

## **PLEASANT VALLEY PLANNING BOARD**

**January 13, 2009**

A regular meeting of the Pleasant Valley Planning Board took place on January 13, 2009, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:35 p.m.

Members present: Joe Labriola, Chairman  
Peter Karis  
Rob Fracchia  
Rebecca Seaman  
Kay Bramson  
Lynn Sticker, Alternate

Members absent: Henry Fischer  
Michael Gordon

Also present: Pete Setaro, Morris Associates  
Jim Nelson, Esq., Town attorney

**ANNOUNCEMENT:** Mr. Labriola announced that Peter Clark, applicant for The Barn, has asked to be removed from tonight's agenda in order to address the comments in Morris Associates letter.

### **1. FIRST REALTY PLAZA – SITE PLAN**

Ms. Lisa Milicaj, applicant, was present. Dr. Joe Perl, psychologist, was present. Mr. Labriola stated that the ZBA granted a Special Use Permit to First Realty Plaza for a couple of additional uses at the site, which now necessitates the need for a revised site plan.

Ms. Milicaj stated that she is adding a psychologist, Dr. Perl, and two counselors.

Issues that pertain to this site plan:

- Parking and handicapped parking
- Lighting
- Septic
- Water

Mr. Setaro reviewed the Morris Associates comment letter. Issues are:

- EAF is incomplete
- Formal site plan application requirements regarding inclusions on the map and/or waivers
- Retain a professional engineer to evaluate the water and sewer on the site. The change in use requires that the capacity of the sewer and water be evaluated.

Sewer and Water Evaluation: Discussion ensued between Ms. Milicaj, Mr. Setaro, Mr. Labriola, and Planning Board members regarding the need to evaluate the ability of the sewer and water to accommodate the increased usage. Ms. Milicaj argued that the sewer and water has been adequate since 1967 and that there have been no problems in all that time. Further, she argued that the use has not increased. Mr. Labriola reiterated the facts:

- The usage went from 3 to 5 businesses
- SEQRA requirement for a site plan review, which includes the evaluation of water and sewer.

Mr. Labriola stated that this is a gating issue for the application: either Ms. Milicaj agrees to perform the evaluation or the Board will not be able to move forward with the review. Dr. Perl expressed his need to be able to get into the building as soon as possible. Mr. Karis pointed out that the Special Use Permit runs with the land, with the site; therefore the evaluation is pertinent at this time and is required by the Code to ensure that it will work in the future. Mr. Setaro stated that this has been a comment from Morris Associates from day one. Mr. Labriola agreed and stated that it was part of the Planning Board's positive recommendation to the ZBA.

Handicapped Parking:

- Location of the handicapped parking: Ms. Milicaj explained her thinking on the location of the handicapped parking. Board agreed with the location.
- Requirement for striping and signage for handicapped parking

Liquid Propane Tank: Mr. Labriola pointed out that the tank appears to encroach on an adjacent property owner's parcel. Mr. Brian Franks, surveyor for the applicant, concurred that the fence and the propane tank are over the property line. Mr. Labriola directed Ms. Milicaj to move the tank onto her property.

Space Available Sign & Further Development: Mr. Labriola asked Ms. Milicaj to remove the "space available" sign. He advised her to include in this application any future plans to expand. He suggested that she get her water and septic tested to the ultimate build out level now to understand if there is capacity to add additional tenants. Ms. Milicaj stated that the "space available" sign has been there since August 2008 and that she is not planning further development.

Right-Of-Way: Mr. Setaro asked about this. Ms. Milicaj stated that there is an easement on the property and that a neighbor's septic is on her property. She explained that the right-of-way is for them to come onto the property to service their septic.

Next Steps:

- Applicant will show handicapped parking signs shown on the map
- Applicant will retain the services of a professional to test and report on the viability and capacity of the water and septic systems
- Applicant will move the propane tank onto her property
- Applicant will provide a survey map
- Applicant will address the comments in Morris Associates letter
- Applicant will provide a site plan map with all required notations on it

Dr. Perl asked what happens after the next meeting. Ms. Milicaj asked if she can get approved at the next meeting. Mr. Labriola explained that the Board cannot do SEQRA determination until we receive the water and septic viability testing results and the application must be circulated to Dutchess County Department of Planning.

**2. GASPARRO – SITE PLAN – 1325 ROUTE 44**

**3. GASPARRO – SITE PLAN – 209 BOWER ROAD**

Mr. Labriola announced that these site plans will be discussed at the same time:

- Dutchess Turnpike professional building
- Bower Road senior apartments

Mr. Ron Gasparro was present. He stated that these are two separate projects that are working in tandem. The Special Use Permit was granted by the ZBA for the 10,000 sq. ft. professional building on Route 44. The parcel behind involves 8 senior citizen, one-level, one-bedroom apartments, with a private road and one or two-car garages, and a communal well. Mr. Gasparro will contact the highway superintendent for the entrance on Bower Road. He has reached consensus with the Board of Health on the design for the septic and water systems. He stated that the 10,000 sq. ft. professional building will be comprised of 4 units of 2500 sq. ft each; he will be taking one for his business. He described the parking and access for fire and emergency vehicles. The roads on the site are 24' wide, which provides on street parking and creates a boulevard effect.

Mr. Setaro reviewed the Morris Associates comment letter.

Combined SEQRA Review: Discussion regarding a combined SEQRA review and the EAF to show it as one project because of common impacts. Mr. Nelson stated that although there are two separate proposed uses for the site, they are integrated as far as their impacts. He stated that the NYS Environmental Quality Review Act dictates that the Board cannot review a portion of this development – it cannot be segmented. Mr. Gasparro will submit a combined EAF for these projects. He explained that it was 7 parcels that are now combined into 2 parcels: the deeds for 3 parcels in the front have been combined, and the deeds for 4 parcels in the back have been combined. Mr. Setaro asked, if they are two separate parcels, whether separate approvals be done. Mr. Gasparro stated that he wants to do it as two separate approvals for many reasons: health department, SPDEEs permits, access and entry, water supply, and potential future sale as separate properties. Mr. Labriola summarized that this will be handled as two separate applications with a combined SEQRA. Mr. Karis stated that he has experience with that process.

Multi-Dwelling vs. Multi-Family: Mr. Nelson reported that under the Town Code there are different definitions for multi-family as opposed to multi-dwelling. In the R-0 zone, the base bulk requirement is ½ acre. But under a special subsection, 98.21 (B), the Code requires 3 acres for a multi-dwelling. Definitions in the Code for multi-family: a project that serves multiple families, which is defined as 3 or more. Multi-dwelling is defined as high-density multi-family, commonly referred to as apartments. This application is for 8

units. The Code does not define what constitute high-density. The question remains whether this is multi-family or multi-dwelling.

Mr. Gasparro reported that he addressed this question with the previous zoning administrator, Mr. Feldweg, who determined that it is a multi-family project. Mr. Karis asked if he has anything in writing from Mr. Feldweg. Mr. Gasparro responded no and argued that Mr. Feldweg accepted the application as multi-family, without the need for an area variance. Mr. Labriola stated that he had a different impression of multi-family versus multi-dwelling and that he interpreted it differently.

Mr. Nelson suggested that there are three questions on these applications:

1. multi-family versus multi-dwelling
2. office versus offices
3. moratorium

Mr. Gasparro has applied for a waiver from the moratorium.

Office vs. Offices: Mr. Gasparro explained that he clarified with Ed Feldweg the question of office versus offices. Also, he referenced the neighboring medical arts building, which is a 4-unit building, and the dentist on the corner, which is a 2-unit building. Mr. Labriola referenced the Code that says a single office is allowed in an R-0 zone, multiple offices is not. He noted that the Special Use Permit was granted for a professional building, with no mention of offices. Mr. Labriola will contact Mr. Feldweg for clarification with regard to multi-family versus multi-dwelling and office versus offices.

Parking: Mr. Gasparro will make modifications on the parking, per Mr. Karis' suggestions: redesign the tight corners, provide adequate access and turn around for delivery vehicles, and adjust the end islands.

Connector to the Medical Arts Building: Mr. Labriola asked about the possibility of creating a connector to the Medical Arts Building. Mr. Gasparro explained that this is not possible because of issues of liability and drainage and sewage disposal systems in that area. He stated that it is not practical, that it is not a retail trade area, rather they are destination offices.

Elevations: Mr. Labriola stated that elevations are required for circulation for 239M. Mr. Gasparro will provide elevations for both buildings.

Michael White, engineer, displayed a site map with red pen markings on it depicting areas for wells, septic and expansion areas and explained the Health Department's requirements on the site.

Next Steps:

1. combined revised EAF
2. updated site plan with septic and drainage

3. resolve the questions of multi-family versus multi-dwelling and office versus offices

### **3. SENFT – REVISED SITE PLAN**

Mr. Jeffrey Senft, applicant, and Mr. Brian Franks, surveyor, were present.

Mr. Franks met with DC Public Works:

- no left turn in and no left turn out
- grassy island with two separate lanes, one right turn in coming from the west, and right turn going east
- sight distance issues are resolved

Mr. Setaro reviewed Morris Associates letter:

- additional labeling for drainage on the plan

Mr. Karis questioned the 10' width on the lane and whether larger trucks, i.e., tractor trailers, would be using that access. Mr. Senft confirmed that the larger trucks will continue to use the Charles Street entrance.

Grassy Island: Mr. Karis asked about curbing on the grassy island as a further deterrent for left turns. Mr. Franks stated that it will be curbed and a note will be added to the map.

Mr. Labriola noted that DC Department of Planning has said that this project is a local concern.

Mr. Labriola: **MOTION FOR NEGATIVE SEQRA DETERMINATION**

**I move that the Planning Board determine as set forth in the attached declaration dated 1/13/09 prepared by the Board's engineer that the Jeffrey B. Senft site plan is an unlisted action under SEQRA and that it will not have a significant effect on the environment for the following reasons and that no environmental impact statement shall be required.**

**The reasons in support of this determination of non-significance:**

- 1. erosion control measures have been incorporated to prevent erosion**
- 2. drainage improvements have been designed to control increased run-off**

**SECONDED BY L. STICKER**

**VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO GRANT SITE PLAN APPROVAL**

**I move that the Planning Board grant site plan approval to the revised site plan for Jeffrey B. Senft with regard to the application of Jeffrey Senft in the form of the attached resolution dated 1/13/09 prepared by the Board's engineer and now before the Board subject to the following conditions:**

1. payment of all fees
2. Morris Associates letter dated 1/9/09
3. addition of a note that the island will be curbed

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 6-0-0**

**4. ROSSWAY PROPERTIES - SUBDIVISION**

Mr. Michael White, engineer, Geoff Ringler, Rossway Properties LLC, were present.

Mr. White reported on a site meeting that was held on 12/15/08 and attended by Mr. Labriola, Butch Gardner, Mike Takacs, Greg Bolner, and himself. Purpose was to look at the sight distances with particular emphasis on drainage and how the driveway would interact with Rossway Road.

Drainage: will be controlled with swales and a catch basin culvert system. The Wilsons' pond will be dredged in order to return it to a condition as a holding pond. Full drainage control will be achieved.

Sight Distance: has been resolved.

Landing Area and Snow Storage: has been designed to accommodate a total of 6 cars and two small snow storage areas. The 6 parking spots are 20' long, 6' wide, and 4' apart. Mr. Labriola asked about a snow easement area on the other side of the driveway on the Wilsons' property. Ms. Lisa Wilson was present and joined the discussion. She expressed concerns about drainage issues and flooding in the area. Mr. Labriola stated that the meeting with Mr. Gardner and Mr. Bolner in the field resolved Mr. Gardner's concerns with the pull-off area. He also noted the support of the Fire Advisory Board with regard to managing the snow removal. Mr. Karis pointed out that the two small snow storage areas as currently designed are smaller than the size of a car, which does not appear to be adequate. Ms. Wilson stated that she needs to know the size of the snow storage area they are talking about on her property. Decision was made to continue this discussion with Ms. Wilson off line.

Alternatives to Paving: Mr. Labriola raised the question of alternatives to paving – pavers or structural lawn. Mr. Karis described the components of a structural lawn. Mr. White will come up with a proposal.

Driveway Location and Grade: Mr. White explained the driveway grading that he has kept below 14% and has located it in order to preserve trees.

Driveway Salting and Maintenance: Discussion about the impact of salt on water bodies, wildlife, and vegetation on this site and on the Wilsons' property. A request was made to use organic materials or sand. Mr. Ringler suggested that something can be written into the maintenance agreement. Mr. Karis also suggested that directions be included in the

maintenance agreement or the deed with regard to where the tenants shall park in the event of inclement weather. As ownership changes, the subsequent tenants should be aware of these requirements. Mr. Ringler suggested the possibility of moving the snow slightly uphill on the side of the driveway on this property. Mr. White agreed that the space exists. Board members agreed with this plan but wondered how to move snow up a 13% grade.

Mr. Setaro reviewed the Morris Associates comment letter.

Maintenance Agreement: items that need to be maintained by the owners are

- stormwater retention pond
- retaining walls
- driveway
- sight distance
- parking

Mr. Setaro asked about the Town having the right but not the obligation to maintain the drainage system in the event that the homeowners fail to do so. Question was raised about the Town having the right to come onto the property to check it. Mr. Labriola reported that Mr. Gardner, Highway Superintendent, is concerned about having access to the site quickly in the event of a drainage system failure that creates a health or safety issue. In addition, the same pertains to Mr. Gardner having access to maintain the sight distance clearing. Mr. Setaro questioned tying the Town to the obligation to maintain these conditions.

Mr. Nelson stated that in the past, when residents have failed to comply with maintenance agreements included in cross easements, the Planning Board has asked the Town Board if it would be OK for the Planning Board to give the Town the authority to step in to remedy things. The Town is not looking to add to the things for which it is responsible. However, this application may represent a situation where the Planning Board will notify the Town Board that it may be a good idea to have the Town as a beneficiary or an enforcer of this agreement, if the Town agrees to such an arrangement. If the Town were interested in assuming this responsibility, Mr. Nelson mentioned that there could be recovery from the tenants of the subdivision of the Town's expense, and possibly adding the expense to the tax bills on the property.

With regard to drainage systems, Mr. Nelson mentioned that some towns are creating small districts, which brings up oversight issues and setting fair rates.

Mr. Nelson stated that he will do additional research on optional measures that the Town can take beyond districts, or maintenance agreements, or adding to the tax bills.

Mr. Labriola summarized that something needs to be enacted, but that it will be determined later. He stated that as people continue to develop challenging properties, the Board will continue to run into these types of issues.



Ms. Seaman asked about future maintenance of the Wilsons' pond and mentioned that there will be a huge amount of water that will continue to flow down this driveway – that it is not a one-time event and will continue with that property. Mr. White explained that they do not anticipate a lot of siltation coming off the Rossway property. He estimated that dredging the Wilson's pond now will be good for 5-10 years and pointed out that the problematic and uncontrolled runoff is from the easterly direction. Discussion regarding the source of additional and problematic runoff from areas including the Town of La Grange. Mr. Labriola summarized that the silting problem is caused by drainage from a property other than this one. Ms. Seaman added that the changes being made on this property will not increase the amount of runoff off site. Mr. White concurred and further explained the stormwater management system.

Dredging in exchange for easement: Discussion that nothing will be on the map regarding this exchange and that no conditions will be associated with this project that pertain to this exchange. Mr. Labriola noted and Mr. Setaro and Mr. White agreed that the exchange is a separate action and agreement made between property owners. Mr. Setaro pointed out that there may be permits needed to clean the pond that are separate from this application.

Mr. Fracchia asked if there is a way to engineer the Wilsons' pond to be self-cleaning. Mr. White explained the layout of the pond, the points of entry, the source and flow of the water. He stated that it will not stand up to the continued siltation coming from the east side, but that they will take care of the west side and will not make it worse.

Mr. Setaro suggested that he meet with Mr. White regarding drainage issues on the site.

Mr. Nelson will provide Mr. Ringler with language for the maintenance and operating agreement.

Mr. Labriola directed the planning secretary to circulate this application to the Town of La Grange to include the plans, the EAF, and minutes of the meetings.

Mr. Labriola: **MOTION TO REOPEN THE PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

No one from the public spoke.

Mr. Labriola: **MOTION TO ADJOURN THE PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

## **5. JOHNSON SUBDIVISION – PUBLIC HEARING**

Mr. Steve Burns, engineer, and Mr. Don Johnson, applicant, were present.

Mr. Labriola stated that this was on the agenda in December 2008 at which time the Public Hearing was opened and adjourned.



Mr. Burns reported that the major change is from an individual driveway to a common driveway. Mr. Burns displayed an updated set of drawings dated 1/12/09 that had not been distributed prior to the meeting. He pointed out that they incorporated the Fire Advisory Board's two requests:

- the pull-off designed into the private portion of the driveway
- the redesigned intersection of the common driveway and the private portion of the driveway, per the Fire Advisory Board's request.

He stated that they have added erosion and sediment control on the plan.

Mr. Setaro reviewed the Morris Associates comment letter. Outstanding issues are common driveway maintenance agreement and a couple of minor comments on the driveways. Mr. Labriola asked if there are issues with the storm water management plan. Mr. Setaro stated that it is one house and that he's not concerned about the drainage. Mr. Setaro asked for dry well for the roof leaders for the house. Mr. Burns concurred.

Mr. Karis asked Mr. Burns to put the pull off on the other side of the driveway. Mr. Burns and Mr. Johnson agreed to move it.

Mr. Labriola read into the record a recommendation dated 1/8/09 from the Fire Advisory Board (ORIGINAL ON FILE) including:

- a pull off area on Lot A maintained to 12' wide and 40' long
- to redesign the hammerhead entrance to the private drive, off of the common drive, to provide a wider turn radius
- design the portion of the common drive that passes over the culvert to enable it to withstand the weight of a full loaded fire truck

Mr. Labriola: **PARKLAND RESOLUTION**

**I move that the Planning Board adopt the following parkland determination resolution for the Donald and Sharon Johnson subdivision in the form of the attached resolution dated 1/13/09 prepared by the Board's engineer and now before the Board subject to the following conditions. (THE FULL TEXT IS ON FILE.)**

**The Planning Board having considered the size and suitability of the land shown on the subdivision plat and the needs of the immediate neighborhood hereby determines that a suitable park meeting the requirements of the Town cannot be located on such subdivision plat. If the applicant's subdivision application is approved, the applicant is hereby required to deliver to the Town for deposit in the Town's trust fund for park, playground and other recreational facilities, the amount required by the Town Board's fee schedule for the number of residential subdivision lots approved by the Planning Board.**

**SECONDED BY K. BRAMSON**

**VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION FOR NEGATIVE DETERMINATION – SEQRA**

**I move that the Planning Board determine as set forth in the attached declaration dated 1/13/09 prepared by the Board's engineer that the Donald and Sharon Johnson subdivision is an unlisted action under SEQRA and that it will not have a significant effect on the environment for the following reasons and that no environmental impact statement shall be required.**

**The Planning Board uses the following reasons in support of this determination:**

- 1. the application meets zoning regulations**
- 2. Dutchess County Department of Health will approve the water and sewage facilities**
- 3. Erosion and sediment control measures will be provided**

**SECONDED BY R. FRACCIA**

**VOTE TAKEN AND APPROVED 6-0-0**

**Mr. Labriola: MOTION TO REOPEN THE PUBLIC HEARING; SECONDED BY L. STICKER; VOTE TAKEN AND APPROVED 6-0-0**

No member of the public spoke.

**Mr. Labriola: MOTION TO CLOSE THE PUBLIC HEARING; SECONDED BY L. STICKER; VOTE TAKEN AND APPROVED 6-0-0**

**Mr. Labriola: MOTION FOR PRELIMINARY APPROVAL**

**I move that the Planning Board grant preliminary approval to the Donald and Sharon Johnson subdivision in the form of the attached resolution dated 1/13/09 prepared by the Board's engineer and now before the Board subject to the following conditions:**

- 1. Morris Associates letter dated 1/9/09**
- 2. Fire Advisory Board's letter dated 1/8/09**
- 3. Relocate the pull-off area to the other side of the driveway**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 6-0-0**

## **6. SPRING CREEK APARTMENTS – DISCUSSION**

Mr. Bill Povall, engineer, and Mr. Paul Maggiacomo, applicant, were present.

This application was on the December PB agenda. Mr. Karis had provided a sketch of a redesign of the project.

Mr. Povall displayed drawings of a hybrid layout for the proposed new building with circular access to the parking lot. He also mentioned the raised grade on the north end of the building so that very little of the foundation will be exposed.

Mr. Labriola and Mr. Karis thanked the applicants to taking the Board's ideas and requests seriously. The Board members concurred in their appreciation for the redesigned layout.

## **7. DUTCHESS QUARRY – Lot Line Realignment – PUBLIC HEARING**

Mr. Robert Surprise, from Dutchess Quarry, Mr. Mark Williams, from H2H Associates, and Mr. Brian Franks, surveyor, were present.

Mr. Williams submitted copies of the affidavit of publication and notification via certified mail to neighboring landowners.

Signatures: Mr. Franks has stamped and sealed the plans and they have received signatures from the owner's representative and the County Health Department.

Fencing/Signage: This is with regard to creating a clear demarcation between the Town's park addition and the Quarry's owned lands. Mr. Williams stated that the suggested changes have been made on the plans. Board and applicants discussed the type of fence and the wording of the signage. Mr. Labriola asked that the signage be represented on the map. Mr. Karis clarified that the purpose of the fence is to delineate the boundary line and stated that it does not have to be a fence – that it could be some substantial trees that will not obstruct the views. He walked the site and stated that it is an open area with a view of the creek and an open field. He stated his preference not to erect anything that would obstruct that sense of place in that area. He suggested planting a couple of shade trees on the outskirts of the line to preserve the open vista and the signage would be in place warning people not to trespass. He asked if it is possible to condition the approval on some kind of delineation of the line in the field and leave the details to be determined. Mr. Labriola stated that he would be satisfied with enough signs along the property line. Mr. Karis stated that there has to be something there to alert people where the boundary line is. Mr. Surprise suggested 4 x 4's at 50' intervals with signs on them. Mr. Labriola agreed with signs that indicate that a person is entering Quarry property. Mr. Williams asked what wording the Town wants. Discussion ensued about the wording – conclusion is that the wording of signage on Quarry property is up to the Quarry.

Mr. Karis suggested that a fence on the northern property line may be justified, in an area of brush. Mr. Labriola stated that if the Town decides to improve or protect the property, the Town can do that as part of the normal maintenance upgrade and not tie it to this particular application.

Agreement was reached to remove fencing notation from the map and add a note about signage.

Mr. Setaro stated that Morris Associates has no additional comments.

Mr. Labriola explained that this application is on the agenda for a Public Hearing tonight and that usually SEQRA determination is done before the Public Hearing. He reported that there were some conversations earlier this week between Mr. Nelson, attorney for the Planning Board, and Mr. Moore, attorney for the Town, regarding the three parcels that are associated with this land swap. The lot line realignment would take property from the Quarry and give it to the Town, and the Town will swap a 2.4 acre piece of landlocked property to the Quarry. Based on all the documentation received and passed out to the Board, there are some issues and concerns with that landlocked piece of orphaned property, which is not an application that is before this Planning Board. Rather it is a separate action that the Town Board is dealing with.

Therefore, Mr. Labriola stated that the best approach is for the Town Board to assume the lead role in driving the SEQRA process for all of the lands involved with this land swap. He stated that the Planning Board will not do a SEQRA determination but will go ahead with the Public Hearing. He invited comments from the public on the lot line realignment exclusively. He emphasized that the Planning Board has no authority over, nor is it part of this Board's review, anything to do with the landlocked piece of orphaned property.

Mr. Labriola: **MOTION TO OPEN PUBLIC HEARING; SECONDED BY K. BRAMSON; VOTE TAKEN AND APPROVED 6-0-0**

Ms. Meta Plotnick, chair of the CAC, explained why they want this property. It increases Bower Park by 3.77 acres to give a total of nearly 20 acres. It provides:

- a piece of elevated rail trail
- a beautiful vista
- immediate access to Wappingers Creek
- drains quickly although rarely floods
- trails in the larger field in order to make a circle
- walkable from the hamlet
- bird watching
- access into the buffer area – historic and tree lined

She agreed with the suggestion to preserve the vista with minimal amount of fencing – possibly trees – for delineation. She suggested some wording for the signage.

With regard to ATV trails, Ms. Plotnick identified one property owner who has one well-used ATV trail and has just cut through onto what would be the Town property, which is the area that needs to be fenced or blocked by some means. Mr. Surprise suggested putting rip rap there.

Ms. Plotnick suggested that there needs to be a gate in Bower Park to prevent access by ATV.

Ms. Jean Curlee, member of the Town Board and resident, stated that she lives on the Creek and that her backyard floods. She stated that in a week or two she is down there mowing. Therefore, she stated that even if the field floods it will be usable by the public.

Mr. Peter Pfabe, resident on Ward Road, stated that he attended the CAC meeting. He stated that no vote was taken at the CAC meeting with regard to the lot line realignment. He stated that he is not sure if the CAC wants this project and suggested that the committee chair wants it. He asked for clarification on whether the realignment is contingent on the land swap. Mr. Labriola responded that that is correct.

Mr. Phil Iapichino stated that he provided a list of concerns to the Planning Board and asked if they were reviewed and if a site visit was done and if the Board would formally give him a reply to some of his concerns. Mr. Labriola reported that the Board received two pieces of correspondence from Mr. Iapichino. Mr. Iapichino asked about the discrepancy between this project being advertised as a subdivision and as a lot line realignment and land swap. Mr. Labriola explained that a lot line realignment is handled as a subdivision and that this is a lot line realignment public hearing. He explained that the lot line realignment is the only application that is before the Planning Board. He confirmed that it is part of a larger land swap project. Mr. Iapichino asked whether it is contingent upon the land swap. Mr. Labriola responded yes.

Mr. Iapichino raised a concern about the access from Bower Park to this land which creates a safety concern because residents will be asked to go over a bridge that has been there for a very long time, that there is a drop off on each side of the bridge, and asked if the Board will review that and have an engineer look at it to ensure that it is safe for crossing. Mr. Labriola stated that it should be part of the SEQRA process to make sure that there are no safety or health issues associated with the application.

Mr. Labriola stated that it appeared that most of Mr. Iapichino's comments concerned the landlocked, orphaned piece of property, which is outside the purview of the Planning Board. He stated that it is interesting and there is nothing that the Planning Board can do about it, and it should be taken up with the Town Board. He explained that the Town Board will act as lead agency for SEQRA and will review both the land swap and lot line realignment in concert.

Mr. Iapichino asked what the Town's concern is with regard to residents wandering too close to the Quarry operation. Mr. Labriola stated that if the adjacent property owner were, for instance, a cemetery, there would be a lot less concern for people wandering into a cemetery versus a place where there is active mining going on. He stated that it is important because it is an open field that there be some demarcation that people understand that they are entering into a place where there is potential danger. Mr. Iapichino asked if it is a concern about residents wandering too close to the pit. Mr. Labriola stated that it has nothing to do with where the pit is, rather it is a concern for residents leaving a Town park and entering a piece of property where there is active mining. It is incumbent on the Board to make sure that there is some identification so

that people are aware of that, because not everyone visiting this park may be aware that there is a Quarry next door.

Mr. Iapichino stated that this project will give residents an easier access to the Quarry and referenced the MSHAW (spelling?) regulations – when you have areas where residents can access a mine, they have to have a protective fence around that pit to provide a safety net for local residents. Discussion about potential increased access to the Quarry. Board will provide signage to warn residents. Mr. Iapichino recommended that the Board review the MSHAW regulations.

Mr. Iapichino asked about the comments from Ed Hocksey.

Mr. Nelson asked Mr. Iapichino whether he was still inquiring about adequate legal notice of these meetings. Mr. Labriola confirmed that timely legal notice was made 5 days prior to the meeting. Ms. Dickerson confirmed that notice was published in The Poughkeepsie Journal on 1/8/09.

Ms. Debbie Glynn, member of the CAC, spoke in favor of the swap.

Mr. Mark Doctoroff, chair of the PV Recreation Committee, referenced prior conversations between the Recreation Committee, the CAC, and the Town Board, and Mr. Surprise and the Quarry. He stated that they are talking about maintaining walking trails that are significantly closer to the Quarry. He stated that talking about safety is a red herring. He pointed out that there is no danger at the proposed border of Bower Park and the Quarry lands. He stated that 200-300 yards to the north there is no danger. The Quarry blasts 23-25 days a year, leaving 330 days per year they don't blast and there is no danger. Mr. Surprise pointed out that blasting is not the only danger – there are high walls and large equipment. As far as recreation is concerned, Mr. Doctoroff suggested the possibility of creating a series of guided walks that show people the railroad heritage of Pleasant Valley to go through the Quarry. He stated that the discussion of danger where no danger exists is not productive. He stated that the discussion should be about how the Town, the Town government, the Town residents and the Quarry can be good neighbors with each other and allow as much reasonable access to the beautiful lands that are undeveloped by the Quarry today. He pointed out that the Quarry is a major commercial citizen of the Town. If people could be educated in a guided way about what the Quarry does, then that is good. He asked why the Quarry is a mysterious venture that is not part of the Town but is operating in the Town. He stated that everything should be done to bring the Town and the Quarry together.

**Mr. Labriola: MOTION TO ADJOURN THE PUBLIC HEARING; SECONDED BY L. STICKER; VOTE TAKEN AND APPROVED 6-0-0**

**Mr. Labriola: MOTION TO CIRCULATE FOR LEAD AGENCY AND RECOMMENDING THAT THE PLEASANT VALLEY TOWN BOARD ASSUME LEAD AGENCY STATUS (ORIGINAL ON FILE)**



**SECONDED BY L. STICKER**

**VOTE TAKEN AND APPROVED 6-0-0**

**8. CENTRAL HUDSON – TINKERTOWN SUBSTATION**

Ms. Jennifer Van Tuyl, attorney, and Mr. Patrick Harder, Central Hudson, were present.

Ms. Van Tuyl reviewed the history of this application – site plan approval was granted on 12/11/07, which incorporated a landscape plan prepared by AKRF. The landscape plan included the removal of 4 mature deciduous trees of circumference 6” or greater in order to provide clearing for sunshine to encourage the growth of plants and healthier growing conditions for the remaining trees in the area. She stated that the clearing crews accidentally removed a total of 6 trees of 6” circumference or greater. Mr. Harder asked Ms. Jainchill, AKRF, to review the situation and recommend a remedy. Ms. Van Tuyl stated that they are now applying for a modified landscape plan that includes 3 additional trees as recommended by Ms. Jainchill – the American arborvitae and the oak leaf holly. Ms. Horn contacted Ms. Jainchill and specifically requested that the green giant arborvitae be substituted. Central Hudson agreed to make that change. Further, the contractor for the landscaping work recommended a substitution for the oak leaf holly of a Japanese holly, which is a hardier species for this area. Ms. Jainchill agreed to that substitution, as well.

Ms. Van Tuyl stated that those substitutions were made and the trees were planted in mid-October, per the Board’s deadline of 11/1/08.

Mr. Harder stated that he received the revised landscaping plan from AKRF on 10/16/08. On 10/20/08, he and Mr. Gary Courtney spoke with Mr. Ed Feldweg, zoning administrator. Mr. Feldweg advised them to apply to the Planning Board for a revised landscaping plan and that he did not think it would be a problem since they were adding trees. Mr. Harder stated that they did the planting on 10/24/08.

