

November 2, 2009

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TOWN OF CORNWALL

PLANNING BOARD

NOVEMBER 2, 2009

MEMBERS PRESENT: NEIL NOVESKY, CHAIRMAN
KENNETH BRODMERKEL
WYNN GOLD
LED KLOSKY
WILLIAM GRABE
MICHAEL LOBLANCO

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

JOHN SZAROWSKI
PLANNING BOARD ENGINEER

LESLIE DOTSON
PLANNING BOARD CONSULTANT

ABSENT: HELEN BUNT

GARY VINSON
BUILDING INSPECTOR

REGULAR_MEETING _____

MR. NOVESKY: I'd like to call the meeting to order.
All members present and accounted for with the
exception of Ms. Bunt who has contacted me and is not
well tonight.

APPROVAL_OF_MINUTES_DATED_10/5/09 _____

MR. NOVESKY: Approval of minutes, everybody got a chance to read the minutes? You're abstaining cause you weren't here, you were in Amsterdam. Anybody wants to see the pictures of Mr. Brodmerkel's trip to Amsterdam?

MR. LOBLANCO: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	ABSTAIN
MR. GOLD	AYE
MR. NOVESKY	AYE

RESOLUTIONS _____

MR. NOVESKY: Resolutions, we do have a couple resolutions which we'll discuss when they come up in a few moments.

FRANK_BLOOMER_#2009-12_-_PUBLIC_HEARING

MR. NOVESKY: We have a public hearing of project Frank Bloomer 2009-12. Any member of the public wishing to make a comment will please state your name and address, anybody here looking to make a comment? The public hearing is opening at 7:33 and I'm just asking if there's any member of the public wishing to be heard on this project? Negative for this hearing? Any? I'll close the meeting, I'll take a motion.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

MR. NOVESKY: With that, we'll discuss the Frank Bloomer project. Does anybody want to take any action on it?

MR. CORDISCO: Why don't you have them up and have them introduce themselves for the record.

Mr. Frank Bloomer and Mr. Steven Drabick appeared before the board for this proposal.

MR. NOVESKY: There's no member of the public wishing to comment, you can turn it this way if you want. Thank you.

MR. CORDISCO: Mr. Bloomer, is that the same plan that was submitted to the board?

MR. BLOOMER: Majority of it, yes, or there are some minor changes actually.

MR. BRODMERKEL: The answer is no.

MR. BLOOMER: I think we constructed a poured concrete foundation wall in lieu of the stock block. I think it was at south and north elevations. But in terms of the location of the proposed addition to the existing structure it's basically the same.

MR. NOVESKY: Any question from the board?

MR. KLOSKY: I'm a tiny bit uncomfortable with approving plans different from what's submitted to me.

MR. DRABICK: Maybe I can clarify just a little bit it's what Mr. Bloomer did was take the blueprint plan that I made and enhanced it color wise on here, the information that's shown in this colorized version is the same information as you'll find on the latest submitted set of plans to you.

MR. NOVESKY: Are you satisfied with the parking lot issue?

MR. BRODMERKEL: Well, he answered it but I'm not, I think the question was Mr. Bloomer in case you didn't hear it my question was why are we not maintaining a Clinton Street address rather than the street and address off of Main Street because that would seem to be where the access is actually going to be coming from for the residence and could be gotten for the business also, if it came to that? We discussed the fact that Mr. Hey owns the parking lot that gives you access to the street and the town leases it and we were discussing what legal rights, access rights were available to you or not. And that I think Dominic when we get a chance to answer that a little bit better I

heard him answer and he seemed to indicate that it was satisfactory, I'm not sure. But as far as the addressing goes, it seems to be an indication that's what Gary thought was the best idea.

MR. DRABICK: Yes, also came into play with the addressing in that location was the way the proposed addition was designed because with the address as being off of Main Street we would meet the rear requirements to Clinton Street. In other words, in laying that out, the consideration was that Clinton Street would be the rear of the lot, I mean, I don't see any problem with addressing it off of Clinton, if that's what the board desires to do, however, we would still, we would still want to be approved for the layout of the addition as we have it based on.

MR. BRODMERKEL: Does it not meet metes and bounds regarding an access to Clinton?

