

PRESENT: George Brehm Chairman, Dr. Thomas Bloom, Aaron Cioppa. Corinne Pitt, William Vollmer and Dr. Thomas Bloom and Mark Friedman.

EXCUSED: Jay Erickson.

ALSO PRESENT: Ronald J. Gainer PE, Michael Liguori Esq., from Hogan & Rossi Law firm.

CONTENT: Tobias Environmental Permit, Bonavenia Environmental Permit, Maeurer Special Use Permit, Girl Scouts of Greater New York Site Plan, The Woods at Pawling Subdivision and Site Plan, New Business and Minutes.

Chairman Brehm opened the meeting and then led the salute to the flag.

MITCHELL TOBIAS

Administrative/ Environmental Permit

140 Jansen Road
Holmes, NY 12564
Grid Number: 134089-6855-13-036321

Motion by Mr. Vollmer that the Board waives Chapter 111, Freshwater, Wetlands and Watercourse Protection; Sections as per 111-6 E(4)(c) (2, - 111-6.1, 111-6. A, and 111-6.C, public hearings, referrals to outside agencies and performance bond, and then refers this permit to the Stormwater Management Officer subject to:

- Proof of insurance (for liability, disability and worker compensation), with the Town of Pawling shown as an additional certificate holder.

Second by Mr. Cioppa. Chairman Brehm asks for discussion. All were in favor and the Motion carried.

GENAARO BONAVENTIA

Administrative/Environmental Permit
16 Old Pawling Road
Pawling, NY 12564
Grid Number: 134089-7056-576840

Motion by Mrs. Pitt that the Board waives Chapter 111, Freshwater, Wetlands and Watercourse Protection; Sections as per 111-6 E(4)(c) (2, - 111-6.1, 111-6. A, and 111-6.C, public hearings, referrals to outside agencies and performance bond, and then refers this permit to the Stormwater Management Officer subject to:

- Proof of insurance (for liability, disability and worker compensation), with the Town of Pawling shown as an additional certificate holder.

Second by Dr. Bloom. Chairman Brehm asks for discussion. All were in favor and the Motion carried.

SHANNON MAEURER

New Application/Accessory Apartment

15 Stanley Drive
Pawling, NY 12564
Grid Number: 134089-6957-00-663117

Ms. Shannon Maeurer was present.

Chairman Brehm said the property is located at 15 Stanley Drive in an R-3 Zoning district. This application is for an existing residence with an accessory apartment.

Ms. Maeurer said during the course of selling the house, the Town Building Inspector became aware that it contains an un-approved accessory apartment. Ms. Maeurer explained the apartment was constructed by her grandfather in the 1960's. The family had assumed the apartment was a legal two-family residence. No changes to the existing dwelling are planned.

Mr. Gainer said the creation of an accessory apartment on a one family residential lot requires a "Special Use Permit". As the Board is aware, accessory apartments on one family residential lots, pursuant to §215-17.1 (Accessory apartments on one family residential lots) are subject to compliance with all requirements specified therein. There is one non-conformity which must be addressed. Per §215-17.1C, the accessory apartment shall occupy not more than 30% of the floor area of the principal dwelling if located in a portion of a single-family structure. Based upon the size of the apartment, the matter must be referred to the Zoning Board of Appeals for a variance before the Board may act on the matter.

The Board should refer this application to the Dutchess County Planning Department per GML 239m, the Town Fire Marshal, and Dutchess County Department of Behavioral & Community Health to confirm adequacy of the existing water supply and SSTS on the property. Additionally, the Board should determine whether they wish to conduct a site inspection, in order to determine whether any site-specific issues may be identified.

Pursuant to the New York State Environmental Quality Act (SEQRA) Title 6 NYCRR Part 617 Regulations now in effect, as specified in 617.5c(!) construction or expansion of a single family, two family or three family residence on an approved lot, including extension of utility services are now classified as Type 2 actions.

Chairman Brehm said the Board can consider a SEQRA action on the application to declare this a Type II action, thereby concluding their SEQRA responsibility.

Motion by Dr. Bloom to declare this application a Type II action, according to SEQRA; therefore, no further action is necessary by the Board.

Second by Mr. Vollmer. Chairman Brehm asked for discussion. All were in favor and the Motion carried.

Motion by Mr. Cioppa that the Planning Board grants Ms. Shannon Maeurer concept approval for an Accessory Dwelling Special Use Permit.

Second by Mr. Vollmer. Chairman Brehm asked for discussion. All were in favor and the Motion carried.