Mr. Labriola asked if there is any additional clearing of trees planned. Mr. Harder confirmed that no additional clearing is planned.

Ms. Van Tuyl submitted a letter from Ms. Jainchill at AKRF reviewing what she did and explaining the substitutions and the value of what was done. She submitted photos of the removal of the existing trees and the newly planted trees. She expressed the opinion that this has been a minor modification and that there has been no sacrifice of the original purposes of the landscaping plan, as adopted. She stated that a full amendment or re-issuance of the site plan approval is required. Rather, she suggested that the Board consider a resolution that would approve the modified plan, as planted, under the same conditions as before: the applicant will maintain the landscaping.

Mr. Karis stated that the substitutions seem to be appropriate.

Morris Associates had no comments.



Mr. Nelson suggested that the resolution should be restricted to replacing the landscape portion of the approval and to continuing the maintenance requirement by Central Hudson.

**Mr. Labriola: RESOLUTION TO APPROVE THE MODIFIED LANDSCAPE PLAN**

**Whereas the Planning Board previously granted site plan and special permit approval for a site plan entitled Central Hudson Tinkertown Substation on 12/11/07, and**

**Whereas that approval required the installation of supplemental plantings as shown on the landscape plan prepared by AKRF Landscape Architects consisting of 4 oak leaf holly plants and 4 American arborvitae plants, and**

**Whereas Central Hudson has now asked the Planning Board to approve a modified landscaping plan which consists of 6 Japanese holly, as substitute for the 4 oak leaf holly, and 5 green giant arborvitae, as substitute for the 4 American arborvitae, and**

**Whereas the Board has reviewed the matter and obtained comments from the Planning Board's engineer and has further reviewed the report of AKRF concerning the modified landscape plan, and**

**Whereas the Town of Pleasant Valley Planning Board hereby reaffirms the prior SEQRA determination dated 12/11/07 as the modified landscaping plan will not have any significant impact on the environment, now**

**Therefore be it resolved that the Planning Board hereby approves the amended landscaping plan as shown on the revised drawings dated 12/29/08, and**

**The Board affirms the condition previously imposed that the applicant has a continuing duty and shall guarantee the Town of Pleasant Valley and the Town of Pleasant Valley Planning Board that it will maintain the plantings and replace any that fail to maintain a vigorous growing condition for a period of one year from 11/1/08.**

**Should information presented by the applicant or his representative either written or verbal be found to be erroneous, the approval granted herein will be subject to invalidation by the Planning Board.**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 6-0-0**

**9. JOSHUA WARD HOUSE – 90-DAY EXTENSION**

This is an application for a final 90-day extension. Mr. Steve Albrecht, applicant, and Mr. Brian Franks, surveyor, were present.

Mr. Albrecht stated that they will cut the pipe off, that it has been there for almost 70 years. He stated that they will get water from somewhere else. Mr. Franks stated that they will cut the line for now and will submit the maps for Mr. Setaro's final review and final signature.

Mr. Labriola: **MOTION FOR FINAL EXTENSION OF SUBDIVISION**

**Whereas an application for approval of a subdivision entitled Joshua Ward House located on Main Street was submitted on 1/28/08, and**

**Whereas conditional approval of the final plat was granted by the Planning Board on 4/8/08, and**

**In accordance with Town Code Section 82-15(i), said approval is valid for 180 days beginning 4/8/08 and ending 10/5/08, and**

**Whereas in accordance with the Town Code 82-15(i), on 9/9/08 the final approval was extended for a period of 90 days beginning 10/5/08 and ending 1/3/09, and**

**Whereas the applicant has requested a final extension of said approval due to not having all of the requirements completed as stipulated in the final approval letter and more time to do so has become necessary, now**

**Therefore be it resolved that the final approval be extended for a period of 90 days beginning 1/3/09 and ending 4/2/09.**

**SECONDED BY K. BRAMSON**

**VOTE TAKEN AND APPROVED 6-0-0**

**10. VALLEY DRY CLEANERS – SIGN PERMIT**

Ms. Nancy Forrest, Gloede Signs, was present. She stated that they are putting new signs in the Pleasant Valley Shopping Center. The Valley Dry Cleaners have a back entrance. The proposed sign is 3' high and 7' long single-sided, internally illuminated. She reported that the linear store frontage is 16' and explained that the 3 rear doors access the Dry Cleaners.

Ms. Bramson asked if all the signs will be the same color. Ms. Forrest responded no, that Mr. Redl has allowed the tenants to have whatever colors they wanted.

Mr. Karis pointed out that the condition for approval of the other signs in the Shopping Center requires that the internally-lit signs be put on timers and turned off no later than

11 p.m., but that this is not happening. He requested that this condition be included in the permit for this sign.

Mr. Labriola: **MOTION TO GRANT THE SIGN PERMIT**

**Whereas the Town of Pleasant Valley Planning Board has received an application from Valley Dry Cleaners for the approval of one sign dated 12/8/08, and**

**Whereas an environmental assessment form has been submitted and reviewed by the Board, now**

**Therefore be it resolved that the Planning Board determines the action to be an unlisted action and will not have a significant effect on the environment,**

**Further be it resolved that the Planning Board grants approval for one sign as shown in the application and drawings consisting of the materials, sizes, and colors shown in the application except as follows:**

- 1. the addition of an internal timer that will shut the sign off at 11 p.m.**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 6-0-0**

#### **11. MISCELLANEOUS**

Inactive Applications: Mr. Labriola reported on the status of the following applications:

- Smythe, from 2003, has withdrawn
- Craige has withdrawn
- The Pool Guys application regarding a driveway has been withdrawn
- La Puerta Azul needs a ZBA ruling for the outdoor seating and are considering whether to pursue it
- Bil Val remains active
- Pennucci has withdrawn the application to dredge his pond

Fire Advisory Board: Mr. Labriola reported on a conversation with Matt Cady and Paul Caltagirone, chair of the FAB. Mr. Labriola has received input that the Planning Board was ignoring the FAB's recommendations. He stated that Mr. Cady and Mr. Caltagirone denied that information and noted that, for example, Rossway Road is a perfect example of these Boards working together. The FAB suggested that for complex applications a workshop be held or that the FAB be invited to a Planning Board meeting for a joint planning discussion. Mr. Labriola stated that they were happy with the work that the Planning Board is doing and that they felt like the Planning Board is listening to their recommendations. He reported that the Planning Board has the same agreement with the FAB and the ZBA, that he will discuss with them any recommendations that the Planning Board disagrees with.

**Minutes: MOTION TO APPROVE THE DECEMBER 2008 MINUTES, AS  
CORRECTED; SECONDED K. BRAMSON 5-0-0**

Dutchess County Planning Federation: Discussion of projects that could be nominated for the award. Board agreed to recommend 199 West Road.

Meeting adjourned at 10:15 p.m.

Minutes submitted by:

Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the January 13, 2009, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_ Approved as read

\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY PLANNING BOARD**  
**February 10, 2009**

A regular meeting of the Pleasant Valley Planning Board took place on February 10, 2009, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:33 p.m.

Members present:     Joe Labriola, Chairman  
                              Peter Karis  
                              Rob Fracchia  
                              Rebecca Seaman  
                              Michael Gordon  
                              Lynn Sticker, Alternate

Members absent:     Henry Fischer  
                              Kay Bramson

Also present:         Pete Setaro, Morris Associates  
                              Jim Nelson, Esq., Town attorney

**1.    FIRST REALTY PLAZA – SITE PLAN**

Ms. Lisa Milicaj, applicant, was present. Dr. Joe Perl, psychologist, was present.

Ms. Milicaj reported that a septic tank was found and requested that the minutes reflect that it is not a cesspool. She submitted a site plan map with signature blocks and reported that the propane tank that was leaning onto the neighbor's property has been removed and pointed out the new propane tanks that were installed by Crown Gas on her property. The handicapped parking sign has been added to the map.

Mr. Labriola stated that a letter dated 1/23/09 was received from Berger Engineering (COPIES ON FILE) regarding the water and septic testing.

Waivers: Ms. Milicaj submitted a letter dated 2/10/09 (ORIGINAL ON FILE) requesting the specific waivers. The Planning Board reviewed this request and made the following determination:

- |   |     |
|---|-----|
| • Existing and proposed contours          | OK  |
| • Location of existing watercourse        | OK  |
| • Plans and elevations                    | OK  |
| • Staged development                      | N/A |
| • Multiple dwelling site plan             | N/A |
| • Proposed water supply and sewage system | N/A |

Mr. Labriola: **MOTION TO GRANT THE WAIVERS REQUESTED AT THIS MEETING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Setaro reviewed Morris Associates comment letter.

Water & Septic: Mr. Setaro stated that the major issue concerning the well and septic has been addressed by Berger Engineering, who did a water test and conducted as much investigation as possible of the septic system. He also noted that Harris did some work for Ms. Milicaj. He stated that based on the reports that have been submitted it appears that the systems are acceptable and in working order.

Fence: Mr. Setaro asked about the fence that encroaches on the neighboring property. Ms. Milicaj reported that there was a discrepancy in all of the surveys done over the years and a discrepancy in the line and, therefore, the fence shows on the adjacent property. She stated that the fence should be there to prevent children who live in the garden apartments from accessing the back of Bovee's. She stated that she has the neighbor's septic on her property, that it is only fair that the fence remain. And she stated that there have been no complaints from adjoining properties. Mr. Setaro recalled that there was a discussion about the fence at last month's Planning Board meeting. Mr. Labriola reviewed the minutes of that meeting and noted that no comment was made to move the fence. The history of the fence is unclear, and Mr. Labriola stated that it seems OK "as is."

Mr. Setaro stated that everything else has been taken care of and, therefore, site plan approval does not need to be conditioned on Morris Associates comment letter.

Sign: Discussion regarding the directory sign on the property. Decision was reached that no new sign permit is required. Mr. Labriola pointed out that there is space on the directory sign to add Dr. Perl and the therapists. No new sign permit is needed; the additional directory names need to match in color and materials the existing directory names.

Handicapped Parking Sign & Striping: Mr. Labriola suggested that the Board set a date – as a condition of final approval - by which the permanent handicapped parking sign and striping will be installed and completed. Discussion about Morris Associates being able to provide a sign off letter when all conditions have been met. Mr. Labriola noted that the only permit that is required after he signs off on the map is an occupancy permit for each of the tenants. He suggested that the condition state that the permanent sign and striping be completed by 6/15/09. Morris Associates to provide a sign-off letter that references this deadline for completion. Discussion about requiring a bond until this condition is met. Mr. Nelson pointed out that the bonding authority is held by the Town Board and pertains usually to subdivisions. He suggested that as a condition of final approval some sort of temporary signage be done now and the permanent signage be completed by a specific deadline. Mr. Setaro described a way to create a temporary sign. Mr. Labriola agreed with this strategy to set a date by which the permanent sign and striping are completed and to require the Zoning Administrator to confirm that this condition has been met. He stated that, in this way, it is not necessary to go to the Town Board for a performance bond.

Ms. Milicaj asked if this condition of final approval will delay Dr. Perl moving into the building. Mr. Labriola explained the next steps:

- Meet the conditions as stated in the final approval
- Mr. Labriola signs the map
- Tenants apply for an occupancy permit

Mr. Karis asked about Section 98-41 with regard to Brian Franks, Land Surveyor, stamping a site plan. He asked if land surveyors are allowed to stamp site plans in New York State. Mr. Nelson reviewed the Code Section and pointed out the language that states that the Planning Board “may require certification ... by a registered professional engineer or architect....” Mr. Labriola pointed out that this is an amended site plan, that there is no new construction proposed; therefore he is less concerned with this application. Mr. Karis concurred and stated that he will continue to bring this up because, in his opinion, surveyors should not be preparing site plans.

DC Department of Planning – 239M: Referral from the County: a matter of local concern.

Mr. Labriola: **MOTION FOR NEGATIVE DECLARATION – SEQRA**

**Whereas the Town of Pleasant Valley Planning Board has received an application from First Realty Plaza, and**

**Whereas an environmental assessment form has been submitted in support of this application, and**

**Whereas the Planning Board has acted as lead agency in the uncoordinated review of this action, and**

**Whereas the Planning Board has reviewed the potential environmental impacts that may be associated with this action, now**

**Therefore be it resolved that the Planning Board determines the First Realty Plaza site plan to be an unlisted action according to the State Environmental Quality Review Act, Part 617.4 and 5, and**

**Further be it resolved that the Town of Pleasant Valley Planning Board has determined that the proposed action will not have a significant effect on the environment and a draft environmental impact statement will not be prepared and we use the following reasons in support of this determination of non-significance:**

1. there is no physical change to the site

**SECONDED BY L. STICKER**

**VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION FOR CONDITIONAL FINAL SITE PLAN APPROVAL**



**Whereas a formal application for site plan approval from First Realty Plaza was submitted to the Planning Board on 1/26/09, and**

**Whereas the requirements for site plan of Chapter 98-41 of the Code of the Town of Pleasant Valley have been met except as waived by the Planning Board, and**

**Whereas in accordance with Chapter 98, Section 98-43, the Planning Board has reviewed the factors pertinent to the site relating to parking, traffic circulation, lighting, and**

**Whereas the Planning Board has requested review of the site plan information by the Planning Board engineer and has obtained comments, now**

**Therefore be it resolved that the site plan entitled First Realty Plaza site plan dated 7/17/08 and last revised 2/10/09 be approved and the zoning administrator may issue the necessary building permits upon completion of such conditions as are noted below:**

- 1. payment of all fees**
- 2. temporary installation of a handicapped parking sign**
- 3. parking lot striping and permanent installation of a handicapped parking sign installed by 6/15/09**

**SECONDED BY M. GORDON**

**VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola stated that the required next steps, prior to him signing the map, are payment of all fees and the installation of the temporary handicapped sign.

**2. THE BARN – AMENDED SITE PLAN**

**3. THE BARN – WETLANDS PERMIT**

Mr. Peter Clark was present. This application was last on the Planning Board agenda in December 2008. Mr. Clark chose to address Morris Associates comment letter in lieu of appearing before the Board in January 2009.

Fence and Hedges: Mr. Clark stated that he spoke with the DOT and has decided to move the fence onto the Barn's property and out of the right-of-way.

Bollards: Mr. Clark pointed out the bollards on the plan.

Erosion control: Mr. Clark pointed out the notes on the map that describe the temporary and permanent erosion control measures. Jute mesh will be installed on the grade.

Sign: Board members reviewed the history of the sign that is currently on the ground. The variance requested for that sign was denied by the ZBA. A small sign was hung on

the building, and the larger sign has been sitting on the ground ever since. Mr. Labriola stated that the larger sign is an illegal sign that needs to be removed because there is no existing sign permit for it. Mr. Clark agreed to remove it.

Mr. Setaro stated that all Morris Associates comments have been completed.

Mr. Labriola noted for the record a letter-to-file received from Jack Neubauer, Zoning Administrator, that states that no new square footage is being proposed and, therefore, this application is exempt from the moratorium.

Mr. Labriola: **MOTION FOR NEGATIVE DECLARATION – SEQRA – site plan & wetland permit combined**

**I move that the Planning Board determine as set forth in the attached declaration dated 2/10/09 prepared by the Board's engineer that The Barn site plan and regulated activity in wetland applications are unlisted actions under SEQRA and will not have a significant effect on the environment for the following reasons and that no environmental impact statement will be required.**

**The Board uses the following reasons in support of this determination of non-significance:**

- 1. there is not a significant change to the site, just the addition of a 14' x 18' covered deck**
- 2. erosion control measures and permanent slope stabilization measures have been provided in the disturbed areas**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 6-0-0**

Mr. Gordon mentioned that there has been a lot of dumping over the years from The Barn's parking lot into the wetland buffer area and asked if there are measures to prevent that now and in the future. Mr. Clark responded that they have addressed this problem and stated that anyone who was doing this before, they are no longer allowed to do it. Also, he mentioned that the dumping was happening before they purchased the property.

Mr. Labriola: **WETLAND PERMIT RESOLUTION**

**Whereas a permit application for regulated activities in the wetlands, water bodies, water courses, and buffer areas dated 10/29/08 was submitted for the construction of a covered deck located at The Barn on Route 44, and**

**Whereas the wetlands administrator has determined that the proposed regulated activities may constitute a potentially significant environment impact and has referred the application to the Planning Board, and**

**Whereas the Planning Board has reviewed the factors pertinent to the site related to the proposed regulated activities for compliance with Chapter 53 of the Town Code, and**

**Whereas the Planning Board has requested a review of the submitted information and documentation by the Planning Board engineer and has obtained comments from the Planning Board engineer, now**

**Therefore be it resolved that the application for regulated activities in wetlands, water bodies, water courses, and buffer areas be approved and that the wetland administrator may issue a permit for regulated activities upon completion of such conditions as noted below:**

- 1. Morris Associates letter dated 2/6/09**

**SECONDED BY L. STICKER**

**VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **SITE PLAN APPROVAL**

**I move that the Planning Board grant site plan approval for Friends of Mid-Hudson Young Life with regard to the application of The Barn's site plan in the form of the attached resolution dated 2/10/09 prepared by the Board's engineer and now before the Board subject to the following conditions:**

- 1. payment of all fees**
- 2. Morris Associates letter dated 2/6/09**

**SECONDED BY M. GORDON**

**VOTE TAKEN AND APPROVED 6-0-0**

#### **4. ROSSWAY PROPERTIES – SUBDIVISION – PUBLIC HEARING**

Mr. Geoff Ringler, Rossway Properties, and Mr. Michael White, Spectra Engineering, were present.

Mr. Ringler submitted an affidavit of publication in The Poughkeepsie Journal of the notice of this continued public hearing.

Mr. White pointed out on the map a large snow storage area on the northly side of the driveway. He explained the drainage system that, after treatment, flows north to the pond on the Wilsons' property and that the pond will be cleaned out.

Mr. Setaro reviewed Morris Associates comment letter and stated that most of the comments pertain to final approval. He stated that his office and Mr. White's office worked together on the storm water management report and that they are comfortable with it. Mr. Ringler asked whether test pits on the site in the area of the basin are

required. Mr. Setaro stated that he's spoken with Mr. White about this but that he needs to look at this question again with Mr. White.

Common driveway maintenance agreement: This pertains to final approval but will have to include the pond, the retaining walls, and sight distance. Mr. White noted that they will provide a final design on the retaining wall. Mr. Labriola asked about language in the agreement regarding a "no cut area." Mr. Ringler stated that they have submitted a preliminary draft of that. Mr. Seaman pointed out that language, regarding the general restrictions, that is included in the deeds should also be included on the site plan. Mr. Karis clarified that the deed restrictions be listed on the subdivision plat, but not the entire deed document.

Mrs. Wilson, owner of the adjacent property, was present and asked what the deed restrictions are. Mr. Ringler explained the "no cut zone" and the maintenance agreement for the driveway and walls.

Mr. Labriola read into the record a letter from the Fire Advisory Board (ORIGINAL ON FILE) stating that the FAB accepts the changes as made to the driveway plan.

A comment letter was received from Greg Bolner, engineer for the Town.

Drainage: Mr. Karis asked for clarification on the drainage at the bottom of the driveway and asked if the property owners will be required to maintain that drainage in the Town right-of-way or if the Town owns it. He pointed out that the basins and the out-fall piping at the bottom of the driveway are in the Town right-of-way. Mr. White and Mr. Karis reviewed the map. Mr. White stated that it may not have ever been dedicated and he thinks it's a road by use. He stated that he has been required to get a permanent drainage easement from the Wilsons so that they could install the drainage system. He thinks it remains private via easement. Mr. Ringler stated that it was his assumption that it is the owners' responsibility to maintain. Mr. Labriola stated that it should be part of the driveway maintenance agreement.

Mrs. Wilson pointed out that the pipe that is currently in place cannot handle the flow and that a sink hole now exists. She asked what will happen when greater flow is directed towards that pipe, which is already inadequate. Board and Mrs. Wilson and Mr. Setaro discussed the location of the sinkhole, the pipe, and the pond. Mr. Karis stated that there will be a new pipe discharging at the same point – that where the two pipes come across there will be a third pipe. He asked for additional detail of the area just north of the Rossway property in order to see what happens beyond the catch basin. Mr. White stated that if the current pipe is incapable of handling the flow, they will install their own pipe to the pond to handle the flow of the water that they are generating. Mr. Karis stated that there will not be an increase in the post-condition because of the storm water management plan. Mr. White stated that when they dredge out the Wilsons' pond it will remove the island. Mr. Wilson stated that the island is the result of siltation and represents much of the end of their driveway that they have replaced several times. Mr. Karis stated that drainage off of Rossway properties should not impact the capacity of the

existing pipe under the road. Mr. Setaro pointed out that dredging of the Wilsons' pond is a private agreement between the Wilsons and Rossway Properties, that is not part of this application.

Mr. Labriola: **PARK LAND DETERMINATION**

**I move that the Planning Board adopt the following Parkland Determination resolution for the Rossway Property subdivision in the form of the attached resolution dated 2/10/09 prepared by the Board's engineer and now before the Board subject to the following conditions.**

**The Planning Board having considered the size and suitability of the land shown on the subdivision plat and the needs of the immediate neighborhood hereby determines that a suitable park meeting the requirements of the Town cannot be located on such subdivision plat. If the applicant's subdivision application is approved, the applicant is hereby required to deliver to the Town for deposit in the Town's trust fund for parks, playgrounds, and other recreational facilities the amount required by the Town Board's fee schedule for the number of residential subdivision lots approved by the Planning Board.**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **NEGATIVE DECLARATION – SEQRA**

**I move that the Planning Board determine as set forth in the attached declaration dated 2/10/09 prepared by the Board's engineer that Rossway Properties subdivision is an unlisted action under SEQRA and will not have a significant effect on the environment for the following reasons and that no environmental impact statement shall be required.**

**The Board uses the following reasons in support of this determination of non-significance:**

- 1. the application meets all zoning regulations**
- 2. Dutchess County Department of Health will approve water and sewage facilities**
- 3. drainage analysis provided to control storm water runoff to pre-development conditions**
- 4. erosion and sediment control measures will be provided**

**SECONDED BY L. STICKER**

**VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO REOPEN THE PUBLIC HEARING; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 6-0-0**

Mrs. Wilson expressed her concern about long-term maintenance and about the capacity of the pipe to handle the flow. Mr. Labriola explained that the Board will add a condition to preliminary approval that will require the applicant to provide the details off-site. This way, before the process gets to final approval, the Board's will review how that area will be designed to ensure that all will be OK. He also stated that the driveway maintenance agreement will include the language regarding snow removal.

Mr. Labriola: **MOTION TO CLOSE THE PUBLIC HEARING; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Fracchia asked about a maintenance agreement for the Trillium Pond and who is responsible for it. Mr. White suggested that both the Towns of Pleasant Valley and LaGrange are responsible for cleaning out that pond. Mr. Setaro stated that there was an easement done in the 80's.

Mr. Labriola asked about measures to soften the look of the driveway pull off area at the road – pervious pavers rather than paving. Mr. Karis stated that there is a variety of options – pre-cast concrete blocks that have voids between the joints that allow water to infiltrate. There are other products that are mats that can be filled with soil and grass can be grown in them. He explained problems with snowplowing with some of the options and stated that it is probably too steep to do any good from an infiltration standpoint – water will run off it. He suggested colored stamped asphalt. Mr. Ringler expressed his concern about the cost for these options.

Mr. Labriola: **MOTION FOR PRELIMINARY APPROVAL**

**I move that the Planning Board grant preliminary approval to the Rossway Properties subdivision in the form of the attached resolution dated 2/10/09 prepared by the Board's engineer and now before the Board subject to the following conditions:**

- 1. Morris Associates letter dated 2/6/09**
- 2. additional details to be provided on the design of the piping into the adjacent property owner's pond**
- 3. Greg Bolner's letter dated 2/9/09**

**SECONDED BY L. STICKER**

**VOTE TAKEN AND APPROVED 6-0-0**

##### **5. APPEAL #938 - MARION SALONSPA – AREA VARIANCE**

Ms. Nancy Forrest, Gloede Signs, was present and submitted revised drawings of the sign. She explained that she has reduced the width of the sign to 4'6". She is requesting a 2' area variance because the sign will project out from the building 5' and the Code allows 3'. She explained that the awning has been removed from the front of the building.

Mr. Labriola read into the record a letter from the Fire Advisory Board (ORIGINAL ON FILE) that states that they take no position as there are no fire or safety issues.

DC Department of Planning: Mr. Labriola referenced a letter to the ZBA from Dutchess County Department of Planning (ORIGINAL ON FILE) that comments at some length on the variance request and the sign design. Specifically, the Department includes the decorative bracket in the sign which increases the distance the sign projects from the building and increases the amount of variance that must be requested. Ms. Forrest stated that she can reduce the size of the bracket, if requested. Board members questioned whether the decorative bracket is considered to be part of the sign and expressed their liking of the design of the sign. The Department recommended that the variance be denied unless certain conditions are met.

Lighting: Ms. Forrest explained that the sign will have small exterior lighting affixed on both sides of the bracket and shining down on the sign.

Ms. Forrest explained that the sign as depicted on her drawings is scaled correctly. She mentioned the double-sided exposed neon sign that projects out over the doorway of the department store, which extends out 6'. She pointed out that oval signs are nice looking and that the logo and lettering are delicate and attractive. Ms. Seaman also pointed out that the sign is on a street with trees which partially obscure and, therefore, it is not unreasonable to consider additional signage. Mr. Fracchia asked if it will be lit all the time. Ms. Forrest stated that she does not know but that it will be very subdued. Mr. Karis suggested that the Board consider asking for a timer on the lighting of this sign, in keeping with the other signs in the area. Ms. Sticker stated that most of the County Planning's comments have been addressed.

Ms. Seaman: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION IN CONSIDERATION OF ITS LOCATION AMONG THE TREES AND THE ATTRACTIVENESS OF THE SIGN**

**SECONDED BY J. LABRIOLA**

**VOTE TAKEN AND APPROVED 6-0-0**

## **6. MISCELLANEOUS**

Amendments to Section of the Town Code: Planning Board members received draft amendments to certain sections of the Town Code. Mr. Labriola asked them to be prepared to discuss these draft amendments at the March 2009 meeting. Further, he noted that the revised sign law does not include any of the Board's previous comments. Ms. Seaman stated that she will check on what happened to the Planning Board's previous comments on revisions to the sign ordinance.

## **7. WAIVERS FROM MORATORIUM**

Mr. Labriola stated that as part of the moratorium the Town Board may ask for recommendations from the ZBA, the Planning Board, and the Comprehensive Plan



Committee. He explained that waivers, when they are granted, are not based on how close the design is to the proposed comprehensive plan or whether they are a day, a week, or a month away from SEQRA determination. Rather, he explained that the only criterion is whether the restriction causes an unnecessary hardship. Mr. Nelson provided a copy of the section of the Town Code that includes the definition of hardship. Mr. Labriola emphasized that the question of hardship is the only thing recommendations or comments can pertain to. Moving forward, Mr. Labriola stated that the Planning Board will provide comments to the Town Board for these waivers. However, Gasparro's waiver request is already in-process and is not on the Planning Board agenda tonight. In fairness to Mr. Gasparro, Mr. Labriola recommended that the Planning Board not provide a recommendation to the Town Board on Mr. Gasparro's waiver request due to the fact that Mr. Gasparro is not here to participate in, or at least listen to, this Board's discussion of such.

Ms. Seaman stated that the Comprehensive Plan Committee did provide a recommendation to the Town Board on Mr. Gasparro's waiver request and that she recused herself from that recommendation. She reported that the Committee limited its recommendation to issue pertinent to the Comprehensive Plan.

#### **8. MINUTES**

Mr. Labriola: **MOTION TO APPROVE THE JANUARY 2009 MINUTES, AS CORRECTED; SECONDED R. SEAMAN 5-0-0**

Meeting adjourned at 8:10 p.m.

Minutes submitted by:

Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the February 10, 2009, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_ Approved as read

\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY PLANNING BOARD**  
**March 10, 2009**

A regular meeting of the Pleasant Valley Planning Board took place on March 10, 2009, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:35 p.m.

Members present:     Joe Labriola, Chairman  
                              Rob Fracchia  
                              Michael Gordon  
                              Lynn Sticker, Alternate  
                              Kay Bramson

Members absent:     Henry Fischer  
                              Rebecca Seaman  
                              Peter Karis

Also present:         Jim Nelson, Esq., Planning Board Attorney

**ANNOUNCEMENTS:** Mr. Labriola announced that Marion Salon Spa Sign Permit Application has been removed from the agenda, as the design is not yet complete. Also, Heather LaVarnway and Janis Gomez Anderson will attend tonight's meeting to go through the proposed new sign law.

**1. MORRISON SUBDIVISION – 90-DAY EXTENSION OF FINAL APPROVAL**

Mr. Labriola read into the record a letter dated 2/25/08 (ORIGINAL ON FILE) from Tim Rice, the Chazen Companies, in which he requests a 3-month extension for this subdivision. He states that they are waiting for completion of the review of the common driveway easement and title issues.

Mr. Labriola: **MOTION TO GRANT 90-DAY EXTENSION OF FINAL APPROVAL TO END ON 5/11/09; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 5-0-0.** (Full version of this motion is on file.)

**2. LEO – SITE PLAN – DISCUSSION ONLY**

Mr. Anthony Leo and Ms. Barbara Leo were present.

This application received a Special Use Permit from the ZBA in 11/08 granted for a building that the applicant is considering purchasing. The Special Use Permit was granted to permit a one-chair child's hair salon and an administrative office for a driving school. Mr. Labriola noted that, as a condition of Special Use Permit, the application come back to the Planning Board for a site plan review.

Mr. Leo expressed his concern and questions about what engineering is required and the cost.

There are 2 apartments in the building and a detached cottage on the site. Ms. Bramson recalled that water is a concern on the site. Mr. Gordon recalled that the neighbor owns the well that supplies water to this site. Further, the neighbor had expressed his concern last fall about adequate water for a beauty salon.

Mr. Labriola asked if Mr. Leo is confused about what is required for a site plan. Mr. Leo asked if he would need to hire his own engineer and then retain the Town's engineer as well, or whether he can use the existing information on the old survey map. Mr. Labriola explained that if Mr. Leo were proposing a brand new site with brand new construction, it would require a very different level of engineering drawings to be prepared. However, he noted that Mr. Leo is taking an existing site that had a Special Use Permit that expired, which required him to get a current Special Use Permit. Mr. Labriola stated that Mr. Leo could take a stamped survey map and use that as the foundation for a site plan. Mr. Labriola referred Mr. Leo to Section 9841 of the Zoning Code for all of the requirements of what needs to be on a site plan map. Also, he noted that applicants can submit a written request for waivers from some of the requirements. Mr. Gordon stated that adjacent property owners need to be listed and they need to be advised of the public hearings. He emphasized that Mr. Leo needs to have an engineer prepare these documents. Mr. Labriola noted that if Mr. Leo has a stamped survey map, that is a great starting point.

Mr. Leo stated that the survey will probably have to be redone as he does not believe that there is any topography shown on the map. Mr. Labriola mentioned that since this is an existing site that is pretty flat, the applicant could request a waiver from the need to put topography on the map.

