

**TOWN OF WASHINGTON  
PLANNING BOARD**

April 3, 2007

The monthly meeting and public hearing of the Town of Washington Planning Board was held on April 3, 2007, the Town Hall, 10 Reservoir Drive, Millbrook, New York.

Members Present: Acting Chairman, Thomas Beaumont, Robert Alley, Donald Hanson, Matthew Rochfort, James Shequine, and Richard Steller. Consultant Neil Wilson who is on vacation did not attend.

The meeting was called to order by Chairman Thomas Beaumont at 7:31 P.M., introduced and welcomed Robert Alley, as former Justice of the Peace, experienced planning board member, and new Town of Washington Planning Board member, to the public.

**A motion to approve the January 2, 2007 meeting minutes as written was made by board member Shequine, and seconded by board member Hanson. 5 ayes, 1 abstain (Robert Alley was not a member of the board at this time). A motion to approve the March 6, 2007 meeting minutes as written was made by board member Steller, and seconded by board member Hanson. All ayes.**

Chairman Beaumont read the meeting's agenda.

The application request for Lobel Site Plan (Adele R. and Sheldon Lobel) 37 Knotta Road, is for the construction of a master bedroom addition to the existing one-family dwelling. The property is zoned RL 5. A area variance was granted by the ZBA on 2/20/07.

Chairman Beaumont expressed that the Zoning Board raised an issue of concern about the propane gas line being directly in the location of the proposed construction. In their site plan review, the planning board is primarily concerned about the location of the line leading to the propane tank.

Chairman Beaumont read a letter received from Star Gas Products, Inc. under the signature of Richard Muellerleile, President, dated March 30, 2007 that states "We are the current supplier of propane at the Sheldon and Adele Lobel, 37 Knotta Lane residence. Mr. and Mrs. Lobel have indicated that they are planning an addition to their home, which will commence on or about May 1, 2007. I personally made a site visit to their home at 2:00pm today, and indicated to Mrs. Lobel that we will disconnect the gas service from both the tank and the pool heater prior to any excavation taking place. The tank and the heater lines would be capped, and once the excavation and foundation work is complete, we would (at their expense) run a new gas line (with tracing wire and tape) from the tank to the pool heater. The installation would conform to NFPA #58

(Liquefied Petroleum Gas Code). Please contact me personally if you have further questions regarding this issue." (Copy is on file)

The board determined that their concern has been addressed.

**A motion to waive the Lobel public hearing was made by board member Shequine, and seconded by board member Alley. All ayes.**

**A motion to grant the Lobel Site Plan, approval, was made by board member Steller, and seconded by board member Hanson. All ayes.**

The application request of Place-Curley Lot Line Revision, 377 North Tower Hill Road, is for a lot line revision transferring 5.00 acres to become part and parcel with lands of Curley, resulting after the lot line change with Place property containing 5.91 acres of Curley property, containing 12.79 acres. A area variance with conditions was granted by the Zoning Board of Appeals on 2/20/07. The property is zoned RR 10.

Brian Houston, L.S., Bly & Houston, LLP, appeared before the board representing the applicants and expressed that no revisions since the last meeting have been made to the current subdivision map.

**A motion to open the Place-Curley public hearing was made by board member Shequine, and seconded by board member Hanson. All ayes.**

There were no public comments.

**A motion to close the Place-Curley public hearing was made by board member Alley, and seconded by board member Hanson. All ayes.**

**A motion to issue the Place-Curley Lot Line Revision a Negative Declaration Finding of No Significant Impact to the Environment was made by board member Steller, and seconded by board member Alley. All ayes.**

**A motion to grant the Place-Curley Lot Line Revision Preliminary Approval was made by board member Alley, and seconded by board member Hanson. All ayes.**

**A motion to grant the Place-Curley Lot Line Revision Final Approval was made by board member Steller, and seconded by board member Shequine. All ayes.**

Chairman Beaumont signed the maps and Mylar.

The application request of Selmayr Site Plan and Special Permit, (Nina Selmayr) 55 Shale Road, is for the construction of a four stall horse barn to house a maximum of three horses and one stall for a tack room for private stable use. The property is zoned RR 10.