MR. DRABICK: If Clinton was considered the front yard then it would require a variance.

MR. KLOSKY: Now I see to me given that there's no direct connection of the property to Main Street and there is a direct connection of the property to Clinton I'd ask our attorney's opinion about which is the front of the lot if we're accessing.

MR. CORDISCO: Well, I think you heard it that the building inspector made a determination that the front of the lot is the one that faces Main Street. And he has the ability to do that as part of his addressing which is within his purview.

MR. KLOSKY: Okay.

MR. DRABICK: We did bring that up to him at the time we were straightforward about it but the, that the addition was going to Clinton, we wanted to know what

was his thought what he considered the front of the parcel.

MS. DOTSON: There was something that I did speak to at some length last month to explain it because I had to say when I was looking at the plan I did have to walk through it very carefully because it does rather seem to defy belief to an extent.

MR. NOVESKY: With that in mind--

MR. KLOSKY: I'm satisfied with Mr. Cordisco's explanation.

MR. CORDISCO: In regards to Mr. Brodmerkel's concern about the access to Hey's parking lot, that issue from my point of view I understood before the meeting started we did have a brief conversation with Mr. Drabick about what legal rights Mr. Bloomer has to access parking through Hey's property that's leased by the town and we believe that there's no recorded easement across that property in favor of Mr. Bloomer's lot, although we could be proven wrong. But by that we're answering a question here but the understanding here tonight is that there's no recorded easement but that access via Hey's parking lot has been there for actually I think wouldn't it be fair to say since the building was built?

MR. DRABICK: True.

MR. BRODMERKEL: It predates this building.

MR. CORDISCO: Correct, correct, and if it came to that, where access became a contested issue, Mr. Drabick believes and I think he's right in believing that Mr. Bloomer would have an easement by prescription which is an easement by use rather than a recorded written easement document. That of course is up for the courts to decide, you know, that's not something

for us to decide here but they're not proposing any changes in connection with that, in connection with the commercial traffic. I understand that they're also building in the back of the property that could otherwise provide access to the front, I understand that that's an issue, whether it's an issue that warrants further exploration or even ultimately denial for this.

MR. NOVESKY: If he had a variance on Clinton Street would he gain access in the event that the Hey's parking lot were to close could he go for a variance and gain access from Clinton?

MR. BLOOMER: If you look at the property, it's really not conceivable to access Clinton Street from Main Street. The elevation change is just too high, it would be like a 14, 16 percent grade. The only person that used it before was Ronsini when he had some large excavation equipment he tried to crop down the hill in order to get there, basically, if I get blocked off from the municipal parking lot then I couldn't provide access off Clinton Street to that building.

MS. DOTSON: Grades would not work because there's, if you look at the plan, you can see that there are actually some retaining walls on the side of the commercial building so you could not get through to access the parking area that belongs to the business so he would have a parking problem as well.

MR. NOVESKY: I think we clearly have to clean up these questions.

MR. KLOSKY: I'm uncomfortable with the commercial structure being accessed by a provisional or de facto easement rather than an actual easement and by creating the addition you're taking up that space which would be usable for parking or for access in the event that the Hey property access were terminated.

MR. CORDISCO: If I may, I think what Mr. Bloomer was saying is that the grades are such off of Clinton that even if access was cut off to Hey's he would not be able to access his property and I think--

MS. DOTSON: The building is in the way.

MR. BRODMERKEL: I would have to ask and as was stated the original use was by construction, I think that's what, Ronsini was a construction type excavator business and he parks himself down there and he used it as a little office, that's what was there and he didn't drive his construction equipment across the parking lot to get to it so did he ever request that that building have rights to access or was it just put up?

MR. BLOOMER: Building has been around.

MR. BRODMERKEL: I was there when the building was built so I know how long.

MR. BLOOMER: I don't think so and the only reason why I found old envelopes stuffed in the wall dating back I think over 80 years.

MR. CORDISCO: He looks really good for his age.

MR. BLOOMER: That building has been up there for quite some time and what I did do to be honest with you, I actually built the building around there and I kept a core of that building still intact and in fact if you walk through there in the one and a half stories high that building's greater than 80 some years old.

MR. BRODMERKEL: Then what they did is build around it or something.