Mr. Labriola advised Mr. Leo to go through the Code and the site plan documents to complete the application and submit his waiver requests in writing. Ms. Dickerson noted that Mr. Leo has received the application documents and copies of the Section of the Code that lists all the requirements.

Mr. Labriola stated that the site plan allows the Planning Board to conduct its review. He stated that the Planning Board will look at:

- Any exterior lighting that may be required based on the uses that he has on the site
- Parking that will satisfy two apartments, the detached building, and how many cars they will have for the driving school and for the beauty salon
- Handicapped parking
- Handicapped ramp
- Water and septic to make sure that those systems can handle this proposed new use

Mr. Leo stated that they are uncertain of the well, that they don't have any feel yet for capacity. He said that they are hoping. Ms. Bramson asked if he is putting in a well. Mr. Leo responded yes.

Mr. Leo asked about application and escrow fees. Ms. Dickerson explained that the application fee is \$500 and the initial escrow deposit is \$2,500. She also explained that when the balance in escrow drops below \$1,000, Mr. Leo will be responsible for depositing an additional \$1,500. Mr. Labriola explained that the escrow monies pay for the Planning Board's legal and engineering consultants to review the documentation and provide the Board with feedback.

Mr. Leo also asked about the timeline for getting through site plan review before his Special Use Permit expires in November 2009. Mr. Labriola stated that the big unknown is all the upfront work that an applicant must do. He stated that if Mr. Leo provides a complete application and site plan to the Planning Board, the process will go more quickly. He stated that the Board finds that when it asks for 10 things, and the applicant provides 2, the process takes much longer. He emphasized that the first step, as a solid foundation, would be for Mr. Leo's engineer to reach out to Mike Takacs at Morris Associates for guidance and direction at the outset to understand and meet the requirements.

Ms. Dickerson mentioned that the deadline for submission for the April 2009 Planning Board is March 30, 2009. Mr. Leo stated that he did not think he would be able to meet that deadline. Ms. Dickerson provided Mr. Leo with Mr. Takacs' phone number.

### **3. APPEAL #935 – HOMELAND TOWERS LLC – SPECIAL USE PERMIT**

Mr. Robert Gaudio, Snyder & Snyder, and Mr. Manny Vicente, Homeland Towers were present.

Mr. Gaudio explained that this is an application to the ZBA for a Special Use Permit and, ultimately, to the Planning Board for a site plan approval for a wireless communication facility. He stated that it is a joint application between Homeland Towers and Verizon Wireless. Further, he stated that they are proposing a facility that will be designed and constructed to support collocation of at least 6 wireless carriers – the ability to handle on the tower and at the ground all of the equipment for the 6 wireless carriers that operate in this area. He explained that this application consists of a tower – a monopole – that is capable of supporting 6 antennas with 3500 sq. ft. of ground space for all of the equipment. He stated that it is proposed to be located on the Boy Scouts camp on Nooteeming Road. He stated that it is a very large property – approximately 270 acres. Mr. Gaudio stated that they have submitted all of the required documentation per the Zoning Code.

In addition, Mr. Gaudio stated that they have submitted a request for a waiver from the moratorium and have met with the Town Board last week at the workshop. He expects that the Town Board will schedule a public hearing for next month and is hopeful that the Town Board will approve the waiver.

Mr. Gaudio stated that they have not submitted the visual renderings of the project. He explained that they will pick a date with the ZBA and the PB input for the balloon test, then go to prearranged locations to view the balloon, take photos, and create computer

generated renderings of the tower. He stated that they are eager to get this done before the leaves are on the trees. The tower is planned for 150' tall on a site that is 500' in altitude.

Mr. Gordon asked about the arrangements with the Boy Scouts. Mr. Gaudioso stated that they are leasing the land and declined to reveal the lease costs. However, he said that the revenue will help the Boy Scouts.

Mr. Vicente explained that Homeland Towers has a relationship with the Boy Scouts. Also, he mentioned that this site is planned for collocation for wireless carriers and is available for public safety in case they need enhancements in their communication signal. He stated that all of their projects are made available to local fire departments and police departments free of charge.

Mr. Gaudioso stated that they will be using the existing access road with very few improvements and removal of only 5 trees. He stated that the existing electric facilities go very close to the site, so that there will be very little impact. He stated that it is a tailor-made facility and, more importantly, it provides coverage for the Taconic Parkway and Route 44.

Mr. Gaudioso emphasized that they want to do the balloon test in early April before the leaves are on the trees.

Mr. Fracchia asked if there will be a light on the tower. Mr. Gaudioso stated that they are below the 200' height requirement for a light. Mr. Vincente stated that they run FAA checks on all their properties and sites and that they already have clearance for this site.

Ms. Bramson asked if they are confident that it will not be visible from the Taconic Parkway. Mr. Gaudioso responded that they are confident that it will not be a major impact for the Town. He stated that as part of their analysis under the Federal law they must specifically take into account the Taconic Parkway. He stated that they will be taking photos along the Taconic. He stated that it will be visible from a standing location on some portion of the Taconic. However, he explained that there is a ridgeline between the site and the Taconic. They are comfortable that there will not be a major adverse impact on the Taconic Parkway.

Mr. Gordon asked what the absolute height is that they need to make the tower useful. Mr. Gaudioso stated that Verizon will be at 150' and the rule of thumb is that all antennas are separated by 10'. Thus, antennas would be located at 150', 140', 130', 120', 110', and 100'. He stated that below 100' feet is in the tree line and is not effective. Therefore, 150' in height is the minimum and they would hope for the ability to extend the height in the future. He stated that the plan is for Verizon to be at 150' and the other heights on the pole to be available for other wireless carriers.

Mr. Gaudioso noted that the closest cell towers in the area are approximately 2.5 miles away. He stated that because of the topography, those towers do not provide coverage to

the Route 44 corridor, the Taconic, and the northeastern portion of the Town. He stated that one tower is on Pine Hill Road and a silo in the Town of Clinton that is very low – perhaps under 100’.

Mr. Fracchia asked about the design of the tower. Mr. Gaudioso explained the monopole tower, which provides low visibility and allows stacking of the antennas. Also, Mr. Vicente explained that the cables are internal in a monopole.

Mr. Labriola expressed the Board’s appreciation for a very complete application package. He stated that the Board likes the idea of collocation. He noted that they have provided information on how this tower will fill gaps in the Verizon coverage area. He stated that he would like to recommend to the ZBA that a review be conducted of the gaps in coverage for the other licensed carriers in the area – in order to determine whether this site on the Boy Scouts camp will help them fill in their gaps and in order to avoid having Sprint applying for a tower 1 ¼ mile east of this site because their gap radius is different from Verizon’s. He suggested that both the ZBA and the PB will need to understand whether this is the ideal site for collocation for the 6 carriers.

Mr. Gaudioso agreed that this is a good point and reported that the surrounding sites are also collocation sites. He stated that on the tower at Pine Hill road, Verizon is at 160’, however Verizon is only at 44’ in height at the next site in Clinton. He stated that they have sent letters to the other carriers. And he pointed out that the Town Code requires collocation. Therefore, before the Town would be required to approve another tower, the carrier would have to prove to the Town that they could not use the existing infrastructure. He stated that this goes back to their waiver application, part of which is the effect on the proposed comprehensive plan. He stated that the comprehensive plan does not propose to change the wireless law, which was adopted by the Town in 2001, and does not propose to change the zoning on this site. Therefore, they believe that this application meets the intent of the comprehensive plan.

Mr. Gordon asked about other carriers on the proposed monopole. Mr. Gaudioso confirmed that Verizon is signed up at this time and that Homeland Towers is dedicated to getting the other carriers to join this project.

Board discussed the inclusion of a performance bond as part of the conditional site plan approval to take care of maintenance or removal.

Mr. Gaudioso asked for a positive recommendation by this Board to the ZBA. Further, he asked that the Planning Board give a positive recommendation to the Town Board to grant the waiver from the moratorium.

Mr. Labriola listed locations to be included as view shed points for the balloon test:

- David Drive
- Taconic Parkway heading north, just north of Mountain Road
- Taconic Parkway heading south, at the high point on the north side of Salt Point Turnpike

- Taconic Parkway heading south, just north of where Route 44 joins the Taconic
- At the top of Avalon Estates, off of Freedom Road
- Top of Slate Plass Drive
- Top of Oxford Road
- Route 44 heading east, at the high point by the Niagara Mohawk substation

Mr. Labriola: **MOTION TO PASS THIS APPLICATION TO THE ZBA WITH A POSITIVE RECOMMENDATION AND ASK THAT THE ZBA CONSIDER THE FOLLOWING ITEMS IN THEIR REVIEW OF THE APPEAL:**

- **Take into account the location of other carriers' current cell tower locations and understand the gaps that the other carriers have in order to determine whether the Boy Scout's camp is absolutely the optimal spot for a tower that is supposed to handle collocation capabilities**
- **The Planning Board asks to be notified, and conferred with, to set a date for a balloon test**
- **Conduct the balloon test from the following locations:**
  - **David Drive**
  - **Taconic Parkway heading north, just north of Mountain Road**
  - **Taconic Parkway heading south, at the high point on the north side of Salt Point Turnpike**
  - **Taconic Parkway heading south, just north of where Route 44 joins the Taconic**
  - **At the top of Avalon Estates, off of Freedom Road**
  - **Top of Slate Plass Drive**
  - **Top of Oxford Road**
  - **Route 44 heading east, at the high point by the Niagara Mohawk substation**
- **Should the ZBA grant the Special Use Permit, the Planning Board expects that this application will come back to the Planning Board for a full site plan review**

**SECONDED BY L. STICKER**

**VOTE TAKEN AND APPROVED 5-0-0**

Board and applicants discussed the date for a balloon test. Mr. Gaudioso stated that they want to do it as soon as possible following the ZBA meeting on 3/26/09. He explained that their intention is to choose a Saturday. In the case of bad weather or high winds, it would automatically roll to Sunday and again in case of bad weather would roll to the following weekend. Therefore, everyone would know that the date is Sat, Sun, Sat, Sun – until it can be done.

Mr. Gaudioso stated that the plan is to float the balloon up to 150' on a tethered line as close to the exact spot as possible and then drive around and take photos.



**4. APPEAL #939 – BARN #2 FURNITURE – AMENDED SPECIAL USE PERMIT**

Ms. Mary Clark, Managing Director of The Barn, was present. She stated that they want to do furniture sales at this site as they do not have any more room at their current site for the furniture. She stated that they have found the current site plan and that it is a building that would meet their needs for quite a while. She stated that it's nearby and that the site plan was approved in 1990 for offices and has been offices ever since. She stated that it was an auto body shop at one time. She stated that they propose to sell used furniture from that site. She also expressed the hope that the existing site plan would suffice and she provided some photos of the site. She explained that they are staying at their current site and would like to add this new site for furniture sales exclusively.

Board members recalled that this site was last considered for development by Mongon, at which time there was extensive DEC review of the site. Mr. Labriola explained that it was a site plan that the Planning Board reviewed and approved but that the applicant never developed the site.

Mr. Gordon noted that there are serious environmental issues on the site. Mr. Labriola recalled that Mr. Mongon did some fairly extensive analysis of the site before the Planning Board gave the conditional final approval. He stated that Mr. Mongon was able to demonstrate to the Planning Board that all of those environmental issues had been addressed to the DEC's satisfaction, which is the basis upon which the Planning Board granted final approval. Ms. Clark stated that she checked that out with the DEC, that she spoke with the individual who was involved in the evaluation of the site, and that she has received a copy of the final letter on the DEC environmental evaluation. She stated that the DEC considers this case to be closed in 2005. She stated that their intention is to use the site, as is, with no changes to the site plan.

Mr. Labriola stated that, if the ZBA grants the Special Use Permit, the Planning Board would review:

- Lighting
- Traffic flow internal to the site – the size of the trucks delivering to the site and how that affects parking and paving of the open field parking area
- Rehabilitation to the site – painting the exterior, landscaping

Ms. Clark agreed that the site is very overgrown and that they will do whatever repairs are needed. She stated that there is lighting on the building. She emphasized that they do not propose to do any changes initially at all. She mentioned that there is a 3' door, which will limit what they can bring into the site. She stated that they would like to get into the site as soon as possible given their situation at their other location.

Board discussed the size of the trucks that would deliver to the site – pick up trucks, their box truck, but not tractor-trailers. Board needs to understand the traffic flow. Ms. Clark stated that they will not need loading areas and that it is easy access in and out and there is room all around the building. She pointed out a door in the back. Mr. Labriola cautioned her that it is not accessible because it is all grass in the back. Ms. Clark stated

that it is possible to drive on the grass. Mr. Labriola asked if they would plow that in the winter. Ms. Clark stated that she thinks they would. Mr. Labriola pointed out the areas that are not paved and that will become very muddy in the spring.

Mr. Labriola stated that ultimately the site plan review allows the board to make sure that the site can handle both the current and future requirements, which may necessitate paving for more space or putting in a loading area and striping for parking and providing plenty of room for truck access and egress and adequate safety for pedestrian walkways. He stated that these are issues that can be addressed during the site plan review.

Ms. Bramson pointed out that there is a lot of rehabilitation required on this site. She pointed out the walkway that looks like it is crumbling.

Mr. Gordon asked if they are purchasing or leasing the building. Ms. Clark stated that they are in the process of deciding that. Mr. Gordon asked about the letter from the DEC. Ms. Clark stated that it is a copy of the letter the previous applicant received in 2005. Mr. Gordon asked if the DEC will inspect the site before Ms. Clark moves in. Ms. Clark stated that the DEC said that they don't need to do another inspection, that the site is closed. Mr. Gordon advised Ms. Clark to get a current inspection. Mr. Labriola stated that it is up to Ms. Clark to decide the level of comfort she wants about the environmental issues before she moves forward. He recalled that when the Planning Board looked at this site in the recent past, the Board was satisfied that the environmental concerns were handled at that time. He stated that he does not know if anything has changed since that time and emphasized that it is up to Ms. Clark's level of comfort and risk.

Ms. Sticker suggested that Ms. Clark review the Planning Board minutes from the previous applicant's review to inform herself on the DEC's issues. Mr. Gordon stated that he would not be comfortable with a 4-year old determination from the DEC on the site because a lot of things change with regard to contaminants and ground water. Mr. Fracchia suggested that Ms. Clark do some of her own testing on the site.

Mr. Fracchia asked if Ms. Clark has spoken with the DOT. Ms. Clark responded no.

Ms. Clark asked if she can use the original survey to create a site plan. Mr. Labriola stated that there's no problem with using a stamped survey as the foundation for a site plan. He stated that she can add all of the site plan requirements as listed in the Code because she is not planning any new construction. Ms. Dickerson offered to review the Mongon file with Ms. Clark to locate a previous site plan and to print out minutes from the Planning Board's review of this project.

Board agreed that this is a site looking for a use. Mr. Gordon expressed his concern for Ms. Clark getting into an environmental problem, which is his rationale for suggesting a current inspection and ruling from the DEC.

Mr. Labriola read into the record a memo dated 3/4/09 from the Pleasant Valley Fire Advisory Board (ORIGINAL ON FILE): no position as this application is uniquely a matter for the ZBA.

Mr. Labriola: **MOTION TO PASS THIS APPLICATION TO THE ZBA WITH A POSITIVE RECOMMENDATION AS THE PLANNING BOARD THINKS IT IS A GOOD USE FOR THE BUILDING AND ASKS THAT THE ZBA FACTOR INTO THEIR REVIEW THE FOLLOWING:**

- **Lighting**
- **Truck access**
- **Traffic flow internal to the site – taking into account loading and unloading areas**
- **If the Special Use Permit is granted, that it is a mandatory requirement that this application come back to the Planning Board for a full site plan review and the Planning Board will look at all of the above issues plus other SEQRA and planning related topics**

**SECONDED BY R. FRACCHIA**

**VOTE TAKEN AND APPROVED 5-0-0**

Ms. Clark asked about next steps after the ZBA. Mr. Labriola advised her that it will be important that they do some level of rehabilitation on the site – landscaping, painting. The area that is shown as a parking lot will probably need to be paved or covered with item 4.

## **5. SIGN REGULATIONS - DISCUSSION**

Members of the Comp Plan Committee present:

- Heather LaVarnway
- Janis Gomez Anderson
- Ed Feldweg
- Rick Wilhelm

Mr. Labriola asked for comments from Board members on the proposed sign regulations and thanked the members of the Committee for a very thorough job. Ms. Anderson recalled that in 2005 she and Mr. Nelson worked with the Planning Board on revising the sign regulations. She explained that the Committee used the 2005 draft as the starting point for their deliberations.

Internally Illuminated Signs on the exterior of buildings: The Committee and Greenway wants to eliminate them. Channel lettered signs would also be prohibited. Issues include: visibility from the road, competition between businesses for visibility, how or whether to grandfather existing signs. Ms. LaVarnway provided some photos of signs in Pleasant Valley – some missing letters, some with dissonant colors. She pointed out that all the signs in Washington Hollow are the same – externally down lit illuminated signs. All are clear with no outcast or glow.

Mr. Labriola asked how to include in the Code a requirement that an application for a new sign must adhere to the new regulations. Grandfathering pertains to the existing sign – if there were any change in the type of the business or the name of the business then the new sign regulations would apply. Ms. LaVarnway displayed a photo of the La Puerta Azul sign as an alternative to internal illumination.

Mr. Feldweg suggested that rather than permitting repair of the internally illuminated signs the new regulations could require replacement with externally illuminated signs. Mr. Labriola described two options:

- Signs that have faded could be repaired
- Signs that are falling down and creating a health and safety problem, then it should be cited and removed and replaced with a sign that meets the new regulations

Discussion continued regarding methods for bringing the signs in Town into compliance with the new regulations. Mr. Fracchia asked about limiting the wattage and colors. Ms. Bramson noted that a lot of towns have a code that requires the signs to be uniform and smaller. Mr. Gordon reported on the meeting that the Committee held with business owners recently to discuss the proposed sign regulations.

Wall Signs: Mr. Labriola asked if there is a cap on the size for a wall sign. Committee responded yes.

Window Clutter: Mr. Labriola asked about the Committee's work on this topic. Ms. LaVarnway stated that initially the Committee discussed 10% window coverage; then some people advocated for 50%; and the ending point was 25%. Mr. Gordon stated that the Town of Poughkeepsie is 25%. Discussion regarding how a permanent window sign is included in the 25%. Neon will be prohibited; however, current neon signs will be grandfathered. Mr. Labriola pointed out that the Planning Board has no authority over window signs. Mr. Gordon stated that in a new site plan approval, nothing is grandfathered.

Temporary Signs: Mr. Labriola asked how the regulations regarding temporary signs will be policed. Committee explained that the Zoning Administrator has the authority to approve the temporary signs and the responsibility to enforce the regulations regarding them. Ms. LaVarnway stated that the only thing that would trigger Planning Board review is if the applicant wants fluttering devices on the signs. Mr. Labriola asked for clarification on what constitutes a fluttering device – is it a banner that advertises iced coffer, for instance, or a flag. Ms. LaVarnway attempted to explain what a fluttering device is – which is not a banner because it is anchored. Ms. Bramson mentioned that it flaps and does not flutter. Mr. Labriola suggested that the Planning Board be involved as little as possible in the determination of fluttering devices and that the Zoning Administrator be empowered to make those decisions. He suggested that temporary signs should not come before the Planning Board because that process would slow things down and add no value. Board members concurred with this suggestion.

Limiting the Number of Words on a Sign: Discussion of legibility, First Amendment Rights, and the authority of this Board to regulate quantity of words on a sign. The idea behind the word count is not to legislate content but to limit excessive content by doing a word count. Ms. Gomez Anderson stated that it gets dicey when it has to go to the ZBA for a variance. Mr. Labriola asked if, in the alternate, it could be handled as a determination based on when a sign becomes a distraction rather than legislating the number of words. He recalled that there is language in the ordinance that references the intent to make sure that signs are not a distraction or create a hazard.

A suggestion was made to require a minimum letter size in proportion to the size of the sign. Ms. Sticker pointed out that if the Town wants to create a walking hamlet center, a more descriptive sign is helpful. Discussion about the difficulty of determining what constitutes clutter.

The Purple House did not apply for, or receive, a permit to change the content on its sign.

Board agreed to establish a 7-word limit on signs.

Non-Profit Sign Content: Discussion of sign content, required by a diocese, that counted as square footage on their sign and, therefore, exceeded the regulations. Mr. Labriola recalled that in the past such issues were resolved by designating them as directory signs or a traffic control sign and were, therefore, not included in the wall sign square footage. He pointed out that there have been instances where non-profits have requirements regarding their sign content that are dictated from the corporate level. He suggested that such requirements have not been factored into the sign regulations.

Signage on Trucks: Mr. Gordon asked if there are any regulations that restrict the size of signage on trucks. The concern is when the truck is parked on the property as advertising. This will be addressed under portable signs. Trucks must be licensed and registered and used for business purposes. Mr. Labriola asked how it is determined that it is not used for business. Ms. Gomez Anderson stated that that is a zone enforcement issue to be enforced by the Zoning Administrator. Mr. Gordon stated that Valley Hardware can put any number of words with letters of any size on their truck and there are no regulations that restrict this. Ms. LaVarnway explained where that will be addressed in the regulations.

Directory Signs: Mr. Labriola asked the maximum size of directory signs regardless of the number of tenants. Ms. LaVarnway explained the Committee's discussions about this and pointed out the section of the proposed regulations that addresses this. Mr. Labriola suggested a protocol that would grant a larger directory sign in exchange for smaller wall signs.

Mr. Gordon reported on the feedback from the business owners who attended the meeting with the Committee regarding signage. He stated that one person was very concerned about sandwich board signs. Further, he reported that there were concerns about having

to apply for a permit every two weeks for a temporary sign. He stated that there did not seem to be any concern about restriction on internally lit signs.

Board members and Mr. Labriola expressed their appreciation to the Committee for a very well done revision of the sign regulations. Mr. Labriola stated that the revisions go a long way to dealing with long-standing problems with the sign law.

Ms. LaVarnway explained that she will do one final set of changes and have another Committee discussion; and then they will resubmit the edited version to the Town Board.

Mr. Labriola asked for some way to operationalize this new law in order to clarify changes to the sign application process – some guidelines or direction or notification that there has been significant change in the Town law. Mr. Gordon suggested that a packet be sent to the sign companies. Mr. Labriola stated that there needs to be something at the point of application – implementation procedures in place before the law is enacted. Ms. Dickerson asked how the change in the law would alter the procedures. Mr. Labriola agreed that the procedures will not change but emphasized that people need to be informed that the law has changed and the impact the changes will have. An abbreviated version of the new law needs to be created that summarizes the most salient points of the changed law.

Mr. Fracchia asked about audio signs – like the TVs at the Mobil Stations. He stated that these signs are unsafe.

Mr. Labriola will communicate to the Town Board the Planning Board's approval of the revisions to the sign law.

#### **6. CHAPTERS 53, 82, 98, 46**

Board discussed the revisions to the above-listed Chapters to Town law. With regard to Chapters 53, 82, 46, and 98, the Planning Board has no comments with regard to the escrow process described therein.

However, with regard to Chapter 46 (Driveways and Highway Work Permits), Mr. Labriola stated that based on a conversation with the Highway Superintendent, many times when the Planning Board approves a subdivision, there is a common drive or multiple driveway cuts. During the construction process, the heavy equipment that is brought in to build the driveway is often parked on the Town road and ends up damaging the Town road. Mr. Labriola suggested that as part of this law there be a requirement that the applicant post a performance bond, in the amount set by the Town's engineer, to cover any damage to Town roads or drainage systems during the construction of the driveway(s). Board members concurred with this suggestion. A memo documenting this suggestion will be sent to the Town Board by the Planning Secretary.

#### **8. MINUTES**

Mr. Labriola: **MOTION TO APPROVE THE FEBRUARY 2009 MINUTES, AS CORRECTED; SECONDED L. STICKER 5-0-0**

Meeting adjourned at 8:55 p.m.

Minutes submitted by:

Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the March 10, 2009, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_ Approved as read

\_\_\_\_ Approved as corrected with deletions/additions



## **PLEASANT VALLEY PLANNING BOARD**

**April 14, 2009**

A regular meeting of the Pleasant Valley Planning Board took place on April 14, 2009, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:30 p.m.

Members present: Joe Labriola, Chairman  
Rob Fracchia  
Michael Gordon  
Kay Bramson  
Henry Fischer  
Rebecca Seaman  
Peter Karis

Also present: Janis Gomez Anderson, Esq., Planning Board Attorney  
Lynn Sticker, Alternate  
Pete Setaro, Planning Board Engineer

**1. BARN #2 FURNITURE – SITE PLAN**  
**Grid #6564-01-353648**  
**2316 Route 44**

Peter and his mother, Mary Clark, were present. Mr. Clark reported that The Barn wants to use the new site at 2316 Route 44 for furniture storage, display, repair and sale. He stated that they are not proposing to do any new construction. However, they are planning on cleaning up the site, the landscaping, putting new Item 4 where there is no gravel or black top. He stated that they plan to use the building just as it is. They plan to paint the building and rehabilitate the hedges and trees. That is the extent of the work that they are proposing to get the site so that it is usable.

Mr. Gordon asked if they are purchasing or leasing the building. Mr. Clark stated that the decision has not yet been made. Mr. Setaro recalled that a previous applicant – two years ago – made application to use the building and for certain reason, eventually, withdrew the application.

Mr. Setaro reviewed the Morris Associates comment letter. He advised Mr. Clark to meet with Mike Takacs regarding many of the comments.

Department of Health: Mr. Setaro asked if they plan to use the well and the septic and whether they have met with the Department of Health yet. Mr. Clark stated that they will most likely use the well and the septic and that they have not yet met with the DOH. He stated that they don't know what is going on on the site yet – that they have not done any digging as yet. He stated that Mrs. Clark has met with the DOT, but not the DOH yet.

DEC: Mr. Clark stated that the DEC has closed the file on this property. Mr. Labriola mentioned that the point is that the applicant be comfortable and understand the situation on that site.

DOT: Mr. Clark stated that the next set of drawings will require a curb cut with curbing, as required by the DOT. He stated that the DOT has been to the site.

Parking Lot: Mr. Setaro stated that Mr. Takacs visited the site and that the parking lot is in rough shape, including the areas that were paved. He asked if they have considered removing the blacktop and making it all Item 4. Mr. Clark mentioned the rationale of keeping some of the blacktop to facilitate handicapped access on the site. Mr. Takacs also noted that there is a portion of the parking area that has settled – which needs to be repaired.

Drainage: Mr. Setaro mentioned issues with drainage pipes on the site. He stated that under the previous application he and the highway superintendent did a site visit with a DOT representative to review the drainage as it comes across Route 44. He stated that at that time they wanted to do some drainage improvements because there are some problems at the intersection of Masten Road and Route 44. He stated that they tried to trace some of the pipes in the back of the property, but that they could not find them. Mr. Clark asked if that would be the owner's responsibility or the DOT's. Mr. Setaro stated that they did not have any records and that he would expect there to be an easement and noted that it is the DOT's pipe. Mr. Setaro stated that that is not something that would be critical for this application because they would not be contributing any new water to it. Again, he advised Mr. Clark to meet with Mr. Takacs.

Survey: Mr. Clark stated that the plan that he submitted has an old survey on it and that the next plan will have a stamped and licensed current survey.

Well Testing: Mr. Gordon emphasized the need for the applicants to test the well. Mr. Clark stated that they plan to do that. Mr. Setaro suggested that Mr. Clark contact the previous applicant for the results of the water testing done at that time. Mr. Clark stated that he's reviewed all the documents from the previous application and that the neighbors' wells were found to be fine.

Hours of Operation: Mr. Karis asked about hours of operation. Mr. Clark reported that they will operate from 10 a.m. to 5 p.m. Monday through Saturday with no night time operation.

Refuse Storage: Mr. Karis stated that they will need to show a location for refuse storage and an enclosure.

Unloading Area: Mr. Karis asked about the 55' truck unloading area and what kind of trucks they anticipate coming into the site. Mr. Clark stated that they put that on the drawing based on what was required by Code – the minimum size. Further, he stated that

they do not anticipate tractor trailers and that the biggest truck will be the box truck that they already own.

Traffic Circulation: Board members and Mr. Clark discussed options for traffic circulation on the site. Mr. Karis pointed out that the site is adjacent to the intersection of Masten Road and Route 44 – the existing curb cut is 50' from that intersection. He stated that he thinks the main entrance should be off of Masten road. Further, he suggested that access off of Route 44 be Right in/Right out only. He stated that although sight distance is not a problem, attempting to turn into and out of the site on Route 44 will be challenging. Mr. Labriola suggested that the Route 44 entrance be ingress only, and Masten curb cut could be ingress and egress. Mr. Karis suggested that Right in/Right out would be a free movement without the need to cross the eastbound traffic. He stated that it could be just an entrance, but it could also allow another outlet from the site. He suggested that all of this needs to be discussed with the DOT, and that the apron will need to be improved as it is very deteriorated as is the pavement on the rest of the site.

Pavement on the site: Mr. Karis stated his opinion that the site should either be paved or gravel – but not a mix – and agreed that they save the asphalt for the handicapped parking space.

Concrete walkway in front: Mr. Karis suggested that a planter be put in front of the two entrance doors to create a barrier that will prevent people from walking out directly into the traffic circulation and prevent people from parking directly in front of those doors. Ms. Bramson raised the question of adequate space for delivery of furniture. Mr. Clark stated that they could make the concrete a little wider to address that problem.

Landscaping: Mr. Karis suggested flowering trees on the site.

Ingress/Egress: Mr. Clark stated that they agree with exit onto Masten Road. However, he stated that they want to maintain an entrance from Route 44, as long as the DOT concurs. Ms. Seaman agreed with Mr. Labriola's suggestion of having one way in and one way out due to the speeds that people travel on Route 44. Mr. Karis stated that if it will be an entrance only, they it must be open to both right and left turns. Ms. Seaman noted that the DOT will weigh in on this. Issue with the proximity to the intersection remains a problem. Dr. Fischer asked what options there are to prevent people from turning into the site if that were prohibited. Mr. Karis stated that a center, raised median can be created. Mr. Labriola noted that this is what was done on the Senft project. Mr. Clark asked for guidance about how to proceed. Mr. Labriola stated that the Planning Board will ultimately defer to the DOT's judgment, but that the Board wants to make sure that the DOT is looking at an alternate design for the site. He pointed out the potential for gridlock in the parking lot. Mr. Karis stated that as a minimum there must be access onto Masten as another outlet and inlet.

Highway Department: Mr. Setaro advised Mr. Clark to meet with the Town Highway Superintendent, Greg Bolner, and the DOT for discussions regarding access off of

Masten Road. He pointed out that whatever is discussed with NYS DOT must also be acceptable to the Town's Highway Superintendent.

Unloading/Loading in rear of building: Mrs. Clark stated that there is a small door in the rear of the building. Mr. Setaro suggested that it would be preferable to have the trucks deliver and pick up from the back of the building. Mr. Karis agreed with this suggestion and pointed out the advantage of separating the truck access from the pedestrian access. Mr. Labriola suggested an alternate design – unloading to the left side of the building and parking for cars on the other side.

