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PLANNING DEPARTMENT

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

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
SEPTEMBER 14, 2016**

4

5

6

ROLL:

8

PLANNING BOARD

MEMBERS PRESENT:

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

11

12

13

ABSENT:

Mrs. DeLucia and Director of Planning Dym

15

ALSO PRESENT:

Consultant Town Engineer Barbagallo
Consultant Town Planner Brown
Consultant Town Planner Wells
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
Murphy called the roll and noted that a required quorum of four members
was present in order to conduct the business of the Board.

25

PUBLIC HEARING

27

**DEUTSCH WETLAND, STEEP SLOPES, TREE PRESERVATION AND
STORMWATER MANAGEMENT AND EROSION AND SEDIMENT
CONTROL PERMITS [TM: 48.09-1-24]**

29

30

31

1 Chairman Currie said that this is a Public Hearing for the application from
2 Insite Engineering and owner Joseph Deutsch for property located on the
3 South side of Hageman Court for a proposed single family residence with
4 onsite wastewater treatment system, well and driveway.

5
6 Chairman Currie asked the Planning Board Secretary if the legal notice
7 was published and the adjoining property owners notified of the Public
8 Hearing.

9
10 Planning Board Secretary Murphy said that the legal notice was published
11 in the Somers Record on September 1, 2016 and the adjoining property
12 owners were notified by mail on September 2, 2016.

13
14 The Chair asked the applicant's representative to explain the application for
15 the benefit of the Board and the public.

16
17 Richard Williams, the applicant's engineer, explained that the applicant
18 needs a Wetland Permit for Lot 11 in the Hageman Hills Subdivision. He
19 mentioned that the lot was created in 1992 and is located on the south side
20 of Hageman Court and Wood Street on the southwest corner of the
21 intersection. Engineer Williams noted that the majority of the property
22 contains a NYS Department of Environmental Conservation (DEC) wetland
23 (F21). He mentioned that there is a small developable portion of the lot on
24 the western side of the property. Engineer Williams commented that the
25 applicant would like to construct a five bedroom residence with the septic
26 system located behind the house. He explained that based on the limits of
27 disturbance stormwater treatment is not a requirement but based on the
28 request from the Town the applicant is providing an on-site stormwater
29 detention system. Engineer Williams said that a portion of the driveway is
30 located within the wetland buffer and there will be a mitigation area
31 between the driveway and the wetland. He noted that the Board has
32 completed a site walk of the property. Engineer Williams said that he will
33 address all the comments from the Consultant Town Engineer.

34
35 Chair Currie asked Consultant Town Engineer Barbagallo if he had any
36 comments.

37
38 Consultant Town Engineer Barbagallo said he had no objections to
39 proceeding to the Public Hearing.

40

1 Chair Currie opened the Public Hearing and asked if anyone from the
2 public would like to be heard.

3
4 John Fraioli, resident of 25 Wood Street, said that he has four acres that
5 run parallel to the proposed property. He mentioned that there is an
6 immense amount of water that runs from the breaking point of Hageman
7 and runs down Hageman into storm drains that dump the water into the
8 proposed property and then into his property. Mr. Friole mentioned that he
9 called the Highway Department but they can't seem to do anything. He
10 noted that his driveway becomes flooded every time there is a storm. He
11 explained that some neighbors have put in water features, such as
12 waterfalls and plantings.

13
14 Consultant Town Engineer Barbagallo said that there is a home adjacent to
15 the proposed residence that has a long driveway that goes through the
16 wetland area.

17
18 Mr. Fraioli mentioned that the proposed driveway will lead to headlights
19 shining into his home.

20
21 Consultant Town Engineer Barbagallo interjected that additional trees will
22 provide screening at the end of the hammerhead at the end of the driveway
23 to mitigate the headlights.

24
25 Consultant Town Engineer Barbagallo said that relative to the volume of
26 water there will be stormwater treatment even though it is not required. He
27 stated that he does not want to increase the situation that exists now.

28 Consultant Town Engineer Barbagallo said that it is the applicant's
29 obligation not to exasperate the problem.

30
31 Mr. Goldenberg asked Mr. Friole if he ever complained to the Town about
32 the water problem.

33
34 Mr. Fraioli said that he spoke to the Highway Department and they said that
35 because the water dumps onto private property that nothing can be done.

36
37 Consultant Town Engineer Barbagallo explained that the proposed lot is an
38 approved lot in a subdivision and the Board is reviewing an environmental
39 permit for an already existing lot. He noted that the lot was created in a

1 time when the stormwater regulations were very different from what they
2 are today.

3
4 Engineer Williams said that an infiltration system is being built and that the
5 larger storms that flow into the town system will be mitigated. He said that
6 the flows to the wetland will not be increased.

7
8 Mr. Fraioli asked why the Town has the right to dump water onto his
9 property and not offer help.

10
11 Consultant Town Engineer Barbagallo said that the best solution would be
12 if Mr. Fraioli could raise his driveway.

13
14 Planning Board Town Attorney Eriole said that the perspective of this
15 hearing is to ask the Board to insure that this application does not
16 exasperate the problem.

17
18 Mr. Goldenberg suggested that Mr. Fraioli discuss his problem with the
19 Engineering Department and the Consultant Town Engineer.

