

## **TOWN OF WASHINGTON PLANNING BOARD**

June 5, 2007

The monthly meeting and public hearing of the Town of Washington Planning Board was held on June 5, 2007, the Town Hall, 10 Reservoir Drive, Millbrook, New York.

Members Present: Acting Chairman, Thomas Beaumont, Robert Alley, Donald Hanson, Matthew Rochfort, James Shequine, Richard Steller, and Consultant Neil Wilson.

The meeting was called to order by Chairman Beaumont at 7:30 P.M., read the meeting's agenda, then announced a change in the order of the agenda. The Millbrook Commons/Tuxis Corporation application will be heard following the Institute of Ecosystem Studies application. The Bancroft Farm Subdivision will be heard following the Millbrook Commons/Tuxis Corporation application. The order of the remaining applications stand.

**A motion to approve the May 1, 2007 meeting minutes as written was made by board member Shequine, and seconded by board member Rochfort. All ayes.**

The application of the Institute of Ecosystem Studies Site Plan (Victoria R. Kelly (Vicky), Manager Environmental Monitoring Program, 56 Lovelace Drive is for the installation of a 75 ft. temporary wind tower. The property is zoned RR 10. A special permit was granted by the Zoning Board of Appeals on 5/15/07.

Victoria R. Kelly (Vicky) appeared before the board representing the Institute of Ecosystem Studies.

Board member Hanson questioned if the proposed wind tower will be a prelude to a wind mill farm? Ms. Kelly responded in the negative and said that the purpose of the wind tower is to understand how winds move. There is an existing 35 ft tower at present with wind instruments on it. The 35 ft. tower doesn't meet the specifications set by the Environmental Protection Agency; it does not give enough information about how winds move, where wind comes from, where wind goes to. Ms. Kelly explained that on this tower is an instrument that is about the size of a coke can for measuring wind speed and wind direction. There is no generator. There is power required going to the tower but it is very low voltage. Board member Steller questioned if the tower requires FAA lighting or approvals? Ms. Kelly said FAA does not require lighting less than 200 ft. but they recommend it. Talked about at the Zoning Board of Appeals meeting was to put a red light on the tower. Ms. Kelly said she feels most comfortable putting a red light on the tower because the State Police Barracks Tower is not that distance from this proposed tower and has a helicopter pad. Ms. Kelly reiterated that FAA does not require a light but recommends it.

Ms. Kelly referred to the balloon test that was conducted, measurements were also made; the proposed tower will not be seen from any other locations other than the IES property.

Board member Steller questioned how the proposed tower elevation compares to the State Police Tower. Ms. Kelly said the IES tower will be about 30 ft higher because it is on a big hill, but it is a very small tower that is about eight inches in diameter. The State Police tower is a communications tower so there are a lot more instruments on it.

**A motion to waive a public hearing for the Institute of Ecosystem Studies application was made by board member Hanson, and seconded by board member Shequine. All ayes.**

**A motion to grant the Institute of Ecosystem Studies Site Plan Approval was made by board member Rochfort, and seconded by board member Hanson. All ayes.**

The application request of Millbrook Commons Site Plan (Tuxis Corporation), 3814 Route 44, Mabbettsville, is for a change to the “Schedule A-List of Permitted Retail Uses” Site Plan approved December 6, 2005. The request is to include Self Storage/Warehousing for part or all of the building known as Millbrook Commons on the list of permitted retail uses.

Mr. Mark Winmill, Tuxis Corporation owner, appeared before the board and distributed a copy of the Tuxis Self Storage I LLC Rental Agreement to board members, and was read by Chairman Beaumont for the benefit of the public. (a copy is attached and is on file)

Chairman Beaumont described the request to include Self Storage/Warehousing for the building and said that this use would be for a climate control storage of household items in a safe and secure environment, it is a retail use that would dramatically reduce use of water and discharge into the septic to virtually nothing of a property in the aquifer district, and would not likely increase traffic in the area. The Self Storage/Warehousing would occupy the interior of the building (only), utilize approximately one-third of the building, and would have a loading dock at the rear of the building.

Consultant Wilson expressed that the Tuxis Self Storage I LLC Rental Agreement addresses the issues that were discussed at the Workshop.

Board member Hanson questioned if “indoor self storage only” should be worded/included on the Schedule A List of Permitted Retail Uses? Consultant Wilson remarked that the last paragraph of the Resolution talks about indoor storage,” no exterior storage or random materials.”