**Dutchess County Tax Map Grid No.: 6965-00-999940**

Previously submitted to the board were completed Town of Washington Planning Board Combined Application Form, Short Environmental Assessment Form, William A. Kelly & Company Letter under the signature of Edward W. Kelly, dated March 15, 2007, 8 ½ x 11 color copies of Soils and Wetlands map, Topography and Hydrology map, Dutchess County Tax Map for Parcel 6965-00-999940, Site Plan Map prepared by Colin M. Houston, PLS, North & Houston, Kingston, NY, architectural design materials by William A. Kelly & Company, Inc., Katonah, NY and memorandum dated March 22, 2007 outlining the plans for the four stall barn with tack room, and means of manure storage, location, and removal.

Nina Selmayr, owner, appeared before the board and related that her property is located off North Tower Hill Road, a small dirt road designated Shale Road, near the Harry Williamson property.

Chairman Beaumont expressed that the board's only concern is about the storage of manure and next read from the Zoning Ordinance, Section 323, Private Stables, "that no building in which animals are housed in a private stable shall be located within 100 ft. of any property line, and no manure shall be stored within 250 ft. of any neighboring residence, property line, watercourse, or wetland." Since the lot width is 184 ft, there is only 120 ft. setback from the property line, that requires a 250 ft. setback.

Chairman Beaumont related that if Mrs. Selmayr spreads the manure this would be acceptable; a storage manure facility needs to be set back 250 ft. Mrs. Selmayr said that she could get a spreader and spread the manure. Board member Steller questioned the amount of acreage involved? Mrs. Selmayr said she owns 6 ½ acres. Mrs. Selmayr expressed that since there is such a minimal amount of manure from three horses, it was not recommended to have a dumpster/container for storing the manure because it would take a considerable amount of time to fill the container on a full time basis, Mrs. Selmayr expressed that she doesn't have three horses presently, she has two horses, hers and her daughters, and it is unlikely that she will own three horses. Mrs. Selmayr said that Mr. Liberta, Liberta Brothers, Pine Plains, NY suggestion was to stockpile the manure and call for a dumpster to be dropped off which would then be picked up in two or three days when the manure has been transferred from the stockpile area to the dumpster. Mr. Liberta said that he does not like to have his dumpsters stand around that long,

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(about six months) as the manure will corrode the metal when it stands so long. Mrs. Selmayr said that her plan was to hold the manure in a wagon on the southwest corner of the barn until it is filled, then call for a pickup.

Chairman Beaumont suggested that Mrs. Selmayr modify her application to allow for spreading the manure. Mrs. Selmayr agreed to modify her application. Board member Steller questioned if spreading the manure would have any effect on her neighbors property? Mrs. Selmayr said she cannot imagine that spreading the manure would have any effect on neighboring properties, there is no one immediately downslope, there are just woods, trees, and her dogs area; spreading the manure would be no problem. Board member Alley questioned if there are any streams on the property? Mrs. Selmayr responded negatively.

Chairman Beaumont expressed that applying to the Zoning Board of Appeals for an area variance is an option. Mrs. Selmayr declined.

Mrs. Selmayr has agreed to spread the manure, will buy a small tractor to help the spreading, and will submit a revised supplemental letter stating that she will spread the manure. Mrs. Selmayr will submit this information for the workshop on April 24<sup>th</sup>.

A public hearing is scheduled for May 1, 2007.

Fee Status: \$400.00 application fee paid 3/22  
500.00 escrow fee paid 3/23

Armand DiBiase, DiBiase Architects, Bedford, NY appeared before the board representing owners, Salvador and E. Christina Assael, for a pre-application discussion on their 4449 Route 44 property regarding accessory structure requirements. Mr. DiBiase's presentation included a satellite photo of the property, Site Plan, and architectural plans.

Mr. DiBiase said the applicants are requesting special permits for accessory residential housing. The satellite photo of the site is taken from Dutchess County satellite maps. The site is located on Route 44 just south of Millbrook School Road intersection, is the former Mora property. The site consists of ninety acres. At present there is one existing structure, a single family residence, on the property. Mr. DiBiase explained that there are two tax parcels for the ninety and forty acres property.