Motion by Dr. Bloom to refer the Ms. Shannon Maeurer to work directly with Mr. Ronald J. Gainer P.E. on the Accessory Apartment Special Use Permit application located at 15 Stanley Drive.

Second by Mr. Vollmer. Chairman Brehm asked for discussion. All were in favor and the Motion carried.

Motion by Dr. Bloom to refer Ms. Shannon Maeurer Special Use Permit for an Accessory Apartment to the Zoning Board of Appeals for an area variance.

Second by Mrs. Pitt. Chairman Brehm asked for discussion. All were in favor and the Motion carried.

GIRL SCOUTS of GREATER NEW YORK

New Application/Site Plan

81 Camp Road

Holmes, NY 12564

Grid Number: 1340859-6955-00-070854

Mr. Adam Thyberg RA from the firm of Insite Engineering was present representing the applicants.

Chairman Brehm said the property is located off on NYS Route 292 on Camp Road in a Residential-4 Zoning district.

Mr. Thyberg said this development proposal involves the existing Camp Kaufman property on the east side of NYS Route 292, which is owned by the Girl Scouts of Greater New York (GSGNY). The camp's history is the facility was created in the 1950's and over time has grown into a 425-acre site. The main road that runs through is called Camp Road. The camp operates various activities for the girls, (i.e., gardening, boating, crafts, and camp shops). The amenities on the property include camping lodges, a lake, swimming pool, and hiking. A large dining hall on the premises is known as Cookie Hall. The current dining hall is outdated. It has been determined that it would be more cost effective to build an energy efficient dining hall similar in square footage, with a different footprint configuration.

Mr. Vollmer asked several questions. Is the dining hall the same size? Will the access drive remain off of NYS Route 292? Will another access point be utilized?

Mr. Thyberg responded the dining hall will be reconfigured at 12, 200 square feet, with a more efficient layout. The main access is off of NYS Route 292. There are multiple roads to get around the interior site and no other access points into the site proposed.

Mrs. Pitt asked when was the facility used last.

Mr. Thyberg responded the Camp is used on a yearly basis. An event was held last month in the dining hall. Due to the outdated dining hall it has become less useful to hold events.

Mrs. Pitt asked if the new facility will increase onsite traffic.

Mr. Thyberg responded the site utilization for campers and site use will continue the current operations as in the past. The intent is to continue current operations.

Mrs. Pitt asked what is the proposed date for construction?

Mr. Thyberg responded the goal for construction is summer of 2022.

Mr. Freidman clarified that the primary use will remain the same. He asked if there any new amenities being proposed.

Mr. Thyberg responded that there are no new proposed amenities.

Motion by Mr. Cioppa to grant concept approval to Girl Scouts of Greater New York (GSGNY) Camp Kaufman located off of NYS Route 292, Camp Road.

Second by Mrs. Pitt. Chairman Brehm asked for discussion. All were in favor and the Motion carried.

The Board scheduled a site inspection for January 08, 2022 at 8:30a.m. and a snow date of January 22, 2022 at 8:30a.m.

THE WOODS AT PAWLING

Further Discussion/ /Site Plan/Subdivision

Castagna Drive

Pawling, NY 12564

Grid Number: 134089-7056-00-611311

Mr. Jerry Schwalbe P.E. and Mrs. Donna Maiello, ASLA, RLA from the firm of Divney, Tung and Schwalbe, Mr. Richard O'Rourke Esq. from Keane and Beane Law firm and Mr. Ken Kearney from Kearney Development Group were present.

Mr. Schwalbe said the Board's subcommittee met to finalize the photometric and landscape plan. Mrs. Maiello is present this evening to present the updates to the Board.

Chairman Brehm asked if a playground is proposed within the development?

Mr. Schwalbe said an area within the front of building 2 has been allocated for a future playground.

Mrs. Maiello presented illustrated drawing of the landscape and photometric plans. She began by saying the entrance has been shifted 30 feet on the southeast corner of The Hamlet of Pawling building. There are evergreen trees, shrubs and ornamental trees proposed to enhance the shifted entrance roadway. The light poles were reduced to 12 feet with downward directed lighting. The photometric plan illustrated no light spillage onto the ground floor units. The downward directed lights are full cut-off fixtures, with the lamp source at the top of the fixtures. The Woods at Pawling plans illustrated wooded buffers along the outside perimeter of the property. Following the meeting with the landscape subcommittee, the plans now include an additional 30 evergreen trees and 30 understory trees. As part of the review they analyzed the relationship between the proposed buildings and off-site topography as shown in map sections A through D. These relate to residences on Cedar Lane, Akindale Road and Sans Souci Drive. These sections illustrate the grade difference between the intermediate topography, the understory canopies, existing vegetation and existing structures. The proposed lighting plans for the site development illustrates light pole at 15-foot lights, and 14-foot lights.

