeLucia asked if the applicant agreed to provide a better response  
5 system for the deaf and hearing impaired.

6  
7 Architect Sullivan said that Avalon wants to keep everyone safe and has  
8 agreed to look into a communication system for the deaf and hearing  
9 impaired.

10  
11 Architect Sullivan noted that the travel distance to exit a space or area is  
12 125 feet. He said that the stairs are also one hour fire rated.

13  
14 Mrs. DeLucia asked if there will be service elevators. She questioned how  
15 a piano will get up to the second level.

16  
17 Architect Sullivan said that there are no elevators in the buildings.

18  
19 Ms. Gannon noted that Ms. Gerbino asked what sets the sprinklers off and  
20 was told that it was heat. She said she wants to know what the  
21 temperature of the heat has to be to set off the sprinklers.

22  
23 Ms. Gerbino said when you refer to the Code you are talking about the New  
24 York State Building Code and Architect Sullivan agreed.

25  
26 Consultant Town Engineer Barbagallo said that the applicant will comply  
27 with the NYS Building Code and will review the communication system for  
28 the hearing impaired.

29  
30 Mrs. DeLucia reminded everyone that smoke can kill more than fire. She  
31 said that at the last meeting she asked to see building materials and was  
32 told that the building materials will be brought to the March Planning Board  
33 meeting. She asked that the applicant consider a donation for the proposed  
34 firehouse.

35  
36 Attorney Weingarten stressed that the number one priority is protecting life  
37 and then property. He said that as terrible as the situation in New Jersey  
38 was not one person lost their life.

39

1 Ms. Gerbino said that she is impressed with the garbage system but asked  
2 if there are any issues with residents walking their garbage to the facility.

3  
4 Grant Jaber, Senior Development Director for AvalonBay, said that there  
5 are parking spaces near the recycling center and staff on site to offer help.  
6 He said that he will bring pictures of the recycling center to the next  
7 meeting and he offered to bring Planning Board members to an Avalon  
8 facility if they are interested.

9  
10 Ms. Gerbino said that the lighting may be an issue and has to be  
11 addressed.

12  
13 Consultant Town Engineer Barbagallo said that the photometric plan looks  
14 consistent with the lighting at Reis Park.

15  
16 Acting Chair Gerbino directed that the Public Hearing on AvalonBay be  
17 continued at the March 11, 2015 Planning Board meeting.

18  
19 **PUBLIC HEARING**

20  
21 **NORTH COUNTY HOMES, WETLAND, STEEP SLOPES, TREE**  
22 **PRESERVATION AND STORMWATER MANAGEMENT AND EROSION**  
23 **AND SEDIMENT CONTROL PERMITS [TM: 36.20-1-59]**

24  
25 Acting Chairman Gerbino explained that this is the application of North  
26 County Homes for a Wetland, Steep Slopes, Tree Preservation and  
27 Stormwater Management and Erosion and Sediment Control Permits for  
28 the construction of a single family home, well and septic system.

29  
30 The Acting Chair asked the secretary if the notice of the Public Hearing  
31 was published and the adjoining property owners notified.

32  
33 Planning Board Secretary Murphy said that the notice of the Public Hearing  
34 was published in the Somers Record on January 28, 2015 and the  
35 adjoining property owners were notified via mail on January 30, 2015.

36  
37 Acting Chair Gerbino opened the Public Hearing.

38  
39 Acting Chair Gerbino asked Consultant Town Engineer Barbagallo to  
40 review his memo for the benefit of the Board and the public.

1 Consultant Town Engineer Barbagallo mentioned that since the last  
 2 Planning Board meeting he met with the applicant on the site on  
 3 December 12, 2014 to look at the receiving Town infrastructure and where  
 4 that pipe discharges to make sure it is appropriate to receive the flows from  
 5 the project site. He said that the pipe was sufficient to be utilized for the  
 6 additional water coming off the site. Consultant Town Engineer Barbagallo  
 7 said he still has some comments on the plans relative to stormwater and he  
 8 will meet with the applicant's engineer to resolve the issues. He noted that  
 9 soil testing indicates that the groundwater level may be too high to use  
 10 infiltration in those areas. Consultant Town Engineer Barbagallo indicated  
 11 that he wants to make sure that there is sufficient flow to the wetland area  
 12 in order to maintain the wetland vegetation. He stated that there are still  
 13 some details to work out on stormwater. Consultant Town Engineer  
 14 Barbagallo mentioned that the applicant is working with the Department of  
 15 Environmental Protection (DEP) to see if they are going to take jurisdiction  
 16 over the watercourse that was coming from the spring. He stressed that  
 17 there was site investigations done that determined that was not a spring but  
 18 a pipe coming from off site that was contributing to the watercourse.  
 19 Consultant Town Engineer Barbagallo said that the DEP has not said if  
 20 they are going to claim any jurisdiction over the watercourse. He said that  
 21 the Board can move forward upon the applicant resolving any remaining  
 22 issues with the DEP. Consultant Town Engineer Barbagallo advised that  
 23 the stormwater issues must be resolved before the Board can take action  
 24 on this project.