Mr. DiBiase presented an enlargement of the area of the existing house and said that the new owners purchased the property that has a deed restriction with Dutchess Land Conservancy that does not allow further subdivision and expansion of the existing residence.

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The applicants want to create a courtyard in front of their existing residence and are proposing to add a 1,500 sq. ft. four (4) car garage with accessory apartment above for their staff. The owners live in Manhattan, are only weekenders, so they want to bring their staff with them that includes maids, a driver, a cook. The staff would live in the proposed four bedroom apartment above the garage on weekends. A pool house is proposed that consists of two bathrooms, two changing

areas, and an open room containing a bar area, and refrigerator. A two-bedroom guest house is also proposed, and a caretaker's cottage/house is also proposed that is located closer to the road.

Mr. DiBiase said in his review of the Zoning Ordinance, the Town allows one accessory residential unit by special permit. Three accessory structures are being proposed; a garage with staff apartment above, a guest house and a caretakers cottage/house.

Mr. DiBiase spoke to the Dutchess Land Conservancy deed restriction and said that DLC does not want big, massive, houses and prefers smaller structures. Board member Steller questioned if this restriction was placed by the previous owner? Mr. DiBiase's response was affirmative.

Board member Steller remarked that Mr. DiBiase will need a septic system design for the 1,500 sq. ft four bedroom apartment above the garage that is the size of a small house. Mr. DiBiase said that it is difficult to squeeze four bedrooms in 1,500 sq. ft. and said it is a dormitory type staff housing.

Board member Hanson questioned Mr. DiBiase if he is willing to put in the deed/plans that the four bedroom apartment is not for rental purposes. Mr. DiBiase agreed.

Chairman Beaumont questioned if either the guest house or the four bedroom apartment would have a kitchen? Mr. DiBiase said a kitchen is proposed for the staff apartment, but if the board objects to a kitchen, the owner would be willing to exclude the kitchen because the owners are okay with the staff eating in the main house kitchen.

Chairman Beaumont questioned if the proposed staff apartment would share the septic system? Mr. DiBiase said that Dutchess County Department of Health requires separate septic systems; a separate design system for the staff apartment is required, a separate system for the guest house is required, and a separate system for the caretakers cottage/house.

Mr. DiBiase stated that a forty acres parcel north of the ninety acres parcel is also owned, are two tax parcels totaling 130 acres that are separate parcels.

Mr. DiBiase spoke to a possible lot line alteration that would put the caretakers cottage on another lot. Chairman Beaumont stated that the Ordinance permits one accessory residential housing unit per lot. The board felt that this is a very unique situation. Chairman Beaumont said that the swimming pool is also considered an accessory structure. Mr. DiBiase said that the existing swimming pool is being moved.

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The board determined that application for a area variance needs to be made to the Zoning Board of Appeals for three accessory structures, four accessory structures are being proposed. A hardship has been created due to the deed restriction. Board member Hanson suggested that the Planning Board accept an application for the caretakers house/cottage and application for the other three accessory structures be made to the ZBA.

Board member Steller suggested that Mr. DiBiase telephone Consultant Wilson to discuss the pending applications before applying to the Zoning Board of Appeals. Neil is on vacation for two weeks. Mr. DiBiase was given Planning Board and Zoning Board of Appeals applications, dates for application to the Board of Appeals and the Planning Board workshop date for submission of materials for the caretakers cottage.

Board member Shequine questioned if Mr. DiBiase has discussed this proposal with Rebecca Thornton, Dutchess Land Conservancy, Executive Director? Mr. DiBiase said he hasn't talked directly with Ms. Thornton, but has had some communications with Albert Collins, DLC.

Mr. DiBiase expressed that the existing swimming pool is being moved from the back to the side. Chairman Beaumont said that pool is considered an accessory structure.