MR. BLOOMER: There's appendages for the core of that building, dates back over 100 some years of

documentation to prove that this appendage over here and this one, these were additions at one time, that was built on that building that's one of the oldest buildings in Cornwall, a veterinarian used to own that.

MR. BRODMERKEL: To call this a building is really stretching it, the finished building is 2,061 square feet so before that it was--

MR. CORDISCO: There was a prior site plan approval that approved those additions and access through Hey's at that time, nothing is being changed in regards to that and I think that they are not proposing any changes to the commercial structure, it's solely a question of engineering to fit the residential on the back side of the property.

MR. BRODMERKEL: So he's got planning board or somebody's approval in the town capacity for access through Hey's?

MR. CORDISCO: Correct.

MR. NOVESKY: The assumption of the access.

MR. CORDISCO: Correct.

MR. NOVESKY: With that in mind, it doesn't, I don't know if you guys are satisfied. Led, you seem--

MR. KLOSKY: Well, the other principal detail that I'm concerned about is I believe that Steve, correct me if I'm wrong, the retaining wall that's proposed is 10 foot.

MR. DRABICK: At the one location far right-hand corner of the house.

MR. KLOSKY: Looked to me that it was about from the scale about three and five feet from the property line.

MR. DRABICK: That's correct, closer to five.

MR. KLOSKY: So that's I guess a relatively significant wall that's going to be going in there.

MR. BLOOMER: Pretty much I paid close attention to this wall over here is probably the same size wall.

MR. KLOSKY: Which one's that?

MR. BLOOMER: My neighbor's property.

MR. DRABICK: The retaining wall that's on the neighbor's side is very similar in height to what we're proposing on the far side of the addition.

MR. CORDISCO: Of course.

MR. BRODMERKEL: That's an existing wall?

MR. DRABICK: Yes.

MR. CORDISCO: Notices were sent out, the neighbors didn't show, I think one of the concerns is future maintenance of those walls and I think what the board would like to see if I could would be a note on the plat saying that there's an affirmative obligation to maintain that wall so it doesn't fall down on your neighbor's property or on someone at some point in the future.

MR. KLOSKY: We have seen adverse moments of tall retaining walls in our community in the past where owners then have refused to maintain or remedy that situation. And I would like to avoid that by the inclusion of a note on the plan which would allow the building inspector to enforce that requirement.

MR. DRABICK: That's fine. Also, you know, the design

of that wall is the wall is designed to be an extension of the foundation, it's proposed to be a reinforced poured concrete just like an actual extension of the foundation so it's not--

MR. KLOSKY: It said on here an architectural facade that doesn't seem consistent.

MR. DRABICK: No, what we meant was the section of the wall, the wall runs out along the same line as the northeasterly side of the building, it's going to be essentially a poured extension of that foundation and what it does it makes a 90 degree turn along the road line on Clinton and then bottoms out at the same grade as the driveway where it hits the driveway. What we called for on the plan was that portion because it's going to be a poured concrete wall we called for on the plan was that portion that's exposed along Clinton to have a decorative facade either stamped concrete or something to make it look more than just poured concrete.

MR. KLOSKY: The side facing the neighbor was going to have no finish?

MR. DRABICK: The side that's the side that runs right here this section right here would not have a finish, that's correct.

MR. CORDISCO: Just so the record is clear on this, Mr. Edsall I believe was out at the site, if you look at the proposed location of the wall, I think as he notes in his comments he doesn't see any particular issue with it. Full engineering drawings for that wall along with the residence will be submitted as part of the building application to the building inspector. If the board still has questions and concerns one suggestion that I would have would be for once those building permit plans are submitted you could come back to this board to show them in the fully engineered design if

you still have any concerns.

MR. KLOSKY: I'm satisfied with Mr. Edsall reviewing those, I don't know that they need to come back.

MR. NOVESKY: We could do a conditional approving on this if you're so inclined.

MR. BRODMERKEL: My questions have been answered to the satisfaction of the developer.

MR. NOVESKY: I don't see any reason to belabor the point.

MR. BRODMERKEL: No.

MR. NOVESKY: Why don't we consider--

MR. CORDISCO: Negative dec first.

