

North Salem Planning Board Minutes

August 4, 2010

7:30 PM – Annex

PRESENT: **Cynthia Curtis, Chairwoman**
 Charlotte Harris, Board Member
 Gary Jacobi, Board Member
 Bernard Sweeney, Board Member
 Sonja Teichmann, Planning Consultant

ABSENT: **Robert Tompkins, Board Member**
 Roland A. Baroni, Town Attorney (not required to attend)

ATTENDANTS:	Friends of Karen:	Judith Factor
	BB Abode Home Treasures:	Emanuel DeMagistris
	LP Partners:	Tim Allen
	Tonery:	Paul Jaehnig
	MetroPCS New York, LLC:	Daniel Laub
	Total Energy:	Tim Allen

Chairwoman Cynthia Curtis calls the August 4, 2010 North Salem Planning Board Meeting to order.

PUBLIC HEARINGS:

- 1. Salem Hunt:** (owner – June Road Properties, LLC)
Site Dev. Plan, Subdiv., Wetlands Permit (location – June Road & Starlea Road)
 - Continue the Public Hearing Regarding Site Development Plan Approval
 - Continue the Public Hearing Regarding Wetland Permit Approval

Cynthia states that this is a continuation of the Public Hearings. There will be no activity on this item tonight. Cynthia confirms there is no one here tonight wishing to speak. Cynthia states the Applicant is moving forward towards obtaining all of their approvals, and getting everything in order for a submission. The Public Hearings may not be continued for another couple of months.

REGULAR MEETING:

- 2. BB Abode Home Treasures:** Emanuel DeMagistris (owner – Annor, Inc.)
Sign Permit (location – 2 Keeler Lane)
 - Consider Draft Resolution of Approval

Cynthia states this is a proposal for a sign permit for a replacement sign. Eeverything is in keeping with the prior approval which received variances. Cynthia confirms Mr. DeMagistris reviewed the Draft Resolution and he has no questions or comments. Cynthia confirms the Board has no questions or comments.

Charlotte Harris motions that the Planning Board Approve the Sign Plan Resolution as Drafted for BB Abode Home Treasures. Gary Jacobi seconds. All in favor. No opposed.

- 3. Friends of Karen:** Kevin Ambrosio (owner – Judith Factor)

- Consider Waiver Request

Cynthia states that Friends of Karen received Site Plan Approval back in the 90's when the addition had been constructed. They received a Waiver of Site Plan Approval when they converted the gravel parking lot to a paved parking lot. Cynthia states that the landscape architect for Friends of Karen is here tonight to discuss the current proposal which consists of site improvements. Cynthia states the reason this item is on the Agenda tonight to discuss the proposal and obtain confirmation from the Board that they are in concurrence that this may be considered as another Waiver of Site Plan Approval. Cynthia would like to highlight some of the discrepancies she found on the existing site as compared to what was approved back in the 90's to see whether or not we may not wrap up those minor issues with this one Waiver. We will have on one piece of paper which shows what the site looks like today and what the site will look like if the Applicant receives a Waiver of Site Plan Approval for the proposed site improvements. Cynthia requests a quick presentation be given to the Board on what is being proposed.

Kevin Ambrosio, Landscape Architect states he is here on behalf of Friends of Karen. Judith Factor, Executive Director with Friends of Karen is here tonight as well. Mr. Ambrosio states they are currently concentrating and proposing improvements in three main areas. They are requesting a Waiver in order to have the August, 1994 Approved Site Development Plan Amended. Mr. Ambrosio states the original Plan was for the extension of the gravel parking area towards the rear north end of the property, along with the expansion of the structure. We are proposing to improve some of the exterior landscape elements, as well as create new walkways and a potential garden area for volunteers and Friends of Karen employees. The front of the property is our first priority. We are proposing to create a front entrance to the building. Currently, there are two existing entrances. We would like guests to come through the front entrance. We are proposing to create a stone wall in the center island of the parking area. We are proposing to create a wide staircase leading to a crosswalk which would eventually lead to the front door. We are proposing to add landscaping elements with low voltage lighting to assist people walking at night. We are proposing to add wall lights and low step lights.