Board member Steller suggested adding to the Rental Agreement, “whatever action may be necessary to mitigate any unsafe situation or storage”. Mr. Winmill expressed that this is stated in the Lease.

**A motion to remove Self Storage/Warehousing from “Schedule A-List of Non-Permitted**

**Retail Uses”, add Self Storage/Warehousing to “Schedule A-List of Permitted Retail Uses” by adoption of the Amended Site Plan Approval and Special Permit Resolution approved December 6, 2005 was made by board member Shequine, and seconded by board member Alley. All ayes. (a copy is attached and is on file)**

The application of Bancroft Farm Subdivision (Ron Romeo) westerly side of Verbank Road, north of Milewood Road, is for a proposed four (4) lot subdivision, one (1) common driveway, and wetland crossing. The property is zoned RL 5.

Tim Race, L.S., David Tompkins, engineer, The Chazen Companies, Mr. Ron Romeo, owner, and son-in-law, appeared before the board.

Mr. Race expressed that Consultant Wilson’s memorandum dated June 5, 2007 and attached review by Bruce Barber of Cornerstone Associates (Wetlands Specialist) was received today. He and Mr. Romeo were expecting Mr. Barber to be present to discuss his review/comments.

Consultant Wilson distributed a copy of his June 5, 2007 memorandum and said that he received Mr. Barber’s review only yesterday, that a thorough review was made and presented at the Workshop. What needs to be accomplished is to have Mr. Barber visit the site to become familiar with site conditions. Consultant Wilson said he still has concerns about the location of the common driveway, making sure that disturbance is minimized as much as possible. He also wants to have a discussion in the field about proposed house sites, locations, etc. Consultant Wilson feels a fair amount can be accomplished in the field between Mr. Race, David Tompkins, Bruce Barber, and himself. Consultant Wilson explained that Bruce Barber is not in attendance tonight; he had previously signed up for a week long series of classes and is out of town this week. Mr. Barber was sent a e-mail by consultant Wilson regarding his schedule next week or the following week, something set up before the next workshop.

Chairman Beaumont questioned Mr. Romeo if he has a copy of Consultant Wilson’s memorandum? Mr. Romeo responded in the negative but said that he agrees to Mr. Barber’s review, and to walk the site which is an important move, thought Mr. Barber had made arrangements to walk the site last week. Consultant Wilson remarked that Mr. Barber was only recently, formerly, retained by the board and made his first appearance at the Workshop on May 29<sup>th</sup>. Mr. Romeo said that he is in agreement with consultant Wilson, that a lot can be accomplished once Mr. Barber walks the property and sees exactly what Mr. Romeo is attempting to do with the property. Consultant Wilson expressed that it is time to move the project along and said that he would like to have Rodney Morrison, P.E., also walk the site, who has yet to see the revised plans with the common driveway, although he has been spoken to about them. Rodney previously reviewed the original plan for the private driveway. The board has seen a scaling down of the overall project to four (4) lots and the elimination of the private road in favor of the common driveway. Consultant Wilson reiterated that he will ask Rodney to visit the site for an analysis and report to the board.

Board member Shequine requested consultant Wilson to explain who is on board with this application and why they are involved. Consultant Wilson related that Rodney Morrison, P.E., is the Planning Board's engineer, he covers the civil engineering matters relating to the project, Bruce Barber is a wetland specialist, biologist, who has had a lot of experience, is very qualified, and has been retained by the board. There was a slow-down by the board earlier in the year with the passing of Chairwoman West; the board was in the midst of discussions which consultant should be retained and finally decided upon Mr. Barber. Mr. Barber has just become involved, was given a set of plans about one month ago, reviewed the plans, and made his appearance for the first time at the May 29<sup>th</sup> workshop. The board has his report, Mr. Barber is up to speed. Rodney Morrison is fully informed about the project. When the site visit is set, as much as possible can be accomplished on that day.

Tim Race requested clarification if it has been determined/declared that the Planning Board is the Lead Agency for this application/project. Consultant Wilson related that circulation for lead agency was commenced in March of this year and the Planning Board was confirmed as lead agency in April for purposes of conducting a coordinated review. The board did not receive a response from involved agency DEC, the one agency that consultant Wilson was most interested. A telephone call was placed to DEC; a return call was not received. The board cannot wait for their response because it has an obligation to process this application. This is why it was particularly critical to retain Bruce Barber as soon as possible because of his experience, to help the Town/planning board understand what the wetland issues are, and will be, in going forward with DEC. This is one of the major issues that the board is presently dealing with. The Chazen Companies has filed the application for the wetland permit, why DEC has remained silent in the circulation for lead agency is unknown.