20
21 Consultant Town Engineer Barbagallo said that he can walk Mr. Fraioli's
22 property with the Highway Superintendent and the Principal Engineering
23 Technician to see what can be done.

24
25 Henry De Paolis, resident of 5 Hageman Court, said that he lives adjacent
26 to the lot in question on the south side of Hageman, said that the land is flat
27 and his concern is that a lot of trees will be taken down and that will add
28 water to his property.

29
30 Engineer Williams said that a lot of the large trees along the property line
31 will be preserved.

32
33 On motion by Chair Currie, seconded by Mr. Goldenberg and unanimously
34 carried, the Board determined that the action is a Type II Action and is
35 exempt pursuant to SEQRA Section 617.5 (c) (7) 2.

36
37 On motion by Mr. Goldenberg, seconded by Ms. Corning and unanimously
38 carried, the Board moved to close the Public Hearing on the Deutsch
39 Wetland, Steep Slopes, Tree Preservation and Stormwater Management
40 and Erosion Control Permit with a 10 day written commend period.

1 The Board directed Consultant Town Engineer Barbagallo to
2 prepare a draft Resolution for the next Planning Board meeting.

3
4 **CROSSROADS AT BALDWIN PLACE [TM: 4.20-1-3.1]**

5
6 Chairman Curie noted that this is a continuation of the Public Hearing on
7 the application for Site Plan Approval, Wetland and Stormwater
8 Management and Erosion and Sediment Control Permits for property
9 located on Route 6. He said that the proposal is for a mixed use
10 development consisting of a two-story 24,000 s.f. building with 12,000 s.f.
11 of retail and 12,000 s.f. of professional office and 64 residential units. He
12 said that the Board will be reviewing a Draft Resolution.

13
14 The Chair asked the applicant's representative to explain the application for
15 the benefit of the Board and the public.

16
17 Richard Williams, the applicant's engineer, noted that the property is
18 located where the current driving range is on Route 6 at Baldwin Place. He
19 said that the site is on 10 ½ acres with the proposal for construction of four
20 buildings and a commercial building located along the frontage of Route 6.
21 Engineer Williams mentioned that there will be 12,000 s.f. of professional
22 service and 12,000 s.f. of professional offices. He explained that there will
23 be three multi-family buildings in the back of the property with three being
24 affordable with 52 senior units proposed in buildings 2 and 3. He said that
25 the fourth building will be a non-age restricted building which will have six
26 (6) units at 60% of the Westchester median income and four (4) units at
27 40% of the Westchester median income and two (2) market rate units.

28
29 Chair Currie asked Consultant Town Engineer Barbagallo to review his
30 memo for the benefit of the Board and the public.

31
32 Consultant Town Engineer Barbagallo said that he received comments
33 from Engineer Williams relative to stormwater. He mentioned that the
34 policy is not to close the Public Hearing until the details of the Stormwater
35 Pollution Prevention Plan (SWPPP) are complete but the only detail that is
36 not complete is minor in nature and he supports closing the Public Hearing
37 if the Board deems that appropriate. He mentioned that the construction
38 detail for the stone apron on the outlet for the 42 inch pipe is all that is left
39 and can be resolved after the close of the Public Hearing.

40

1 Chairman Currie asked if anyone from the public would like to be heard and
 2 no one responded.

3
 4 On motion by Chair Currie, seconded by Ms. Corning and unanimously
 5 carried, the Board moved to close the Public Hearing on the Crossroads at
 6 Baldwin Place.

7
 8 Mr. Goldenberg asked why the Board is reviewing a Draft Resolution when
 9 the Public Hearing was just closed.

10
 11 Mr. McNamara explained that the Board directed staff to prepare a Draft
 12 Resolution.

13
 14 Ms. Gerbino noted that this is the second time the Board is considering this
 15 property that is very similar to the previous application.

16
 17 Ms. Gannon explained that the Board asked staff to draft a Resolution with
 18 the understanding that there would be an offline meeting where issues of
 19 stormwater would be discussed and addressed because of the working
 20 relationship with the Watershed Inspector General (WIG). She said that the
 21 Board is now in a position to move forward.

22
 23 Consultant Town Engineer Barbagallo said that the only reason the
 24 Public Hearing was continued was because of the outstanding stormwater
 25 concerns and now they are addressed.

26
 27 Planning Board Town Attorney Eriole advised that the Board can authorize
 28 draft resolutions when there is a reasonable chance that the Board will be
 29 ready to act at the next meeting. He opined that it is not unusual for the
 30 Board to make the request to provide a draft resolution for the Board's
 31 consideration.

32
 33 Sarah Brown, consulting Town Planner from Frederick P. Clark Associates,
 34 noted that there are a couple of additions that were recommended by
 35 Consultant Town Engineer Barbagallo under "Conditions Required Prior to
 36 Signing of Site Plan" under a. i.a. *add both on-and off-site.*

37 Planner Brown noted that on page 11, number 11. will read, The Applicant
 38 shall complete the off-site improvements *in accordance with all approvals*
 39 *prior to issuance of the Certificate of Occupancy for the last building on-*
 40 *site.*

1 Planner Brown said that on page 11, number 12. will be added and will
2 read, *Following the substantial completion of all construction activity, the*
3 *Applicant will be required to submit an as-built survey of all constructed site*
4 *structures and utilities both on-and off-site, consistent with the requirement*
5 *of Town Code Section 144-7 and the Westchester Department of Health*
6 *prior to issuance of a Certificate of Occupancy.*

7
8 Kenneth Kearney, applicant, said that when a surety was requested for the
9 Pump Station his contractor provided the bond and he requested that his
10 contractor provide the bond for this project.