Snow Removal: Mr. Karis asked about snow removal and parking spaces. Mr. Clark pointed out one area they may open out for snow removal and storage.

Mr. Karis noted that color samples will be required and asked about lighting away from the building that might be necessary. Mr. Clark pointed out that one of the conditions of the Special Use Permit is the hours of operation: 10 a.m. – 5 p.m. Monday through Saturday.

Mr. Fracchia asked about the applicant's intentions with regard to the adjoining lots. Mr. Clark stated that one of the adjoining lots may be part of the sale, if there is a sale. And he noted that nothing is planned on that adjoining site at this time.

**2. APPEAL #940 – DEYO/BALKIND – SPECIAL USE PERMIT**  
**Grid #6464-03-003323**  
**16 Swain Drive, Pleasant Valley, NY 12569**

Bob Balkind and Tami Deyo were present. Mr. Balkind stated that they are the owners of the property at 16 Swain Drive, which they purchased 3 years ago. They own 4 acres. He stated that the previous owner built the barn and owned horses on the property. They are applying to the ZBA for a Special Use Permit to be allowed to have farm animals. They are in the R-1 district. He explained the variety of animals (chickens, goats, guinea fowl, and horses).

Mr. Balkind passed around photos of the barn and the garage, which is one building. He stated that he wants to use the barn for the animals, but that the chickens and the guinea fowl would be free to roam the property. He stated that there are a lot of divided paddock areas on the property with fencing. He stated that the guinea fowl would keep ticks and bugs to a minimum. The chickens would be a source of meat and eggs.

Mr. Balkind stated that there are two parts to the appeal – one is the Special Use Permit. He pointed out that the barn does not conform to the Code requirement of 100' from the property line. Mr. Labriola explained that the ZBA will make the decision on the appeal and looks to the Planning Board for a referral.

Mr. Labriola asked about the distance to the adjacent property owner. Mr. Balkind estimated that the adjacent property owner is about 50' from the property line and

mentioned that they are friendly with that neighbor. Mr. Gordon pointed out that guinea hens are easy prey for wild animals as well as the neighborhood dogs. Mr. Balkind stated that they are not farmers so that this is a new endeavor for them. He stated that they would start with a few chickens and see if they could manage that and then move on from there.

With regard to the horses, Ms. Seaman asked about their manure management plan. Mr. Balkind stated that they have not worked that out yet. Ms. Seaman stated that they do not have enough pasture for three horses. She stated that in the new Code the Town is considering requiring 5 acres for the first horse and one acre for any additional horses. She stated that if they were to have 3 horses on their property that they would have mud very quickly.

Ms. Seaman also pointed out that the goats would be easy to keep; the guinea fowl may end up in their neighbors' trees and they are annoying and noisy. She suggested that if they want guinea fowl, they should be penned. She stated that the chickens would be ok. For the horses, they would have to figure out how to provide enough land and how to manage their manure. Mr. Balkind stated that they are willing to amend their application.

Ms. Seaman stated that with the barn so close to the neighbor they will have to discover where their well is and will have to determine how they will treat the barn – will they put mats down to clean the stables. She mentioned that when horses stay in all night, all of that goes right into the ground water. Mr. Balkind stated that the barn has a concrete floor with the rubber mats. Ms. Seaman stated that she can support the application for chickens and goats, but that the guinea fowl would need to be penned. She stated that for horses, their approval would have to be conditioned upon their plan for the manure, because they do not have enough space on their property to spread the manure and it will go right onto their neighbors yards as runoff. Mr. Balkind stated that they can remove the horses from the application at this time.

Mr. Karis agreed with the comments regarding the need for a manure management plan.

Mr. Labriola asked about the potential for noise from these animals. Mr. Gordon stated that guinea fowl are very noisy. Ms. Seaman stated that chickens and goats are pretty quiet – most people don't have roosters. Mr. Balkind stated that they don't want a rooster. Mr. Labriola noted the concern for the impact on the neighbors from odor and noise. Ms. Seaman stated that guinea fowl are great watch fowl, that they will screech at anything that moves at night. Mr. Balkind stated that they have 4 acres and they plan to have a chicken hutch that would be moved around the property during the warm months.

Mr. Gordon asked if Mr. Balkind had talked with the neighbors about this plan. Mr. Balkind stated that the neighbors are OK with the plan. He stated that he will ask his neighbor to submit a letter stating that she has no objection. Mr. Labriola pointed out that, if granted, the Special Use Permit lives on with the land, so future neighbors will be similarly impacted.

Ms. Dickerson pointed out that the applicant has not applied for an Area Variance for the barn, which does not meet the 100' setback from the property line. She emphasized that Mr. Balkind has applied for a Special Use Permit, which does not address the issue of the barn being too close to the property line. She stated that these are two separate things – two separate appeals – that the ZBA will pick up on. She recalled the conversation in the office about the fact that the barn pre-dates zoning. Mr. Balkind noted that the barn has not been used for farm animals for the three years that they have owned the property and, therefore, any right of use extinguishes within a year of not being enacted. Ms. Dickerson pointed out for clarity purposes that the only application that is going to the ZBA is the Special Use Permit for permission to have the animals, which does not address the barn and its proximity to the property line. Mr. Balkind stated that the ZBA can make the determination whether he needs to make a separate application for the barn or whether it is part of the Special Use Permit. Ms. Dickerson responded that he cannot apply for an Area Variance within a Special Use Permit. Mr. Labriola concurred that there are two things that need to go before the ZBA – a Special Use Permit and an Area Variance – which are two separate applications with separate application fees.

Dr. Fischer asked about the other neighbors and how close they are. He stated that his concern is for what the neighbors want and that he would like to see a letter from all of the neighbors involved regarding their opinions on this application. Mr. Labriola underscored the fact that the ZBA will rule on the appeal and any additional supporting documentation that the applicant can provide may be beneficial to their appeal.

Mr. Balkind asked that the Boards balance his neighbors' opinions with his desire to have this appeal granted. Mr. Labriola pointed out neighbors' input is additional data points for the ZBA's consideration. Mr. Balkind stated that they contacted all of their neighbors in a very positive way and acknowledged that they have the right to appear and voice their opinions.

Dr. Fischer advised the applicant that "the larger the animal, the larger the problems and the larger the headaches on a recurring basis."

Mr. Labriola: **MOTION TO PASS THIS APPLICATION ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION WITH THE REQUEST THAT THE ZBA FACTOR INTO THEIR DECISION THE FOLLOWING CONSIDERATIONS:**

- **If horses are going to be allowed per the Special Use Permit, that the ZBA consider the number of horses based on the size of the property**
- **That there be a documented manure management plan in place – a disposal plan so that adjacent property owners' wells are not put at risk and to help manage some of the odor concerns**
- **To make sure that the guinea fowl are contained or penned**
- **ZBA should get input from adjacent property owners with regard to this Special Use Permit**
- **An Area Variance is required because of the proximity of the barn to the property line and that this will have to be a separate application**



**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 7-0-0**

Ms. Dickerson asked if the applicants will need to return for a site plan. Mr. Labriola stated that a site plan will not be required.

**3. APPEAL #941 – SEMINARA - INTERPRETATION  
Grid #6364-01-835544 & 851552 & 854572 & 839588  
1279 Salt Point Turnpike, Pleasant Valley, NY 12569**

Application for an Interpretation by the ZBA: question of whether the 4 parcels listed above are build-able parcels.

Mr. Peter Devers, realtor, was present to represent the owners, Mr. & Mrs. Seminara. Mr. Devers explained that the Seminara's have owned the property in Pleasant Valley since 1986 and that they want to list it for sale. He stated that they have 5 separate tax parcels in the town and want to sell them individually. As part of his research, Mr. Devers obtained the deed which indicates that the owners only purchased one parcel. He stated that the deed description is the perimeter of all 5 parcels. However, the owners state that they have been taxed as 5 separate parcels for years. Mr. Devers stated that in his attempts to resolve this he spoke with Jack Neubauer, the Town's Zoning Administrator, who determined that it needed to go before the ZBA for an interpretation.

Mr. Devers stated that the owners maintain that they have 5 separate parcels and want to sell them individually. Mr. Labriola stated that 3 of those parcels do not have road frontage. Mr. Devers agreed with that statement.

Mr. Labriola asked if the 5 tax parcels were created as part of an approved subdivision. Mr. Devers stated that that is part of the problem – that nobody knows. He stated that he and the owners assume that it was because otherwise the Town would not have given them parcel numbers. Mr. Labriola stated that that a tax parcel does not equate to a build-able lot – that it is possible to have multiple tax parcels that equate to one lot. Mr. Devers stated that these parcels were created individually at separate times. He stated that in talking with the real property offices in Poughkeepsie, they said that it is unlikely that the Town would have allowed the separate parcels like this if they were not intended to be sold as individual parcels. He stated that, for 4 of the 5 parcels, the Town has assessed them since 1979 as build-able lots per the assessed value. He stated that the interpreted market value show that they are build-able lots. He stated that the 2 acre lot is assessed at half of what the other ones are.

Ms. Gomez Anderson asked if a subdivision map search was done. Mr. Devers stated that he went to the County to research any filed maps and none were found. Also, none were found at the Town and the owners don't have any either. He stated that the only map that they have is the one done by Henry Comisar, which only shows the perimeter of



the 5 parcels. However, he pointed out that separate deeds do exist, copies of which he submitted with the application.

Mr. Gordon pointed out that the Stoutenberg transmittal was a family deal. Mr. Devers agreed that 4 of the parcels were from the Stoutenberg family and the 2 acre lot came from someone else.

Ms. Seaman asked if the owners, when they bought the parcels in 1986, did so under a single deed. Mr. Devers responded yes and the single deed conveyed all of the parcels to the Seminara's as one entity. Ms. Seaman pointed out that the owner is under a duty to deal with one's own property. She pointed out that these are not build-able parcels and that there is no road frontage. She pointed out the safety considerations of attempting to create a private drive for the parcels. Mr. Devers disagreed that there are any safety issues and pointed out the existing driveway that the Seminara's have been using for 23 years and that passes by three of the parcels. Mr. Karis asked if there are cross easements over the other parcels. Mr. Devers responded no. Mr. Labriola stated that if it were to be built out as five separate building lots, then cross easements would be required.

Mr. Labriola stated that a tax parcel does not equal a build-able lot by default. Mr. Devers asked whether that still applies since they have been taxed as separate since 1979. Mr. Labriola responded that the Planning Board does not handle assessments and is not able to comment upon – rather it is a discussion that he needs to have with the Town Board. Mr. Labriola stated that, if the Town had approved this property as a subdivision without road frontage, the Town and the Boards would need to honor that action. However, he stated that Mr. Devers needs to have a discussion with the Town Board regarding any claim that these properties may have been assessed improperly for years.

Mr. Labriola asked if the owners have considered purchasing property from adjacent property owners to get the necessary road frontage. Mr. Devers stated that they have not thought that such an alternative was necessary. Mr. Karis asked if a title search has been done and whether that would reveal the chain of ownership and subdivision. Again, Mr. Devers stated that the county could find no record of filed maps.

Ms. Seaman pointed out additional problems:

- Individual wells and septic systems on the parcels are close
- Under SEQRA process the soils would be reviewed for capacity
- Review of wetlands in the area would impact location of wells and septic systems as well as overall potential to build on the lot

Further, she pointed out that it is not known whether these lands were conveyed as a single entity because they had become unbuild-able lots. She stated that without road frontage under the Code, they had become unbuild-able lots and, therefore, were conveyed as a single parcel with a perimeter; it was the failure of the purchasers to do lot line adjustments because they bought it as a single entity. Mr. Devers stated that he's never seen a homeowner actually read their deed. Mr. Labriola responded that that is an interesting argument but is not a rationale. Mr. Devers stated that the Seminara's were aware that they were buying 5 separate lots at the time of the purchase.

Dr. Fischer asked who did the survey at the time of the sale – the seller or the buyer. Mr. Devers stated that the Stoutenberg's did the survey and was the seller.

Mr. Gordon asked for clarification on what the Planning Board is being asked to do. Mr. Labriola explained that the Planning Board is supposed to provide a recommendation to the ZBA on whether this should be interpreted as 5 separate build-able lots with 3 of them having no road frontage.

Mr. Devers stated that a lot depends on what the Pleasant Valley Code was at the time when this sale occurred. He pointed out that the other towns have permitted the sale of properties that are landlocked wood lots that date back to 1850's and yet they are legally build-able parcels because right-of-ways could be given to them to access the public road. He stated that this was his rationale on the Seminara's property because they have been taxed as separate for so long and must have been considered when these lots were created that a right-of-way up the existing driveway was adequate legal access to satisfy whatever the conditions were at the time.

Mr. Labriola stated that the issue at hand is whether these are separate building lots or separate tax parcels. He stated that Board members agreed that they believe them to be separate tax parcels. In the absence of a Town approved subdivision map that says these are approved build-able lots, this Board still questions their status.

Ms. Gomez Anderson advised Mr. Devers to research the earlier deeds in an effort to find the subdivision documentation. Mr. Labriola pointed out that there is an absence of details, causing confusion to the Planning Board, which will also cause confusion to the ZBA, which is the Board that ultimately will make the decision. He reiterated that the Planning Board's role is to provide a recommendation based on planning principles and not comment on assessed values, etc.

Mr. Labriola: **MOTION TO PASS THIS APPLICATION ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION AND ASK THAT THE ZBA FACTOR INTO ITS DECISION THE FOLLOWING CONSIDERATIONS:**

- **These appear to be 5 separate tax parcels and not 5 separate building lots that were created as a result of a Town approved subdivision**
- **In the absence of any other facts that refute that, the Planning Board believes that this should not be interpreted as 5 separate building lots**
- **The Planning Board asks that the ZBA look at any additional documentation that the applicant provides.**
- **Based on the facts provided to the Planning Board, this Board does not agree with the applicant's proposed interpretation of these 5 parcels as build-able lots.**

**Discussion:** Mr. Fracchia recommended that Mr. Devers go through all the deeds and get the chain of title on these parcels. He stated that there may be easements over the other parcels. He stated that based on the documents provided, there is not much information

to go on. He stated that Mr. Devers needs the whole history – that some of these go back to the mid-50's.

**SECONDED BY H. FISCHER**

**VOTE TAKEN AND APPROVED 6-0-1**

Mr. Labriola advised Mr. Devers to get whatever additional information he can find before the ZBA meeting.

**4. DUTCHESS QUARRY – TOWN OF PLEASANT VALLEY – LAND SWAP**

Mr. Labriola stated that this agenda item is to inform the Board members that the Town Board has assumed lead agency status with regards to Quarry Lot Line Realignment and, then, the piece of property that will be swapped. He noted that the Town Board did accept lead agency at its March 2009 meeting. Additionally, he reported that the Town Board issued a SEQRA negative declaration at that time. The Quarry Lot Line Realignment application will return to the Planning Board in the future whenever they are ready.

**5. OUT ON A LIMB - DISCUSSION OF MORATORIUM WAIVER REQUEST**

**Grid #6463-01-269816**

**1777 Route 44**

Mr. Labriola explained that Out On A Limb had a Special Use Permit that expired and in order for them to move forward they need to get a waiver from the Town's development moratorium. Thus, the Town Board is asking the Planning Board to make a recommendation on this application for a waiver.

Mr. Labriola explained that there are a number of criteria that the Planning Board needs to look at to render an opinion. The application must meet all of the four hardship criteria as follows:

1. Financial hardship
2. Hardship is unique to the property
3. Waiver will not alter the character of the neighborhood
4. Hardship is not self-created

Further, Mr. Labriola explained two additional criteria based on the moratorium law:

5. Waiver will not have an adverse effect on the Town's goals in the proposed comp plan
6. Proposed activity is consistent with the proposed comp plan

These are the six criteria that the Planning Board needs to consider in its recommendation to the Town Board.

Mr. Matthew Swanson was present and is the owner, operator of Out On A Limb tree service. He stated that he bought the property almost 2 years ago. He submitted a photo

of a building that he intends to build on the property. He reported that when they bought the property they were concerned with the contamination of the soils compared to what had been there in the past. Since then, he has done Phase 1 and Phase 2 and came up pretty clean. He stated that there is one spot that they are not sure of, so they had it retested and it came up clean.

Mr. Swanson explained all the confusion he encountered dealing with the change of staffing in the Town's Zoning and Planning Office. He explained that he started working with Ms. Salvato before she left the position and then dealt with subsequent employees. He stated that he is not a builder and that he is trying to do this himself and to save some money. He stated that he was given the wrong information by the Zoning and Planning Office – that he was told that he needed a building permit when he thought he needed to go to the Planning Board first. Most recently, he explained that he spoke with Ms. Dickerson in the Zoning Office and learned that his Special Use Permit had expired and that he would have to start the process all over again.

Mr. Swanson explained his hardship situation – he is paying a mortgage for the land and is also paying rent across the street. He stated that he wants a nice, professional looking building. He stated that he has already improved the land and improved the site.

Mr. Labriola recalled that when Mr. Swanson first appeared before the Planning Board for his Special Use Permit in 2007, the Planning Board at that time gave a positive recommendation. Mr. Labriola stated that the Planning Board had expected that Mr. Swanson would return for the site plan review process but that never happened. Mr. Swanson explained that there were several things that prevented him from returning. He stated that it took time to complete the retest of the contamination and then to close on the property. He stated that he's been working with Mark Dey, engineer, who is almost done with everything he needs. He stated that he came back to the office in October to find out what he needed to do next, that he met with Roger Lee, Building Inspector, with questions about the building structure. He stated that he spoke with Mr. Lee three times, but that the guidance he was given by the Zoning Office was hit and miss.

Mr. Labriola acknowledged what has transpired and noted that at this time nothing has been submitted yet for a site plan. He mentioned to Mr. Swanson that it is always good to come to the Planning Board early in the process before he spends a lot of engineering money, that revisions tend to be really costly.

Mr. Karis asked what Mr. Swanson means when he says that Mark Dey is almost done. Mr. Swanson explained that Mr. Dey is designing a plan for the Board to go over septic and setbacks – a site plan. He stated that the design of the building has changed a little. He explained that he wants to get going on this project, that he has talked with the bank and that they are on board with this project. He stated that as long as he can do it, he wants to move forward with it.

Mr. Labriola stated that it is a good use for the site, but noted that that opinion is not part of the criteria the Planning Board will use in its response to the Town Board.

Mr. Labriola enumerated the Planning Board's recommendations with regard to the criteria regarding the waiver request:

1. Financial hardship: Planning Board is unable to comment because no financial evidence has been presented. Further, Mr. Labriola stated that that burden should be at the Town Board level and that the Planning Board should not have to require applicants to submit financials.
2. Hardship is unique to the property: The moratorium is Town-wide and there is nothing unique to this property.
3. Waiver will not alter the character of the neighborhood: Unlikely to impact the character of the neighborhood as there is an auto body shop next door. Board members agreed that it is an improvement.
4. Hardship is not self-created: Mr. Labriola suggested that this is self-created.
5. Waiver will not have an adverse effect on the Town's goals in the proposed comp plan: Mr. Labriola suggested and Board members agreed that it will be consistent with the proposed comp plan.
6. Proposed activity is consistent with the proposed comp plan: Mr. Labriola suggested and Board members agreed that it will be consistent with the proposed comp plan.

Mr. Labriola: **MOTION TO PASS THIS WAIVER REQUEST TO THE TOWN BOARD WITH THE FOLLOWING CAVEATS:**

- **Financial Hardship**: The Planning Board was not presented with sufficient documentation to make a determination.
- **Hardship Unique to the property**: The Planning Board believes that this is not unique as the moratorium applies to the entire Town of Pleasant Valley
- **Waiver will not alter the character of the neighborhood**: The Planning Board believes that it will improve the character of the neighborhood
- **Hardship is not self-created**: The Planning Board believes that it was self-created because the applicant allowed a Special Use Permit to lapse and no site plan application was ever submitted to the Planning Board for consideration.
- **Impact of waiver on proposed goals/consistent with proposed comp plan**: The Planning Board believes that this will be consistent with the proposed comp plan.

**Discussion**: Mr. Fracchia commented, in regard to the question of whether the hardship was self-created, that the applicant has been working on this property. Mr. Swanson reported that he asked questions of the Zoning and Planning Office repeatedly about

whether he could take down a fence, or bring in fill. He stated that he has come to the office every time before he did something – that he put up a silt fence and separated out the materials removed from the site. He stated that many times when he came to the office, the guidance was inaccurate. Mr. Labriola stated that the process was actually fairly simple – a Special Use Permit followed by Site Plan. Mr. Swanson claimed that the office told him he only needed a building permit. Mr. Labriola reviewed the file copy of the Special Use Permit which clearly states that as a condition of approval the applicant must apply for a site plan. Further, he explained that his Special Use Permit lapsed because he did not take action within a year, which was part of the approval. Also, it is not the Town's responsibility to advise an applicant that their permit is about to expire. Mr. Swanson stated that he attended the meetings regarding the moratorium to ask how the moratorium would affect his project and was told that it would not affect him because he had already started.

Mr. Gordon asked when Mr. Swanson started working with Dey Engineering. Mr. Swanson stated that Mr. Dey has been on board with him in October of last year.

Mr. Labriola stated that Mr. Swanson had an opportunity to get something done, and it didn't get done, which is unfortunate. Mr. Fracchia stated that the applicant is still working on the site to get this to a point where he could store his vehicles. His point is that Mr. Swanson has been working on the site trying to get it ready so that he could do the engineering. Mr. Swanson stated that because of the incompetence in the office, he is now in this situation.

Ms. Seaman stated that Mr. Swanson may have an argument with regard to whether this is a self-created hardship, which is something he will have to present to the Town Board. Further, she stated that he will have to provide the Town Board with documentation of a financial hardship. She stated that the moratorium was not meant to pick up someone like Mr. Swanson. Mr. Swanson agreed that he got caught up in it. Mr. Labriola explained that if Mr. Swanson had initiated a site plan approval process in a timely fashion it would have demonstrated that he was actively pursuing the Special Use Permit. Mr. Labriola advised Mr. Swanson to explain his case to the Town Board.

Ms. Dickerson asked whether Mr. Swanson also will need a waiver from the moratorium for his site plan due to the fact that he is constructing a new building. Ms. Gomez Anderson read from Mr. Volkman's letter dated 4/8/09 regarding the moratorium which states "a waiver request for an application that ultimately requires approval from both Boards must seek authorization to proceed to both Boards." This means that Mr. Swanson must apply for a waiver for the Special Use Permit and a separate waiver for the Site Plan. Board members pointed out that the moratorium expires in November. Further, during the term of the moratorium the Planning Board is not permitted to act on an application from Mr. Swanson for either a Special Use Permit or a Site Plan without a waiver granted for each by the Town Board. Mr. Swanson and Board members discussed the sequence of events that would need to take place:

- Application to Town Board for a waiver for the Special Use Permit
- Application to the Town Board for a waiver for the Site Plan



- If waivers are granted, application to the ZBA for a Special Use Permit
- If Special Use Permit is granted, application to the Planning Board for a Site Plan

Mr. Labriola: **AMEND THE MOTION: ALL OF THE CONSIDERATIONS LISTED-ABOVE WITH REGARD TO THE WAIVER FOR THE SPECIAL USE PERMIT ALSO APPLY TO THE PENDING WAIVER REQUEST FOR A SITE PLAN.**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 7-0-0**

**5. APPEAL #935 – HOMELAND TOWERS, LLC – DISCUSSION OF MORATORIUM WAIVER REQUEST**  
**Grid #6565-03-131274**  
**22 Camp Nooteeming Road, Pleasant Valley, NY 12569**

Mr. Labriola stated that Homeland Towers has filed a request for a waiver from the moratorium for a Special Use Permit and the Town Board has asked the Planning Board to comment on this request. He also noted that this applicant has already been before the Planning Board and that this Board provided input on the viewpoints to be used for the balloon test.

Mr. Labriola reviewed the four hardship criteria:

1. Financial hardship
2. Hardship is unique to the property
3. Waiver will not alter the character of the neighborhood
4. Hardship is not self-created

Further, Mr. Labriola reviewed the two additional criteria based on the moratorium law:

5. Waiver will not have an adverse effect on the Town's goals in the proposed comp plan
6. Proposed activity is consistent with the proposed comp plan

Ms. Seaman reviewed the Comprehensive Plan Committee's deliberations with regard to cell towers, in general, and to the Homeland Tower application, in specific. She explained that the cell tower may be too high in that neighborhood. Further, she stated that the Committee is considering a system whereby the applicants must show that they cannot provide service through stealth technology and repeaters and other mechanisms in order to avoid proliferation of these tall towers in the Town. She stated that cell towers are becoming obsolete because that is not the way technology is evolving.

Mr. Gordon stated that the Comprehensive Plan Committee is reviewing an extensive document that deals with all of the requirements and construction criteria for these monopolies and towers. Ms. Seaman stated that it may be that Homeland Tower's application may not be consistent with the Comp Plan but that it is clear that there are substantive changes to the telecommunications provisions. Mr. Labriola pointed out that



the Board and the Town needs to be fair to the applicant. He pointed out that the Zoning Regulations are a follow-on to the Comp Plan and that the Town cannot penalize an applicant based on the fact that the Town does not have a position. Mr. Gordon stated that the Comp Plan Committee has a position but that they are reconsidering it as they are reconsidering everything because of the new Comp Plan.

Mr. Labriola asked what the proposed new Comp Plan says relative to cell towers. He pointed out that if it does not say anything, then he suggested that this Board must determine that what the applicant is doing is consistent with the proposed Comp Plan. Ms. Seaman stated that the general role of the Comp Plan is to protect the rural character, which is broad in its scope.

Mr. Labriola stated that in the absence of the balloon test results, it is hard to say that this application is consistent with the Comp Plan. Ms. Seaman agreed and stated that if it affects the rural character, then it is inconsistent.

Ms. Seaman viewed the balloon test and reported on the points from which she was able to actually see the balloon. She stated that she did not see it from very many places, but was able to see it driving south on the Salt Point Turnpike but could not see it from the Taconic.

Ms. Southworth, CAC, reported that she also viewed the balloon test and stated that she could hardly see it from anywhere – that you needed binoculars to find it. Ms. Seaman agreed and noted that Mackay's towers are much taller and much more visible from everywhere in town. Mr. Karis pointed out that there is a ridgeline between the proposed Homeland Towers tower and the Taconic.

Mr. Labriola stated that it sounds as if the applicants have designed this to minimize the visual impacts of the proposed tower – although this is an unofficial opinion.

Mr. Labriola: **MOTION TO PASS THE HOMELAND TOWER MORATORIUM WAIVER REQUEST TO THE TOWN BOARD BASED ON THE FOLLOWING CONSIDERATIONS:**

- **Financial Hardship:** The Planning Board was not presented with any financial evidence from the applicant to support their claim.
- **Hardship is unique to the property:** The Planning Board believes that the hardship is not unique as the moratorium applies to the entire Town.
- **Will not affect the character of the neighborhood:** Based on a recent balloon test conducted by the applicant, the Planning Board has not seen the official results of that test, but based on unofficial input from Planning Board and CAC members, it appears that the applicant has done a good job to minimize the visual impact of the proposed tower. Therefore, the Planning Board does not believe that it will alter the essential character of the neighborhood.
- **Self-created hardship:** The Planning Board does not believe that this has been self-created.

- **Consistent with proposed Comp Plan and adverse affect on Town's goals:**  
**Based on the unofficial results of the visual balloon test, the Planning Board does not believe it will have an adverse effect on the Town's goals as set forth in the proposed Comp Plan.**

**SECONDED BY H. FISCHER**

**VOTE TAKEN AND APPROVED 7-0-0**

**6. MINUTES**

Mr. Labriola: **MOTION TO APPROVE THE MARCH 2009 MINUTES, AS CORRECTED; SECONDED M. GORDON 5-0-0**

**7. MISCELLANEOUS**

**Town Board Hearing on the Comp Plan:** Ms. Seaman announced that the first hearing regarding the proposed Comp Plan will be held by the Town Board on Wed. 4/29/09 at 7 p.m. and asked all Planning Board members to attend. Board discussed submitting a letter of support for the proposed Comp Plan to the Town Board; Ms. Bramson volunteered to confer with Mr. Labriola about writing the letter. Mr. Labriola encouraged all Board members to attend the meeting and asked any Board members who cannot attend to send him an e-mail detailing any specific point that he or she wishes to bring to the Town Board's attention.

**Homeland Towers & Boy Scout Camp:** Ms. Dickerson reported that a fellow came into the office who is very involved with the Boy Scout and that he will probably come to the ZBA hearings. This man pointed out that where the applicant proposes to locate the tower is one of the camping sites on the Boy Scout camp. He pointed out the various things that will no longer exist on the site. He also pointed out two other areas on the 240 acre parcel where a tower could be located that would not interfere with these lean-to's and other features that have been there and used by the Boy Scouts for many years. Mr. Karis asked whether the Boy Scouts are on board with this application. Board members pointed out that the Boy Scouts have a lease agreement with the applicant for this tower.

Ms. Seaman asked if evidence has been submitted of collocation on this proposed tower. Mr. Labriola reported that this Board had extensive conversation with the applicant and stated that they are alleging lots of collocation. He noted that the Planning Board requested that the ZBA ask the applicant to prove that the Boy Scout camp is the optimal spot for the collocations for the other carriers, as well – not just because it is a tower and other carriers can collocate, but rather the question is will other carriers collocate on it.

Ms. Seaman also asked whether Mackay's tower is full, whether they have proven that they cannot collocate on that tower. Mr. Labriola recalled that Mackay's tower got built out, which was the rationale for building the second tower.

Meeting adjourned at 8:30 p.m.

Minutes submitted by:

Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the April 14, 2009, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_ Approved as read

\_\_\_\_ Approved as corrected with deletions/additions

## **PLEASANT VALLEY PLANNING BOARD**

**May 12, 2009**

A regular meeting of the Pleasant Valley Planning Board took place on May 12, 2009, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:32 p.m.

Members present:     Joe Labriola, Chairman  
                              Rob Fracchia  
                              Michael Gordon  
                              Kay Bramson  
                              Henry Fischer  
                              Rebecca Seaman  
                              Peter Karis

Also present:           Jim Nelson, Esq., Planning Board Attorney  
                              Mike Takacs, Planning Board Engineer

### **1.     COUNTRY THISTLE – SIGN PERMIT**

**Grid #6363-02-890562**

**Pleasant Valley Shopping Center**

Susan Holland, owner of the Country Thistle. She stated that the application is for one sign on the front of the building facing Route 44 – The Country Thistle Gift Shop – 48” x 69” and will be attached to the wall and offset 1” from the wall. She stated that the sign will be made of allumaply – wood with aluminum on the front and back and painted around the sides.

Mr. Labriola asked if the sign will be lighted. Ms. Holland stated that it will not be lighted at this time. She stated that if in the future she decides that it needs to have a light, she will reapply for another permit from the Board.

Mr. Labriola noted for the record that he lives in the same neighborhood as Ms. Holland and that he did not think this would affect his ability to participate in this application. He asked if anyone had any concern and wished him to recuse himself, to please speak up. Ms. Bramson stated that she also is a neighbor. No one on the Board or in the audience spoke or asked Mr. Labriola or Ms. Bramson to recuse himself or herself.