Mr. Freidman clarified the size of the trees to be planted.

Mrs. Maiello said there are a variety of trees, 7 to 8 feet tall, 8- 10 feet tall, in addition to a mix of understory shrubs.

Mrs. Pitt said she has been researching older Board minutes, the former Board recommended that no playgrounds be installed on site. The reason was not to attract school age children.

Mr. Schwalbe explained that a nature park is part of the overall PDD masterplan.

Chairman Brehm asked if the New York State Department of Transportation had responded to date. There were comments and concerns raised at the Public Hearing to the potential increase in traffic on NYS Route 22.

Mrs. Pitt asked if there are any electric hubs that would be require relocation by moving the road.

Mr. Schwalbe said they will elevate the underground utilities prior to any site constructions.

Mr. Liguori said following the Public Hearing the Board members had specific questions in regards to the Planned Development District. The Board questioned whether there is a change in land use or intensity of use as described in 215-36(9) then as an amendment to the concept plan. He performed an analysis of the PDD to assist with answering these questions. He went back to review the historical analysis beginning in 1998 to the current date. There are two topics for discussion with the applicant. Is there a mutual understanding of whether or not the project is still being proposed as senior housing or non-age restricted housing? Senior housing is shown under the 2013 plan, along with a Town Board Resolution allowing up to 400

units of senior housing. The question is if the housing is only proposed as multifamily residential then it raises a question of whether multifamily was approved in the concept plan. The Board should determine if there is a change in land use or intensity in use. If the Board determines either one of these options, then The Woods at Pawling project would be referred to the Town Board for a change in the 2013 concept plan. His historical analysis has been prepared for the Board and if the Board so chooses, he can refer his memorandum to the applicant.

The Federal Fair Housing Act applicable to an age-restricted project allows a developer up to 20% of non-compliant occupants. However, under this Act once 25% of the overall project has been offered for sale, the developer must offer the project for sale as age restricted. In its simplest terms, once Kearney Realty developers offers 20 units in the new project, which must be added to the existing 80, he will reach 25% of the overall 400 units (25% of the 400 units permitted = 25%) and must offer the remaining units as age restricted. That requirement precludes Kearney Realty from marketing the 80-unit project. During earlier discussions it was noted that multi-family housing is allowed in the Planned Development District. The question comes back to the Board: how do we analyze a change in land use? The underlying PDD permits multifamily housing. How does that interplay with the Code of the Town of Pawling?

The Board asked Mr. Liguori, how do they answer these questions?

Chairman Brehm said the Town Board approval allows for 400 units of senior housing. As he understands that's what the resolution states, 400 units of senior housing. He asked, is this not a guiding statement? There are 80 units of senior housing. So where does the Federal Fair Housing Act come into question? Why is the Board considering non-senior housing?

Mr. Liguori said the Federal Law allows for 20% of non-age restricted housing units. The Board determines if the project is a change in use. He was asked to give the Board advice on whether or not it is a change in use.

Chairman Brehm said that in his opinion it is not a change in use, this is residential housing to residential housing. The question is, could there be an increase in the number of people on site?

Mr. Liguori said the applicant and their counsel are here this evening to discuss these questions with the Board. The question the Board has to have answered in the near future by the applicant is - is the project senior housing or not?

Dr. Bloom said in his opinion these questions should be determined by the Town Board.

Mr. Kearney said during the August meeting and earlier on in the project development the Board had conversations on the matter of non-age restricted housing. The Code of the Town of Pawling is written for any permitted use in any residential zone within the Town of Pawling. Therefore, the PDD allows non-age restricted housing. The Federal Fair Housing Law does not speak to when the 20% kicks in. When they came away from the August meeting, it was understood these issues were resolved. Currently, there is a question on the concept plan and intensity of the PDD. The intensity is at what point, when the commercial is built or not built out, additional residential unit built out or not. What I believe was determined was that the PDD allowed any residential in the PDD zone.

Chairman Brehm said Castagna Commerce Park was approved by the Town Board for up to 400 units of senior housing.

Mr. Kearney said he is not in disagreement with Chairman Brehm. During the August meeting discussions held, the Board addressed allowed usage.

Mr. O'Rourke asked for a copy of Mr. Liguori's letter. There seems to be some confusion and he does not want to add to the confusion. The Town Board Resolution states "...up to 400 units of senior housing". During site plan approval the applicant must prove out the 400 housing units in terms of the overall configuration of the PDD.