Mr. DiBiase said that the owners are anxious to start on some building, and questioned if a building permit can be obtained for the garage without an apartment above; have the building application shown as a garage with storage/attic space? Then, if approved, return to the Planning Board, amend the application for an apartment above the garage? Chairman Beaumont said this would be acceptable, but Mr. DiBiase would need to talk to Building Inspector Tom Fiore, also inform him about the proposed plan to have a residence above the garage.

Board member Hanson referred to the replacement of the old/existing pool for a new pool, this might be considered an additional structure and should be mentioned.

Mr. DiBiase questioned if he came to the Planning Board for a special permit for one building would this be accepted? The owners may want to get started building the caretaker's cottage. Mr. DiBiase referred to Mr. Assael being eighty-three years old. Chairman Beaumont questioned if Mr. DiBiase is asking for conditional approval for the caretaker's cottage/house as the accessory structure with the knowledge that he is applying for a variance with the Zoning Board of Appeals. Mr. DiBiase remarked that he will check to see what the owners would like to do.

Board member Shequine questioned if this is a pending sale? Mr. DiBiase said it is a completed sale, Mr. and Mrs. Assael own the property.

Mr. DiBiase questioned if he could submit an application for the caretaker's cottage to the Planning Board, and apply for a area variance to the Zoning Board of Appeals for the guest house, and the staff apartment above the garage simultaneously? If the variance is granted, return to the Planning Board for special permits for the guest house and staff apartment above the garage.

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Board member Steller questioned Mr. DiBiase if he knows of an engineering firm for the proposed septic design systems? Mr. DiBiase said he has worked with Mark Graminski, P.E. and The Chazen Companies. Mr. DiBiase was advised to show the location of the proposed septic systems and any test pits for the caretaker's cottage and staff apartment above the garage on the plans. Board member Steller remarked that Mr. DiBiase will need Board of Health

approval to obtain a Building Permit.

Board member Steller questioned about wetlands on the sketch plan? Mr. DiBiase said those are trees, wooded area, hedge rows; to his knowledge there are no wetlands on the property. Mr. DiBiase will check the wetlands status with the County; there doesn't appear to be any wetlands according to the satellite photo.

Stephen Constantino, Mid-County Farms, addressed the board to discuss/request a curb cut for a driveway on the Constantino parcel. Mr. Constantino said that talks with Joseph Miceli, former partner, refused to sign an agreement for a common driveway easement. Copies of the driveway easement were submitted to the Planning Board, Zoning Board of Appeals, and Mr. Miceli's attorney. Mr. Constantino presented a as-built survey map for review that followed by the board and Mr. Constantino.

Mr. Constantino said that the Constantino's asked the Town about trying to enforce Town Attorney Giffords letter that states they would start to fine both parties and tried to force them to sign the letter. The Constantino's had an independent, third party, attorney draw up a common driveway easement and maintenance agreement, for a fifty-fifty agreement for the cost of maintaining the driveway. The as-built driveway exists. Mr. Constantino said that his only other option at this point is to put in a new driveway on their parcel.

In reviewing the as-built survey map, Mr. Constantino pointed out the South Shanks Road Circle, and related that the dark line is the Constantino property, the solid line is the existing driveway.

The survey map that the Planning Board previously approved shows a shared driveway going down both properties. Mr. Constantino pointed out the Zanes property whom they approached about giving them an easement across their property, and have agreed to do that. Mr. Constantino said that they have planted some buffer trees along their property that was pointed out on the map.

Mr. Constantino said he is asking to put in a new driveway completely on the Constantino property parallel to the existing driveway; they would hook up with the existing driveway. A driveway easement would not be required.

Board member Steller requested Mr. Constantino to point out the constructed house. Mr. Constantino remarked that the house on his property is 90% complete. One house is on the

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Constantino property, the 2<sup>nd</sup> house is on the Miceli property that is completed and habited by Mr. Miceli, was given a C of O by the Town in error because the as-built plan and the driveway easement is a condition of the C of O that wasn't submitted.