Board agreed that it is an attractive design and is well within the size limitations. Mr. Karis stated that he thinks the design is consistent with what Marion’s Salon is proposing and is a nice look for the front of that building, which is right on the road.

Mr. Labriola read into the record (original on file) a comment letter from the Pleasant Valley Fire Advisory Board: no position as there are no fire or safety concerns.

Mr. Labriola noted that the file contains an owner’s consent notice from the plaza owner.

Mr. Labriola: **MOTION TO GRANT THE SIGN PERMIT**

**Whereas the Town of Pleasant Valley Planning Board has received an application from Susan's Country Thistle for the approval of one sign dated April 27, 2009 and**

**Whereas an environmental assessment form has been submitted and reviewed by the Board, now**

**Therefore be it resolved that the Planning Board determines the application to be an unlisted action and will not have a significant effect on the environment, and**

**Further, be it resolved that the Planning Board grants approval for one sign as shown in the application and drawing and consisting of the materials, sizes, and colors shown on the application except as noted: NONE**

**SECONDED BY P. KARIS**

**VOTE TAKEN AND APPROVED 7-0-0**

**2. CROWN GAS – AMENDED SITE PLAN**

**Grid #6363-02-566634**

**29 Charles Street**

Mr. Edward Hutchinson, applicant, and Mr. John Hart, Duck Harbor Energy Consultants, was present. Mr. Hutchinson stated that they are proposing to install a second 30,000-gallon propane tank. He stated that he received Morris Associates comment letter and has some questions about that.

Mr. Takacs reviewed the Morris Associates letter. With regard to the EAF, he stated that Morris Associates took the liberty of filling it out so that it fits with the application. He stated that the plan that was submitted is a survey and that the applicant must submit a complete site plan per the Town Code with notes, details of construction, erosion control. He stated that the other comments pertain to compliance with NYS building codes and fire codes.

Mr. Labriola read into the record (original on file) a letter from the Pleasant Valley Fire Advisory Board that documents their discussion of the inherent hazards of such tanks, of adding another tank on the property, and the containment methods required in the event of an explosion or fire: “while the FAB is concerned about the hazard these tanks pose in the location and proximity to residential areas, the FAB does not feel that it is in a position to make any recommendation other than that the application be approved subject to the appropriate inspections and safety measures that are required by law.”

Mr. Labriola asked about the proposed separation between the two tanks. Mr. Hart explained that the requirement is 5’ and they go for 5’6” and that they are 50’ from the line that it can be built upon. He stated that everything meets or exceeds the current 2008

standards referenced in Chapter 38 of NYS Building Code. He stated that the other Code that is cited is for work that typically is downstream from a regulator and deals with different construction. Mr. Hart stated that he has to do more research.

Mr. Labriola noted for the record that the file contains a referral from DC Department of Planning: matter of local concern.

Mr. Karis asked about propane delivery on the site and truck traffic patterns on the site. Mr. Hutchinson stated that delivery has been coming in for years on transports – tractor trailers. Mr. Karis asked about access around the tanks for the tractor trailers. Mr. Hart explained the traffic pattern on the site and stated that the new tank will not affect the turning radius. He stated that one electrical circuit will have to be moved. Mr. Karis stated that that should be documented on the plan so that the Board's engineer can sign off on it. He asked about any end protections around the tanks. Mr. Hart stated that there are bollards as required by Section 10 of the Building Codes. Mr. Labriola stated that that should also be reflected on the plan.

Mr. Hart stated that he will submit a stamped engineered drawing with details. Mr. Karis asked whether that drawing will show the truck access. Mr. Hart explained that there are a couple of ways that the trucks access the tanks. Mr. Karis stated that it looks like they will need expansion pavement as a result of the additional tank. Mr. Hart explained the location of the new tank and access to it and the exact filling location of the tanks. He stated that when they put the second tank in, they will move the stanchion, because of the standard, and access to the other side. He stated that the truck will pull in and articulate back, because they always like to face out of the yard. Mr. Karis asked whether the tractor trailers come onto the site and make a u-turn around the existing tank and whether the new tank will create a pinch point and not allow adequate radius. Mr. Hart stated that the bobtails do make that turn – he explained that the bobtails are the smaller delivery trucks that go to residential homes. He stated that they checked the radius prior to deciding to add this new tank. Mr. Karis asked that they show this on the map and that he wants to see the ghost tractor-trailer making the turn around. Mr. Labriola concurred that the appropriate radius should be shown on the map. Mr. Hart agreed.

Mr. Gordon noted that an aerial photograph shows a lot of things on the site that are not shown on the map. Mr. Hutchinson explained items on the map – storage, vehicles, portable tanks that are installed at residences. Mr. Labriola pointed out that anything that is on the site should be reflected on the site plan map. Further, he asked that they include detail of areas on the site that are used for specific purposes – truck parking, tank storage, etc.

Mr. Gordon explained the purpose of the site plan – so that the Town agrees with the applicant on what will be done and where it will be done on the site. He pointed out that that creates the record for the site and any deviation is not permitted.

In reference to the aerial photo of the site, Mr. Hart stated that the only difference will be that 5'6" from the inside edge of the existing tank an identical tank will be installed. He

stated that the height will be the same; aggregate will be the same; the valving is the same. He stated that there are only 3 connections that have to be made. He stated that the applicant is trying to make sure that he has enough propane for the public for 12-14 week period when the demand is the greatest. Mr. Hutchinson explained that the bobtails loop around the site, but the tractor-trailers back in because they want to face out.

Mr. Gordon asked whether 5'6" is enough separation in the event of a problem with one of the tanks. Mr. Hart stated that that has been the standard since the 1950's and is a rigorous standard that is reviewed every three years. He explained the safety components of the valving: the surface has no combustibles on it so that there is no implicit way for flames to impinge on either tank. However, he stated that if it does the valving system can be activated remotely, thermally, and manually. He stated that this is all included in the fire safety analysis and is the purpose of that document. He stated that that document is required for all new installations as of 2008 and for all existing installations within 3 years of the adoption of the 2008 edition.

Mr. Labriola asked how long these tanks typically last – what is their lifespan. Mr. Hart replied that these tanks last, potentially, infinitely. He explained that propane, unlike other hydrocarbons, is a sealed system and there is no oxidation because when the liquid propane is pumped out of the tank, vapor replaces it. He stated that it is heavier than air, and therefore there is no air in the system. He stated that without air and oxygen, there can be no corrosion on the inside. Therefore, he explained these tanks, if they are properly maintained and inspected on the outside, have an infinite lifespan in a permanent installation. He stated that when they go over the road they are tested every 5 years.

Mr. Labriola asked about the regular inspection schedule for permanent tanks like this one. Mr. Hart explained that in Section 5 of the Fire Safety Analysis there is a typical annual inspection that is done. He stated that the tanks are inspected daily, weekly, monthly, and annually in difference facets. He stated that any driver that loads or unloads there, any agent of the company that operates there – filling cylinders or other actions – is required by Code to do a visual inspection.

Mr. Labriola asked if there are independent, 3<sup>rd</sup> party regularly scheduled inspections. Mr. Hart explained that the underwriters of their insurance are rigorous about inspection. Mr. Hutchinson stated that Jeff Renihan, Pleasant Valley Fire Inspector, inspects the site every year.

Fire Advisory Board is requested to review the next set of plans. Mr. Hart stated that there won't be any changes to the plans that would affect what the FAB has already considered, but this will give them information on this project as it evolves.

**3. BARN #2 FURNITURE – SITE PLAN REVIEW**  
**Grid #6564-01-353648**  
**2316 Route 44**



Peter Clark was present as was his mother, Mary Clark. Mr. Clark stated that they have submitted a new plan and that he spoke with Mr. Takacs regarding the EAF. He stated that they have:

- revised the layout of the parking lot and the parking layout
- moved the loading area to behind the building
- 4' concrete sidewalk in the front
- plantings in front of the entrances in the front of the building to prevent people from walking out into the traffic pattern

Ingress/Egress: Mr. Clark reported on his conversation with the DOT regarding ingress and egress from the site. He stated that he has shown on the plan the DOT's required curb cuts. He stated that they are looking into access onto Masten and that they have not yet met together with the DOT and the PV highway superintendent at the site. He stated that they want to have access onto Masten but that it will need to be pushed back quite a ways and it may be cost prohibitive to do at this time. He stated that, at this time, he is proposing to not consider an access onto Masten until later, at which time they would file an amended site plan application.

Colors: Mr. Clark submitted samples of the colors to be used on the site.

Survey & Culverts: Mr. Clark stated that he has a new survey that was done within the past month that shows the actual location and terminations of the culverts coming from the highway and noted that these details will be on the next plan that he submits.

DEC letter: Mr. Clark stated that they have not yet received the letter from the DEC.

Morris Associates letter: Mr. Takacs reviewed the Morris Associates comment letter. He stated that he and Mr. Clark resolved a lot of the issues that were noted in Morris Associates' previous letter. He stated that the applicant needs a letter from the DC Health Department. Mr. Clark asked whether that is required given that they are not doing anything major to the site. Mr. Takacs explained that it is required.

Mr. Takacs stated that details of the silt fence and the drainage system and pipes must be shown on the plan. He stated that they will need a letter from the DOT approving the access. Mr. Clark asked whether they need DOT approval prior to site plan approval. Mr. Labriola noted that it will be a condition of final approval.

Masten Road access: Peter reiterated that they would like to postpone consideration of access onto Masten due to excessive cost. Mrs. Clark stated that they will do whatever the Highway Department and the DOT agree upon. Mr. Karis explained that there needs to be an outlet from the dead-end parking lot on the site and pointed out design options. Mrs. Clark reported that the Highway superintendent may be OK with moving that access point. Mr. Karis pointed out on the map how, if all the parking spaces are occupied, someone would have to back out of the lot and the potential for stacking would result. He stated that an outlet onto the Town road provides relief from that problem. Mr. Gordon agreed. Mr. Labriola asked whether they would still keep the main cut on Route

44 as currently designed. Mr. Clark responded yes. Mr. Gordon stated that additional access to the site will benefit their business and their customers. He pointed out that people will be picking up furniture with trucks and additional access will be needed.

Parking Layout: Mr. Labriola stated that he likes the redesign of the parking layout and traffic flow. Mr. Karis agreed. Board members agreed that moving the loading and refuse to the back is also good.

Planters in front: Mr. Karis asked if they plan to have planters along the entire front of the building or just in front of the doors. Mr. Clark stated that they can do it along the front.

Directional Signs: Mr. Labriola stated that directional signs will be needed to indicate the location of the loading area. Mr. Karis suggested that they be in the front, right as you pull into the site, in a little planting bed in front of the sidewalk – a 3' wood post.

Handicapped parking: Mr. Labriola stated that the details of the handicapped parking sign must be on the map.

Dumpster enclosure: Ms. Bramson asked about plans for a dumpster enclosure. Mr. Clark pointed out that the dumpster will not be visible from Masten or Route 44. Ms. Bramson and Dr. Fischer pointed out that there is parking all around the dumpster location. Mr. Fracchia asked how close it will be to the adjacent house. Mr. Clark stated that he's not sure about the house location but pointed out a line of trees that completely blocks visibility between the two sites. Mr. Labriola asked if they need the two parking spaces in the back by the dumpster and asked if a garbage truck would be able to access the dumpster with people parked in those spots. Mr. Clark pointed out that garbage pick up is very early in the morning before the store would be open or customers would be on site. Board members asked the applicant to install an enclosure around the dumpster.

Sign Permit: Mr. Labriola advised Mr. Clark that he will need to apply for a sign permit and to remove mention of the sign from the drawings or, alternatively, indicate area of proposed future sign.

FAB: Mr. Labriola read into the record (original on file) a letter from the Fire Advisory Board: recommends approval of the application and requests that the Planning Board refer the application back to the FAB if the Planning Board identifies any fire or safety issues.

DC Department of Planning: Ms. Dickerson will refer this application to DC Department of Planning for comment.

Lighting: Mr. Karis asked about lighting on the property and whether the corner floodlights will be left on. Mr. Clark responded that they will be on motion sensors. Mr. Karis asked if there is a way to shield those lights as they face out and will create glare.

Mr. Clark stated that they can aim them down on the site and he will note this on the plan, also.

Next steps:

- Applicant will meet with the Town Highway superintendent and DOT to determine what, if anything, can be done for access off of Masten Road now. Mr. Clark agrees that he is no longer requesting to postpone the creation of that access point. Mr. Labriola recommended that someone from Morris Associates should participate in that meeting.
- Ms. Dickerson will submit the application to DC Planning for comment.

Mr. Fracchia asked whether The Barn purchased the adjacent parcel, which is a separate tax parcel, and if they plan anything on that site. Mr. Clark stated that they did purchase it and that it is not part of this application.

**4. TACONIC HOMES – Site Plan**

Ms. Paula Vincitore, Mr. Nat Parrish, Mr. Ken Nadler, and Mr. Ralph Mastromonico were present. Mr. Parrish stated that Mr. Kirchhoff sent his apologies that he could not attend tonight's meeting.

FEIS: Mr. Parrish summarized the contents of the FEIS. The FEIS has two parts – one responds to all of the questions and substance that came up during the public hearings and the records in terms of communication. The other part presents the alternate plan, which had been the subject of the public hearing and that was discussed with the Board. The FEIS responds to all public comment. He stated that, by law, the DEIS is incorporated in the FEIS by reference. Therefore, the environmental record to date includes the DEIS, the FEIS, and all appendices.

Mr. Parrish stated that supplementary maps have been added to the basic concept plan maps that have already been submitted.

Club House: Mr. Parrish stated that there are 2 optional plans for the club house design included in the FEIS. One plan – the “as of right” plan – includes the buffer at the exact distance. As an alternative, Mr. Parrish described the alternate design where the buffer would be reduced and there would be more landscaping and an improved design incorporating green concepts. He mentioned that Morris Associates had suggested that the alternate design be considered at the time of the detailed site plan review. He stated that the applicant agrees with that suggestion, however he pointed out that it would be part of the Board's findings statement that an alternate design would be considered at the time of site plan review.

Supplementary Accident Report: Mr. Parrish stated that, as requested, the FEIS includes a supplementary accident report.

Supplementary Biological Wetlands Report: Mr. Parrish stated that this involves several things. He noted that Mr. and Mrs. Mort had provided for the record a very good listing

of all of the species found on their property and on the applicant's property, which they have included in the record. In addition, Mr. Parrish stated that they had their consultant along with Mr. Mort walk the site to check on the species, and that the FEIS includes a report of this re-examination. Also, he stated that in response to the Board's question about species found in different seasons, they have agreed, as mitigation, that they would do 3 additional field surveys and do reports on them – in the spring, summer, and fall. He stated that, therefore, they would not have a site plan up for approval before the fall field survey was completed. Therefore, by the time the Board made decision on the ultimate site plan, the Board would have the results of 3 updated surveys. He stated that the spring field survey is scheduled at the end of this week.

Lighting Impacts: Mr. Parrish stated that they hired a lighting consultant to review the site engineer's proposals and the consultant suggested different height and different fixtures to mitigate glare and to provide safety in the parking lots. He stated, therefore, that there was a change from the lighting previously proposed and that they have documented that in the FEIS. He stated that they did the additional impact analyses.

Stormwater: Mr. Parrish stated that as a result of the change to the site layout, the stormwater prevention plan also was changed and that these changes are included in the FEIS.

Public, County, and Board comments: Mr. Parrish stated that the FEIS responds specifically to the comments and focuses issue-by-issue on the comments made by the Planning Board at the December 2008 meeting.

Morris Associates' comment letter: Mr. Parrish stated that they accept all Morris Associates' comments regarding the FEIS and will incorporate the requests for change in language. Further, he stated that they will respond to, and have no objections to, Morris Associates' comments about items to be looked at in detail in the site plan review.

Findings Statement: Mr. Parrish explained that the Findings Statement will incorporate all of Morris Associates' comments. He stated that the Findings Statement becomes the record of what has been looked at and what will need to be looked at in detail in the future.

Wetlands buffer disturbance: Mr. Parrish stated that they show total wetlands and buffer disturbance and, as requested, will amend the map to break them down for each occurrence area on the site.

Flooding on Route 44: On a site visit, Mr. Setaro determined that one end of the main culvert crossing Route 44 seemed clogged. Mr. Parrish stated that their engineer will look at this again. If it is purely a maintenance issue, he stated that it is not a SEQRA issue. However, if it turns out that there are any improvements that can be made that would help reduce the potential for clogging, they will make a recommendation and include it in the revised document. He stated that they will take care of this.

Item 20: Mr. Parrish stated that Morris Associates is correct in stating that the text is not consistent with the map and that they will revise the text to make the correction.

Affordable Housing: With regard to integrating the affordable housing over several phases and the possibility of a more sensitive design treatment, Mr. Parrish stated that they agree to review that during the site plan review process. He stated that they do not consider this to be an impact issue but rather to be an improvement issue.

Ground water resources: Mr. Parrish agrees with Mr. Setaro's comments on this topic and that they will revise the language to better explain that in the text.

Comment Period: Mr. Parrish stated that their target is to provide the revised FEIS in time for the next meeting. Following the Board's acceptance of the FEIS, he stated that the law requires a 10-day comment period on the FEIS. He stated that they are suggesting that the comment period be extended to 30 days. He suggested that it be posted on the website in addition to the customary circulation.

Culvert & Runoff: Mr. Gordon noted that there had been discussions about the problems with the culvert years ago. He stated that the concerns were that it is inadequate for now and will be especially inadequate with additional runoff from all the impervious surfaces that will be part of this project. He stated that it is not an issue, simply, of cleaning it out. Mr. Mastromonico, site engineer, stated that they looked at all that and determined that the culvert is not on the project property. Mr. Gordon stated that the concern is about the increase of the flow, seasonally, from additional runoff. Mr. Mastromonico stated that the runoff is coming from the other side of Route 44 onto the project property. He stated that they will not be putting more water into the pipe. Mr. Parrish stated that they will not be adding to the flow, that there are a series of basins that are designed to hold the water so that it will trickle out after a storm and during the storm. He stated that the calculation is that they will more than mitigate the runoff – that they hold more water and that there will be slightly less water flowing out of their site during a peak storm than is flowing out now. Mr. Labriola asked if this is in the area where they will be constructing the turning lane. Mr. Parrish responded no. Mr. Gordon stated that it is down near the cemetery. Mr. Labriola asked how far off the property it is. Mr. Fracchia stated that it is right where the Welcome to Pleasant Valley sign is.

Comment Period: Mr. Labriola stated that he likes the idea of extending the comment period because it gives the public a reasonable time to review the document. Mr. Parrish stated that they will be responsible for placing a notice in the newspaper and will prepare a version that can be uploaded to the Town's website. He stated that they will notify the public of the hearing when the FEIS is ready for filing. The cover page of the FEIS will clearly display the comment period from date X to date X.

FEIS format: Mr. Labriola discussed the format of the changed pages to the FEIS. Mr. Parrish stated that they will submit new pages and when they distribute the final version for review, they will replace the old pages with the updated pages. Mr. Labriola asked for color coding of the changes. Mr. Parrish stated that this would be done.

Wildlife Studies vs. Mitigation Measures: Ms. Seaman pointed out that, although they have included the additional wildlife studies in the summary of mitigation measures, studies do not qualify as mitigation. She stated that a study is not mitigation, but may result in mitigation. She stated that she wants it to be stated in the FEIS that the studies are not mitigation. Mr. Parrish stated that he will alter the language to reflect that “for purposes of examining whether additional mitigation is needed, these studies will be done.”

Wetlands language: With regard to Mr. Parrish’s statement that incursion into the wetlands is “as of right,” Ms. Seaman stated that just because it predates the Town’s wetlands law does not, therefore, characterize it as “as of right.” Ms. Seaman pointed out that under SEQRA the Town can remove people and projects from wetlands to protect the wetlands. Mr. Parrish pointed out the area where they are not grandfathered and that their basic plan meets the wetlands ordinance, which is why he used the term “as of right.” Mr. Karis suggested that it should not say “as of right” but rather should say “in accordance with Section X of the Wetlands Ordinance ....” Ms. Seaman agreed.

Findings Statement & Wildlife Studies: Mr. Karis agreed that the studies are not mitigation measures and that their purpose is to determine whether there will be a significant environmental impact, specifically with regard to biodiversity. He stated that he appreciates that the applicant will do these seasonal studies and expressed his disappointment that it took them so long to act on this. He stated that the Board and the applicant have been talking about this for 2 years and noted that they lost a year by not conducting these studies. He stated that they are now doing the studies that should have been done in the DEIS. Further, Mr. Karis stated that until the Board knows the outcome of the seasonal studies, he does not know how the Planning Board can adopt any findings.

Mr. Parrish argued that they have done several sets of studies and have done a recent one that is included in the FEIS. He reported that they met with Mr. Mort and that they did a supplementary field survey last summer. He mentioned the vernal pool. Mr. Karis noted that the vernal pool is reported in the biological wetlands report prepared by Brook, Cosin, and Mack Associates. Mr. Labriola asked when that was conducted. Mr. Parrish thought it was August or September. Mr. Karis read from the report under vernal pool: “Mack Associates made a field visit to the site with John Mort and identified a vernal pool on site and expressed concerns that are not identified or discussed in the DEIS.” Mr. Parrish confirmed that this field visit happened last summer. Mr. Karis asked if they walked the entire site. Mr. Parrish stated that they did. Mr. Karis stated that the report does not say that. Mr. Parrish stated that the report refers to one aspect of it.

Mr. Karis stated that the applicant is proposing continued studies in Spring ’09, Summer ’09, and Fall ’09 – site survey to look for threatened or endangered species habitat. He stated that until the Board has the results of those studies and it has been determined that there will be no impact and that no mitigation measures will be needed beyond what has already been proposed, the Board cannot adopt that finding. Mr. Parrish disagreed. Mr.



Labriola pointed out that the wildlife issue is a SEQRA issue not a site plan issue. Mr. Parrish stated that to meet the Board's requirements they have agreed to do these additional studies and that nothing will be disturbed and no construction will begin until the reports are completed. Mr. Karis stated that the studies have not been done yet, and therefore the FEIS is incomplete.

Mr. Labriola offered, as an alternative, that the Planning Board retain the services of its own expert to review the documentation that has been provided to date to determine whether it is or is not adequate. He stated that Mr. Karis has brought up a good point. Mr. Labriola stated that the Planning Board raised the concern that the assessments were not adequate and that the additional surveys will satisfy the need for due diligence on the question of endangered species.

Ms. Seaman asked if it is possible to conditionally accept the FEIS. Mr. Karis stated that he thinks the information submitted by Mr. and Mrs. Mort raises more questions than answers on biodiversity on the site. Mr. Parrish stated that he wanted to point out for the record that after Mr. Mort provided observations and information, Mr. Mort stated on the record that he had no objection to the plan as proposed. Mr. Labriola stated that the Board appreciates Mr. Mort's comments and involvement, but he is not the person who is responsible for anything that the Planning Board votes on. Mr. Labriola agreed with Mr. Karis that Mr. Mort alerted the Board to the fact that the information provided by the applicant was not comprehensive. Therefore, Mr. Labriola stated that he is not comfortable with conditioning the FEIS on the possibility that there maybe some SEQRA items that the Board has not quite gotten to yet.

Mr. Nelson stated that he does not know for sure whether the Board can do a conditional Findings Statement and that he will find out that answer. He stated that the Board cannot proceed to site plan approval unless the Findings Statement is complete; the Board cannot do a Findings Statement unless the Board has waited the 10-day or in this case 30-day comment period after the Board has accepted the FEIS; and the Board cannot accept an FEIS and get to a Findings Statement until the Board can clearly state that the potential adverse impacts have been mitigated to the greatest extent practicable – not to the greatest extent possible – but practicable. Mr. Nelson stated that the Board must be comfortable in that finding because the application cannot move to Site Plan unless the Board has done the Findings Statement, and the Findings Statement must say that the majority of the Board found that the potential adverse impact has been mitigated to the greatest extent practicable. He stated that he will research the question of whether the Findings Statement can be conditioned; however, he emphasized that the real question is whether the Board can reach the level of comfort that is required to make that finding.

Mr. Parrish explained that he has experience with other projects where the Findings Statement states that an additional traffic study shall be done in the future, even though at the time the Findings Statement is made there is no basis for an assumption that there is a significant impact. He stated that the Findings Statement lays out the process that will protect the environment. Mr. Labriola stated that this Board must prove that it has taken a hard look and must have documentation that says that things have been mitigated. He



stated that the problem is that the Board has not identified all of the potential impacts. He stated that it is a difference of opinion and perhaps the Board should think about retaining the services of an expert. He stated that this is a stalemate, that the applicant has not proven to the Board that biodiversity has been addressed or whether there are other issues that need to be addressed. Mr. Karis stated that this is a hole in the document and most of the comments on the project were concerns about biodiversity. He cited a memo from Mr. Mort dated 9/6/07 identifying Blandings turtle habitat on the Rockefeller property 1,500' away, which is the adjacent property. He stated that this must be researched and applauded the applicant's proposal to do so with the additional wildlife studies. He stated that the possibility exists that something will be found that will drastically change the project. He stated that he is not comfortable with what has been done so far and does not think the Board and the applicant have done their due diligence.

Mr. Labriola asked the discussion to stop at this point and stated that this has not been a contentious process at all in the 6 years that this application has been before the Planning Board. He stated that this is a difference of opinion on a real issue. He pointed out that, ultimately, the Board is responsible for decisions that are made. Mr. Parrish stated that their consultant will conduct the Spring field study and produce a report for the June meeting of the Board. He suggested that the Board can decide at that time whether they want further surveys or want to hire their own expert to review documents already submitted.

Dr. Fischer stated that he thinks the Spring and Summer surveys will be the major ones of interest and noted that this was brought up a long time ago and could have already been resolved. He stated that, at least, he would like to see the Spring and Summer surveys.

Mr. Labriola listed the possible options:

- Complete and review the Spring survey
- Retain expert to review submitted material for completeness and adequacy
- Then make a decision on the adequacy of the submitted documentation

Mr. Labriola stated that at that point if the Board is still uncomfortable, then the time period would get pushed out. If, however, the expert determines that all is OK, then there would be no need for a summer and fall survey. Mr. Labriola proposed this plan as a way to move forward.

Mr. Parrish asked that the Board expedite this by authorizing Morris Associates to hire the expert. Mr. Labriola anticipated that by the June meeting the Board will have RFP's and quotes and would be able to select an expert at that time. Mr. Parrish asked to waive the RFP and simply hire the expert. Board members agreed that they want to see the RFP's and the quotes. Mr. Parrish expressed his concern about additional delay. Mr. Labriola reiterated that this issue was raised two years ago and that there was plenty of time for seasonal studies to be done and that the Board is not slowing the process down. He stated that this Board is not going to hurry up and make a bad decision.

Ms. Vincitore asked if the expert can review Mr. Parrish's work to date and determine whether it is adequate and whether the spring study is needed. Mr. Labriola stated that the spring study should go forward and that the Board will ask the expert to review all documentation and the spring study.

Mr. Parrish pointed out that the Board accepted the DEIS as complete. Mr. Karis stated that complete does not mean correct or that it addresses all the issues. Mr. Labriola agreed and stated that it means that they have responded to every issue but does not mean that the Board accepts their response. Dr. Fischer stated that the Board's goal is to get closure on this issue as quickly as possible. Ms. Vincitore pointed out that if the Board does not hire their expert and achieve the required comfort level, then the project will be delayed even longer. Mr. Gordon stated that this is the biggest project that has come before any Planning Board in Pleasant Valley ever, without question, and will have a huge impact on that end of the Town. He stated that the Planning Board is the responsible Board for the Town and that the Town relies on this Board to make the right decisions and to make sure that this project complies with all regulations. Further, he noted that this Board does not want to be subject to any legal proceedings or be found to be negligent in its duty. Mr. Parrish pointed out that his client is more vulnerable and has more to lose in a lawsuit than the Town does.

Ms. Vincitore asked for reassurance from the Board – that Mr. Mort and the Board members are not experts. She stated that her concern is that, during the public comment period, more comments of the same type may be raised and that they will raise more doubt, which would end up repeating the process. She stated that she's wondering if this will be the end of the process or would it have to be done again in 30 days.

Mr. Labriola explained that if, during the public comment period, issues are raised that have already been raised, then those issues have been addressed. However, he noted that if someone raises a new issue that has never been addressed, it will have to be dealt with as it arises. He agreed that the Board has gone overboard in soliciting input from the public through this entire process – extra public information sessions, numerous public hearings. Mr. Labriola expressed his opinion that all of the problems have probably been identified, but someone could surprise the Board with sensitive information – an ancient Indian burial ground, for instance.

Ms. Seaman pointed out that there is some opposition to this project. She stated that the Board leaves itself vulnerable from both sides when there is something incomplete or inaccurate in the documents such as studies that are characterized as mitigation. She stated that the record must contain not only the results of the studies but also an assessment of those results. She explained that if they are not on the record, then a challenge is possible. She stated that once a consideration has been addressed it will not be brought up again. However, studies that are scheduled to be done in the future and that are characterized as mitigation measures leaves the project wide open to challenge. Mr. Labriola concurred.

Mr. Labriola asked Board members whether there are any other things in the FEIS that are sticking points. Dr. Fischer stated that the major issues raised by the public were environmental concerns and this is the portion of the FEIS that the Board is the most uncomfortable with. Board members agreed that the document is close to being complete.

Ms. Bramson pointed out a mathematical error on page I 20 – the correct decrease in area coverage is .9%.

Mr. Labriola expressed the Board's appreciation to the applicant team for their patience and their willingness to work with the Board.

**5. DUTCHESS QUARRY – Lot Line Realignment – PUBLIC HEARING & PRELIMINARY APPROVAL-**  
**Grid #6464-03-042124**  
**Location: North Avenue**

Mr. Mark Williams, engineer, and Mr. Robert Surprise, Jr., Vice President of the Quarry.

Mr. Williams submitted proof of publication in The Poughkeepsie Journal. Mr. Labriola stated that this project was last before the Planning Board in January 2009 at which point the public hearing was adjourned and Planning Board made a motion for the Town Board to act as lead agency in the coordinated SEQRA review of the lot line realignment plus the Town parcel that they propose to swap. In March 2009, the Town Board did a negative declaration under SEQRA and this project is now back to the Planning Board to continue the lot line realignment process.

Mr. Williams stated that they submitted a revised plan documenting changes to fencing and the signage. It was discovered that the revised plan includes the changes but has the wrong date.

Morris Associates letter: Mr. Takacs reviewed the Morris Associates comment letter. Health Department approval is outstanding. Further, he discussed the issue of showing on the map where the signs will be placed. Decision was reached that the signs be placed at 50' intervals – 9-10 signs total. This will be reflected on the map.

Fire Advisory Board: Mr. Labriola read into the record (original on file) the referral memo from the FAB. The FAB takes no position with respect to the land swap, however they recommend that "steps be taken to ensure that fire and/or safety vehicles have access to the land to be acquired by the Town." Mr. Surprise noted that there is a gravel road that will provide access.

SEQRA: Mr. Labriola reiterated that the Town Board did a negative declaration under SEQRA.

Mr. Labriola: **MOTION TO RE-OPEN THE PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Paul Case, Conservation Advisory Council, stated that Meta Plotnick could not attend this meeting and he is attending in her absence. He offered to answer any questions from the Board. He also stated that he had some prepared remarks that are no longer pertinent as the Board is farther along in the process than he thought. He emphasized that the CAC supports this application. Mr. Labriola noted that the file contains a letter from the CAC in support of this project.