11
12 Consultant Town Engineer Barbagallo stated that the Resolution does not
13 address who posts the bond just that a surety be provided to cover the cost
14 to complete the required improvements.

15
16 Ms. Gerbino asked if there is a map to look at underground infrastructure,
17 sewer, water and gas lines.

18
19 Consultant Town Engineer Barbagallo explained that water and sewer are
20 under the authority of the Water Superintendent, Adam Smith. He noted
21 that there is a comprehensive map of the water system but there is not
22 adequate mapping of the gas mains. He suggested that the Board
23 recommend the mapping to the Town Board.

24
25 Ms. Gerbino said this relates to Health, Safety and Welfare and the Board
26 should send a memo to the Town Board saying it is their obligation to
27 provide mapping for all utilities within the Towns right-of-way.

28
29 Ms. Corning noted that “Dig Safely New York” has that infrastructure.

30
31 On motion by Chairman Currie, seconded by Mr. Goldenberg and
32 unanimously carried, the Board moved to approve the Resolution for Site
33 Plan, Wetland, Stormwater Management and Erosion and Sediment
34 Control Permits for the Crossroads at Baldwin Place, as amended,
35 pursuant to Section 170-114 C. (12) (a) of the Code of the Town of
36 Somers.

37
38 **SOMERS CROSSING [TM: 17.15-1-15.1]**

39

1 Chairman Currie said that this is the Public Hearing on the application for
2 Site Plan, Preliminary/Final Subdivision Approval, Wetland, Steep Slopes,
3 Tree Preservation, Stormwater Management and Erosion and Sediment
4 Control, Groundwater Protection Overlay Special Use Permits for the
5 development of 66 residential condo units, accessed from Route 100,
6 recreation building and a 19,000 s.f. grocery store. He noted that the
7 property is located at NYS Route 100 and US Route 202.

8
9 The Chair asked the applicant's representative to describe the application
10 for the benefit of the Board and the public.

11
12 Timothy Allen, the applicant's engineer, said that there will be 66 condo
13 units consisting of 2, 3 and 4 attached units and a recreation building off
14 Route 100 with a grocery store off Route 202. He mentioned that there was
15 a very productive meeting with all the consultants and the plans will be
16 revised in accordance with the comments from the consultants and staff.
17 He noted that agreements are being worked out with Heritage in
18 connection to the sewer and water.

19
20 Chair Currie asked Consultant Town Engineer Barbagallo to review his
21 memo for the benefit of the Board and the public.

22
23 Consultant Town Engineer Barbagallo explained that he met with the
24 applicant and his consultants and reviewed all his comments especially the
25 Stormwater Pollution Prevention Plan (SWPPP) and the utility connections.
26 He said that the next submittal from the applicant will address all his
27 comments.

28
29 Fred Wells, Consultant Town Planner from Tim Miller Associates, said that
30 he also met with the applicant and his consultants and he also understands
31 that the applicant will make revisions based on the comments from that
32 meeting. He explained that the plan that was submitted is a Site Plan
33 package for the residential portion and commercial portion. Consultant
34 Town Planner Wells noted that the applicant would like to proceed with the
35 grocery store Site Plan on a less detailed level than the residential because
36 DeCicco will have their own detailed plan and there can be conditions that
37 can be put into the Site Plan for the store that does not take everything to
38 100%.

39

1 Engineer Allen interjected that he had a discussion with the representatives
2 of DeCicco and the Fire Prevention Bureau. He mentioned that DeCicco
3 will have their own Landscaping Plan and Lighting Plan.

4
5 Ms. Gerbino asked about the four (4) acre parcel.

6
7 Engineer Allen said that the parcel is definitely four (4) acres and will be
8 shown on the revised plan.

9
10 Planner Wells said that the plat showing the four (4) acre lot has to be in
11 the next submission.

12
13 Chair Currie mentioned that the Somers Towne Centre is making changes
14 and will that effect this project.

15
16 Gus Boniello, applicant, explained that his attorney is working on a waiver
17 of Site Plan Approval for his proposal to interconnect the roads.

18
19 Consultant Town Engineer Barbagallo asked if there has been any
20 discussion on the interconnection and the egress and ingress at the
21 Somers Towne Centre and additional parking at the Somers Towne Centre.

22
23 Mr. Boniello said that there has not been any discussion on parking with
24 the owner of the Shopping Centre.

25
26 Chairman Currie said it would be useful if the Board could look at a site that
27 has the traffic table.

28
29 Engineer Allen said that he met with the Fire Prevention Bureau this
30 afternoon to discuss the overall layout and there was a discussion with a
31 second egress and ingress for emergency vehicles.