Chairman Brehm said the "up to" could be 360 units, or some number other than 400 units.

Mr. O'Rourke said it could be 200 units. Each phase has to be proved out during site plan approval process.

Chairman Brehm's said how do you propose 80 units of non-age restricted housing, based on the 400-unit potential build out?

Mr. O'Rourke said the Board has to go back to what was the overall approval and what Ms. Axelson, the Town's Planning Consultant, addressed in terms of the concept. There are a considerable number of Town houses as part of the PDD approval in the concept plan approved. The Town houses were part of the overall approval that were not senior housing. The Town's Code Enforcement Officer approved the non-age restricted housing. He is the legal authority to answer this question. The Code of Pawling has a provision that allows non-age restricted housing. If the Town chooses to have senior housing, the PDD allows up to 400 units. This has to be observed as to what is the law. This is an allowance that could occur, all subject to site plan approval. In response to questions raised as to how the PDD was marketed in the past. A company does not spend \$100,000.00 or more without having secured a tenant. Unfortunately, both Mr. Gutleber and Mr. Castagna have passed. He spoke with Mr. Andy Wong, who recently left Castagna company. He provided detailed information on past marketing for the Planned Development District's approved Medical Office Building. A company by the name of Kimco Realty Corporation, Milton Cooper was retained to market the Castagna Realty Complex. It was noted they own over 400 shopping centers throughout the United States. There were discussions held between all parties to have Kimco take a hard look at the property by bringing in Target, TJ Maxx etc. There was discussion with Health Quest until a new CEO was appointed in 2015 or 2016 and the conversations stopped. Their focus was also on Vassar Hospital. Health Quest had been sold to Nuvance. The Health Quest discussions were ongoing until they pulled out. It did not move forward based on the lack of effort by the Castagna team. Another discussion was to construct a hotel onsite. However, a problem was raised when the Pawling Joint Sewer Commission could not provide estimates of sewer rates that must be paid. Without knowing these rates, no developer could move forward. Currently, they have hired Thomas LaPerch, Commercial Real Estate Group, to market the property. These are all facts on past and current market strategies that the Castagna group has undertaken to market the approved commercial site plan.

Mr. Friedman asked if in the PDD zoning text there are rules as to the permitted usage? Is one of those usages a residential use of a non-descript type.

Mr. Liguori said what uses are permitted in the PDD are what is allowed in any residential district in Pawling.

Mr. Friedman asked, to be granted approval in the PDD the applicant has to submit a concept plan and subsequently a preliminary plan. Has Castagna/Kearney completed these tasks?

Mr. Liguori said Castagna/Kearney have completed concept and preliminary plans multiple times.

Mr. Friedman said were both these plans approved by the Planning and/or Town Board.

Mr. Liguori said the concept plan is approved by the Town Board and the Preliminary plan by the Planning Board.

Mr. Friedman said in reference to the current preliminary plan approved, was it specific for housing approval?

Mr. Liguori said the plan being discussed is the concept plan approved in 2013 and the preliminary plan was approved for housing. The concept plan illustrates pods/areas for residential, commercial and retail.

Mr. Friedman said what warrants increased intensity that would suggest a revision to the concept plan?

Mr. Liguori said the intensity falls under section of the Code §215-36 i. The question for discussion remains with the Board to decide if there is a change in land use or intensity. If so, the applicant would have to amend the concept plan.

Mr. Friedman said in terms of change in land use, in his opinion it is residential to residential, and in terms of intensity what are the factors that make these decisions? Does this include the school impacts? Has Mr. Liguori reviewed the letter from the school? Does he have any comments?

Mr. Liguori said it is appropriate for the applicant to respond to the school and Planning Board.

The applicant had sent a response to both Pawling Central School District and Planning Board.

Mr. Liguori said the Board takes into consideration the factors relating to traffic, items identified in SEQRA.

Mr. Friedman asked what is the ratio of residential to commercial development in the PDD? Is it fair to say if development was 50% commercial and residential then a developer could not build out more than 50%? His concern is - does the zoning text require to be amended?

Mr. Liguori said the zoning text cannot be changed on a concept plan. Before he could answer the commercial versus residential/development staging, the Code of the Town of Pawling needs to be researched prior to providing an answer.

Mr. O'Rourke said these are all important questions. In real estate a building cannot be built without tenants. The problem is if they meet the maximum permitted residential and then commercial needs to be built, financing cannot be sought without tenants. That was one of the reasons he explained their efforts made to build out the commercial. Castagna seeks commercial development. Currently they are handicapped. Nonetheless, financing is available for the housing market portion.