Mr. Bob Balkind, 16 Swain Drive, Pleasant Valley, NY. He stated that Swain Drive is just off of North Avenue and across from the southern end of Dutchess Quarry. He stated that he would like to offer support for what the Quarry is offering – donation of the parcel to the Town of Pleasant Valley. In general, he stated that the Quarry runs a great operation, that they are good neighbors, and they are an important business in the Town and provide a lot of jobs for the local residents. He stated that he encouraged the Board to approve the application.

Mr. Labriola: **MOTION TO CLOSE THE PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **PRELIMINARY APPROVAL**

**I move that the Planning Board grant preliminary approval to the Dutchess Quarry/Town of Pleasant Valley/Bower Park lot line realignment in the form of the attached resolution dated 3/12/09 prepared by the Board's engineer and now before the Board subject to the following conditions: NONE.**

**Further, the Planning Board bases this motion on the Town Board's negative declaration under SEQRA in March 2009.**

**SECONDED BY M. GORDON**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO WAIVE THE SECOND PUBLIC HEARING; SECONDED M. GORDON; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola asked for guidance on conditions for final approval – conditions that tie together this lot line realignment application with the land swap process. Mr. Nelson dictated the wording to Mr. Labriola for the necessary conditions.

Mr. Labriola: **MOTION TO GRANT FINAL APPROVAL - LOT LINE REALIGNMENT**

**I move that the Planning Board grant final approval to the Dutchess Quarry/Town of Pleasant Valley/Bower Park Lot Line Realignment in the form of the attached resolution dated 5/12/09 prepared by the Board's engineer and now before the Board subject to the following conditions:**

- 1. Payment of all fees**

2. **Morris Associates letter dated 5/8/09**
3. **Town Board consent to proceed**
4. **Passage of the time for a permissive referendum without the filing of a petition for a referendum or if a petition is filed, the referendum affirm the completion of the proposed project**

**SECONDED BY H. FISCHER**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Williams expressed his appreciation to the Planning Board, the Town Board, Conservation Advisory Council, and the Town Supervisor.

6. **DANCE FROM THE HEART – SIGN PERMIT**  
**Grid #6363-02-890562**  
**Pleasant Valley Shopping Center**

Mr. Trevor Bevens, co-owner, was present. He stated that they are located in the Key Food Plaza next to Cotters Wines and Liquors. They will open 7/1/09. He stated that they are applying for a permanent sign on the building. He described that it is a 1” aluminum frame with lighting from two gooseneck fixtures. Mr. Labriola stated that it is one of the nicer signs in Town.

Mr. Karis asked about the aluminum frame and whether a border is planned – whether the frame will be visible outside the rectangle. Mr. Bevens stated that that is not the plan and that he will check with the manufacturer to ensure that that does not happen. Mr. Karis stated that if the border is visible, the other wall signs in the plaza have white borders around the signs.

Mr. Karis recalled that, in the first site plan application for the PV Shopping Center, the photo kiosk was to be removed and replaced with a planted island with a tree. He stated that this has not been done and the tree has not been planted in 2 years. Mr. Gordon noted that they are redoing all the septic in the parking lot currently. Mr. Karis stated that there are outstanding issues on that site with prior conditions of approval that are incomplete. Mr. Labriola asked Ms. Dickerson ask the Zoning Administrator to review the final site plans and inspect the site for compliance.

Mr. Labriola stated that the file contains a letter from the plaza owner giving consent to this application.

Mr. Labriola read into the record (original on file) a referral from the Fire Advisory Board: no position as it is uniquely a matter for the Planning Board.

Mr. Karis asked what Dance from the Heart is. Mr. Bevens stated that it is a dance studio for toddlers to adults. He explained that his wife is an elementary school teacher and a dance teacher.

Mr. Labriola: **MOTION TO GRANT SIGN PERMIT**

**Whereas the Town of Pleasant Valley Planning Board has received an application from Dance from the Heart for the approval of one sign dated 4/27/09, and**

**Whereas an environmental assessment form has been submitted and reviewed by the Board, now**

**Therefore be it resolved that the Planning Board determines the application to be an unlisted action and will not have a significant effect on the environment,**

**Further be it resolved that the Planning Board grants approval for one sign as shown in the application and drawing and consisting of the materials, sizes, and colors shown in the application except as follows:**

- **the aluminum border to be the same color as the sign**

**SECONDED BY K. BRAMSON**

**VOTE TAKEN AND APPROVED 7-0-0**

**7. APPEAL #943 – DEYO/BALKIND – AREA VARIANCE**  
**Grid #6464-03-003323**  
**16 Swain Drive**

Mr. Labriola stated that this project was on the Planning Board last month for a Special Use Permit, which the Planning Board passed along to the ZBA with a positive recommendation with some conditions including that an area variance was also required. Therefore, these applicants are back, now, for that area variance.

Mr. Robert Balkind and Ms. Tami Deyo were present. Mr. Balkind stated that the focus of the ZBA discussion was the number of animals they were asking for. He stated that the issue of the proximity of the existing barn to the property line came up and it was deemed appropriate by the ZBA that he seek an area variance of the reuse of the existing barn. Therefore, he stated that they are again asking for a positive referral to the ZBA for the use of that existing barn to house the farm animals.

Mr. Balkind stated that the ZBA suggested that he speak with Cornell Cooperative concerning the number of animals that they are proposing, the use of the property in terms of pasture rotation, manure management, etc. He stated that Cornell Cooperative is recommending a maximum of 2 horses and that they rotate between 4 paddock areas for them. He stated that Cornell stated that the goats were not likely to adversely impact the turf cover. Further, Cornell stated that the chickens and the guinea fowl would have virtually no effect on the pasture or turf cover. Therefore, he stated that they are going back to the ZBA with a modified request to have a maximum of 2 horses and 4 goats.



Mr. Labriola asked if the applicant has documented the manure management plan. Mr. Balkind stated that they have submitted the plan to the ZBA. Mr. Labriola stated that this is the concern given the fact that the barn is only 7' away from the property line.

Mr. Balkind explained that they asked a landscaping company to accept their manure for compost. He stated that they have a letter from Clover Hill Landscaping stating that they will accept the manure. He stated that Cornell has been exceptionally cooperative and informative about paddock management and turf cover preservation.

Dr. Fischer asked about the configuration of the paddocks. Mr. Balkind stated that they have four ½-acre paddocks and that they can rotate up to 2 horses within those paddocks. In this way, there will always be 2 paddocks at rest. Dr. Fischer asked about feed for the horses. Mr. Balkind stated that they would have to provide supplemental hay feeding for them.

Mr. Labriola read into the record a referral from the Fire Advisory Board (original on file): no position as it does not appear to involve any fire or safety issues.

Mr. Labriola read into the record a referral from the DC Department of Planning: matter of local concern.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE REFERRAL BASED ON THE FACT THAT IT APPEARS THAT THE APPLICANT HAS DEVELOPED AN APPROPRIATE MANURE MANAGEMENT SYSTEM AND THE PLANNING BOARD THINKS THAT WILL HELP TO MITIGATE ANY PROBLEMS WITH ADJACENT PROPERTY OWNERS.**

**SECONDED BY H. FISCHER**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Balkind stated that they received a letter from their neighbor who lives closest to the barn supporting their application to have horses on the property and using the property as they have suggested. He stated that this neighbor has lived there for 51 years and remembers when the previous owner had all of their horses and she had no problems then and has said that she will have no problems now.

## **8. MINUTES**

Mr. Labriola: **MOTION TO ACCEPT THE MINUTES AS WRITTEN OF THE APRIL 2009 PLANNING BOARD MEETING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 7-0-0**

## **9. MISCELLANEOUS**

Mr. Nelson explained the next steps involved in processing the FEIS on Taconic Homes:



1. Board accepts the FEIS, which means that it incorporates the DEIS and all comments raised by the public and that all issues have been adequately discussed. He emphasized that the applicant prepares the document but the Board signs off on it as complete. He noted that the applicant will make the changes per Morris Associates' comments and will create a final document.
2. FEIS is filed in the Town Clerk's office, in the Zoning and Planning Office, and is distributed to the involved agencies.
3. Comment Period: nothing can happen for 10 days after the document has been filed. However, the applicant has offered to extend this to 30-days and they will publicize. Mr. Karis asked if it is required that it be filed in the DEC Environmental News Bulletin. Mr. Nelson will research that question.
4. Findings Statement: Mr. Nelson reported that he spoke with Mr. Parrish and there are two issues. Separate from the focus question of whether the Board can accept something in the future after the Findings Statement has been made, the process requires that the majority of the Board members must believe that the potential impacts have been mitigated to the greatest extent practicable. Board agreed that seasonal studies is a great approach to suggest early on in any future projects.

Meeting adjourned at 9 p.m.

Minutes submitted by:

Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the May 12, 2009, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_ Approved as read

\_\_\_\_ Approved as corrected with deletions/additions

## PLEASANT VALLEY PLANNING BOARD

June 9, 2009

A regular meeting of the Pleasant Valley Planning Board took place on June 9, 2009, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:34 p.m.

Members present: Joe Labriola, Chairman  
Rob Fracchia  
Michael Gordon  
Kay Bramson  
Henry Fischer  
Rebecca Seaman  
Peter Karis

Also present: Jim Nelson, Esq., Planning Board Attorney  
Mike Takacs, Planning Board Engineer

1. **APPEAL #944 – OUT ON A LIMB – SPECIAL USE PERMIT**  
**Grid #6463-01-269816**  
**1777 Route 44**

Mr. Matthew Swanson, owner and operator of Out On A Limb tree service, was present.

Mr. Labriola stated that Mr. Swanson received a waiver from the Town moratorium, which permits him to apply to the ZBA for a Special Use Permit. Further, if the Special Use Permit is granted, then Mr. Swanson can proceed to apply for a site plan.

Mr. Swanson stated that they cleaned up the old James Field Autobody storage area. He stated that they removed all the cars, did environmental tests, removed the fence and the tree line. He stated that the property has been resurveyed to prepare to construct a barn-style structure. He stated that the current plan is to put everything behind the building and to keep the site neat and presentable to the Town. He stated that they plan landscaping in the front.

Mr. Labriola stated that the Planning Board provided a positive recommendation to the ZBA on this project in 2007 and a positive recommendation to the Town Board in 2009 for the waiver request. He stated that the design of the building looks good and that this is a good use and a good way to rehabilitate a property.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BECAUSE THE PLANNING BOARD THINKS THIS IS A GOOD WAY TO DEVELOP THAT PIECE OF PROPERTY, THAT IT SEEMS TO BE IN CONCERT WITH THE COMPREHENSIVE PLAN AND THE TYPE OF DEVELOPMENT THE TOWN IS TRYING TO ENCOURAGE ALONG THAT PORTION OF THE TOWN**

**SECONDED BY M. GORDON**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola advised Mr. Swanson that, if he gets his Special Use Permit, he'll have to come back for a full site plan and encouraged him to come back to the Planning Board as soon as possible with preliminary documentation.

Mr. Swanson asked for guidance from the Planning Board on the plans that have been submitted thus far. He stated that they will do parking in the front for the secretary, but all other activity will happen behind the building. He stated that they are planning fences as large as possible to keep it private and landscaping. He stated that they have raised the elevation, but that it will probably have to be lowered out to meet the Board of Health requirements for septic and wells. Mr. Gordon noted that curb cuts will be required. Mr. Swanson stated that he has met with the DOT and was told that he must go to the Planning Board before he can install the pipe. He stated that he has spoken with the engineer and knows what size he needs and that he is over-sizing the pipe.

Mr. Labriola concurred with Mr. Swanson's plans for landscaping and stated that the Board will want as much green on Route 44 in front of the building as possible. He stated that parking on the side as opposed to the front would be good, and if they plan parking in the front then they must plan to shield it with a stone wall or landscaping – something that softens it. Mr. Swanson stated that they will do the handicapped parking in the front to provide direct access through the front.

Mr. Labriola stated that lighting will be important. Mr. Swanson asked if the Board wants it to be lighted. The Board advised him that he should have enough lighting to provide safety and to focus the lighting down and in the rear of the building. Dr. Fischer stated that the building should be closer to the road to keep the Town appearance. Mr. Swanson stated that the front setback is 80 feet. Mr. Gordon stated that the appeal must be referred to DC Department of Planning for comment. Mr. Swanson asked if the lot must be blacktopped right away, the concern being the cost. Mr. Labriola noted that the handicapped space and the apron will need to be blacktopped and advised Mr. Swanson to come to the Planning Board as soon as he can with some preliminary plans. He suggested that Mr. Swanson could come to the Board for a discussion with a survey that is marked up.

Mr. Swanson stated that he wants the building to be very nice as a gateway to the hamlet. Mr. Fracchia referred Mr. Swanson to the Greenway Guide put out by DC Planning Department.

**2. POZZA LOT LINE REALIGNMENT**  
**Grid #6463-01-079687**  
**1689 Main Street**

Mr. Don Salmon, owner of Divine Surveying, was present. Mr. and Mrs. Pozza were also present in the audience. Mr. Salmon explained that the applicants are purchasing the

property that they currently rent. He stated that the Eleanor Pink Living Trust owns the lot. He pointed out on the map the area on the adjacent lot (1/10 of an acre) that they are proposing to purchase along with the lot they live on. He stated that he received Morris Associates comment letter and has addressed those comments on the revised plan.

Mr. Labriola explained that the Board does not accept new plans at the meeting, because no one has had a chance to review them. He explained that the next step will be preliminary approval, when Mr. Salmon should resubmit the revised plans. He also explained that this is only on for Sketch Plan approval tonight and that the applicants will be authorized to advertise for a public hearing for the next meeting. Mr. Salmon stated that the applicants were advised to advertise for a public hearing for tonight's meeting. Ms. Dickerson realized that she had given inaccurate information to Mr. Pozza and stated that she will handle advertising for a public hearing at the next Planning Board meeting and will send out the notification letters to adjacent property owners.

Mr. Takacs reviewed the Morris Associates comment letter. He mentioned revisions that are required to the EAF.

Mr. Labriola pointed out that there is a driveway on this property that serves another property. Mr. Salmon stated that that is a recorded easement. Mr. Labriola stated that the Board must have copies of the easement and the driveway maintenance agreement for the Planning Board attorney to review. Mr. Labriola advised Mr. Salmon that if the driveway maintenance agreement does not yet exist, the Planning Board attorney can provide a template. Mr. Pozza stated that they don't yet have the agreement because they have not closed on the property yet. Mr. Labriola stated that the easement and driveway maintenance agreement must be submitted to the Board as part of the approval process.

Mr. Nelson asked if the file contains a consent letter from the owner of the property. Mr. Labriola checked the file and stated that the letter has been submitted.

Mr. Labriola pointed out a metal shed that appears to be right on the property line. Mr. Salmon stated that the shed is freestanding and is not on a slab and could be moved. Mr. Labriola explained that, typically, when the Board does a lot line realignment application, the Board tries to bring things into conformance with the Code. He stated that the shed does not currently meet the 15' setback from the property line and asked if it would be a hardship to move it. Mr. Salmon stated that, if they have to move it, they will have to do it.

Mr. Labriola read into the record (original on file) a referral from the Fire Advisory Board dated 6/3/09 stating that the FAB takes no position with respect to this lot line realignment.

Mr. Labriola: **MOTION TO GRANT SKETCH PLAN APPROVAL**

**I move that the Planning Board grant Sketch Plan approval to the Pozza Lot Line Realignment in the form of the resolution prepared by the Board's engineer and now before the Board subject to the following conditions:**

- **Applicant must address the comments in Morris Associates letter dated 6/5/09**
- **Applicant is authorized to advertise for a public hearing to be held on 7/14/09**

**SECONDED BY K. BRAMSON**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Pozza stated that they planned to take care of the driveway maintenance agreement at the closing for the property and may not have it available by the next Planning Board meeting. Mr. Labriola stated that the Planning Board will need to have the easement and maintenance agreements by the deadline for submission (6/29/09) for the next meeting along with an updated set of drawings and proof of publication for the Public Hearing. Board members agreed that half-scale plot plans would suffice. Mr. Salmon agreed to provide the office with two full-size plans and 10 half-scale plans before the submission deadline.

**3. BARN #2 FURNITURE – SITE PLAN REVIEW**  
**Grid #6564-01-353648**  
**2316 Route 44**

Mr. Peter Clark and Mrs. Mary Clark were present.

Mr. Clark reported on the changes to the plan since the last meeting:

- Entrance onto Masten Road – after discussion with Butch Gardner, the highway superintendent, and Greg Bolner, the Town engineer
- Signs have been introduced onto the plan: (1) handicapped location, (2) direction to loading area
- Landscaping along entire front of the building
- Fence around the dumpster
- Changed the note on the map regarding signage on Route 44 to indicate that it is a future, planned sign that is not currently approved
- Light fixtures point downward to reduce any light pollution

Mr. Clark stated that the major issue with the Masten Road access – the location was agreed upon with Mr. Gardner to be put further back from Route 44 on the other side of the utility pole. Also, he stated that they discussed introducing a couple of culverts and that there's a pipe currently going across the road that Mr. Gardner proposed relocating to redirect the water flow onto the applicant's site. Mr. Clark stated that Mr. Gardner indicated from his perspective on the drawing it was not a swale. Mr. Clark pointed out, however, that Morris Associates' letter asks for contours showing everything, but that as far as Mr. Gardner was concerned this was adequate.

Mr. Clark also reported that they added a couple of extra parking spaces to allow easier the access onto Masten. He stated that they will remove a couple of trees to provide a 400' sight line down Masten Road, noting that the minimum sight line requirement is 300'.

Mr. Clark submitted a letter from the DEC documenting that the spill was previously closed out. Mrs. Clark reported on her numerous conversations with the DEC over the past three months. Mr. Labriola read into the record a couple of remarks in the DEC letter:

- September 2000, Phase I and II assessments performed –soil samples showed contamination
- November 2000, soil impacted – no further action
- 2000 – file was closed out

Mr. Takacs reviewed the Morris Associates comment letter. He stated that he spoke with the Health Department on 6/8/09 and stated that in order for the Health Department to sign off they will need testing done on the well for quantity and quality – at least bacteriological – that the well has not been used for awhile to support what they are proposing. Further, he stated that some analysis of the existing septic system will be required because it has been there for years. He stated that if it is a steel septic tank, it will need to be replaced. If that is the case, he stated that the Health Department will want to see a replacement system design. Mr. Takacs advised Mr. Clark to call the Health Department tomorrow.

With regard to the new entrance, Mr. Takacs stated that he spoke with Mr. Setaro at Morris Associates. In lieu of making the applicant do a topography depiction in that area, they could cover the new culverts and the driveway with notes on the map that includes grading – as opposed to having it all resurveyed. Mr. Takacs stated that they could take some photos and provide elevations on the pipes and details of the installation and the swales.

Mr. Takacs noted that the new survey does not match the site plan on the front with regard to where the property line is located. It appears that the property line on the survey is different from the map.

Mr. Takacs stated that they will need a letter from the DOT stating that they will issue a highway work permit. Mr. Clark asked if he can submit the drawings to the DOT after he receives site plan approval. Mr. Labriola stated that it can be a condition of final approval. Mr. Karis stated that Mr. Clark can make application to the DOT now and that he does not have to wait for Planning Board approval. Mr. Labriola stated that final site plan approval can be conditioned on DOT approval. Mr. Karis pointed out that he will need the DOT permit in order to get the site plan signed before they can start actual construction.

Mr. Takacs pointed out that there is a letter from Greg Bolner, the Town engineer, and that there needs to be coordination between the Town and the applicant so that the Town's pipe goes in first. Mr. Clark asked how to coordinate this. Mr. Karis suggested, and Mr. Takacs agreed, that Mr. Gardner could provide a letter stating that he will install his pipe by a date certain.

Mr. Labriola read into the record (original on file) a portion of a letter from Greg Bolner – documents a site visit on 5/20/09 and that the plan submitted to the Planning Board dated 5/22/09 has been reviewed and found acceptable and addresses their concerns.

Mr. Labriola read into the record (original on file) a letter from the Fire Advisory Board dated 6/3/09 stating that: “FAB considers the access off of Masten Road to be an improvement to the site for access for fire and emergency vehicles and recommends that the application be approved as submitted.”

Mr. Labriola read into the record (original on file) a letter from DC Department of Planning that offers the following comments:

- All exterior light fixture should be focused downward to reduce light pollution and glare and that all light levels conform to the Greenway guidelines
- Regularly spaced street trees to enhance the frontage of the site be placed in the grass lawn area along Route 44

Mr. Clark commented that street trees will block visual access to the building from Route 44 – especially as they grow bigger – and that there is a hedge already. Board members discussed options to street trees and whether they would be in the DOT right-of-way and whether trees would interfere with sight line. Mr. Labriola pointed out that the DC Department of Planning’s ultimate recommendation was that the Planning Board relies on its own study of the facts. Board determined that the grass lawn area is not in the DOT right-of-way. Mr. Karis pointed out that there already is a vegetative buffer that screens the area. Dr. Fischer lobbied for 2 trees along the street. Mr. Labriola was OK with the shrubs that exist. Mr. Fracchia stated that the business needs the visibility.

Mr. Gordon agreed with the shrubbery and the need for visibility for the business. However, he pointed out that the shrubs have grown to such a height that pruning them may kill them. Mr. Clark mentioned the cost involved with landscaping. Ms. Seaman pointed out that the hedges and shrubs must be maintained per the Master Plan. However, she pointed out that street trees will improve the look and presentation of the business.

Mr. Karis suggested a compromise whereby flowering trees be planted at the northeast and northwest corners of the building – which will not block the building but will soften its appearance. Mr. Clark agreed with this suggestion. Ms. Bramson stated that they need to clean it up in the front – to prune and trim and maintain. Mr. Labriola asked that Mr. Clark check out whether pruning will end up killing the existing shrubs. Mr. Karis asked Mr. Clark to specify on the plan what the trees will be. Mr. Clark agreed.

Mr. Labriola: **NEGATIVE DECLARATION – SEQRA**

**I move that the Planning Board determine as set forth in the attached declaration dated 6/9/09 prepared by the Board’s engineer that the Barn #2 Site Plan is an unlisted action under SEQRA and that it will not have a significant effect on the environment for the following reasons and that no environmental impact statement will be required.**



**The reasons in support of this determination of non-significance are:**

- 1. There is no significant change to the site and no new buildings are proposed, just the realignment of parking and the relocation of an entrance onto Masten Road**
- 2. Dutchess County Health Department's engineering department will be contacted to ascertain the requirements to operate the existing well and SDS systems**
- 3. NYS Department of Transportation will review and approve the new entrance onto Route 44**

**SECONDED BY M. GORDON**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO GRANT SITE PLAN APPROVAL**

**I move that the Planning Board grant site plan approval to the Barn Thrift Shop with regard to the application of the Barn #2 Site Plan in the form of the attached resolution dated 6/9/09 prepared by the Board's engineer and now before Board subject to the following conditions:**

- 1. Payment of all fees**
- 2. Morris Associates letter dated 6/5/09**
- 3. Approval of the DC Department of Health for the water and sewage disposal system**
- 4. The addition of a flowering trees at the northeast and northwest corners of the building**
- 5. Letter from Butch Gardner, Town of Pleasant Valley Highway superintendent, regarding the Town's installation of the culvert pipe**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola expressed the Board's appreciation to the applicants for what they have done to the site and for the planned improvements.

**4. TACONIC HOMES – Site Plan**

Mr. Joseph Kirchhoff, Ms. Paula Vincitore, Mr. Nat Parish, and Mr. Ralph Mastromonico were present.

Mr. Labriola stated that this was on the Planning Board agenda last month and that they talked about the FEIS. He stated that Mr. Parish has provided revised documents and asked him to talk about study results from the recent biodiversity study. He stated that a key next step is a discussion by the Planning Board on retaining the services of an expert to help the Board with the biodiversity studies.

Mr. Parish covered the following points:

1. Culvert: They did a field study and report on the culvert question and found that the culvert is within a flood plain and that the reason it floods is because the overall flood plain floods. He stated that their property does not flow into that culvert so they don't affect it one way or another. He stated that they are not making it worse or causing any problem; that it is just a condition that exists.
2. Typo corrected: They corrected the typo that Ms. Bramson found.
3. Buffer & Wetland Disturbances: They have provided another map that shows the location and size of each of the temporary and permanent disturbances of the buffer and wetlands.

Wildlife Study 5/19/09: Mr. Parish stated that a field botanist/biologist did a full study of the site looking for grasses and wildlife species. In the report they submitted, the expert listed all of the species that are currently on the site and noted that none of those species fall within any of the species of particular interest in terms of protection under Federal or State or threatened or endangered plant species. Further, the biologist did not find any Blandings or bog turtles on the site. Mr. Parish noted that the biologist concurred that certain species might show up in certain seasons and not in others and, therefore, the study should be conducted again in July/August. He stated that the report documents that there are a couple of areas in which there is some budding that could not be identified until June or August when they would be fully out. He stated that the biologist does not think they will be species of concern but that he could not prove that. Therefore, he suggested that the two additional surveys be conducted, which Mr. Parish agrees with.

Mr. Parish stated that the applicant is asking the Board to consider the FEIS be found to be complete with the note that two additional surveys will be done and that these will be available to the Board before it issues the Findings Statement.

Mr. Parish explained that the Findings Statement recites the whole history of the project and will comment on each item and make a finding of whether the Board looked at the impact, whether they found an impact, and if found was it mitigated. He stated that that is the last step and it is only at the end of that step when the Board passes a resolution that says it finds that there is no significant impact – negative declaration – or they find that there is positive impact that are not being mitigated. He pointed out that the last step is the Findings Statement. He stated that prior to the Findings Statement, the FEIS is circulated for public comment during a period of time designated by law to be 10 days, but the applicant is suggesting 30 days. He pointed out that before the Board makes its Findings Statement it will have in hand the other two surveys as well as public comments from all of the involved agencies including County and State. He stated that the Board will have all of that information, and it very well could be that some of the public comments may require additional memoranda or follow up studies. He stated that this is normal to the process and then the Board has that in the environmental record before it makes its Findings Statement.

Mr. Parish stated that they are asking the Planning Board to issue the FEIS as an informational document that would state that the two additional surveys will be done and

will be available to the Board prior to it making a Findings Statement. He stated that in this way the process can move along and the record can be protected. There would be no question that the Board did not make a decision without having all of the information necessary. If by chance the subsequent surveys did find that there are some grasses or habitat area that was within the category of threatened or endangered, then they would have to fence it off and not build on it. He stated that the expert did say that if any of those were found, the likelihood is that they would be found to be in areas that will not be disturbed in any event – within the wetland or the buffer area more likely than not.

Mr. Parish stated that the emphasis he wishes to make is that if something were found, then the Board could make a decision whether it is properly mitigated or properly left undisturbed before it would make a Findings Statement. He stated that the issuance of the FEIS at this point does not commit the Board to any particular finding. He stated that they have responded to the public record by doing these surveys, but all the other information is in the FEIS. He also pointed out that Morris Associates thought that their procedure was appropriate.

Mr. Kirchhoff stated that time is starting to get very important for them financially. He stated that they have been paying a lot of money per month on that piece of property. He stated that his partner on this deal will not close on the property until this process is deemed complete. Mr. Labriola asked for clarification on this point. Mr. Kirchhoff stated that if the Planning Board accepts the FEIS as complete tonight at this meeting versus at the September meeting, that will move the process along and they can see closure and a light at the end of the tunnel and they can get that property under control completely. Mr. Kirchhoff stated that they are now in breach and are paying every month and the attorney calls repeatedly and wants to close on it. He stated that anything that the Planning Board can do to move this process along in a positive direction is very important for the entire project.

Mr. Labriola stated that this is new news and answers the question of what is motivating them to accelerate the process. Mr. Kirchhoff stated that it is getting to the point where any help that they can get will relieve the pressure they have been under to complete the deal.

Mr. Labriola suggested a compromise. He stated that he believes that for the Planning Board to declare that the FEIS is complete, it means that this Board has all the information that it thinks is appropriate. He stated that he knows that down the road there could be some surprises. He stated that the Board knows that there's an open switch that will not be closed until the additional two field studies are complete. He asked whether a letter from the Planning Board documenting where the process currently stands would be helpful. Mr. Labriola stated that he believes that all of the other potential impacts that were identified have been addressed in the FEIS; but until the other two studies are complete and the Board's biodiversity consultant reviews the documents and says that due diligence has been done, the Board would be hard pressed to say that the FEIS is

complete. He stated that this is a “known unknown” and that he does not know how the Board can go forward with a “known unknown” at this time.

Mr. Gordon pointed out that there are a lot of outside eyes on this project because it is the biggest project ever attempted in Pleasant Valley. He stated that the Planning Board is concerned that it does everything that it possibly can to be clear and to be protected on this project. Mr. Gordon asked Mr. Nelson for advice on what the Board needs to do as per the applicant’s request.

Mr. Nelson stated that Mr. Parish is correct, that the point at which the Board truly speaks and makes its decision is when the Findings Statement comes out – that the impacts have been mitigated to the greatest degree practicable. On the other hand, Mr. Nelson stated that the Board does have the obligation to accept the FEIS. In accepting it, he explained that the Board is saying that it believes that the substantive issues and all the data pertaining to them have been presented. He stated that it is the Board’s decision on how to proceed and that it would be more conservative to await the results of the two additional field studies.

Mr. Labriola asked whether a letter to Mr. Kirchhoff’s partner would be helpful. Mr. Kirchhoff stated that it would not be helpful.

Dr. Fischer asked if there is a significant potential environmental problem? Mr. Karis stated that there are some references in the information provided by Mr. & Mrs. Mort and from Rockefeller University alluding to potential turtle habitat – not on the site, specifically, but off site. He stated that none of the NYS agency databases brought back hits for the property and there was noted that there is a lot of invasive plant species on the property because of the history of the property. Mr. Karis stated that the potential is low but, again, it is a seasonal question and the studies must be done accordingly.

Ms. Seaman asked Mr. Nelson whether the Findings Statement can mention the need for further mitigation required on the site. Mr. Parish stated that there is the potential between the time the FEIS is issued and the public comment is received for some agency to make a major submission. Therefore, he stated that it is a usual procedure, before the Board issues the Findings Statement, the Board would want information on the record that either changes the plan or adds to it or some other mitigation measure. He stated that the answer is yes – there is work that is done prior to a Findings Statement to resolve any comments that come in including, in this case, information from the field studies.

Mr. Labriola asked the Board whether they are comfortable enough with the documentation that has been submitted to say that in all likelihood the subsequent studies will not unearth anything and those studies are going to occur before the Board issues the Findings Statement. Or, does the Board need to have as much positive proof that says those studies have timed out and did not reveal anything and now the Board will move forward.