32
33 Planner Wells asked the Board how they felt about the frontage along
34 Route 100. He said that the applicant is trying to save a few old trees and
35 planting evergreens and deciduous trees. He mentioned that there will be
36 rebuilding of the stone wall along the frontage with a four foot white picket
37 fence. He provided examples of a rustic stone wall with a stylized fence.
38 Planner Wells recommended that more variety of plants be added along
39 the frontage.

40

1 Mr. Boniello said he will be modifying the drawings to add additional
2 landscaping with the picket fence incorporated into the wall with two feet of
3 stone and a two-foot white picket fence with the grade raised.

4
5 Engineer Allen asked that the Site Plan and Subdivision Resolution be
6 started.

7
8 Consultant Town Engineer Barbagallo suggested that the Subdivision
9 Resolution be started first.

10
11 Planning Board Town Attorney Eriole said that the revised plans should be
12 submitted before the start of work on the Resolutions.

13
14 Ms. Gerbino said that an agreement has to be worked out in reference to
15 the maintenance of the traffic light.

16
17 Mr. Boniello said that agreement has to be worked out with the Department
18 of Transportation (DOT) and Heritage. He said that he offered to pick up
19 the maintenance that Heritage is responsible for but in the end it will be the
20 grocery store who pays for maintenance.

21
22 Chair Currie asked if anyone from the public would like to be heard.

23
24 Mr. Goldenberg, speaking as a member of the public, said that there was a
25 statement that says grocery store or any other store that fits the
26 neighborhood. He asked if DeCicco does not build in Somers can any store
27 come in once there is a subdivision.

28
29 Engineer Allen said that it is underlying zoning that states what can happen
30 in that district.

31
32 Mr. Goldenberg asked if there is a contract or a Letter of Intent from
33 DeCicco.

34
35 Mr. Boniello said he can provide a letter that DeCicco is a contract vendee.
36 Ron Carto, resident, asked about the light.

37
38 Chair Currie said it will be a right turn exit only with no left turn.

39

1 On motion by Chair Currie, seconded by Ms. Corning and carried, the
2 Public Hearing will be continued at the October 4, 2016 Planning Board
3 meeting.

4

5 **TIME EXTENSION**

6

7 **MERRITT PARK ESTATES AMENDED FINAL SUBDIVISION**

8 **[TM: 5.20-1-1]**

9

10 Chairman Currie said that this is a request for a 90-day time extension for
11 Amended Final Subdivision Plat Approval from September 5, 2016 up to an
12 including December 5, 2016 under Town Law Section 276 (7) (c). He
13 noted that this is the third request for a time extension.

14

15 Chair Currie acknowledged a memo from Director of Planning Dym dated
16 August 31, 2016 where she noted that routine visits are made to the site
17 and building lot construction is ongoing.

18

19 Chair Currie asked if there were any comments or concerns from the Board
20 and no one replied.

21

22 On motion by Mr. McNamara, seconded by Ms. Corning and unanimously
23 carried, the Board moved to approve the 90-day time extension to Merritt
24 Park Estates Subdivision for Amended Final Subdivision Plat Approval from
25 September 5, 2016 up to an including December 5, 2016 under Town Law
26 Section 276 (7) (c).

27

28 **PROJECT REVIEW**

29

30 **HIDDEN MEADOW AT SOMERS [TM: 15.07-1-6]**

31

32 Chairman Currie noted that this is the application for Final Subdivision
33 Approval, Site Plan Approval, Steep Slopes, Wetland and Stormwater
34 Management and Erosion and Sediment Control Permits relative to the
35 application of Multifamily Residence Baldwin Place District (MFR-BP)
36 for a 16.7 acre parcel located along the south side of US Route 6 for the
37 proposed development of 53 units of housing, sixteen of which would be
38 affordable, within 45 townhouse buildings on 45 fee simple lots plus one lot
39 for lands to be owned in common by a Homeowners Association. He
40 mentioned that the Board will be reviewing a Draft Resolution.

1 The Chair asked the applicant’s representative to update the Board on the
 2 application.

3
 4 Richard Williams, the applicant’s engineer, said that he addressed most of
 5 the engineering comments. He noted that the Board directed that a
 6 Resolution be prepared for tonight and he reviewed the Resolution and
 7 would like to review the application with the Board.

8
 9 Mr. McNamara asked why we have two Resolutions one for Site Plan and
 10 one for Subdivision.

11
 12 Sarah Brown, Consultant Town Planner from Frederick P. Clark
 13 Associates, said that the first Resolution will grant Final Subdivision
 14 Approval and the second Resolution will grant Site Plan Approval. She
 15 said that the reason the Resolutions are separated is because you cannot
 16 grant Site Plan Approval to a property that has not been subdivided yet.
 17 Consultant Town Planner Brown explained that the first action that the
 18 Board will take is to grant Final Subdivision Approval and then the Board
 19 can grant Site Plan Approval.

20
 21 Consultant Town Engineer Barbagallo said that his remaining comments
 22 can be conditions of approval. He noted that he reviewed the Resolution
 23 and has no problem with the Board reviewing the Resolution and granting
 24 approval if they choose to do so.