David Tompkins, Chazen, interjected that he has been in contact with Allan Chedwick, DEC Permit Administrator on this project. Mr. Chedwick has responded by saying that usually DEC does not make the thirty day response period on projects; DEC has no interest in being lead agency. A note was made stating that he will follow-up; again, DEC has no intent on being lead agency on this project. Consultant Wilson remarked that the regulations say that if you are an involved agency, you are supposed to respond. Mr. Tompkins related that Mr. Chedwick also acknowledged that he has Chazen's permit application, has circulated it for review with his staff, and is likely to get the complete review within the next two weeks. Consultant Wilson questioned the date of the memorandum? Mr. Tompkins said the memorandum is dated today, June 5<sup>th</sup>.

Mr. Tompkins said he has also been in touch with Brian Roselle, who has indicated he received Chazen's package; the time clock on a pre-discharged notification which is a forty-five day limit window started on May 1<sup>st</sup>. Chazen should be hearing from Brian Roselle by June 15th.

Chairman Beaumont remarked that the board should hear from DEC, the Army Corp of Engineers, and Bruce Barber for the June workshop.

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Mr. Tompkins questioned consultant Wilson, if he would like Chazen to respond to Bruce Barber's comments? Consultant Wilson acknowledged in the affirmative.

Tim Race, remarked that permission has been given by Mr. Romeo to access the property.

Chairman Beaumont extended his apology to Mr. Romeo in that the board was not able to meet his expectation in the review of Bruce Barker and had traveled from a distance to be here tonight.

The application request of Alexander-Millbrook Realty, LLC Boundary Line Change, (Frederic Fekkai) 354 Overlook Road is to realign the boundary lines between two adjacent parcels Mr. Fekkai owns. Presently the two parcels are 16.88 and 151.96 acres; the new changes will increase the 16.88 parcel to 30.00 acres and decrease the 151.96 parcel to 138.834 acres. The property is zoned RR 10 & LC.

Kevin Cunningham, L.S., appeared before the board representing the applicant and said that the only change to the survey map is the addition of the three notes in the lower left hand corner, regarding the existing driveway access to a rear section of the parcel, the applicant will need to return to the Planning Board for review of the driveway grades, also to be sure what is proposed gets built in the future. These notes are exactly the same notes that were placed on the Bos-Haven Subdivision map.

Review of the survey map by the board and Mr. Cunningham followed.

Chairman Beaumont questioned if there is an easement for the existing driveway? Mr. Cunningham said that the existing driveway is not a new road, assumes that there is an easement in the Deed, but doesn't have a copy of the Deed to present to the board tonight.

**A motion to open the Alexander-Millbrook Realty, LLC Boundary Line Change public hearing was made by board member Hanson, and seconded by board member Alley. All ayes.**

There were no public comments.

**A motion to close the Alexander-Millbrook Realty, LLC Boundary Line Change public hearing was made by board member Hanson, and seconded by board member Shequine. All ayes.**

**A motion to issue the Alexander-Millbrook Realty, LLC Boundary Line Change application a Negative Declaration Finding of No Significant Impact to the Environment was made by board member Shequine, and seconded by board member Hanson. All ayes.**

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**A motion to grant Preliminary Approval to the Alexander-Millbrook Realty LLC Boundary Line Change was made by board member Steller, and seconded by board member Alley. All ayes.**

**A motion to grant Final Approval to the Alexander-Millbrook Realty LLC Boundary Line Change was made by board member Shequine, and seconded by board member Alley. All ayes.**

Chairman Beaumont signed the maps and Mylar.

Fee Status: paid

The application request of Drury Special Permit (Megan, Philip Drury) 1001 Chestnut Ridge Road, Dover Plains, Town of Washington, is for the construction of a 8-12 stall horse barn and small indoor arena for private stable use. The property is zoned RR 10.

**Tax Map Grid No. 6863-00-872847, 6863-00-032748**

Previously submitted to the board were completed Planning Board Combined Application Form, Short Environmental Assessment Form, and Site Plan Map prepared by William J. Lehn, L.S., Wings Land Surveying, Millbrook, New York.