Mr. Ambrosio states that currently there is a post and rail fence between the two parking lots with an existing evergreen tree. We would like to transplant that tree and make a sitting area to be dedicated to Sheila Peterson, Founder of Friends of Karen.

Mr. Ambrosio states they are not only proposing to improve the landscaping, but also create opportunities for fundraising which would help supporters or families of Friends of Karen.

Mr. Ambrosio states that at the rear north end of the parking lot there is an existing stone wall. We would like to reutilize this wall and create a garden which would allow a sitting area for lunch. We are proposing walkways, steps, and sitting walls, as well as an open air trellis structure for shade.

Cynthia refers to outstanding issues and states in 1994 there was an approval for lighting fixtures which she assumes were to light the parking lot. It appears those were never installed, or if they were, they are not there now. Instead there are flood lights in two places. There is one above the side door which shines towards Route 116 and Oak Ridge Road. The Building Department pointed out that something should be done about it. There are two flood lights which point towards the north near the parking lot. At the end of the new addition, at the peak of the roof, there are a few more flood lights that go out towards the parking lot. Cynthia states that flood lights tend to send light out across large areas as well as neighboring properties. The lights previously mentioned were never part of an originally approved Site Plan. The Board would like to see minimal lighting in the parking lot area in order for people to walk safely to and from their cars. The Board would like the Applicant to come up with something else to replace the flood lights which would blend into

their proposed design. Cynthia states that if electricity is being added, possibly underground wires may be put in for the installation of two small low wattage lights which will cast light downward to the parking lot area. Cynthia talks about the lights being on a timer so that within a half an hour after the close of business, the lights go out.

Cynthia refers to the buffer and setback lines for the property. Cynthia states that this site is in a Professional Office Zone, with a Residential Zone next to it. Cynthia does not believe there will be any issues with the proposed landscaping, gardening, etc. in the yard and buffer area. Cynthia asks if it is possible to flip the proposed arbor in order to get it out of the setback buffer area. Then there would not be an issue with usage in the buffer area.

Cynthia states the tree to be removed and transplanted should be shown on the plan. The new location should also be shown.

Cynthia refers to the parking spaces and states that the parking changed when the lot was paved. While a Waiver was provided for the paving, there was no approved Plan showing a different arrangement of the parking spaces. There is no problem with the parking, as the number of spaces is correct. Cynthia will acknowledge the fact that there has been a reconfiguration of some of the spaces when she prepares the Waiver Resolution. The handicapped spaces have to be confirmed. One space was originally designed as two spaces.

Cynthia asks the Board if they have any questions. They do not. Cynthia confirms with the Board this proposal may be considered as a Waiver.

Plan should note that the garbage bins have been moved, as well as the shed.

Cynthia states that if she receives a confirmation back regarding the placement of the arbor, this proposal may be put on our next Meeting in September for the Waiver.

Cynthia asks Mr. Ambrosio to show the Board a side view and elevation of the wall as well as the lights. Cynthia states the lights should be added on the Plan, as well as the lumens which should be minimal.

4. LP Partners: Tim Allen (owner – Peter Kamenstein)
Subdivision (location – Vail Lane/Chestnut Hill Road)

- Consider Draft Resolution of Approval

Cynthia states that the Board has a Draft Resolution of Approval to consider tonight. The Draft has been circulated to Mr. Rossi & Mr. Allen, Mr. Rossi provided comments. Cynthia refers to Pages 2 and 3 regarding the Conservation Easement and states the language in the Draft Resolution implied that there would be no future subdivision. Mr. Rossi pointed out that the language in the Conservation Easement does not state that. Mr. Rossi would like the second whereas changed to read “The existing Conservation Easement limits residential development thereon to specific defined “Limited Building Areas” on each lot. Cynthia does not have a problem with this change because the land may be subdivided, but it will never change from two residential building lots. Cynthia states the third whereas on Page 3 will also be revised.