MR. NOVESKY: --negative dec on the site plan so let's, I'll take a motion.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

MR. NOVESKY: With that.

MR. CORDISCO: Second resolution.

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MR. NOVESKY: Which would be the resolution granting site plan approval for an addition to the existing commercial building to serve as a residence.

MR. GOLD: So moved.

MR. LOBLANCO: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

NEW_YORK_MILITARY_ACADEMY_#2009-04

MR. NOVESKY: Next is New York Military Academy.

Mr. Raymond Yanonne appeared before the board for this proposal.

MR. YANNONE: We have comments from last meeting, unfortunately, Dick has been ill but Rich has done some updates on the map. I believe there was metes and bounds that he did forward to mark's office that was not included on this but everything else, all the other changes I believe that we had made. I don't know if you want to go through them.

MR. DEKAY, JR.: I addressed all the comments as far as I know from Leslie, from Mark.

MR. NOVESKY: That's the impression that we have, that's okay.

MS. DOTSON: My only question was whether a note was needed on the subdivision plans and the site plan regarding the restriction on the use of Donaldson Hall except for pedestrian purposes. I figured that was really more Dominic's issue to address but other than that, I'm satisfied Dick made all the changes that we asked.

MR. CORDISCO: Yes, that note as I understand it has not yet been added that would, there's two things, one there would be a note actually on the plans and just to be clear for the record this is being treated as two separate applications, one for Donaldson Lodge site plan approval and other one for lot line change and subdivision. For the Donaldson Lodge site plan, we're recommending that a note be added to the site plan saying that as we discussed previously, that it doesn't have any separate use apart from NYMA and that if it was to be sold in the future or transferred in the

future to a different entity, they would have to come in for site plan approval prior to being able to use that particular structure.

MR. NOVESKY: I'd like to apologize since this is NYMA, Kenn, you're supposed to be hearing this, I apologize because I recused myself on a previous occasion.

MR. CORDISCO: You did.

MR. NOVESKY: Looks like I have to go.

(Whereupon, Mr. Novesky stepped down from the board on the proposal.)

MR. KLOSKY: Which note?

MR. R. DEKAY: The note on the bottom of the site plan I had on these last few items I thought that did address that but might need to be fine tuned. Approval of the site plan is for present use of Donaldson Lodge by New York Military Academy only.

MR. KLOSKY: Which sheet?

MR. R. DEKAY: Site plan sheet on the bottom note E.

MS. DOTSON: Yeah,

MR. R. DEKAY: Any substitute in change or use would require reapproval by the Town of Cornwall.

MR. CORDISCO: That covers it.

MR. KLOSKY: Where is it now?

MR. R. DEKAY: Bottom of the site plan sheet E, note E.

MR. KLOSKY: I didn't catch it down there, it's in a strange place.

MR. R. DEKAY: Yeah.

MS. DOTSON: I think they ran out of room.

MR. R. DEKAY: Yes.

MR. CORDISCO: That's fine and Kenn and the board just so you understand the conditional approval resolution that we crafted for Donaldson Lodge also has a requirement that they have to record a deed restriction on Donaldson Lodge lot so that it would be clear to anybody purchasing it so that when they do their title search it's in the resolution, that's correct, so the note has been added to the plan so that's been satisfied. But you also need to prepare a deed restriction that we'll review and then you have, you guys will record it as part of the approval.

MR. YANNONE: Okay.

MR. BRODMERKEL: Leslie, did you have any additional comments?

MS. DOTSON: No, I'm okay with that.

MR. BRODMERKEL: Anything from Mr. Edsall's office?

MR. SZAROWSKI: Mark was satisfied.

MR. BRODMERKEL: Highly unusual. Dominic?

MR. CORDISCO: There were some other conditions, one of them actually I think addresses Leslie's concern about the timing of improvements, in other words, that Donaldson Lodge improvements, help me out here, I'm drawing a blank.

MS. DOTSON: That the Donaldson Hall is restricted from being used for anything that requires parking, it can

only be used for pedestrian purposes pending satisfactory completion of the parking improvements and lot improvements.

MR. CORDISCO: We added that as a condition in the approval resolution.

MR. BRODMERKEL: Okay, any questions?

MR. KLOSKY: I do.