25
 26 Consultant Town Planner Brown said that additional language has been
 27 added to No. 1. Under “Conditions Required Prior to Signing of Final Plat”
 28 to read: *A draft Intermunicipal –Developer Agreement (MDA) has been*
 29 *prepared for the portion of the project intended to be financed by County*
 30 *Housing Implementation Funds (HIF). Said draft agreement shall be*
 31 *supplemented by details necessary to adequately describe the project*
 32 *scope. The Final agreement shall be reviewed and accepted by the Town*
 33 *Attorney and Consulting Town Engineer.*

34
 35 Consultant Town Planner Brown noted that Number 2 at the end of the
 36 sentence will add *and approved by the Town Attorney.*

37
 38 Consultant Town Planner Brown said that Number 3 is changed and will
 39 read: *That all easements for work associated with the use of Westchester*
 40 *County Housing Implementation Funds (HIF) shall be prepared by the*

1 *Applicant, approved by the Town Attorney and entered into by the Town*
 2 *Board.*

3
 4 Consultant Town Planner Brown said that Number 5 will add to the end of
 5 the paragraph *pursuant to the terms and conditions of an access easement*
 6 *agreement with the Town for such purpose as referred to below.*

7
 8 Consultant Town Planner Brown noted that under “Ongoing Conditions
 9 Required After Signing of Final Subdivision Plat” the wording of condition
 10 number 1 has been changed to read: *that the Applicant shall comply with*
 11 *all requirements of approval from the Westchester County Department of*
 12 *Health for Realty Subdivision Approval and associated connections to*
 13 *public infrastructure.*

14
 15 Consultant Town Planner Brown added a new number 5. *Prior to issuance*
 16 *of a Building Permit, provide final signed and sealed design calculations*
 17 *and construction details for proposed retaining walls greater than four feet*
 18 *in retained soil height.*

19
 20 On motion by Chair Currie, seconded by Ms. Gannon and unanimously
 21 carried, the Board moved to adopt the Final Subdivision Resolution for The
 22 Kearney Realty & Development Group for Hidden Meadow at Somers, as
 23 amended.

24
 25 Consultant Town Planner Brown and the Board reviewed the Site Plan
 26 Stormwater Management and Erosion and Sediment Control, Steep Slopes
 27 Protection Permit and Wetland Permit Resolution.

28
 29 Consultant Town Planner Brown said on Page 10, the fourth Whereas
 30 paragraph add the date September 14, 2016.

31
 32 Consultant Town Planner Brown explained that Consultant Town Engineer
 33 Barbagallo’s comments have been split up under “Required Prior to
 34 Issuance of Building Permits” and “Required Prior to Issuance of Final
 35 Certificate of Occupancy/Completion.”

36
 37 On motion by Chair Currie, seconded by Ms. Gannon and unanimously
 38 carried, the Board moved to adopt the Site Plan Resolution for the Kearney
 39 Realty & Development Group for Hidden Meadow at Somers, as amended.

40

1 NYSMSA LLC D/B/A VERIZON WIRELESS [TM: 17.05-20-2]
2 APPLICATION FOR WETLAND AND SPECIAL USE PERMIT

3
 4 Chairman Currie said that this is an application for a co-location of public
 5 utility wireless telecommunication facility within the existing unipole with
 6 related equipment at the base thereof. He noted that the tower is located
 7 at the property known as Somers Commons Shopping Center.

8
 9 The Chair asked the applicant’s representative to explain the application for
 10 the benefit of the Board and the public.

11
 12 Michael Sheridan, the applicant’s attorney, said that Verizon wants to co-
 13 locate on the existing tower facility located at the Somers Commons
 14 Shopping Center. He mentioned that the antennas will be located within the
 15 existing unipole with the equipment located on the ground. Attorney
 16 Sheridan said that Verizon needs this facility to provide enhanced wireless
 17 communication in that area of town. He mentioned that Verizon is seeking
 18 a Wetland Permit and Special Use Permit for the facility. Attorney Sheridan
 19 said that since the antennas will be collocated within the tower and the
 20 equipment will be located on the ground behind screened walls he is
 21 requesting that the Board waive Site Plan Approval.

22
 23 Attorney Sheridan requested that the Board schedule a Public Hearing for
 24 Verizon at Somers Commons.

25
 26 Ms. Gerbino asked why the applicant is seeking a Wetland Permit.

27
 28 Attorney Sheridan said there is a detention pond off the parking lot.

29
 30 On motion by Chair Currie, seconded by Ms. Gerbino, and unanimously
 31 carried, the Board scheduled a Public Hearing on Tuesday, October 4,
 32 2016 at 7:30 P.M. at the Somers Town House for Verizon Wireless at
 33 Somers Commons.

34
35 DISIENA PRELIMINARY SUBDIVISION [TM: 27.08-2-1, 2.1]

36
 37 Chair Currie noted that this is an application for Preliminary Subdivision
 38 Approval, Stormwater Management and Erosion and Sediment Control,
 39 Steep Slopes and Tree Preservation Permits. He mentioned that the

1 property is located at Primrose Street (Route 139) for the subdivision of two
2 existing lots into four new lots.

3
4 The Chair asked the applicant's representative to update the Board on the
5 application.