As a third alternative, Mr. Labriola reiterated that the Board has spoken of hiring its own consultant to make a site visit and review all the documentation that has been produced up through the May 2009 field study and advise the Board. If the consultant deems it to be complete, then the Board could allow the FEIS to be circulated to the other agencies, allow the June and August studies to occur in the field – all to happen prior to issuing a Findings Statement. Mr. Kirchhoff stated that they would be paying for that consultant and noted that they have already hired the best consultants to do that work. He stated that he has a real personal issue with Towns and Boards hiring their own consultants. He stated that it is more cash put out to come up with the same results. He stated that that is not an option in his opinion. Mr. Labriola stated that consultants for one party and consultants for the other party and often they come up with different answers. Mr. Kirchhoff stated that the expense in these situations gets out of control. Mr. Labriola stated that the Board does not have the expertise to look at the report and confirm that it is complete. He stated that the option is to get help with that analysis or wait, unless there's another alternative.

Mr. Gordon stated that as far as the completeness of the document, he thinks it has explored pretty much everything. However, he stated that the Board's concern is that the Board does not have anyone to look at the reports from the Board's perspective. Mr. Kirchhoff suggested that the Board has Morris Associates. Mr. Labriola stated that Morris Associates is not an expert in this field and there are other projects that the Board has needed to hire consultants whose expertise lies outside of what Morris Associates provides. Mr. Takacs pointed out that by the time the review by an outside expert is done, the third field study will have been completed. Mr. Labriola stated that the Board will not issue a Findings Statement until all of this is done. Mr. Gordon stated that he does not have a problem with accepting the FEIS as complete at this time and that the caveat is that the Board will not create the Findings Statement until all studies have been done. Dr. Fischer agreed. Mr. Labriola explained the process: Board deems the FEIS to be complete, circulate, get the comments back, and then issue the Findings Statement. There can be no open switches at Findings Statement time. He stated that if there are open switches then the Board will not issue a Findings Statement that says everything has been mitigated.

Mr. Labriola asked the Board members whether they are OK with moving forward with an open switch that says that the Board thinks that there may be potential environmental problems to be identified. He pointed out that if these studies had been done last summer, the Board would already have these answers. However, he stated that the Board has a level of protection that says the process cannot get to Findings Statement until the answers have been provided to the Board's satisfaction. Ms. Seaman wondered what door would be left open, as long as the Board takes the step that says it is still taking a really hard look at this and these studies have to be done and that the studies do not qualify as mitigation measures. Mr. Gordon stated that the only door left open would be if the Board did not have someone look this and that can be done between tonight, when the Board would accept the FEIS, and then proceed. Mr. Karis agreed.

Mr. Labriola summarized the proposal:

1. accept the FEIS as complete with the caveat that there are two additional biodiversity studies scheduled for mid-June and August and that the Planning Board will not issue a Findings Statement until the Board is satisfied with the results of those studies
2. Planning Board will retain the services of an expert to review what has been submitted so that the Board has an independent, third party view on the documentation and to advise the Board

Mr. Labriola stated that the Board is not asking someone to replicate what the applicant has done, but rather to look at what has been done. It will involve a site visit. Mr. Karis stated that the Board is looking for someone to review the information provided by the applicant's consultant. Mr. Kirchhoff accepted this proposal. Mr. Parish stated that that is fair. Mr. Labriola stated that this puts the safeguard in place that ensures that the Board will not issue the Findings Statement until it is satisfied and convinced. Board members concurred with this plan.

Mr. Nelson stated that it is a practical matter, particularly if nothing comes up in the studies it will be fine. He pointed out that if something substantive does come up, then some other measure will have to be taken other than to move directly to a Findings Statement. Further, he pointed out that the project cannot move ahead with SEQRA until the Findings Statement has been done. Even though it might be more conservative to get all the information into the FEIS before the Board accepts it, as a practical matter the Board can choose to move ahead. Mr. Labriola stated that he thinks this is a low-risk way moving forward because there is a definite next step in the process.

Mr. Parish stated that the Board's motion to accept the FEIS should establish the comment time period of 30 days. Mr. Parish stated that he will prepare the official notice that will be transmitted to the Environmental News Bulletin of the DEC and its website and will be sent to the Town Clerk and will be sent out with each copy of the FEIS to all interested and involved agencies.

Mr. Labriola: **MOTION TO ACCEPT THE FEIS AS COMPLETE WITH THE FOLLOWING CAVEATS:**

1. **THERE ARE TWO ADDITIONAL BIODIVERSITY FIELD STUDIES PLANNED, ONE FOR MID-JUNE AND ONE FOR AUGUST THAT ARE STILL PENDING**
2. **THE PLANNING BOARD WILL RETAIN THE SERVICES OF A BIODIVERSITY CONSULTANT TO REVIEW THE EXISTING DOCUMENTATION THAT HAS BEEN PROVIDED BY THE APPLICANT AND ADVISE THE PLANNING BOARD ON ITS COMPLETENESS AND CONCLUSIONS AND RECOMMENDATIONS**
3. **THE PUBLIC COMMENT PERIOD WILL COMMENCE ON 6/16/09 AND LAST FOR 30 DAYS**
4. **THE PLANNING BOARD WILL NOT ISSUE THE FINDINGS STATEMENT UNTIL ALL OF THE BIODIVERSITY QUESTIONS THAT**



**ARE STILL OPEN ARE ANSWERED AND ANY OTHER COMMENTS  
THAT RESULT FROM THE PUBLIC COMMENT PERIOD**

**SECONDED BY H. FISCHER**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola stated that the next order of business is for the Board to discuss the selection of its biodiversity consultant.

Mr. Labriola: **MOTION TO GO INTO EXECUTIVE SESSION; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 7-0-0**

At the end of the Executive Session, the members of the public were invited to return to the room.

Mr. Labriola announced that the Planning Board will retain the services of Hudsonia based on their reputation as a well-recognized consultant and expert in this area. Mr. Takacs will contact Hudsonia.

Mr. Labriola reminded the applicant of their commitment to publish notification in the newspaper regarding the 30-day comment period and that they will provide copy on disc for uploading to the Town's website. Mr. Parish stated that they will put public notice in The Poughkeepsie Journal and that they will prepare the disc for the website.

Mr. Labriola asked Mr. Takacs to arrange a conference call with Hudsonia and finalize the timing for their review.

Mr. Kirchhoff asked that the Board get a fixed price from Hudsonia for their review. Mr. Labriola concurred that they will get a "not to exceed" price. Dr. Fischer suggested that, as a possibility, Hudsonia may suggest that the August field study would not be necessary. Mr. Parish stated that he wants the August study to be done and the Board concurred.

**5. JOYCE – REGULATED ACTIVITIES IN A WETLAND**  
**Grid # 13-6463-02-892660**  
**Location: 133 Drake Road, 3.3 acres, R-2**

Mr. Jeremy Joyce was present. Mr. Labriola noted that the last time this application was before the Planning Board was November 2008 and asked Mr. Joyce to report on any changes to the project.

Mr. Joyce stated that a HEC-RAS study was conducted, a construction sequence plan was submitted, and a site plan. He stated that he received comments from both engineers – Morris Associates and Greg Bolner at Clark Patterson Lee. He stated that he also received the DEC permit in the meantime.



Mr. Labriola asked Mr. Joyce to point out the significant updates to the plan. Mr. Joyce stated that the plan has not changed much since the one submitted in November 2008. He stated that there are some structural aspects to the bridge that are new and the HEC-RAS study is new and the construction sequence is new. Further, he stated that they did the site distance – 259 ft. in one direction and 251 ft. in the other direction. He noted that there were 38 comments from Morris Associates and 11 comments from Clark Patterson Lee.

Mr. Takacs reviewed the Morris Associates letter. He noted that the applicant has done a lot of work on moving this project forward. He requested a plan that is exclusively erosion control because there are a lot of steep slopes that during construction will have to be mitigated. He mentioned that the applicant is extending drainage from the Town to a pipe that comes down the swale but that it is not clear on the drawing where it is going. Mr. Karis referenced a comment from Greg Bolner to put a pipe from the end of the swale down through the drainages into the stream. Mr. Takacs pointed out on the map that the current driveway design may block off drainage easement from an adjacent lot and it is not known whether that will have an effect on flooding in another area on the map.

Mr. Takacs stated that the applicant is proposing a temporary crossing and that there is no design and it is not known whether the culverts are of sufficient size to handle a big storm event while they are under construction for the bridge. Further, he stated that it is not clear how the applicant will use it – there is no grading going down to it – and remediation will be needed once it is completed. He pointed out an area on the map that must be included in the drainage study.

Mr. Takacs stated that the details of construction of the bridge need to be expanded – no size to the footing and no depth to it were provided. He stated that it shows that it will be pinned into the rock, but that it is not clear whether there is rock at that point or not. If there is no rock, then the whole design will change. So there should be some investigation as to whether there is bedrock that they can tie into for the crossing.

Mr. Takacs stated that they need a dewatering plan because when they dig out to put in the footings, the stream will flood out the whole area. Mr. Joyce stated that he plans to do a dam around that with sand bags. Mr. Takacs stated that he may still have to pump. He referenced a culvert that he did in Hyde Park last year, on the Crum Elbow during the summer, and even at that point he stated that they had 3 pumps going trying to keep the water down in order to put the footings in. Mr. Takacs explained that they dammed upstream and discharged with pipes below the construction area. He stated that they pumped the whole stream body; he stated that the sand bags helped but that the water still got underneath the sand bags and back into the trenches. He advised Mr. Joyce that they will want to do this during a drought during July or August.

Mr. Takacs asked for more thorough details of construction and stated that the HEC-RAS was done very well and that the expert in their office had some additional questions.

Mr. Labriola asked about the staging area for construction because that will generate additional disturbance in the buffer. He asked about where Mr. Joyce is going to store building materials and where the construction staging areas will be especially for the heavy equipment. And, he pointed out that ultimately the areas will have to be restored after construction is done. Mr. Joyce asked if Mr. Labriola is referring to framing material for the house. Mr. Labriola responded no, that he's referring to materials needed to construct the bridge and the driveway – stockpiling raw material, equipment. Mr. Joyce stated that they will not be stockpiling it – that they will be putting it down on the road as they bring it in. He stated that they will not have to store 100's of yards of material.

Mr. Labriola asked about stockpiling for the bridge itself. Mr. Joyce stated that the bridge is primarily concrete and steel. Mr. Karis asked if the concrete abutments are backfilled. Mr. Joyce responded yes. Mr. Takacs stated that there may not be much staging materials – he explained that when they pour the concrete, the trucks will come in, pour the concrete and leave. He stated that the steel will be unloaded right on – that the steel would not be left sitting around. And then the decking will be done. Mr. Joyce stated that it will be built as it goes along and that not a lot of material will be left lying around.

Mr. Karis referenced the DEC's comment about cleaning the cement trucks that are going to want to wash out – question of where the wash out area will be in relation to the stream. He stated that they are supposed to pump to an uphill wooded area and asked how that will work given that Mr. Joyce is clearing the entire lot. He stated that he thinks everyone will be in for a big surprise when this is constructed. He stated that there is a lack of space to handle materials in and out of this site, stockpiling materials, maintaining erosion control. He stated that he's not convinced that the bridge is in the right spot. He stated that this Board has seen the same plan for 2 years now and that responses to the Board's comments on threshold concerns have been limping along. Mr. Joyce stated that every time he comes before the Board there are new comments – this time 38 from Morris Associates and 11 from Clark Patterson Lee.

Mr. Joyce asked why the bridge is in the wrong location. Mr. Karis responded that it is because of the steep side slopes of the bank and asked how Mr. Joyce will save the 32 inch Maple tree that is holding in the stream bank. Mr. Karis stated that he does not understand how Mr. Joyce will get access across the stream, even with the temporary stream crossing, and stay on his property. Ms. Seaman agreed and asked how Mr. Joyce plans to not impact the adjacent property just to dig out and support this stream. She pointed out that he shows no supports for it on either side. Mr. Joyce stated that it is not the bridge but it is culverts that are laid across the stream that you drive on top of.

Mr. Karis stated that he understands that Mr. Joyce has been issued a permit by the DEC – a stream disturbance permit gives him the right to cross the stream. He stated that the DEC controls within the present banks of the stream, but that the DEC does not control within 100 ft. of the stream, which they explained clearly in a cover letter. Mr. Karis

stated that the DEC explained that granting the permit does not mean that the project has been approved. Mr. Joyce stated that he is aware of that.

Ms. Seaman expressed concern about where Mr. Joyce is putting the bridge and that the concrete abutments are so close to the stream. She stated that at any high water time, he will erode down below that bridge. Mr. Joyce asked how she knows that. Ms. Seaman stated that she is a geologist and stated that when you put in a bank like that and increase the velocity flow of the water through there, because it is being contained, then you will erode downstream. Mr. Joyce asked if it will erode if it is on bedrock or shale. Ms. Seaman stated that he is not on bedrock or shale. She stated that she walked the area and that there is a lot of dirt and other materials. Mr. Joyce pointed out the sheet of rock on the map in the area.

Mr. Labriola asked if Ms. Seaman is suggesting that downstream from the bridge crossing there may need to be additional work done on the banks to make sure that it can handle the increased flow because of the channel. Mr. Joyce stated that he is not impeding flow. Ms. Seaman stated that the concern is when you reach a higher stage of water flow and the water hits the concrete embankment. She explained that Mr. Joyce is constructing a bridge right on the stream bank rather than building a bridge with anchors that are back further from the stream which keeps it up off the stream. She stated that when the water hits the concrete it will increase in velocity and will pick up additional materials that will cause additional erosion downstream below it. Mr. Joyce asked how high the stream will get. Ms. Seaman stated that she does not know what the 100-year flood is. Mr. Joyce stated that they did the HEC-RAS study which estimated 1/2 ft. during a 100-year flood. Mr. Gordon stated that the Wappingers Creek went up 14 ft. a year ago April and questioned the result of the study. Mr. Joyce stated that the Board made him do the HEC-RAS study for drainage over 2500 acres around this creek – the study states that it goes up 1/2 ft. in 100-year flood. Mr. Joyce asked what kind of velocity would come from 1/2 ft. Ms. Seaman stated that any time his stream goes up and hits the concrete abutment; you will get erosion below that point.

Mr. Labriola asked whether the options are a redesigned bridge or some downstream mitigation with stabilization on the banks. Mr. Karis stated that the plan to put the concrete abutments right on the stream beds is less than appropriate; that the bridge needs to increase in length to give as much flow under the bridge and as much space for that water to rise through that constriction without having a negative impact downstream. Ms. Seaman agreed and advised that the more he can back off the natural stream bank and allow the stream to maintain its natural flow and not run into concrete would be advisable.

Mr. Karis stated that he sent around a habitat fact sheet and that based on the site walk he sees the current location of the bridge as a pool ravine – a rocky bend in a perennial stream that has primarily hemlock. He stated that there are conservation methods – first, one is to minimize and prevent disturbances in stream banks. He stated that when you place the concrete abutment on the outside edge of the fastest velocity of water, you destabilize that flow, even outside where the concrete will be, that tie back soil is

destabilized. Over time, he stated that that will start to erode away, especially on the outside bend of the stream, which is where you get the fastest water and the deep channels in the stream and the sediment happening on the inside of the elbow.

Mr. Karis suggested that the bridge is in the worst spot in a limited area. He suggested a shift to the south and an elongation would lose the issue with the turn off and the sharp turn across the bridge – you would get more of a straight run across the stream for fire and emergency vehicles. Mr. Joyce pointed out that the Fire Advisory Board did not have a problem with the turn. Mr. Karis asked if he knows what the inside radius of the turn is. Mr. Joyce stated that it is less than 90 degrees. Mr. Karis stated that if they eliminate that turn it gives you a straight run across the bridge and makes the bridge longer and helps by minimizing the constriction of the stream and will maintain more of the same drainage pattern and fluctuation of the flood plain.

Mr. Karis summarized that there is a better place to locate the crossing. He stated that he had a discussion with the permitting person from the DEC and his take was that this is an administrative permit and that nobody from the DEC went to the site. Mr. Joyce stated that he walked the site with a DEC biologist who identified the currently planned location as the best site for the bridge. Mr. Karis stated that he spoke with the person who signed the letter and that that is not what he was told.

Mr. Karis stated that he has a different take on the location of the bridge and its impact to the wetland buffer. Mr. Joyce stated that he went down there with a biologist in charge of the fisheries department for the DEC and he said that was the best location. He stated that a biologist would know what the best impact on this watercourse is. Mr. Karis stated that from a fisheries standpoint he is correct. Mr. Joyce stated that from an environmental aspect the biologist would know more than Mr. Karis about protecting areas such as this.

Mr. Labriola stated that the Planning Board needs to stop starting this application over every time the applicant is in front of the Board. He stated that the Board needs to be concur on what needs to be done, direct the applicant to do it, and then when he comes back the Board can fine tune. Mr. Labriola stated that there is still a fundamental disagreement about where the bridge goes. Mr. Joyce stated that the bridge location is subjective – what you think is best and what you don't think is best. He asked who is going to say what is best.

Mr. Labriola stated that the intent is to minimize the impacts and to be able to make sure that 10 years from now we don't have an uncontrolled situation that is the result of this construction. He asked whether a meeting with the DEC, Mr. Joyce, and Barger and Miller would be useful. Mr. Joyce pointed out that it was not possible to conduct the HEC-RAS study during the winter and that he does not lack incentive on his project.

Mr. Labriola stated that the Board and the applicant must move this application forward and asked for some suggestions on what needs to be done. Ms. Seaman stated that, although the DEC says the bridge is fine, in her opinion it is less than advantageous

design because it is still going to have a major impact on the waterway. Mr. Joyce asked how she can know that and stated that it is a subjective concept. He asked what evidence she has for that.

Ms. Seaman stated that Mr. Joyce has two options – he can either accept her subjective and rather studied assessment of his drawing or the Board can have an expert come in and do a full positive declaration under SEQRA and do a full study to see exactly what the impacts will be. She stated that the Planning Board is still trying to work with him. Mr. Joyce stated that he does not think that is the case and that this has been 14 months for a Board of Health approved lot in a subdivision. Ms. Seaman pointed out that it is also in a wetlands, crossing a stream and in the wetland buffer which this Board has been very determined to stay out of since the wetlands law was passed. Therefore, not saying that he has an unbuildable lot which puts him and the Board in an untenable position, the Board is trying to work with him. She stated that his other choice is to go through some other major studies. Mr. Joyce stated that he went through a HEC-RAS study for 4 months. Ms. Seaman stated that that is one study. She pointed out that this is a major stream and it should be a protected stream. She stated that she's surprised that the DEC is so cavalier. Mr. Joyce stated that the biologist doubted that there is any trout in the stream due to the fact that the dam upstream is holding water and that when the water comes down this stream is too hot to have trout in it.

Mr. Labriola stated that, if the Board thinks that there is an alternate bridge design that allows for it to be lengthened so that the concrete supports are out of the stream bed and the Planning Board thinks that that will satisfy, then the Board should declare that and ask the applicant to go do that. He stated that this Board must provide a consistent and reliable level of direction to the applicant. Mr. Joyce stated that it is costing him money. Mr. Labriola stated that he understands. Mr. Joyce stated that he has paid Morris Associates more money to look at the plans than he has paid his engineer to generate them. Mr. Labriola stated that the Board can have that conversation with Mr. Joyce but it won't help move things forward. Mr. Joyce stated that every time he comes to a meeting he's paying twice. Mr. Labriola stated that that is not unique to Mr. Joyce's application – that Morris Associates reviews every applicant's plans.

Mr. Joyce asked why the Board did not talk about the location of the bridge at the November meeting. Mr. Karis asserted that the Board did talk about it.

Mr. Fracchia asked whether Mr. Joyce had looked at the alternate design – the straight shot – and whether there's a reason he has not considered it. Mr. Joyce stated that the original owner went to do that and that he does not want to do that because when you drive down you will cover all this up – you won't see this area – and also the straight route is more expensive. Mr. Joyce stated that he discussed the options with the DEC agent who thought the current design is a better location than the straight route. Mr. Labriola asked what the rationale was for that. Mr. Joyce stated that drainage was one aspect and soil quality and the presence of rock, also. Cost is also an issue – the shorter span requires less steel. He stated that steel for the shorter bridge is \$24,000 and for the



80 ft. bridge is much more. Mr. Karis did not agree that the longer bridge would be 80 ft. and estimated that it would be, maybe, 10 ft. longer.

Mr. Labriola stated that there needs to be a meeting of the minds on this bridge crossing. Mr. Joyce stated that he thought the process would be complete once he answered the many issues raised by the engineers and that now it sounds as if there needs to be yet another meeting that will generate more issues. Mr. Labriola stated that there is no agreement at this point on the optimal location or optimal design for this bridge. He stated that until the Board members are satisfied on those two points – location and design – there will be no way to move forward. He suggested that the only way to move it forward is to get the DEC, Barger and Miller, Morris Associates together with Mr. Joyce and then return to the Planning Board with an agreed upon plan. He invited Mr. Karis and Ms. Seaman to either participate in the meeting or provide comments that need to be factored into that discussion. Mr. Labriola stated that the next time the Planning Board sees this application, it must be a plan that all are agreed to move forward on.

Mr. Karis stated that he would be happy to provide comments. Mr. Takacs welcomed comments from the Board and noted that he can provide the engineering perspective. Mr. Karis stated that the meeting should happen at the site. Ms. Seaman agreed. Mr. Karis asked if the stakes are still in the ground for the abutments for the bridge. Mr. Joyce responded no. Mr. Karis asked that Mr. Joyce put the stakes back in the ground for that location.

Ms. Seaman stated that Mr. Joyce acknowledged that he still needs to determine whether there is bedrock on the other side of the stream and that he has to do some more investigation there, anyway. Mr. Labriola asked if that is something Mr. Joyce already has scheduled. Mr. Joyce responded no.

Mr. Labriola asked Mr. Takacs to set up the meeting – attendees will be Barger and Miller, DEC, Mr. Karis, and Mr. Labriola. Mr. Karis suggested that Mr. Joyce's engineer reach out to the DEC to identify the appropriate person to attend the meeting. Mr. Labriola suggested that Greg Bolner would not need to be involved in this meeting as his comments and concerns are with regard to the driveway.

Mr. Karis also raised the topic of a realistic development plan for the house. He stated that the house is situated right in the elbow of the wetland buffer lines. He stated that there is grading associated with the fill for the septic and around the house. He asked where the front yard will be and where the rear yard will be – where are the limits of the clearing that will happen. He stated that if it is this plan, then if Mr. Joyce clears any more he will be in violation of the wetlands permit. He advised Mr. Joyce that he should realistically represent what the final development around that house will be. Mr. Karis stated that he thinks it will be more into the wetland buffer than is shown on the plan and that needs to be quantified because it is wetland buffer. Mr. Labriola agreed and stated that the Board and the applicant have talked about this a number of times. Mr. Karis asked if Mr. Joyce has house plans and whether he can show a real footprint.

Mr. Labriola asked if Mr. Joyce would be able to move the house back. Mr. Joyce stated that the buildable size, because of setbacks from side and the septic, is a square that is 90 ft. wide by 60 ft. deep – that is where the house can be put. Mr. Labriola asked how big the house will be. Mr. Joyce stated 2500 sq. ft. Mr. Karis asked if it will be a rectangle. Mr. Joyce stated that he thinks it will be. Mr. Karis stated that Mr. Joyce has the rectangles right on the limit and that the Board needs to see the real plans for the house and see where the limits are. He advised Mr. Joyce to look at what is realistic for this house for it to function.

Mr. Labriola agreed and stated that because the house will require some level of clearing, it will encroach on the buffer and that the Planning Board needs to understand what that is. He noted that some of it may be as a result of construction, but it is the post-construction that the Board needs to understand. Again, Mr. Labriola stated that this is something that the Board and Mr. Joyce have discussed before.

Mr. Labriola asked if there is anything else that needs to be factored into this next set of preliminary discussions. Dr. Fischer suggested that an engineer who understands streams should participate in the on-site meeting. Mr. Takacs stated that he will ask the HEC-RAS engineer at Morris Associates to participate. Mr. Fracchia asked whether DC Soil and Water should be involved. Mr. Labriola suggested that following this meeting of the minds, the Planning Board needs to be in agreement on the consensus achieved at that meeting. Dr. Fischer stated that, for that to happen, the appropriate people need to be at that meeting. Mr. Labriola suggested that it be restricted to the core set of folks.

Ms. Seaman stated that the two basic questions about the bridge is location and size. Mr. Labriola agreed – the issues are:

- Is it in the bank – is it outside the bank
- Is there sufficient rock to pin to

Mr. Karis stated that it is very important on this project because it is very constricted space. He stated that one of his other worries is how Mr. Joyce will contain the construction process in the woods on a 35 ft. strip – will there be construction fence along the property lines to protect the neighbors' property. He stated that if he were a contractor the first thing he would do is back down the road and dump the load. Mr. Joyce stated that there will be silt fencing. Mr. Karis stated that he's talking about the property line. Mr. Takacs suggested orange construction fencing so that it stands out.

Mr. Karis also talked about sequencing issues that need to be addressed and thought about as part of the planning phase. Mr. Joyce read the note on the map that silt fence will be installed along stream edges. Mr. Karis pointed out that there is nothing to delineate the property line in the field to protect the neighbors' property and trees.

Mr. Nelson stated that for both the Board's purposes and for Mr. Joyce's purposes, it is a good idea that the bridge is something they are looking at but that the major question for the Board to consider is whether there is a potential for any significant adverse environmental impact. He stated that considerations of the bridge, the staging area,



where the construction materials will be held, where the house will be located, and mention of the Town right-of-way – whatever issues there are need to all come out because they feed into the broader issue of the Board's findings of potential environmental impact.

Mr. Karis asked whether the Board should initiate SEQRA – this is an unlisted action for this Board. Mr. Labriola stated that his preference would be to have the meeting of the minds to come up with an alternate design, because ultimately that is what the Board would want to do the SEQRA on. He stated that he suspects these plans will change, and that it would be best to wait.

Ms. Seaman stated that it is unwise to do SEQRA until there are concrete plans.

Mr. Fracchia asked if Mr. Joyce will use pressure treated decking for the bridge. Mr. Joyce responded yes – steel beams with pressure treated timbers on top. Mr. Fracchia suggested that Mr. Joyce look into some alternative because of the potential for leaching into the stream. He stated that there is now a case in Southern Dutchess where the Town is looking at taking out a whole bridge – copper and arsenic is leaching into the water. Further, Mr. Fracchia stated that the copper speeds up – by 5 to 6 times - the metal erosion on the bridge.

Mr. Joyce asked how he will know what the final list of issues will be. Mr. Labriola stated that it is not yet possible to know the ultimate list of issues at this time but asked the Board members if there are any other significant issues that the Board should consider. He advised Mr. Joyce that plans will come back to the Board and other items may be spotted at that time. He stated that the major issues at this time are:

- Location of the bridge
- Construction design of the bridge
- Siting of the house
- The location of where the disturbance will be for the front yard, the side yard
- Any construction work that may impact the buffer
- Comments in Morris Associates' letter
- Comments in Greg Bolner's letter

Mr. Labriola stated that once the major issues have been addressed, then it is unlikely that Mr. Joyce will face any big issues but he might get some tweaking issues that would not impede the process from moving forward. Mr. Joyce asked whether the tweaking things would be month to month – tweak this, come back, tweak this, come back – or will be it a set of tweaks. Mr. Joyce stated that at one point he asked the Board how long this process would take and he got an extension for 6 months and that this is way past that time. Mr. Joyce asked if this is going to take another 10 months or if it might take another 3 months. Mr. Labriola stated that all the Board can say is that it will take as long as it needs to take. However, he stated that at some point the Board will have to move the project to the point where it is done. He stated that if the Board can get agreement on the bridge, the location of the house, the impacts on the buffer, he's hoping that the Board and the applicant are a few meetings away from having this project done.

He also stated that there could be surprises, which neither he nor the Board enjoy. Further, he stated that he will not tell Mr. Joyce that the process will be complete by August because he has nothing to base that prediction on.

Mr. Takacs stated that it will take probably a couple of weeks to set up a meeting on-site. Ms. Bramson suggested that it be scheduled in June or people will be away on vacation.

Mr. Labriola stated that, realistically, the Board could not expect Mr. Joyce back with a set of drawings before August. Mr. Joyce stated that if he goes to three more meetings between now and December, it's not that big of a deal – that he is not in a rush for time. He stated that he does not want to keep on having meetings because it is costing him money. He stated that even a little tweak costs him engineering money for both engineers. Mr. Labriola expressed his understanding and stated that the Board would like to have one more big burst of engineering input to get an agreement and then he is hopeful it will be tweaks beyond that.

**6. MORRISON SUBDIVISION – 90-DAY EXTENSION**

Mr. Labriola stated that this subdivision is on for a final 90-day extension of its final approval.

Mr. Labriola read into the record (original on file) the **MOTION TO GRANT THE FINAL 90-DAY EXTENSION: final extension to expire on 8/11/09.**

**SECONDED BY M. GORDON**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola explained that all conditions of final approval must be met by 8/11/09; and, if they are not, then the applicant must resubmit his subdivision application. He stated that the applicant is waiting for a letter from their bank, at this point.

**7. APPEAL #935 – HOMELAND TOWERS, LLC – SPECIAL USE PERMIT  
Grid #6565-03-131274  
22 Camp Nooteeming Road, Pleasant Valley, NY 12569**

Mr. Labriola stated that Homeland Towers is moving forward for a Special Use Permit for their tower, and that the ZBA has declared their intent to be lead agency. He stated that it is not necessary to make a motion, but that he wanted to put it on the record that the Planning Board supports the ZBA in taking lead agency status on this project.

Ms. Seaman asked if their request for a waiver from the moratorium has been granted. Mr. Labriola stated that they are in the process of going through that. Ms. Dickerson stated that the Town Board still has not made a decision on their request for waiver and that there is no assurance that the Board will vote on it at their meeting on 6/10/09.

**8. MISCELLANEOUS**

Mr. Labriola asked the Board members to notify him when they have completed any of their continuing education requirements.

**9. MINUTES**

Mr. Labriola: **MOTION TO ACCEPT THE MINUTES, AS CORRECTED, OF THE MAY 2009 PLANNING BOARD MEETING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola noted that there are outstanding minutes from June 2008 for ABD Stratford that have not been approved. He stated that the Planning Board was not going to review the minutes until the situation was resolved. Ms. Dickerson confirmed that it has not been resolved and that it got stopped in a legal situation. Mr. Nelson will look into this.

Meeting adjourned at 9:20 p.m.

Minutes submitted by:

Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the June 9, 2009, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_ Approved as read

\_\_\_\_ Approved as corrected with deletions/additions

## PLEASANT VALLEY PLANNING BOARD

July 14, 2009

A regular meeting of the Pleasant Valley Planning Board took place on July 14, 2009, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:35 p.m.

Members present: Joe Labriola, Chairman  
Rob Fracchia  
Michael Gordon  
Kay Bramson  
Henry Fischer  
Rebecca Seaman  
Peter Karis

Also present: Jim Nelson, Esq., Planning Board Attorney  
Pete Setaro, Planning Board Engineer

1. **APPEAL #945 – CIMORELLI – AREA VARIANCE**  
**Grid #6264-02-995636**  
**51 Melville Road**

Mr. David Pretak was present representing the applicant, Helene Cimorelli. He stated that this is a ½ acre parcel on Melville Road. Currently, there is an existing residence to the front of the property and an old trailer in the rear of the property that is approximately 50 years old. He stated that the old trailer is a 2-bedroom home and that the proposed new trailer is also a 2-bedroom home. He stated that it is occupied by Mrs. Cimorelli's daughter and her grandson. He also stated that Mrs. Cimorelli's husband passed away last year and one of the things he really wanted to be done was to replace the trailer with something that is better and newer. He stated that they will be replacing a single-wide home with a new single-wide home. He stated that the proposed new home is 66 ft. long and is 1466 sq. ft. He stated that Mrs. Cimorelli had the property surveyed and staked.