Megan Drury appeared before the board.

Chairman Beaumont expressed that the board reviewed the application at their workshop on May 29<sup>th</sup> and is requesting additional information. The setbacks from the adjacent property line are to be shown on the map, the size of the 8-12 stall horse barn, size of the indoor rink, a vicinity map, location of the proposed structure, and contours are to be placed on the map. Chairman Beaumont questioned Mrs. Drury if she plans to spread or store the manure? Mrs. Drury said planning is very preliminary but thinks the manure will be stored in a dumpster; she would like the option and ability to do either.

Mrs. Drury expressed that she waited for this meeting with the board to learn what her limitations are and expressed that she is aware of the zoning laws regarding private stables and feels that she is well within those limits. Mrs. Drury next pointed out the proposed location of the horse stall barn, the open, wooded area, and location of the residence on the map.

The board requested that the materials be submitted June 20<sup>th</sup> for timely review at their June 26<sup>th</sup> workshop.

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Chairman Beaumont questioned consultant Wilson regarding spreading vs storing the manure? Consultant Wilson expressed that if Mrs. Drury plans to store the manure it is to be stored within 250 ft. of any neighboring residence, property line, watercourse, or wetland. Mrs. Drury pointed

out the location of the stream on the property which is quite a distance from the proposed storage location. Spreading the manure will need to be within the setbacks.

Chairman Beaumont questioned Mrs. Drury about the number of horses owned? Mrs. Drury said she plans owning four horses to start; she has a growing family and in time, anticipates having a maximum of eight horses. Board member Shequine remarked that spreading manure for eight horses could become a problem.

Consultant Wilson expressed that there is over 500 feet distance from the Dover Plains town line; no circulation is required.

A public hearing is scheduled for July 3, 2007.

Fee Status: Special Permit Application Fee	\$400.00
Escrow Fee	500.00
Total Due	\$900.00

The application request of Assael Site Plan and Special Permit (Salvador J. & E. Christina Lang Assael) 4449 Route 44 is for special use permits for three (3) accessory residential housing units, 3 bedroom caretakers cottage, 2 bedroom guest house, and 4 bedroom accessory apartment above the garage; related site plan approval and area variance to allow more than one accessory residential housing unit. The property is zoned RR 10.

**Dutchess County Tax Map Grid No.: 6966-00-515955**

Previously submitted to the board were 10 copies of Planning Board Combined Application Form, Site Plan with annexed deed, conservation easement and square footage information, 10 sets of plans for both the site plan and special permit applications- (1) plan set entitled "Assael Residence; Accessory Buildings" consisting of 6 sheets including sheets T-1 and SK1-5 by DiBiase Filkoff Architects dated May 11, 2007, 10 copies of full environmental assessment form prepared by Mark Graminski; 10 copies of agricultural data statement, aerial photo, 10 copies of Viewshed Plan prepared by Mark Graminski, 10 copies of affidavit completed by owner, 10 copies affidavit completed by agent and 10 copies certification by architect.

Armand DiBiase, DiBiase Filkoff Architects, Bedford, NY, project architect, Attorney Richard Cantor, Teahan & Constantino, Poughkeepsie, NY and Mark Graminski, P.E. & L.S. Consulting Engineer, Red Hook, NY appeared before the board.

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Mr. DiBiase addressed the board, said that he is a registered architect in the State of New York and is before the board representing Salvador and E. Christina Assael who could not attend the meeting this evening. Mr. DiBiase gave a brief overview of the project; his presentation to the board included a color aerial photo, enlarged site plan map, architectural drawings, floor

plan, building elevations, and color photos of the existing house that is stucco Tudor Style.

Mr. DiBiase related that the site is located on State Route 44, is an eighty acre site, near Millbrook School Road, to the south of the Shunpike. The application is for special permits to allow three (3) accessory residential structures. Existing on the site is a single family residence, swimming pool and driveway. Mr. DiBiase displayed the SK-1 Master Site Plan for the Assael Residence, and pointed out the existing driveway off Route 44. A 1,000 sq. ft. caretakers cottage is being proposed, continuing up the existing driveway to the existing principal residence there is a courtyard where a new four car garage and accessory apartment above is being proposed. To the west of the courtyard, a three (3) bedroom guest house and a recreational space for the pool which is a game non-habitable, non-residential unit, is proposed. Also, part of the development is a service drive to the rear of the proposed garage, tennis court, a machine shed, and a tennis shed.