6
7 Timothy Allen, the applicant's engineer, said that there was a site walk of
8 the property with the Board. He mentioned that there is a tree lined
9 driveway and a bridge that goes across the stream. Engineer Allen
10 explained that he submitted a Conventional Plan with the layout and the
11 stormwater so the plan can be considered by the Board knowing that he
12 will be going to a Conservation Plan. He said that Consultant Town
13 Engineer Barbagallo felt that more information is needed to prove that fact
14 but his understanding is that a full Stormwater Pollution Prevention Plan
15 (SWPPP) and details does not have to be done because there is no
16 intention to go with the Conventional Plan. Engineer Allen stated that he
17 will do the testing for the septic and he ran numbers for the stormwater to
18 show it works. He opined that the Conventional Plan meets the Code. He
19 mentioned that the Board with Somers Estates Subdivision did a resolution
20 acknowledging the lot count.

21
22 Consultant Town Engineer Barbagallo asked about the lot that is too small.

23
24 Engineer Allen said that Lot 3 giving the wetland deduction has less square
25 feet than the 80,000 s.f. required in the R-80 Zoning District. He said that
26 the lot line can move over five feet to meet conformance.

27
28 Consultant Town Engineer Barbagallo mentioned crossing in front of the
29 wetland will need approval in order to build the road to demonstrate the
30 Conventional Plan. He said that there should be a letter from the
31 Department of Environmental Conservation (DEC) and Department of
32 Environmental Protection (DEP) in reference to the approvability of the
33 crossing.

34
35 Engineer Allen said that the DEP has a first cut rule in that they can't deny
36 access to the property and can't take away your development rights on
37 your property.

38
39 Planning Board Town Attorney Eriole said that the applicant can get
40 something confirming the general rule, first cut that would be helpful.

1 He said that the applicant needs something that protects the determination
 2 from a legal perspective that based on the facts a reasonable determination
 3 has been made. Planning Board Town Attorney Eriole said that the
 4 applicant needs something on the record that leads you to believe that this
 5 could be developed as a Conventional Subdivision.

6
 7 On motion by Chair Currie, seconded by Mr. Goldenberg and unanimously
 8 carried, the Board accepted Lead Agency status for the DiSiena
 9 Subdivision as the Board declared its intent to be Lead Agency on January
 10 13, 2016 with no objections received and more than 30 days having
 11 passed.

12
 13 **INFORMAL APPEARANCE WITH SKETCH PLAN**
 14 **50 ORCHARD HILL ROAD [TM: 37.06-1-6.1]**

15
 16 Chairman Currie said this application is for an informal appearance with a
 17 sketch plan with a Preliminary Plan outlining a comprehensive study of
 18 existing buildings and their uses. He noted that Hemato-Centric Life
 19 Institute is located at 50 Orchard Hill Road and provides research and
 20 development of methods used, or to be used, in the promotion and
 21 enhancement of the health of blood.

22
 23 Chair Currie asked the applicant’s representative to explain the application
 24 for the benefit of the Board and the public.

25
 26 George Hernandez, the applicant’s architect, explained that he applied to
 27 renovate a multi-purpose room and the Building Inspector recommended
 28 that he come before the Planning Board with a plan showing a
 29 comprehensive study of the property. He noted that the site is 40 acres
 30 and is in an R-80 and R-120 Zone and is currently used for farming and
 31 research.

32
 33 Ms. Gerbino said that this application is before the Board because the
 34 Building Inspector needs information. She noted that the Hemato-Centric
 35 Life Institute is a business and is tax exempt. She mentioned that there is
 36 40 acres in a Residential Zone. Ms. Gerbino said that there is something
 37 called small farm zoning and this application falls under that category
 38 because the farm is less than 50 acres and more than 5 acres.

39

1 Architect Hernandez said that the applicant is not a business but does
2 research. He mentioned that the property is a farm.

3
4 Mr. McNamara interjected that the parcel is residential zoning meaning that
5 you can live there but can't do business there.

6
7 Javier Taborga, applicant, said there is no business conducted on this site.
8 He said that the main philosophy of the Institute is to promote and develop
9 a healthy way to live. He noted that the main activity is farming. He
10 explained that when the property was purchased five years ago, the
11 Building Department explained what the property could be used for and
12 was told it could be used as a farm. He stressed that this is not a
13 production farm but is a research center. He said they combine different
14 types of fruits and seeds and come up with products that are healthy for the
15 bloodstream and lower blood pressure and cholesterol.

16
17 Mr. Taborga said that the reason he is here is to show a comprehensive
18 Site Plan and identify all the activities around the property. He explained
19 that 80% of the property is dedicated to farming with a natural open space
20 that will never be planted.

21
22 Planning Board Town Attorney Eriole asked the applicant if the Building
23 Inspector wants to pass on something that already exists or are you here
24 because you are proposing something new or different or expanding.

25
26 Mr. Taborga said he is not applying to extend any buildings. He noted that
27 there is an enclosed three car garage that can be used as an accessory to
28 the farming. He said that there are teaching sessions, discussions and
29 events where volunteers pick fruit or plant seeds.

30
31 Planning Board Town Attorney Eriole asked if there are any buildings on
32 the submitted plans that are not currently on the site.

33
34 Mr. Taborga said that his plan is to show all the buildings on site but he
35 wants the three car garage to have insulation around the perimeter of the
36 walls.