Gary confirms the acreage amounts for Lots 1 and 2 referred to on Page 2. Cynthia states only one building may be built on each Lot. If someone wanted to subdivide off acreage in the future, no other houses would be allowed. Gary asks where there is language which states only one structure is allowed. Cynthia confirms the Conservation Easement calls for one house in each lot area. There may only be two residential units. Charlotte asks if the land could be subdivided further for a horse farm. Cynthia states yes and no. The

likelihood of that happening is small. The land may be re-subdivided. A chunk may be sold to a neighbor to make their property bigger. That portion would still be bound to the Conservation Easement.

Mr. Rossi states his other question was in regards to the 50 foot right of way. Cynthia states that confirmation has to be done otherwise widening strips would be considered.

Mr. Rossi refers to Pages 4 and 5 in the MDRA Memo regarding the wetlands being flagged and surveyed. Mr. Rossi would like the language “if required” added at the end of that sentence. Cynthia states that language will be added in.

Cynthia asks if the Board has any questions or comments. They do not.

Gary Jacobi motions that the Planning Board Adopt the Final Subdivision Plat Approval With Conditions and Stormwater Permit Recommendation for the LP Partners Subdivision as Amended. Bernard Sweeney seconds. All in favor. No opposed.

5. **Tonery: Paul Jaehnig** (owner – Pamela Tonery)
Wetland Permit (location – 89 June Road)

- Consider Draft Resolution of Approval

Cynthia states the Board has a Draft Resolution to consider tonight for Tonery. This Draft was modeled after two previous wetland permits. In both of those cases the proposal was for more substantial operations in the wetlands area. A provision was added for monitoring and inspections to be done by the Wetlands Inspector for which an escrow of \$1,500.00 was requested. The same verbiage carried over into this Draft Resolution for Tonery. Cynthia communicated with Bruce Thompson about this and states that other ponds that have been dredged in Town didn't have to be referred to the Planning Board because the soils weren't being deposited on site and they were not involving State wetlands. Bruce e-mailed this afternoon stating that yes, the Tonery pond project is similar to other instances in Town, and in those cases he conducted the periodic site inspections to monitor the project. Bruce stated that if the Planning Board chooses to make any reference to the further involvement of the Wetlands Inspector, it should be at the discretion of the Building Inspector and should that become necessary an appropriate escrow will be required to cover those costs. Cynthia asks Dawn what the current escrow balance is for this project. Dawn states that Susan Morley handles that escrow account, and she will touch base with Susan. Cynthia suggests the current balance stay at \$200.00 or \$250.00 and the Board not request an additional monitoring and inspection escrow. Page 5, Item 4 will be revised.

Cynthia refers to Page 7, Item 15 and states reference to the Wetlands Inspector should be deleted. The forty-eight (48) hour notification should be made to the Building Inspector.

Cynthia refers to Page 7, Item 19 and states reference to the Wetlands Inspector should be deleted.

Cynthia asks the Board their thoughts about the escrow. Gary asks why not collect the \$1,500.00. Cynthia states it is not necessary in this instance to call the Wetlands Inspector out to perform all of the inspections. A bill is generated when the Wetlands Inspector goes out. When the Building Inspector performs the inspections, there is no bill being generated. In some of the larger projects such as Monomoy and Dubin, it was necessary to have the Wetlands Inspector perform the inspections because they were very complicated with more serious issues. Gary would like to know why we don't charge for the Building Inspector's time. Cynthia states the basic fee for the wetlands permits is supposed to cover the in-house services of the Planning Board and Building Inspector. Cynthia states the fees were just raised approximately six months ago. Cynthia states the \$1,500.00 would cover the costs for an outside consultant to perform the inspections.