MR. BRODMERKEL: Go ahead.

MR. KLOSKY: The site includes some dry wells for some significant drainage improvements which will sort of act in defense of 218 during the winter months. And I'm wondering what provisions there are for the maintenance of said structures, it being a, what is a minor subdivision, I don't think there's a SWPPP required, am I right about that, Leslie?

MS. DOTSON: No, it wouldn't be required for this because it's too small. But I would think that at least for the subdivision it would be part of the private road maintenance requirements.

MR. KLOSKY: I just didn't see anything in the documentation that spelled out the responsibility of the property owner in terms of drainage maintenance.

MR. CORDISCO: It's not on the plans but will be required as part of a declaration to approve and is approved by myself and Mark so that the lot liners have a joint responsibility.

MR. KLOSKY: That would be enforceable by the building inspector because we have issues with that in the past.

MR. CORDISCO: It could be if we wanted to make it but that would be an issue for the town whether or not to

accept that additional responsibility in case the lot owners fail to do it.

MR. KLOSKY: In case the lot owners fail to maintain the structures potential is for icing on 218, that's my specific concern. I didn't see anything in the documentation which required that maintenance so if it's going to be part of the private road agreement--

MR. CORDISCO: When we get that submitted and that will be a condition of the approval Mark and I can have a discussion about that, about what the town would prefer to see in terms of 218.

MR. KLOSKY: Very good.

MR. LOBLANCO: No questions.

MR. GRABE: No.

MR. GOLD: No.

MR. BRODMERKEL: I'm good. Negative dec first, Dom?

MR. CORDISCO: It would be, you should treat them separately even though it's the same negative dec for both applications, my suggestion would be.

MR. BRODMERKEL: I'm not sure I've got the right one then granting preliminary approval for the final subdivision.

MR. CORDISCO: The first resolution here.

MR. BRODMERKEL: I've got them here but I don't know which one you want first.

MR. LOBLANCO: They're stapled out of order.

MR. CORDISCO: I have them in order, why don't you just

use these.

MR. BRODMERKEL: Okay, first resolution would be a negative declaration for the subdivision and lot line change.

MR. GOLD: So moved.

MR. LOBLANCO: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. NOVESKY	ABSTAIN

MR. BRODMERKEL: Next one would be grant preliminary and final subdivision approval for four lot residential subdivision and a lot line change for the adjoining parcel. Do I hear a motion?

MR. LOBLANCO: I will make that motion.

MR. GOLD: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. NOVESKY	ABSTAIN

MR. BRODMERKEL: Next resolution would be a negative declaration for a site plan approval and this would be Donaldson Hall.

MR. CORDISCO: Correct, and I apologize for calling it Donaldson Lodge, it's stuck in my mind.

MR. NOVESKY: Isn't it written as Donaldson Lodge?

MR. YANNONE: We've been calling it Donaldson Lodge as well.

MR. KLOSKY: You renamed it, Dominic.

CAPTAIN WATTS: Donaldson Lodge.

MR. NOVESKY: As long as I can remember.

MR. BRODMERKEL: Okay, may I make an adjustment to your resolution?

MR. CORDISCO: You certainly may. I stand corrected.

MR. NOVESKY: What did you call it, Donaldson Hall?

MR. CORDISCO: Hall and I'm blaming it on Leslie.

MR. GRABE: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. NOVESKY	ABSTAIN

MR. BRODMERKEL: The final resolution is for site plan approval of Donaldson Lodge.

MR. LOBLANCO: Make a motion.

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MR. GOLD: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. NOVESKY	ABSTAIN

MR. NOVESKY: Are you guys done with the NYMA stuff?
Congratulations.

DISCUSSION

MR. NOVESKY: I have a question, we had a resolution, did we approve the one for the antennas on the roof of St. Luke's?

MR. CORDISCO: You did it last month but actually you should sign it because I think it was authorized last month but you didn't sign it.

MR. NOVESKY: Okay.

MR. CORDISCO: Just sign it and we'll fill in from the minutes last month.

MR. NOVESKY: With that, I will ask for a motion to adjourn.

MR. LOBLANCO: So moved.

MR. GRABE: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

Respectfully Submitted By:

Frances Roth
Stenographer