25  
 26 Acting Chair Gerbino asked the applicant's representative to update the  
 27 Board on the application.

28  
 29 John Karell, the applicant's engineer, said that he can resolve the few  
 30 remaining issues. He mentioned that the permit was renewed for Health  
 31 Department Approval for the septic system and at the last meeting the  
 32 Board accepted the 15% driveway.

33  
 34 Acting Chair Gerbino asked if anyone from the public would like to speak  
 35 as this is a Public Hearing.

36  
 37 Sandra Singer, resident of 36 Bedell Road, commented that the prior owner  
 38 of her home is the applicant for this project. She stated that she has pipes  
 39 that run from her property to Mr. Caracciolo's property and the pipe spills  
 40 water onto 38 Bedell Road. Ms. Singer said she hired a lawyer and an

1 engineer because she was told by North County Homes that 95% of the  
2 problem was caused by her property. She noted that North County Homes  
3 took responsibility and will fix the problem on her property. Ms. Singer said  
4 she is worried when the new owner moves into 38 Bedell Road and may  
5 blame her so she asked for a drainage easement.

6  
7 Mr. McNamara asked what is the source of the water.

8  
9 Ms. Singer said she believes the source of the water is when the previous  
10 owner ran pipes across her property that drains into the adjoining property.

11  
12 Consultant Town Engineer Barbagallo said there are two sources of water  
13 one is a berm that was built along the back side of the property and during  
14 rain events water is directed onto this property from the berm on the uphill  
15 side of the swimming pool and the second source of water is a curtain drain  
16 that is located directly up gradient of the pool.

17  
18 Timothy Allen, engineer representing Ms. Singer, said that the applicant  
19 does not object to the project but just wants to make sure everything is  
20 done right. He said that prior to this meeting he discussed a permanent  
21 drainage easement between 36 and 38 Bedell Road with the applicant and  
22 his engineer and they agreed to the easement.

23  
24 Philip Butler, attorney representing Richard and Christine Streisfeld,  
25 homeowner at 40 Bedell Road, said that the homeowner does not object to  
26 this application but would like the Public Hearing to stay open so the  
27 Streisfelds can understand the project and the degree of tree removal. He  
28 said that there is also a concern in regard to the exterior lighting of the new  
29 home.

30  
31 Consultant Town Engineer Barbagallo said that he had a phone call in  
32 reference to a shed that straddles the property line.

33  
34 Attorney Butler said that he cannot at this time comment on the shed.

35  
36 Engineer Karell stated that the applicant will meet with the homeowner to  
37 address all the issues.

38

1 On motion by Mr. McNamara, seconded by Ms. Gannon and unanimously  
2 carried, the Board moved to continue the Public Hearing on North County  
3 Homes at the March 11, 2015 Planning Board meeting.

4

5 **PROJECT REVIEW**

6

7 **GERLACH/ZADJELOVICH (STUART FARM) [TM: 26.11-1-1]**

8

9 Acting Chairman Gerbino said that this is an application for Preliminary  
10 Subdivision Approval for a 2 lot Subdivision at Stuart Farm that includes  
11 one 3.0047 acre building lot and a 96.9953 acre lot to remain undisturbed.  
12 She noted that the owner is Mary Lee Gerlach nee Stuart and the applicant  
13 is John Zadjelovich. The Acting Chair said that the property is located on  
14 Granite Springs Road and is in the R-120 Zoning District.

15

16 Acting Chair Gerbino asked the applicant's representative to describe the  
17 application for the benefit of the Board and the public.

18

19 Timothy Allen, the applicant's engineer, said that this is a simple project.  
20 He said that Stuart Farm was split between Bob Stuart and his sister Mary  
21 Lee Gerlach and they want to carve off a piece of property for 3 acres at  
22 the corner of the farm.

23

24 Engineer Allen noted that Director of Planning Dym's memo basically said  
25 that everything has been addressed and Consultant Town Engineer  
26 Barbagallo has a few minor issues.

27

28 Engineer Allen said that there will be one septic system and one well and  
29 proposed stormwater improvements. He mentioned that trees have been  
30 added to the plan. Engineer Allen asked that the Public Hearing be  
31 scheduled for the next meeting.

32

33 Mr. McNamara asked if this is being done under the abbreviated approval  
34 process.

35

36 Engineer Allen said that he is requesting that when the Public Hearing is  
37 closed that preliminary and final be issued at the same time.

38

39 Consultant Town Engineer Barbagallo stated that he had no objection to  
40 the scheduling of the Public Hearing and his remaining comments can be

1 handled pending approval. He said that nothing will change substantially  
 2 as it relates to the plat.

3  
 4 Mrs. DeLucia mentioned that correspondence was received from the  
 5 Bureau of Fire Protection dated January 16, 2015 noting they had no  
 6 objections and from the Open Space Committee dated January 20, 2015  
 7 stating they had no issues or concerns.