Cynthia states again that on Page 5, Item 4, the language be changed so that the Applicant maintains a monitoring and inspection escrow in the amount of between \$200.00 and \$250.00. Dawn confirms with Cynthia that any escrow balance would be paid, as well as the submittal of the additional monitoring and inspection escrow.

Paul Jaehnig is here tonight representing Pam Tonery who is also here tonight. Cynthia confirms neither of them have any questions or concerns.

Cynthia refers to Page 5, Item 5 and states that she will review the paper copies instead of MDRA. In this case, the changes are so minor that they do not require the involvement of the Wetlands Inspector. Reference to the Wetlands Inspector will be deleted.

Cynthia asks the Board if they have any further questions or comments. They do not.

Bernard Sweeney motions that the Planning Board Adopt the Draft Resolution of SEQR Negative Declaration, Chapter 107 Wetlands Permit (#WP09-07A) Approval, Chapter 189 Land Excavation and Filling Permit Approval as Amended for Pamela Tonery. Gary Jacobi seconds. All in favor. No opposed.

6. **MetroPCS New York, LLC: Daniel Laub** (owner – Heziha Sulcevski)
Con. Use Permit/Site Dev. Plan (location – 73 Crosby Road)

- Discussion of Open Items

Cynthia states we do not have a new submittal. Cynthia understands a submittal is being worked on. Cynthia states that she had a meeting with Anthony Gioffre and Roland Baroni. The major issue was the discussion about the variance. Cynthia states that a conversation had been started with the Building Inspector. She is not sure the outcome of that conversation. Daniel Laub states he is here tonight in place of Anthony Gioffre from Cuddy & Feder. Mr. Laub states that conversation was not finished because we were able to go back to our radio frequency engineers who have confirmed we will be able to go down to the 110 foot level on the tower so we will not require a variance.

The Board is very happy to hear that information.

Mr. Laub states that they will still be able to obtain the required coverage.

Mr. Laub states they have prepared the revised EAF as per comments received. Their drawings are currently being revised. Mr. Laub has not yet seen revised elevation drawings. The plans are being revised to show the tree line/clearance. We are hoping to submit revised materials next week. Mr. Laub states there is one item he would like clarification on which has to do with the timing of the lighting. Mr. Laub states they are proposing to shield the light downward. The light is on a timer. It is a timer switch which will be turned on when a worker is at the site. The light then goes off after a certain period of time.

Cynthia confirms Mr. Laub will be making a submittal next week.

Cynthia talks about scheduling the Public Hearing and being under a tight timeframe due to federal standards. Cynthia spoke with the Town Attorney this afternoon and confirmed that with the anticipation of a submission being made in a timely fashion. There is no problem with setting the Public Hearing for the first meeting in September. Cynthia does want the Board to see the revised materials at least two weeks prior to the Public Hearing. Cynthia states that she is away all next week, and usually drafts the Public Hearing

Notices. Cynthia asks Mr. Laub if his office will prepare the Draft Public Hearing Notice for Cynthia to review. At least then the Notice will be ready to go. Dawn will confirm the timeframe for publication in the Journal News and notification to the neighbors. Cynthia states that if everything is not in place, the Public Hearing will be opened and then held over if necessary.

Chairwoman motions that the Planning Board set the Public Hearing for MetroPCS NY, LLC for September 1, 2010. Bernard Sweeney seconds. All in favor. No opposed.

After the motion, Cynthia confirms for Mr. Laub the Planning Board Office will publish the Public Hearing Notice in the Journal News. Mr. Laub's office will be responsible for mailing the Notice to the adjoining neighbors. Cynthia will e-mail Mr. Laub a sample Notice.

7. **Total Energy:** Tim Allen (owner – Robert Armentano)
Cond. Use Permit/Site Dev. Plan (location – 2 Hardscrabble Road)

- Discussion of MDRA Memo

Cynthia states this property never had a Site Plan Approval. There was recognition of how the property was being used when the Subdivision was done. We have the Subdivision as our base line. There were a few building permits, and approximately four Waivers of Site Plan. A swimming pool and shed were removed. The rather large gravel parking area and shed appeared on the Site without approval. Cynthia states the sign is also part of this current proposal.