Board member Steller questioned about the flood plain? Mr. Constantino remarked that it

doesn't seem to be an issue. The driveway is well above the flood plain. A bridge was built across the existing stream with pipe underneath to handle the water. In response to board member Steller's question about water in the basement, Mr. Constantino said that they had water in the basement awhile ago but this has been corrected by raising the basement and putting sump pumps in. Board member Steller remarked about his concern of being in a flood plain. Mr. Constantino said the house itself is not in the flood plain, this has been checked.

Chairman Beaumont questioned if Mr. Constantino has discussed the proposed driveway plan with Town Highway Superintendent, James Brownell? Mr. Constantino responded affirmatively and said he was told to appear before the Planning Board to obtain approval.

Chairman Beaumont stated that a formal letter from Town Highway Superintendent Brownell that the proposed driveway is suitable is required. The Board's approved Resolution will need to be modified, and the actual plan of the driveway needs to be drawn in. Mr. Constantino related that Mr. Brownell visited the site and said the proposed driveway is okay.

Mr. Constantino referred to the house that is 90% complete as being built an investment; it will not be his residence.

Board member Steller questioned Mr. Constantino if he has a copy of the full scale map of the subdivision? Mr. Constantino said he does not have that map. Board member Steller questioned if the subdivision map that the Board approved was an issue? Board member Shequine said that subdivision map was an issue; it was not filed with the County. The only confusion was just the driveway. Board member Shequine related that Mr. Constantino can file his map with the County. Chairman Beaumont related that the Board is only interested in the driveway access, everything else has been previously reviewed.

The board determined that Mr. Constantino needs to 1) check that the two lot subdivision map is filed with the County 2) a letter from Town Highway Superintendent Brownell stating that the driveway is suitable 3) actual subdivision plan with driveway drawn in, signed map. Meeting the board's approval, would then modify the approved 2003 Resolution. These materials are to be submitted for the April 24<sup>th</sup> workshop.

Discussion followed about the approved date of the map being review. Mr. Constantino said the map was approved September 25, 2003 but Mr. Miceli did not correct the map for the existing driveway. The board questioned if the subdivision map for the two lot subdivision that the Planning Board approved in 2003 is filed with the County and suggested that Mr. Constantino check this and also see his attorney. Then return to the board for approval.

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Chairman Beaumont reiterated that the board needs a revision to the original approval for the change in the driveway.

Board member Shequine remarked that sooner or later someone needs to file subdivision approval with the County and questioned if it is jeopardizing this action? The lot might not be a legitimate lot to approve changes, if Mr. Miceli did not file the two lot subdivision

approved by the board.

Board member Steller referred to the original South Shanks Road subdivision map approved back in time, before Mr. Miceli became involved in Mid County Farms, and questioned if there is a revision upon that original map and was filed? Mr. Miceli's map had a proposed revision for a lot line change. The new map that the board took action has no standing. Board member Steller questioned Mr. Constantino if he has a copy of the original South Shanks Road subdivision map?

Mr. Constantino said he might have a copy of the map at home; he didn't bring the entire file with him. Board members reviewed the tax map for South Shanks Road that shows the access point, and a change in the lot line, a jog in this line as opposed to what it originally was. The bearings and distances of the lines are different. Board member Steller questioned Mr. Constantino if his surveyor worked from the original map or the two lot subdivision map that the board approved? Mr. Constantino expressed that Oswald and Gillespie has always done all of the mapping. Mr. Constantino said the map is stamped with the Dutchess County Clerk's Office, October 27, 2003. Board member Steller questioned Mr. Constantino if he received a land tax bill? Response was affirmative. Mr. Constantino said that he was given Title Insurance. Mr. Constantino questioned if he could file the map for their one lot? Chairman Beaumont remarked that this map has to show that the land was subdivided.

The board debated if the approved subdivision map was ever filed by Mr. Miceli and suggested that Mr. Constantino talk with his attorney and/or check with the County Clerk's Office to see if Mr. Miceli filed the map and return to the Planning Board. The board cannot solve the problem or pursue this action until this is known.

A motion to adjourn the meeting was made by board member Hanson, and seconded by board member Rockfort. All ayes. The meeting was adjourned at 9:00 P.M.

Respectfully submitted,

Nikki Caul, secretary