8  
 9 On motion by Mr. McNamara, seconded by Ms. Gannon and unanimously  
 10 carried, the Board moved to schedule a Public Hearing on the  
 11 Gerlach/Zadjelovich application subject to any disclaimer on Lead Agency  
 12 at the Somers Town House on Wednesday, March 11, 2015.

13  
 14 **MITCHELL FINAL CONSERVATION SUBDIVISION**  
 15 **[TM: 16.09-1-9]**

16  
 17 Acting Chairman Gerbino said that this is a four (4) lot Conservation  
 18 Subdivision, three of which are new building lots and one existing lot on a  
 19 7.1 acre parcel. She noted that each lot is to be served by individual wells  
 20 and septic systems. Acting Chair Gerbino mentioned that the owner is  
 21 Gary and Ann Mitchell and the subject property is located west of  
 22 Tomahawk Street, Route 118 in the residential R-40 Zoning District.

23  
 24 The Acting Chair asked the applicant's representative to describe the  
 25 application for the benefit of the Board and the public.

26  
 27 Timothy Allen, the applicant's engineer, said that there will be a common  
 28 driveway to service the three lots. He mentioned that under Conservation  
 29 Law the applicant is allowed to have a common driveway. Engineer Allen  
 30 noted that during Preliminary Approval he provided a Conventional  
 31 Subdivision and proved that a road could be done but a common driveway  
 32 was better suited to service the three lots. He said that the conservation  
 33 parcel is intended to be dedicated to the Parks Department.

34  
 35 Engineer Allen explained that during Preliminary Approval the existing  
 36 house was proposed to be affordable but during discussions with the  
 37 applicant he felt that he may move his family into the house in the future.  
 38 He stressed that since this application was first discussed there is now a lot  
 39 of affordable housing in Somers. He said that the Director of Planning in  
 40 her memo said that the Planning Board needs to verify with the Town

1 Board that it still wants to accept this house as an affordable unit. Engineer  
 2 Allen noted that since the Mitchell's have agreed to dedicate the western  
 3 portion of the property to the Town as an extension of Koegel Park they  
 4 request that the Town Board waive the recreation fees. He mentioned that  
 5 these requests are only within the purview of the Town Board. Engineer  
 6 Allen said that he will go to the Town Board to request the waiving of the  
 7 recreation fees and that the existing house be market rate and not  
 8 affordable housing.

9  
 10 Engineer Allen stated that the plan has approval of the Health Department  
 11 and the Department of Environmental Protection (DEP).

12  
 13 Acting Chair Gerbino mentioned Resolution No. 2012-06 Re-Granting  
 14 Preliminary Conservation Subdivision Approval which says that the existing  
 15 home would remain and the Applicant has agreed to restrict the existing  
 16 house as an affordable house. She said that now the applicant does not  
 17 want the house to be affordable so she asked the Town Attorney  
 18 if Preliminary Approval has to be amended. Town Attorney Baroni advised  
 19 that if the Planning Board views the change as significant an amended  
 20 Preliminary Approval is needed.

21  
 22 Planning Board Attorney Eriole said that the decision on the affordability of  
 23 the house lies with the Town Board but the Planning Board can make the  
 24 decision if that is a significant change after the applicant goes to the Town  
 25 Board.

26  
 27 Acting Chair Gerbino explained that originally when the application was  
 28 before the Planning Board the Town needed affordable units but now the  
 29 Town has a potential for 190 affordable units.

- 30
- 31 • Mews 1 and Mews 2 have 147 affordable units built.
  - 32
  - 33 • Granite Springs has 2 affordable units built.
  - 34
  - 35 • Somers Hamlet has 2 affordable units built.
  - 36
  - 37 • Hidden Meadow will have 16 affordable units.
  - 38
  - 39 • AvalonBay will have 23 affordable units.

40

1 Acting Chair Gerbino found out that there are 700 affordable housing units  
2 in the range of \$125,000 to \$400,000 in Westchester and Southern Putnam  
3 County.

4  
5 Engineer Allen said the Planning Board should refer the question of the  
6 affordable unit to the Town Board with or without a recommendation.

7  
8 Mr. McNamara opined that the Planning Board should recommend relief on  
9 the affordable home to the Town Board.

10  
11 On motion by Mr. McNamara, seconded by Mrs. DeLucia, and unanimously  
12 carried, the Board moved to recommend that the affordable house become  
13 market rate.

14  
15 Mr. McNamara mentioned that the Director of Planning in her memo asked  
16 if a decision on the recreation fee should be on the four lots if all lots are  
17 considered or on three lots if one lot is already an existing lot. He stated  
18 that recreation fees are only applied to new lots that will receive a  
19 certificate of occupancy.

20  
21 There being no further business, on motion by Mr. McNamara,  
22 seconded by Ms. Gannon and unanimously carried, the meeting adjourned  
23 at 9:15 P.M. The Acting Chair announced that the next Planning Board  
24 meeting will be held on Wednesday, March 11, 2015 at the Somers Town  
25 House.

26  
27  
28  
29  
30  
31  
32  
33  
34

Respectfully submitted,

Marilyn Murphy  
Planning Board Secretary