37
38 Mr. Goldenberg read from the Director of Planning's memo dated
39 September 6, 2016, *The application is to have the Planning Board assess*
40 *the steps necessary for the applicant to obtain a building permit to renovate*

1 *an existing building on the site to be used as a multi-purpose building.*
 2 *Coincident with the renovation of this existing building is development of*
 3 *two parking areas, one for 20 cars and one for 60 cars. The site is 38.01*
 4 *acres and is located in the R-120 Zone.*

5
 6 *After discussion with the Building Inspector who visited the site it appears*
 7 *that the site has been planted by the current user and was not previously a*
 8 *farm operation. It has received tax exempt status but it is not clear how this*
 9 *exemption was received, under what auspices. This should be clarified by*
 10 *the Planning Board. The purpose that the applicant is appearing before the*
 11 *Board is for the applicant to identify what category of use it believes it falls*
 12 *under in an R-120 District. Once the applicant has made clear to the*
 13 *Planning Board what type of use it believes it is, it can then be better*
 14 *reviewed by and assessed by the Building Inspector and the Director of*
 15 *Planning with input from the Planning Board.*

16
 17 Mr. Goldenberg said the applicant is looking for two parking lots and is
 18 concerned that something is going on.

19
 20 Mr. Taborga said that sometimes there are 100 volunteers and he has to
 21 respond to the parking requirements.

22
 23 Planning Board Town Attorney Eriole asked how long the operation has
 24 been going on for.

25
 26 Architect Hernandez said that the owner has owned the property for five
 27 years.

28
 29 Consultant Town Engineer Barbagallo asked what the use was when the
 30 property was purchased.

31
 32 Mr. McNamara said he feels that this is a Zoning issue.

33
 34 Mr. Hernandez said that farming is an allowable use.

35
 36 Ms. Gerbino said that Orchard Hills has a history and explained it is three
 37 acre residential. She asked how many wells there are on the site and how
 38 many bathrooms and bedrooms are on the site.

39
 40 Mr. Taborga stated that he does not know how many wells are on the site.

1 Planning Board Town Attorney Eriole advised that the advice and
2 interpretation on this application is under the purview of the Building
3 Inspector. He said that this is not a Planning Board action but if the
4 applicant has a problem with the Building Inspector's interpretation they
5 can apply to the Zoning Board.

6
7 Planning Board Town Attorney Eriole said that if the Building Inspector
8 finds that the use is a prior non-conforming use the applicant can come
9 back to the Planning Board.

10
11 Consultant Town Engineer Barbagallo referred to the Director of Planning
12 memo dated September 6, 2016 which states that the purpose the
13 applicant is appearing before the Board is for the applicant to identify what
14 category or use it believes it falls under in an R-120 Zoning District.

15
16 Planning Board Town Attorney Eriole said that a decision by the Building
17 Inspector can be appealed to the Zoning Board of Appeals.

18
19 Chair Currie advised the applicant to receive an interpretation from the
20 Building Inspector and that will determine what happens next.

21
22 Mr. Tabora said that the Building Inspector wanted him to show the
23 neighbors what is happening on the site. He said that there have been
24 events at the site that neighbors and officials have been invited to.

25
26 Ms. Gerbino said that if it turns out with the Zoning Board of Appeals (ZBA)
27 that this is a legal farm because of the small farm zoning determination
28 there is NYS Ag Law that says that you do not have to come to the
29 Planning Board you can just put up a building. She asked if the State Ag
30 Law applies to the Town Code description of a small farm.

31
32 Planning Board Town Attorney Eriole replied that he will have to check if
33 the State Ag Law applies to the Town Codes description of a small farm.

34
35 Mr. Tabora said that it is possible to create an area in the middle of the
36 property to park cars but it does not have to be blacktopped.

37
38 Architect Hernandez said that the applicant has to go to the Building
39 Inspector and get something in writing to say that the uses on the property

1 are allowable uses and if they are the applicant comes back to the Planning
2 Board.

3
4 Ms. Gannon wondered how the neighbors will find out about the Building
5 Inspector's decision.

6
7 Planning Board Town Attorney Eriole said that the public can send a letter
8 to the Building Inspector saying that they heard the applicant's presentation
9 and would like him to make a determination on the record on the use of the
10 property.

11
12 Planning Board Town Attorney Eriole asked if anyone is living on the
13 property.

14
15 Mr. Taborga said there is no one living on the property at this time.

16
17 Consultant Town Engineer Barbagallo said that there have been
18 complaints about buses and cars going up and down the road.

19
20 Mr. Taborga said that the buses only come twice a year.

21
22 Planning Board Town Attorney Eriole advised the Board that the
23 determination of use should be with the Building Inspector and not the
24 Planning Board.

25
26 **INFORMAL APPEARANCE WITH SKETCH PLAN**

27
28 **CON EDISON**

29
30 Chairman Currie explained that a resident of 675B Whitetail Drive is
31 requesting gas service. He said that there is an existing main in the
32 roadway and the proposed gas service line will tie into the existing main.