Mr. DiBiase said that the property is part of the Dutchess Land Conservancy, an application easement on the property; this easement does not allow any subdivision of the property, or the existing house to be expanded. Attorney Cantor expressed as the application moves forward he hopes to submit a letter from the Dutchess Land Conservancy to the planning board confirming that DLC is satisfied with what is being proposed is in conformity with the easement.

Mr. DiBiase continued with the presentation, displayed SK-2 that is a larger scale drawing of the Site Plan at the Main House, pointed out the proposed garage with accessory apartment above, the proposed guest house. Board member Steller questioned why the service court is so large? Mr. DiBiase explained that it is 50'x55' there is parking on both sides, 20 ft for each car which is forty feet, then another 20 ft, 60 ft would be more appropriate. Board member Steller questioned why a service road is being proposed? Mr. DiBiase said that a proper country house has a service drive separating the residence driveway.

Mr. DiBiase presented architectural drawings, floor plan of the caretakers cottage, garage and accessory apartment, and the guest house and game room. Mr. DiBiase said the total square footage of the caretakers cottage is 1,000 sq ft., also shown were building elevations of the one and one-half story building, Greek Revival Style, which is very common in this area. Board member Shequine questioned if attic space is being provided? Mr. DiBiase said there is attic storage, a full basement which is not heated, the living space is 1,000 sq. ft.

Mr. DiBiase next presented a photo of the existing residence that is stucco, modern Tudor Style design. The design of this house influences the design of the garage and accessory apartment. On the first floor is a four (4) car garage, the 2<sup>nd</sup> floor is the proposed accessory apartment which is staff housing for the owners. The design is somewhat of a dormitory style. There are four (4) bedrooms with corridor and some shared living space and a kitchen; it is stucco, Tudor Style design. It is a one and one-half story structure

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Board member Shequine questioned if the stucco that is being used is breathable? Stucco can be very troublesome. Mr. DiBiase said the stucco is a true cement tissue, is not a dry stucco, one inch stucco on metal lath is being used.

Mr. DiBiase displayed the SK-5 drawing of the guest house and game room. The guest house is 1,375 sq. ft. that is a two story structure with living area on the first floor, a bedroom on the first floor, with two additional bedrooms on the second floor. To the left is a 625 sq. ft. one story game room studio; there is a pool table in that space and changing rooms consisting of two bathrooms and a shower for the swimming pool.

Chairman Beaumont expressed that it is important to point out that one of the reasons for the accessory structure is the restriction of the property, that the owner is not allowed to add to the existing residence. Attorney Cantor said that is the driving force for the accessory structure. Mr. DiBiase said the owner would have had two major options, to add to the existing house or to subdivide in order to achieve the additional habitable area required. Attorney Cantor remarked that neither of these is available because of the DLC easement.

Chairman Beaumont remarked about the existing swimming pool considered to be an accessory structure that is being moved, and questioned consultant Wilson if this requires an additional special permit? Consultant Wilson explained that because the owner is constrained to subdivide the property, and would otherwise appear to have sufficient land to subdivide to place additional houses, or re-work the boundary lines to create the additional accessory housing, the owner is unable to do that. The owner needs to apply to the zoning board of appeals and request relief to allow to build the additional accessory residential structures, guest houses. The planning board becomes involved with Site Plan Approval review once the ZBA grants the variances. When the application is returned to the planning board, then the board can review issues such as swimming pools, where the structures are being located. and consider the normal site plan standards and design criteria. At that time the board will review moving the swimming pool from one location to another location; the movement of the pool is secondary consideration to the overall project which is to obtain permission to build the accessory structures. Attorney Cantor remarked that moving the pool or the game room/recreation building doesn't trigger another special permit, and is regarded as a site plan consideration. The special permit is triggered by residential accessory structures. Attorney Cantor expressed that the owner is looking for three (3) special permits for three (3) residential accessory buildings; under the terms of the Code is looking for those special permits, site plan approval is also needed from the planning board. The Code dictates that only one accessory structure is allowed; since three are being requested, relief is being requested by the zoning board for an area variance to allow three residential accessory buildings. Mr. Cantor expressed he understands that generally, in the Town of Washington, the practice is to speak to the planning board first, this is the reason for tonight's appearance. Once the planning board's input/reaction is learned, the zoning board of appeals application will be completed and filed with them. A copy of what has been filed with the zoning board will be provided to the planning board.