Mr. Allen states his office for Bibbo Associates used to be located right next to the proposed Site. Mal Dunn owned the property for many years dating back to approximately 1986. The property was run down. There was an old red barn in the back used as a main office. Mr. Allen shows the Board where a residence is located up in front, in the PO Zone. Back in the mid-90's Robert Armentano of Total Energy bought the property from Mal Dunn. At that time there were outstanding issues regarding Certificate of Occupancies in terms of what had been done on the Site. At that time, Bruce Thompson wrote a lengthy letter in support of Mr. Armentano buying the property. Mr. Armentano has applied for several Building Permits to clean up the Site, and has done a spectacular job. All of the parking areas were cleaned up and the curbing was redone. Mr. Allen states that Mr. Armentano is in the propane business. Mr. Allen states that the Site has been in the clean up process over the years.

Mr. Allen refers to the proposed sign at the entrance of the Site and talks about the need to go to the Zoning Board of Appeals because the sign would be in the right-of-way.

Mr. Allen states the parking area was never shown on the original Mal Dunn Site Plan back in the early 80's. Mr. Allen states that Mr. Armentano also built a shed which houses equipment for his fish tank. Mr. Allen states that in 1994 when Mr. Armentano bought the property there always a gravel driveway. Cynthia states not always. Mr. Allen went back to the 1994 survey which showed a parking lot and little island was already there when Mr. Armentano purchased the property. Mr. Armentano defined that area and extended it a bit. Mr. Allen states the current proposal is for the parking area, shed and ultimately the sign.

Cynthia states that dealing with the actual uses, allowances, and the way our Town Code is written, she has had conversations with the Building Inspector and Town Attorney. Technically if a non-conforming use is expanded that would require a Use Variance. The parking lot is on a different lot. We have a provision in the Town Code which states that expansion of non-building non-conforming uses is not allowed. We looked at it quite differently and realized that there is a conforming use on Lot 79, where the front building is located, which requires only so many parking spaces. That front building may have its parking spaces in the expanded

parking area. The building that has a problem with that is the two story building in the back. Cynthia states we know what the calculations generate for that building, what is the real number of parking spaces needed based on the usage and may all of those parking spaces be on Lot 79 and not rely upon the gravel parking area? There is a discussion about sharing the parking spaces. Cynthia states that whatever parking spaces are calculated for Building B may be on the other lot which would not trigger a Use Variance. Mr. Allen states that for Building C, there are no parking spaces in that area. Cynthia states they don't have to be in that portion of the lot because there were 12 acknowledged parking spaces on that lot. Cynthia talks about the square footage chart on the Plan. Cynthia refers to Building B and states that it has been referred to as a two-story building. Cynthia confirms only one floor is being used. Mr. Allen states that they are currently using only one floor. The other floor is used for storage. Cynthia states that if the owner is willing to lock that in, it will keep the parking space requirements down. Cynthia states that she drives by the Site almost every day and has not seen much activity in the gravel parking area. Mr. Allen states that they had used that area for equipment which has been moved off site after a visit from Bruce Thompson. Cynthia states that the Board is allowed to waive the number of parking spaces. Mr. Allen will recalculate the correct number of spaces needed for each specific area. Mr. Allen will make sure the owner has no plans to renovate the second floor of the two-story building.

Mr. Allen states that he knows the owner would like to continue using the current residence, and may have minor roof work done. Cynthia states it would be the continuation of an existing use. Mr. Allen has spoken with Mr. Thompson and the residence is a permitted use in the PO Zone.

Cynthia refers to lighting and states that the Plan does not show much. Mr. Allen states that there are minimal lights. Mr. Allen states that there are piers which are lit by propane. There may be a few lights on the building. There are no perimeter lights on the building. Cynthia asks Mr. Allen to show all the lighting as well as how it is directed on the Plan, including the expanded parking lot.