Mr. Kearney said the senior housing market had 1000's of units approved throughout Dutchess, Putnam and Northern Westchester. The financing is no longer available for senior housing. Furthermore, 60 years old's do not want to live in senior housing. Many 60-year-old seniors want to live in a mixed neighborhood. Empty nesters prefer two-bedroom units. It was understood that these issues were resolved in the August meeting.

Dr. Bloom said in Florida senior housing is highly sought after. He asked Mr. Kearney, if this non-age restricted housing is a change in use?

Mr. Kearney said the 80 units is not a change of use.

Mr. O'Rourke said the Code gives the authority to allow the Code Enforcement Officer to make a zoning decision. The CEO provided a determination for the PDD. Furthermore, there is case law; Mialto versus the Town of Patterson, Appellate Division referencing can a Planning Board not approve an application based on their determination of the permitted use, it is the Code Enforcement Officer authority.

Dr. Bloom asked Mr. Liguori to clarify Mr. O'Rourke's statement.

Mr. Liguori said the Code Enforcement Officer is the entity that interprets the Zoning code. His advice to the Board is to make the determination on a change in use. There is no definition in the code on change in use. Members of the Board have raised concerns. Then the next step is to perform a historical analysis on the PDD. His other advice to the Board is not to be arbitrary and capricious.

Chairman Brehm said that if the Board feels this is a change in use, should the Board speak with the CEO? Or is it a conversation to be held by the Board?

Mr. Friedman said he feels residential is residential. The change in intensity of the nonage restricted housing consists of school children versus senior housing.

Mr. Kearny said the overall Castagna Commerce Park development consists of 165,000 square feet of commercial, and 200,000 of retail. Currently 80 residential units were built out, with a current proposal for another 80 units. This development is in the beginning stages of a build out, not the end of the complex being built out. He asked if all the Board members had read their response to Pawling Central School District?

Mr. O'Rourke submitted for the record a letter written to Mr. Liguori on July 27, 2021 referencing the Planning Development District on the precise issue of the "use". He read the letter into the records. Mr. O'Rourke explained that before embarking on a large financial expenditure for a project, it is normal and customary to write a letter to ensure the use is permitted under the Code. He explained how this procedure is done in other Towns and gave examples.

Mr. Kearney asked what are the next procedural steps?

Chairman Brehm said that Mr. Liguori's memorandum will be circulated to the applicant. The next step is a SEQRA determination, and a time extension should be forthcoming at the next meeting and hopefully a report from NYSDOT.

Mr. Gainer reminded Board that the NYSDOT is not obligated to respond to the Board, since this project does propose any improvements at the Route 22 entrance.

Mrs. Pitt asked how often does NYSDOT not respond?

Mr. Kearney said the NYSDOT often does not respond. A traffic study involving NYS Route 22 and Akindale Road has been submitted to the Board. The conversations held his evening was a surprise to the Castagna/Kearney team. This issue was discussed early on in the project and again in August.

Mr. O'Rourke said additional information on the authority of the Code Enforcement Officer will be provided to the Board.

Mrs. Pitt said she would like Mr. O'Rourke opinion on the change of use for the PDD.

Mr. O'Rourke said that the Castagna/Kearney proposal is not close to the intensity of use permitted for the entire Planned Development District. The use is permitted under the Code of the Town of Pawling ordinances.

Dr. Bloom said what do they perceive as the future build-out for the PDD? What is the point of constructing the PDD without a future plan?

Mr. O'Rourke said he respectfully disagrees. The applicant made an application for senior housing funding in 2018. The funding was denied. The Castagna team continues to market the approved commercial site plan within the overall Planned Development District.

Mr. Kearney said what he can do is to work with Castagna on a robust marketing effort to find a niche to bring commercial/retail businesses to Pawling. He will be involved directly and recently followed up with speaking to Mr. LaPerch. Many creative ideas are currently being discussed that will not go away. It is a unique time for commercial/retail growth.

Chairman Brehm placed the applicant on the December 20, 2021 Planning Board agenda.

APPROVAL OF MINUTES:

Motion by Mr. Cioppa to approve the Minutes of November 15, 2021 as read.

Second by Mr. Vollmer. Chairman Brehm asked for discussion.

All were in favor and the Motion carried.

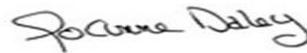
NEW BUSINESS

No new business discussed this evening.

ADJOURNMENT

On a Motion by Mr. Vollmer and seconded by Mr. Freidman to adjourn the meeting at 10:15 p.m. All were in favor and the Motion carried.

Respectfully submitted,



JoAnne Daley
Recording Secretary