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Attorney Cantor expressed he is hoping that tonight, the planning board, will consider declaring itself Lead Agency, submit a 239M Referral to Dutchess County Planning Department since this property touches State Route 44, and consider scheduling a planning board public hearing for the next meeting, July 3<sup>rd</sup> which can either be closed or kept open depending upon public comments.

Chairman Beaumont questioned attorney Cantor when he thinks the Deed will be transferred from Mora (former property owner) to Dutchess Land Conservancy Assael approval? Mr. DiBiase interjected that Assael has Dutchess Land Conservancy approval. Chairman Beaumont expressed that the Deed he has on file is for the Mora property. Mr. DiBiase said that Dutchess Land Conservancy has approved the site plan for this design. Attorney Cantor questioned Mr. DiBiase if a letter from Dutchess Land Conservancy confirming their approval of this layout in the context of the easement has been received? Mr. DiBiase said that this package was submitted to Dutchess Land Conservancy earlier on. Attorney Cantor interjected that Mr. and Mrs. Assael purchased the property subject to the existing easement; now going anew to Dutchess Land Conservancy and saying they want to do what is being shown, would you please look at what we are showing you, and hopefully joining us in letting the planning board know that you, DLC, believe that what is being proposed is in conformity with the existing easement.

Chairman Beaumont said that the proposed caretakers cottage is actually in the existing easement. Attorney Cantor remarked that the entire property is in the easement. Mr. DiBiase clarified that Dutchess Land Conservancy has defined a build able envelope, this allows one (1) building in the preservation area.

Board member Steller questioned Mark Graminski if he developed the contours? Mr. DiBiase said the original contours were drawn by Kevin Cunningham, is not surveyed on the site. Chazen Companies is preparing the contours of the area pointed out on the site plan map. Board member Steller referred to the service driveway being a concern of the board for fire and safety protection.

Mark Graminski expressed that this will be shown on the site plan which will detail grading for the access roads, grading around the structures, water and sewer facilities, drainage improvements.

Discussion followed between consultant Wilson, attorney Cantor and board members regarding attorney Cantor's three requests. Board member Hanson said he feels that item three, for a public hearing to be scheduled next month is not practical because the applicant needs to go the zoning board of appeals first. Attorney Cantor expressed that he was hoping that if the planning board schedules and opened a public hearing at the next meeting, if there are voices in the community that want to be heard, he would rather hear the comments sooner, rather than later. All of these comments can be taken into consideration as the application moves forward. Attorney Cantor said he is not looking "to wrap this up" only looking to open up the public hearing, more than likely the public hearing will be continued until the zoning board of appeals application is concluded. Attorney Cantor said he is not asking the board to do a hurry up, open up, close up, public hearing, end of story; it would be beneficial to all concerned if it is found out that this project has voices in the community that are asking to be heard. Board member Hanson commented that there is not a lot of information that has been given other than tangible concepts.

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He is in agreement that voices in the community should be heard, but for the following month, by that time the zoning board will have made their decision. Attorney Cantor remarked he feels that the board has enough information to present to the public to at least know in concept what it is that is being proposed however "it is the board's call." Consultant Wilson said he understands

the value in attorney Cantor's approach hearing what the public is going to say, sooner rather than later; what would happen is that the planning board public hearing would be opened, be left open, and adjourned until at least August, by this time the applicant would have made their appearance before the ZBA. Consultant Wilson expressed that based upon the past, Mark Graminski's materials have provided the board the answers regarding the site plan, grading, and stormwater issues. Consultant Wilson said that there is an overall question of uniqueness about this application, he would be interested to know what the public has to say, however it is the board's call.