33
34 Laura Ruggeri, representing Con Edison, said that she assists with
35 permitting and she is here because under Somers Town Code installation
36 of utility lines has to be reviewed by the Planning Board. She explained
37 that there will be a 2 foot trench in the wetland buffer to connect the home
38 to the existing gas main in the grassy margin of the roadway. She asked if
39 the application can be handled administratively.

40

1 Mr. Goldenberg said that the application is not correct as it states that the
2 residence is a single family home and it is a condominium. He said that the
3 application has to show that the Board of Directors of the Condo allow the
4 gas line; therefore, he opined that there is no reason for the applicant to be
5 in front of this Board.

6
7 Carl Picha, owner, said that he went to the Condo 26 President and was
8 told to get a signed petition allowing the conversion to gas and he
9 presented the petition to him and was told to go ahead with the conversion
10 to gas.

11 Mr. McNamara said that the Planning Board needs the permission from
12 Condo 26 in writing before they can proceed with the request.

13
14 Ms. Gerbino said that other condos have gas heating.

15
16 Mr. Picha said that units in his condo have gas heating.

17
18 Chairman Currie said that when the applicant gets the permission of his
19 Condo Board in writing the Board will review the request to handle the
20 permit administratively.

21
22 Ms. Ruggeri said that the applicant is very upset because he was not
23 aware he needed Board approval. She asked if the Board provides
24 documentation that the applicant does not have to come back to the
25 Planning Board but the application can be handled administratively.
26 She said that under SEQRA a Type II Action approves an extension of a
27 distribution line.

28
29 Mr. Goldenberg said that there will be one month of construction and
30 neighbors should give their permission. He said that the application has to
31 be changed to show the permission of the Condo Board.

32
33 Planning Board Town Attorney Eriole said notifying the neighbors does not
34 happen with an administrative permit. He said that the applicant will have
35 to provide permission from the Condo Board for the granting of an
36 administrative permit.

37
38 Mr. Goldenberg said that he is not comfortable with handling the application
39 administratively. He said that he wants to see where the gas pipe is going.

40

1 On motion by Mr. McNamara, seconded by Ms. Gerbino, (Mr. Goldenberg
2 voting nay) and carried, the Board determined that the application be
3 handled administratively if written consent can be obtained from the owner.
4

5 **DISCUSSION**

6
7 **TOWNE CENTRE AT SOMERS [TM: 17.15-1-13]**
8

9 Chairman Currie asked the applicant to update the Board on the proposal
10 for improvements to the Towne Centre property. He mentioned that the
11 improvements include functional and aesthetic changes to building facades
12 as well as modifications to the site area between buildings "A" and "B".
13

14 Chairman Currie asked the applicant's representative to update the Board
15 and the public on the project.
16

17 Robert Aiello, the applicant's engineer, noted that he was before the Board
18 on July 13, 2016 discussing improvements to the interior portion of the
19 Somers Towne Centre near the Post Office and the center area near the
20 Somerfields Restaurant. He mentioned that the proposal is for building
21 facades upgrades, parking improvements and site plan improvements.
22

23 Engineer Aiello said that he has been before the Architectural Review
24 Board (ARB) twice and received a conditional approval. He noted that he
25 also met with the Fire Prevention Bureau to discuss modifying curb lines
26 to make sure that emergency equipment can come through. He stated that
27 the Fire Prevention Bureau was also on board with the plan. Engineer
28 Aiello said that before he gets into the details of the application he wanted
29 to make sure that the Planning Board is in agreement with the proposed
30 improvements. He said that the existing parallel parking near CVS and the
31 Post Office be removed to provide 60 degree angled parking spaces
32 separated by a median area that will only be a few inches high to provide
33 traffic calming to keep speeds low through the pedestrian area.

34 Engineer Aiello explained that as part of the façade improvements will be to
35 remove the large overhang and pull it back to 6-8 feet from the building.
36 He mentioned that he added a handicap parking space at Burke's
37 Rehabilitation.
38

1 Ms. Gannon said that she is still not convinced having people with angled
2 parking opposite each other on a curve is a good idea unless a traffic
3 engineer says it is safe.

4 Consultant Town Engineer Barbagallo asked about the travel lane.
5

6 Engineer Aiello said that the travel lane is 13 ½ feet with the isle 13 ½ feet.
7 He said that he can work with the Board on this as there is flexibility. He
8 said that the Planning Board can allow his suggested travel lane if it makes
9 sense.

10

11 Ms. Gannon said she is concerned about snow plowing.
12

13

14 Consultant Town Engineer Barbagallo asked if there was any discussion on
15 the interconnection and the egress and ingress at the Towne Centre and
16 additional parking at the Somers Crossing project.

17

18 Rob Wells, representing Urstadt Biddle owner of the Somers Towne
19 Centre, said that he has not discussed parking with Mr. Boniello but is
20 concerned if there are changes on where his pylon will be placed.

21

22 There being no further business, on motion by Chair Currie, seconded by
23 Mr. McNamara, and unanimously carried, the meeting adjourned at 11:40
24 P.M. The Chair announced that the next Planning Board meeting will be
25 held on Tuesday, October 4, 2016 at 7:30 P.M. at the Somers Town
26 House.

27

28

Respectfully submitted,

29

30

31

Marilyn Murphy
Planning Board Secretary

32

33

34

35