Cynthia confirms Mr. Allen will work on the number parking spaces. There is a discussion of shared parking. The parking for the offices is discussed as being shared with the front building. There is a discussion about the handicapped spaces. Cynthia confirms the same business is in both buildings. Mr. Allen will speak with Bruce Thompson about the handicapped space and the possibility of the two buildings sharing one. Cynthia states that if there is not enough parking area for Building C as it is currently layed out, the Applicant would have to demonstrate why not, before possibly going for a Use Variance. Cynthia states that Mr. Allen should try to see if the 12 spots already acknowledged will be enough. Mr. Allen talks about changing their Statement of Use. Mr. Allen thought that all along the Town Code allowed for shared parking from one lot to another. Mr. Allen refers to Croton Falls and states it is done all over the place. Cynthia states that one section of the Town Code allows for parking on a neighboring lot. Cynthia refers Mr. Allen to Section 250-80 d1 and 2 regarding shared parking for a pre-existing non-conforming use. Mr. Allen understands and will get it squared away. Cynthia states that shared parking may be a possible solution to this predicament. Cynthia states that the goal is to keep the parking down to a minimum. Mr. Allen states they are not planning to build any additional parking.

Cynthia refers to the drainage and stormwater regarding the 5,000 square feet being triggered. Mr. Allen states that the Site is pre-existing to all DEC Codes. Cynthia refers to the stormwater regulations and believes the Site is subject to today's regulations, as it never received approval. Mr. Allen would argue that it is not, but he will speak with Bruce Thompson. There is discussion about decreasing the size of the parking area which may not trigger the regulations.

There is a discussion about the MDRA Memo. Sonja refers to the gravel driveway off Sun Valley Drive. Mr. Allen states that driveway belongs to the neighbor.

Cynthia states it is very important for the Board to know the use for each floor in each building, as well as the square footage.

Mr. Allen refers to a Waiver received for a small expansion which never took place. Cynthia states that should be included in the Plans.

Cynthia states the Board appreciates the fact that the Applicant is trying to get the Site Plan issues cleaned up.

Mr. Allen states their goal is to get the Site Plan started from today.

Referring to the Sign, the Zoning Board of Appeals variance is discussed. The State right-of-way is discussed. Locating the sign on the Applicant's property is discussed so it will still be visible from the road, but not interfere with sight distance. Cynthia states the proposed sign is large and talks about the Applicant making it smaller.

Mr. Fairchild talks about looking at other signs in the area prior to their proposal. There is a discussion about looking at the area back on the island as a possible location. Mr. Fairchild states that customers usually drive right by us. The possibility of two signs is discussed. Mr. Fairchild states they would like to avoid seeing further accidents taking place in the future. There is discussion about customers driving down Route 22, being able to see the sign. Cynthia refers to the nursing home and states they have two signs. One for the drivers going north and one for the drivers going south. The Board suggests the Applicant begin discussions with the Zoning Board of Appeals. The safety issue is stressed.

Cynthia states we will wait for the next submission.

Cynthia states that if issues come up and Mr. Allen would like to meet with the Building Inspector, Town Attorney and herself, would the Board be comfortable with that. The Board agrees.

8. Financial Report:

- July, 2010

Chairwoman motions that the Planning Board Approve the Financial Report for July, 2010. Gary Jacobi seconds. All in favor. No opposed.

9. Minutes:

- May 19, 2010
- July 7, 2010
- July 22, 2010

Chairwoman motions that the Planning Board Approve the Minutes for May 19, 2010, July 7, 2010, and July 22, 2010. Gary Jacobi seconds. All in favor except Charlotte Harris Abstains From the July 22, 2010 Minutes. No opposed.

10. Next Meetings:

- Work Session – August 18, 2010 – Cancelled

- Regular Meeting – September 1, 2010

11. Resolution:

Chairwoman motions to adjourn the Planning Board Meeting. Bernard Sweeney seconds. All in favor. No opposed.