Armand DiBiase expressed that there is one accessory housing which is allowed by special permit and questioned if it is possible to get approval on the caretakers cottage before obtaining approval on the two residential housing units that need variances? Consultant Wilson expressed that the board has its own jurisdiction over the special permit for the one additional accessory residence, then there is the issue of the ZBA reviewing the other two accessory residences, but doesn't see any problem in starting the planning board public hearing process at least on the one special permit, assuming that the ZBA is going to act favorably, the application will be returning to the planning board for site plan approval on the two accessory residences. The planning board would then be reviewing all three accessory residences. Attorney Cantor remarked that the Environmental Assessment Form will discuss the entire project, so there is no issue of segmentation. Board member Shequine remarked that if the planning board goes forward with a public hearing on the one accessory residence, this is an occasion for discussing the entire project, and reason to give the public an explanation about the entire project even though the board would be reviewing the one accessory housing. Attorney Cantor said in anticipation of a problem from someone from the public with an "unhappy mind" about hiding something when three approvals are needed; he feels the board would be better noticing the project for the entire application and explaining at the hearing, about staying open if and when the board is ready to act on the one only until the ZBA acts. Board members were in agreement. Consultant Wilson explained that the planning board would not close the public hearing until it is understood what the ZBA has determined. The board has its own jurisdiction over the one accessory structure, the other two accessory structures regarding the board's jurisdiction is a site plan review but only if the ZBA grants the two additional structures. Assuming that the ZBA grants these, when the application returns to the planning board, a review will be made for the special permit on the one that the board has jurisdiction, plus the site plan review of the three accessory structures combined. To avoid segmentation, the Resolution and the Negative Declaration will have to explain the process that was followed. The Resolution for Special Permit and Site Plan Approval will have to cover all three applications and how it was done. Board member Shequine remarked that the applicant is looking to obtain approval on one part of the application. Consultant Wilson said that the board is not going to review it in that manner because it is segmentation.

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Attorney Cantor expressed that before the board can, or should, consider voting to approve anything, the board needs to look at and reach the SEQRA conclusion and needs to be comfortable with the Site Plan. If, and when, that happens, the board is legally free even before a variance is obtained, to issue one special permit. Consultant Wilson related that attorney Cantor's point is well taken, there is the right to proceed on the one application, but the problem

that the board has is the SEQRA segmentation issue separating them out. This is the reason that attorney Cantor is suggesting to allow the planning board to at least process the special permit portion, hold everything over, keep the public hearing open, take no action until it is known what the ZBA determines. Board member Hanson expressed that his concern is that the planning board

is acting before direction is given for input from the ZBA and would be placing pressure on the ZBA to move the application along. Attorney Cantor remarked that the ZBA is it's own independent body and will do what they want to do.

Chairman Beaumont questioned if this application with respect to variances can be reviewed as a hardship since the existing residence is restricted on any additions. Attorney Cantor responded that a hardship is not any longer a standard for area variances, there is a five part balancing test. Hardship is no longer the applicable term for area variances, but one of the balancing questions is does the applicant have alternatives to achieve what they want. In this case, the answer to the ZBA would be no because of the conservation easement. The only way the applicant can achieve what he wants is if the ZBA will grant the variances.

Consultant Wilson expressed that there is no guarantee that the Zoning Board of Appeals is going to open and close the public hearing and make a decision on the same night; they may decide to hold open their public hearing or make a decision on the following month.

Attorney Cantor asked the board for a resolution tonight on this application, saying we propose to be the Lead Agency for a Coordinated Review. **A motion to adopt a Resolution declaring the Planning Board Lead Agency on this application and to circulate a Lead Agency Coordination Letter to involved and interested agencies was made by board member Rochfort, and seconded by board member Alley. All ayes.**

Consultant Wilson said he will e-mail a Lead Agency Coordination Letter and a list of involved and interested agencies for circulation to be made by Mark Graminski and requested proof of mailing.

Attorney Cantor questioned consultant Wilson if a public hearing is required on the Site Plan review; the state law states that a public hearing on a site plan is only for local codes. Consultant Wilson said that the Site Plan review is not a public hearing. Attorney Cantor questioned if the advertising will be only for the special permits? Consultant Wilson related that the board has the discretion of opening a public hearing on a site plan, is not actually site plan jurisdiction until the Zoning Board of Appeals has acted. Attorney Cantor remarked that the planning board has jurisdiction, it just cannot act on those two items; the planning board has jurisdiction to receive and entertain the application. Attorney Cantor said he wants to be clear on what is being noticed. Consultant Wilson addressed the board and said that there is a mandatory public hearing and

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special permit portion of the application, the board has the discretion for just the site plan and the other two accessory structures holding a public hearing or not holding a public hearing. His recommendation is that the public notice is to include all.

A public hearing is scheduled for July 3, 2007.

Fee Status: Special Permit Application Fee	\$400.00
Escrow Fee	500.00
Total Paid	\$900.00

A motion to adjourn the meeting was made by board member Shequine, and seconded by board member Rochfort. All ayes. The meeting was adjourned at 9:20 P.M.

Respectfully submitted,

Nikki Caul, secretary