Mr. Pretak stated that the existing trailer is 9.5 ft. from the rear property line and that the new trailer will also be 9.5 ft from that line. He explained that they would have to regrade the site if they were to locate the home farther away from the property line. Also, he explained that the water and sewer will come right up underneath the proposed trailer if it is placed in the same location as the existing trailer. He stated that the new trailer will meet the required side setbacks and will be 1-2 ft. higher. He stated that Mrs. Cimorelli's neighbors are pleased to see a new replacement home going onto the site – that it will look better from the road.

Mr. Labriola asked if they will be able to remove the old mobile home off the property and bring the new one onto the property without encroaching on the neighbor's property. Mr. Pretak explained that they will destroy the old home on the site and will bring the new home straight in. He stated that there are no overhanging trees that are in the way.

Mr. Gordon asked whether the neighbors have been given the opportunity to comment on this. Mr. Pretak stated that Mrs. Cimorelli has spoken to neighbors and that people are pretty happy about it. He stated that there have not been any negative comments. He stated that it has been staked for a while.

Mr. Gordon wanted to know if the neighboring property owner has been notified. Mr. Labriola explained that that is part of the ZBA appeal process. Ms. Dickerson mentioned that the neighbors have received certified, return receipt notification of the ZBA hearing on this appeal.

Mr. Gordon asked about the discrepancies between the drawings that were submitted by the applicant and the aerial photos provided by Teddi Southworth. Ms. Southworth explained that the aerial photos date from 2007. Mr. Pretak pointed out the structures that are currently on the property.

Dr. Fischer asked why the new home is not being located 15 ft. from the rear property line. Mr. Pretak explained that the water and sewer services are underneath the existing home, which makes it much easier to install if the new home is placed in the same location. He stated that in order to meet the 15 ft. setback they would have to move the water and sewer services. Also, very little grading has to occur if the new home is put in the same place as the old home. He stated that a slab will be put down for the new home, but no huge excavation will be needed.

Dr. Fischer asked what, specifically, would have to be moved in order to meet the 15 ft. setback. Mr. Pretak explained the process of providing water and sewer hook ups and stated that they would have to excavate and trace the existing water and sewer lines. He explained that electric goes overhead.

Dr. Fischer asked if the drop holes for water and sewer in the new home are in the exact same spot as for the old home. Mr. Pretak explained the installation process of attaching the new home to the existing services via piping under the new home, on top of the slab, and within the skirting. He explained that it would not require digging and moving to a new spot.

Mr. Fracchia asked if the two residences on the site have separate wells and septic. Mr. Pretak explained that there is one septic system and one well for both residences. He stated that they have owned the property since 1994 and that the old mobile home dates to the late 1950's.

Ms. Bramson stated that she did a site visit and that the trailer is visible from the road. She stated that a new trailer would be a big improvement. Mr. Pretak stated that the new home would have new siding and shutters on the windows and would be a nice looking addition to the property.

Dr. Fischer has if the new home would connect into the single septic system and the single well. Mr. Pretak stated that that is correct. Dr. Fischer stated that, in his opinion,

they can meet the required setbacks for the new home. He stated that, in any case, they will have to do some work to line up the water and sewer for the new home. Mr. Pretak stated that, yes, there will have to be some work but that it will be more costly for the owner. Dr. Fischer stated his concern that the new home will be on the site for another 50 years.

Mr. Fracchia stated that it looks like there is a lot of shale on the site and that it would be expensive to move the home to a new location. Mr. Pretak stated that he does not know, that he did not do any test holes.

Dr. Fischer suggested that if they move the home closer to the house, they may be moving in the direction of the water and sewer lines and, therefore, won't have to do any digging. Mr. Karis stated that it is also possible that they will dig right into the septic. Ms. Bramson asked what the distance between the house and the trailer is. Mr. Pretak stated that he does not know the measurement.

Mr. Labriola asked where the septic and the leach field are. Mr. Pretak stated that he believes the septic is to the left and towards the front of the house. Mr. Labriola asked where the wellhead is. Mr. Pretak stated that it is to the right side of the main house.

Mr. Karis pointed out that this property is surrounded by open field. Mr. Pretak stated that it is surrounded by a large farm. Dr. Fischer stated that at this time it is surrounded by open fields and stated that there is a chance, now, to bring something that is non-conforming into conformity with the Code.

Mr. Gordon asked if there is a concrete pad under the old home. Mr. Pretak stated that he does not know but that he doubts that there is.

Mr. Karis stated that he agrees with Dr. Fischer – that it makes sense to bring the new structure into conformity with the Code. Mr. Gordon agreed and stated that they will have to build the pad anyway. Ms. Seaman advised Mr. Pretak to provide the ZBA with documentation on how expensive it would be to relocate the home so that it meets the required setback. She stated that she agrees with Dr. Fischer about bringing the new home into conformity. Mr. Pretak will ask the applicant to get an estimate for the excavation and what it would cost to move it.

Mr. Labriola stated that it might be different if it needed to be non-compliant in order to save trees or to avoid encroaching on the leach field or some factor that would make it nearly impossible to make it conform. He stated that it seems like there is an alternative. Therefore, he stated that if the applicant can explain that it will cost another \$4,000 because of the excavation, the ZBA will take that into account.

Mr. Labriola: **MOTION TO PASS THIS VARIANCE ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION BECAUSE THE PLANNING BOARD BELIEVES THAT THE LOT ALLOWS FOR THE PLACEMENT OF**

**THE REPLACEMENT MOBILE HOME TO COMPLY WITH THE REAR  
SETBACK WITHOUT SIGNIFICANT IMPACTS TO THE PROPERTY**

**SECONDED BY H. FISCHER**

**VOTE TAKEN AND APPROVED 7-0-0**

**2. OUT ON A LIMB – SITE PLAN – DISCUSSION ONLY**  
**Grid #6463-01-296827**  
**1777 Route 44**

Mr. Matt Swanson, Out On A Limb Tree Service and Swanson Properties, was present. He displayed a site plan and elevations of the proposed building. He pointed out features on the site plan and explained that the building on the adjacent property is 1.5 ft. on his property and that he has given the owner an easement for that. He stated that they have a maintenance agreement – that there was an old culvert that they replaced.

Mr. Karis asked if the topo is accurate. Mr. Swanson explained an area that they raised. He pointed out an open area where water disperses and collects and stated that they would like to install an 18” pipe to improve drainage and that they would like to replace the embankment so that it is level with Route 44.

Mr. Labriola asked about the proposed location of the driveway cut and noted that it is adjacent to a residence. He stated that it would be preferable to keep the entrance away from the adjacent residence. However, he also noted that the DOT will make the final decision on the location. He suggested that it may end up being a shared cut on Route 44.

Mr. Swanson stated that right now the entrance is very tight and that Mrs. Fields gave him a right-of-way but that it is very tight. Ms. Bramson noted that their trucks need access. Mr. Swanson stated that they want everything to be in the back of the building for privacy and security – the garage doors will be in the back.

Board members reviewed the elevations of the building – office space in the front – and the parking plan. Mr. Swanson stated that he plans parking in the front for the office staff and side parking for employees. Mr. Labriola suggested that all employee parking be in the back. Mr. Swanson stated that they planned the handicapped parking for the front.

Board suggested that Mr. Swanson move the building as far forward as possible and put the parking in the back. Mr. Swanson stated that they would like to push the building forward. Board stated that the required setback is 80 ft. from the center of the road. Mr. Labriola suggested that he move the building as close as possible and put all the parking on the back and the sides.

Mr. Swanson explained that he brought in fill to fill the culvert along the roadway. He stated that it will be leveled out right to the roadway. He stated that, in an effort to avoid having to have a pump up system for his septic, he brought the proposed building up to



get up to his septic. He stated that it is really tight between the wells. He also mentioned that he has heard that someone is purchasing Mrs. Fields site – the autobody site.

Mr. Gordon stated that if he wants to go closer to the road, he would need to apply for an area variance from the ZBA. Mr. Setaro agreed and stated that DC Planning and most codes are trying to get more buildings up front with parking behind. Mr. Karis noted that it would be more in line with the residential structure.

Mr. Gordon noted that Mr. Swanson could use more space in the back. Mr. Swanson agreed and explained that they are planning on a security gate and decorative fencing. Board discussed alternative design for parking, moving access away from residence, possible shared drive, reducing curb cuts, fencing, and moving the building forward.

Board noted a concern for salt storage on the site and the potential impact on wells on Mr. Swanson's property and on adjacent properties.

Mr. Gordon asked if Mr. Swanson will occupy the entire building. Mr. Swanson stated that he will make that decision based on how much the project costs overall. He stated that it is mostly warehouse space and two small offices and one bay that he could rent out. Mr. Labriola advised him to apply for a site plan for a multi-business site so that the Board can consider all elements – parking, septic, traffic flow and impact – now. Mr. Swanson noted that his Special Use Permit allows rental of part of the building.

Mr. Swanson stated that his long-term plan is that in 30 years when he retires he will have something that he can sell. He stated that he wants to keep a theme that fits with the Town. He mentioned landscaping the front. Mr. Labriola noted that the DC Department of Planning has been consistent in asking that parking be in the back of buildings.

Mr. Karis asked when Mr. Swanson is planning on submitting his site plan application and noted that, potentially, the zoning code will change in October 2009. Ms. Seaman stated that Mr. Swanson was granted a waiver from the moratorium for the site and the use and, therefore, legally the project is under the current Code – assuming that he submits his application. Ms. Seaman stated that he won't see huge changes in the re-codification and that the draft code would require him to move the building forward and gives the Planning Board authority to decide on parking – that there will no longer be any set requirements but there will be guidelines.

Mr. Labriola concurred and stated that the input the Board is providing is consistent with what the comprehensive plan says and what the re-codification says. He stated that he does not think there will be any surprises.

Ms. Dickerson asked what impact there would be on the process if Mr. Swanson now needs to apply, first, for an area variance from the ZBA. Ms. Seaman stated that if he is granted an area variance, that variance will stay – it will not be affected by the re-codification. Ms. Dickerson asked if the setbacks from the center of the road are changing in the re-codification. Mr. Labriola stated that the setbacks are dictated by

NYS. Ms. Dickerson stated that it is also in the Zoning Code. Ms. Seaman agreed that it is in the Zoning Code and that the re-codification has tried to simplify that. She stated that if Mr. Swanson wants to move this forward he needs to apply to the ZBA for a variance.

Ms. Bramson asked about parking for the rental tenant. Board discussed options for parking on the side and in the back. Mr. Karis pointed out that he will still need a driveway that connects the front to the back and provides a loop, especially for emergency vehicle access. Discussion about gravel versus recycled asphalt and areas that would be blacktopped.

Mr. Gordon mentioned the need to address drainage. Ms. Setaro stated that the applicant cannot increase the amount of water running off the property after development. Mr. Swanson pointed out where he intends on putting the retention pond. Mr. Gordon suggested gravel for the drive; Mr. Karis stated that for commercial usage it might not hold up. He stated that handicapped has to be paved.

Mr. Labriola stated that it is a nice looking building. Mr. Karis suggested that if the building moves forward, Mr. Swanson may need to add some architectural treatment on the front corner. Mr. Swanson stated that his original idea was for a wrap around porch with pillars and stone wraps on the bottom. He stated that he's trying to break up the length of the building (it's 104 ft. long). He pointed out the copper treatments on the building.

Mr. Gordon asked about signage. Mr. Swanson explained that he has a sign permit to use the existing the old sign structure out on Route 44. He stated that his sign person was in an accident and has had complications from that. Therefore, he has been delayed in implementing a sign. Mr. Gordon advised that he would be better off with a sign on the building.

Mr. Swanson stated that he's grandfathered for his sign and that he already has a sign permit. Mr. Labriola noted that he is grandfathered as long as the sign does not get bigger. Mr. Swanson stated that it is not going to get bigger. Mr. Gordon stated that the sign needs to match the building in quality – that the building is stunning and the sign needs to be of the same quality. Further, he stated that a really nice sign on the building will save him a lot of money and not be vulnerable to damage from snow plows in the winter.

Mr. Swanson stated that due to the downturn in the economy his business has been cut in half. Mr. Labriola advised him to submit the site plan application for two businesses. He stated that it would be better to get it done now. Mr. Gordon suggested that he can also show the location of the tenant's sign at the same time. He stated that your building is the statement of your business. Mr. Labriola stated that the proposed building will be a tremendous addition to the Town and that people are going to like it a lot.

Mr. Swanson asked about lighting. Board advised low lighting. Mr. Karis asked if he is a nighttime business. Mr. Swanson responded no. Mr. Karis asked what he will need for security. Mr. Swanson stated that they plan on fencing, lighting, and cameras.

Mr. Swanson asked about fencing. Board stated that it's up to him. Mr. Swanson mentioned that he was thinking about cedar – decorative cuts – picketed. Mr. Labriola asked if it would be security and a privacy fence. Mr. Swanson stated that it will be both.

Mr. Labriola expressed the Board's appreciation to Mr. Swanson for coming to the Board for a discussion prior to site plan application.

3. **POZZA - LOT LINE REALIGNMENT – PUBLIC HEARING &  
PRELIMINARY APPROVAL**  
**Grid #6463-01-079687**  
**1689 Main Street**

Mr. Nick Pozza was present.

Mr. Labriola noted that this application received Sketch Plan approval at last month's meeting and that it is on the agenda tonight for SEQRA review, Public Hearing, and Preliminary Approval. He asked Mr. Pozza to report on any changes to the project.

Mr. Pozza stated that there have been no changes and noted that he had submitted a letter regarding the metal shed on the property. Also, he stated that the driveway maintenance agreement is done and notarized.

Mr. Labriola mentioned that at the last Planning Board meeting he had raised the question about the shed that encroaches on the property line and asked if it is possible to relocate it. He stated that the Board received Mr. Pozza's letter that the shed is 40+ years old and probably would not survive a relocation. He stated that his thoughts are that this is a pre-existing, non-conforming situation and that the Board could add as a condition of final approval that if the shed ever needs to be replaced, the replacement shed must meet all setback requirements. Mr. Pozza stated that he talked with his next door neighbors about the shed and that they have no objections to it being there.

Dr. Fischer asked how enforceable such a condition would be. Mr. Nelson stated that the Board can accept that suggestion as an offer from Mr. Pozza but that he's not sure the Board can mandate. Further, he stated that if it were a note on the map, it would be more enforceable.

Mr. Setaro, Morris Associates, stated that all of the items have been taken care of except that the school and fire districts need to be added to the map.

Mr. Labriola: **MOTION FOR NEGATIVE DECLARATION – SEQRA**

**I move that the Planning Board determine as set forth in the attached declaration dated 7/14/09 prepared by the Board's engineer that the property line realignment plat prepared by Nicholas and Barbara Pozza's subdivision is an**

**unlisted action under SEQRA and it will not have a significant effect on the environment for the following reasons and that no environmental impact statement shall be required.**

**The reasons in support of this determination of non-significance:**

- 1. no new construction is proposed**
- 2. DC Department of Health will grant permission to file approval**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola noted that the file contains an affidavit of publication in The Poughkeepsie Journal for this Public Hearing and documentation that adjacent property owners have been notified of this hearing.

Mr. Labriola: **MOTION TO OPEN PUBLIC HEARING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 7-0-0**

No member of the public spoke.

Mr. Labriola: **MOTION TO CLOSE PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO GRANT PRELIMINARY APPROVAL**

**I move that the Planning Board grant preliminary approval for the property line realignment plat prepared for Nicholas and Barbara Pozza's subdivision in the form of the attached resolution dated 7/14/09 prepared by the Board's engineer and now before the Board subject to the following conditions: NONE**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO WAIVE THE SECOND PUBLIC HEARING BECAUSE NO COMMENTS WERE RECEIVED DURING THE FIRST PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO GRANT FINAL APPROVAL**

**I move that the Planning Board grant final approval to the property line realignment plat prepared for Nicholas and Barbara Pozza's subdivision plat in the form of the attached resolution dated 7/14/09 prepared by the Board's engineer and now before the Board subject to the following conditions:**

- 1. payment of all fees**
- 2. Dutchess County Department of Health permission to file**

3. **Morris Associates letter dated 7/10/09**
4. **Add a note to the map that any further replacement of the shed must conform to all required setbacks**

**SECONDED BY H. FISCHER**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Pozza asked what the next steps are and mentioned that his surveyor is on vacation for a couple of weeks. Mr. Setaro stated that the notes must be added to the map regarding the school and fire districts and regarding the shed. Also, County Health department must sign and, then, he should return the map to the Planning Office for Chairman Joe Labriola's signature.

Mr. Pozza's granddaughter, Catalina Pozza age 7, drew a picture of the Planning Board and the audience with the flags in the background and a title "Town of Pleasant Valley." She also noted on the drawing that there were 18 people in the room. The Board was enchanted by Catalina's drawing, and Mr. Labriola added his signature to it.

4. **CROWN GAS – AMENDED SITE PLAN**  
**Grid #6363-02-566634**  
**29 Charles Street**

Mr. Ed Hutchinson, applicant, and Mr. John Hart, Duck Harbor engineering, were present. Mr. Hutchinson reviewed the changes to the map:

- Ingress/egress is now shown

Mr. Setaro reviewed Morris Associates comment letter. He asked whether the Fire Advisory Board has reviewed the plan. Mr. Labriola read the FAB's comment from the file.

Mr. Setaro asked the secretary whether this project will require a building permit. Ms. Dickerson stated that she is not familiar with the building permit process. Mr. Setaro noted all of the requirements for propane storage and that, in other towns, the building inspector is knowledgeable about those requirements and will ensure that they are in compliance.

Mr. Hart stated that they are using a pre-cast pier for which they have to get a permit. He stated that they will show shop drawings of preparations and the pier and the tank. He stated that the next thing that happens is to tie it in to the existing tank by three pipe lines. He explained that at the end of that process the underwriter inspects, the engineer inspects, someone from the Town inspects – probably the building inspector. If there are any problems, then inspection happens by the County and then NYS. He reminded the Board that regular inspections are done daily, weekly, monthly, and annually.

Mr. Setaro asked whether the site is fenced. Mr. Hutchinson stated that it is entirely fenced.

Mr. Setaro stated that all other Morris Associates comments have been answered.

Mr. Labriola asked about turning radii for tractor-trailers and that it looks like the trucks will have to drive outside of the crushed gravel area on the site. He stated that the parking lot needs to be extended to cover any of the area that the trucks will be traveling on. Mr. Hutchinson reviewed the map and identified an inaccuracy on the map with regard to the gravel paved area. He stated that the trucks are doing the radius now. Mr. Setaro stated that when the applicant submits the map for signature, he'll have Mr. Takacs go out and verify that. He suggested that an additional condition of final approval will be to verify that the limits of existing gravel area is sufficient for tractor-trailer turning.

Mr. Labriola: **MOTION FOR NEGATIVE DECLARATION – SEQRA**

**I move that the Planning Board determine as set forth in the attached declaration dated 7/14/09 prepared by the Board's engineer that the Crown Gas amended site plan is an unlisted action under SEQRA and it will not have a significant effect on the environment for the following reasons and that no environmental impact statement shall be required.**

**The reasons in support of this declaration are:**

- 1. Proposed tank conforms to all NYS and local codes regarding propane storage tanks**
- 2. Minimal site improvements are proposed**
- 3. Erosion control measures will be provided**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION FOR CONDITIONAL FINAL APPROVAL**

**I move that the Planning Board grant site plan approval to the Crown Gas amended site plan with regards to the application of Crown Gas LLP in the form of the attached resolution dated 7/14/09 prepared by the Board's engineer and now before Board subject to the following conditions:**

- 1. Payment of all fees**
- 2. Morris Associates letter dated 7/10/09**
- 3. Verify that the limit of the existing gravel parking lot is sufficient to accommodate tractor-trailers**

**SECONDED BY K. BRAMSON**

**VOTE TAKEN AND APPROVED 7-0-0**

**5. MINUTES**

Mr. Labriola: **MOTION TO APPROVE MINUTES AS CORRECTED OF THE 6/9/09 PLANNING BOARD MEETING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 7-0-0**

**6. EXECUTIVE SESSION**

Mr. Labriola: **MOTION TO GO INTO EXECUTIVE SESSION; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

Board returned to public session.

Ms. Seaman: **MOTION THAT J. LABRIOLA PROCEED WITH RETENTION OF THE WETLANDS CONSULTANT ON THE BASIS OF THE DISCUSSION HELD IN EXECUTIVE SESSION; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 7-0-0**

**7. JOYCE – SITE WALK**

Mr. Labriola reported on a recent revisit to the Joyce property. In attendance were:

- Pete Setaro
- Pete Karis
- Joe Labriola
- Steve Barger
- Steve Burns
- DEC representative Ron Pearce
- Don Havas, property owner

Mr. Labriola stated that the site visit started at about 10 a.m. and Mr. Joyce showed up at about 10:50 p.m. when they were already finished with the site walk. Mr. Labriola stated that Mr. Joyce had been delayed at work.

Mr. Karis stated that they looked at what they had looked at in the field last November 2008:

- The staking that Mr. Joyce had done
- The property line
- The alternate location for the bridge upstream

Mr. Karis stated that viewing the site and talking with the engineers about what's involved and the pro's and con's of an alternate location for the bridge has convinced him that the currently proposed location is the best overall. He mentioned that it would have been optimal to have had this meeting in November 2008, but that it didn't happen at that time. Mr. Karis stated that it was determined that the proposed location for the bridge is the best alternative.

Mr. Karis reported that they also spoke about the building envelope for the house and its encroachments into the wetlands buffer showing the Board members a realistic picture of what is going to happen on the site. He stated that they were informed that Mr. Joyce does not have a house footprint yet and there are other issues that need to be worked out.



He stated that the Board members gave the applicant a punch list of things that need to be on the map, consistent with what was in the memos and what was previously talked about. He stated that it is now their responsibility to give the Board more information.

Mr. Karis stated that the applicant was talking about a September 2009 conditional approval. He noted that they will submit for the September 2009 meeting. Mr. Setaro stated that he offered to have an office meeting with them before they submit for that meeting.

Mr. Labriola stated that they advised the applicant that he needs to document the mitigation measures for any disturbance of areas that won't be a driveway or a bridge.

Mr. Labriola reported that moving the bridge 40-50 ft. upstream would have required crossing the stream at a different place where there is a stand of fairly large trees. He stated that the DEC representative said that the island is fairly stable and that the island would be destabilized if the trees were to be removed. Further, Mr. Labriola stated that the island enables them to sandbag where most of the water goes and redirect the flow to the channel on the other side of the island. Mr. Karis explained that they can divert the stream where the footings are going with sandbags because the island splits the stream into two channels. He stated that they can block that off during construction which will avoid dewatering issues and sedimentation issues. He stated that a whole lot of issues associated with moving water and disturbing soil are eliminated by diverting the stream to one channel or the other when they are working on one side or the other.

Mr. Setaro stated that the DEC representative said it would be OK if the Planning Board wants them to add additional detail to the map in terms of protection of the abutments or some additional stream restoration work.

Mr. Labriola: **MOTION TO GO INTO EXECUTIVE SESSION; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

Board returned to public session.

Meeting adjourned at 8:45 p.m.

Minutes submitted by:

Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the July 14, 2009, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_ Approved as read

\_\_\_\_ Approved as corrected with deletions/additions

## **PLEASANT VALLEY PLANNING BOARD**

**August 11, 2009**

A regular meeting of the Pleasant Valley Planning Board took place on August 11, 2009, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:40 p.m.

Members present:     Joe Labriola, Chairman  
                              Rob Fracchia  
                              Michael Gordon  
                              Kay Bramson  
                              Henry Fischer  
                              Rebecca Seaman  
                              Peter Karis  
                              Lynn Sticker, Alternate

Also present:           Jim Nelson, Esq., Planning Board Attorney  
                              Pete Setaro, Planning Board Engineer

### **1.     MARION SALON SPA – Sign Permit**

**Grid #6363-02-890562**

**Location: PV Shopping Center**

Nancy Forrest with Gloede Signs was present. Ms. Forrest stated that she appeared before the Planning Board a few months back for a sign permit that required an area variance, which the applicant withdrew because the ZBA told them that they never grant variances for signs. She stated that the redesign of the sign now meets all the code requirements – it is a projecting sign, double sided, and will be lit from above with a gooseneck light. She stated that the gooseneck is similar to the one at The Publick House. She stated that it is not illuminated from the inside. She stated that the sign projects from the building and faces up and down the sidewalk and the street. Dr. Fischer asked if there are two lights. Ms. Forrest stated that there will be one light directly above the sign, that the light will be subdued.

Mr. Labriola and Board members agreed that it is a nice looking sign. Ms. Seaman stated that she likes the subdued lighting. Mr. Labriola suggested that this sign will start to tie the other signs together at the plaza and may inspire other shop owners to upgrade their signs. Ms. Forrest stated that the applicant could have gone with a much larger sign on the face of the building, but that it would not be seen because of the tree in front. She stated that they will probably redo the windows in the new color scheme.

Mr. Labriola read into the record a letter from the Fire Advisory Board (original on file): no position with regard to this application.

Dr. Fischer asked if this sign is the first that will be projecting from the building and noted that the other signs are on the face of the building. Ms. Forrest stated that there is only one sign at the moment, which is the Country Thistle and is on the face of the

building. Dr. Fischer asked how this will tie in with the other signs. Mr. Labriola stated that there is a similar sign with the gooseneck lighting on The Publick House, in an effort to get a more common look and feel. He stated that he thinks it ties in nicely and that it goes with the revamped architecture in the plaza.

Mr. Karis asked if the light fixture will match the one at The Public House. Ms. Forrest stated that it is the same style, but that she's not sure about the color. She stated that the fixture at The Publick House is black. She stated that she is thinking of keeping it a lighter color to match the side of the building, which is a neutral color – a white or an almond. Ms. Seaman agreed with the lighter color because it is so far away and on a separate building from the one at the Publick House.

Mr. Fracchia asked if the light will be on a timer. Ms. Forrest stated that it makes sense to put it on a timer. Board discussed the fact that The Publick House sign stays on later because they are open late. Mr. Karis noted that for businesses that close at 5 – 6 p.m. the Planning Board has asked them to turn the lighted signs off at 11 p.m. Ms. Forrest stated that some towns turn the lights off and others, actually, keep them on for pedestrian safety at night.

Mr. Labriola: **MOTION TO GRANT SIGN APPLICATION**

**Whereas the Town of Pleasant Valley Planning Board has received an application from Marion Salon Spa for the approval of one sign dated 7/24/09, and**

**Whereas an environmental assessment form has been submitted and reviewed, now**

**Therefore, be it resolved that the Planning Board determines this to be an unlisted action and will not have a significant effect on the environment, and**

**Further, be it resolved that the Planning Board grants approval for one sign as shown in the application and drawing and consisting of the materials, sizes, and colors as shown in the application except as follows:**

- **The light over the sign shall be placed on a timer to turn the lights off at 11 p.m.**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 6 –0-1 (Dr. Fischer abstained)**

**2. APPEAL #947 – TUROWSKI – AREA VARIANCE**

**Grid #6364-04-628320**

**Location: 5 Clover Way**

Michael Turowski was present. Mr. Labriola explained that Mr. Turowski is going to the ZBA for an area variance and that the Planning Board will provide the ZBA with a recommendation on the appeal. He asked Mr. Turowski to described the project.

Mr. Turowski stated that he needs storage and that he is trying to replace a building that was so old that it did not count on the tax records. He stated that now he needs to comply with the current code for the building permit. Mr. Labriola noted that the appeal is for a variance from the side lot setback. Mr. Turowski stated that the new building will not be 100% in the footprint of the old building, but it is close.

Mr. Labriola asked for clarification on the age of the old barn. Mr. Turowski estimated that it's about 75 years old but stated that it could have been older and it could also have been younger.

Mr. Labriola asked how long Mr. Turowski has owned the property. Mr. Turowski responded 11 years. Mr. Labriola stated that it looks like the old building has been removed. Mr. Turowski confirmed that it has been removed. Mr. Labriola stated that it looks like there were two other out buildings that were either planned to be removed or have also been removed. Mr. Turowski stated that he has removed all three buildings since he has owned the property and that he removed the biggest of the three this year. He stated that the other two had already fallen down.

Ms. Seaman noted that the drawing of the proposed building states that it is not to scale. She asked if the building will be a one-story building. Mr. Turowski responded that it will be one story, that the ceiling if there were one would be 10 ft. high and the roof peak will be 15 ft. Board members noted that the drawing implies a much larger structure. Mr. Labriola asked if it includes overhead doors. Mr. Turowski stated that they won't be as tall as they appear in the drawing. Mr. Labriola stated that he was wondering if he would be putting a tractor-trailer in this building. Mr. Turowski responded no, that he wanted to show the type of siding and he just pulled an image off the Internet to give some idea of the type of structure. He confirmed that it is not a 2-story building.

Mr. Labriola asked what the building will be used for. Mr. Turowski stated that it will be for storage of antique automobiles and tractors that he collects and restores/refreshes. Mr. Labriola asked if this is a business. Mr. Turowski stated that this is a hobby and is not a business, is not for profit or for buying or selling. He stated that it is something that he's been doing all his life.

Dr. Fischer asked what is on there now – whether there is a concrete pad or just rubble. Mr. Turowski stated that the old building had a broken cement floor. He stated that he never measured the old building but that it was about 20 ft. x 45 ft. Dr. Fischer asked if the broken cement is still there. Mr. Turowski stated that he took the building down and explained that the site is about 3 ft. higher than the driveway and that he took it down to the level of the driveway. Dr. Fischer asked if it is now dirt or if there is concrete on the ground. Mr. Turowski stated that it is mostly shale and dirt.

Dr. Fischer stated that if he were to put the building in the same footprint, then he would not need to get a variance. Mr. Labriola stated that it appears that there was a pre-existing non-conforming building on the site. Dr. Fischer reiterated that if the applicant

replaces the building on the same footprint, then he does not need a variance. Ms. Dickerson pointed out the Zoning Administrator's administrative decision that documents the rationale for Mr. Turowski needing a variance. Mr. Labriola read this decision into the record (original on file).

Dr. Fischer again asked whether the applicant would need a variance if he were just tearing down one building and putting up another. Mr. Nelson reported that there are two different rules in the Zoning Code. He stated that one pertains to a non-conforming building that is either damaged or destroyed, it can be reconstructed to the original size provided that the reconstruction is finished within 18 months of when it was damaged or destroyed. He stated that the other rule is that a non-conforming building can be reconstructed or altered but not to the extent of more than 50% of what it was on the tax roles and up to 50% of the original floor area. Mr. Nelson stated that there's a threshold question of whether this is something that is being reconstructed or altered, or is it something that was damaged or destroyed in which case it can be reconstructed with a building permit on the original footprint. Dr. Fischer asked if the Code defines "destroyed." Mr. Nelson stated that it does not. Dr. Fischer suggested that it would fall under that one. Mr. Labriola suggested that would entail a storm and a tree that fell on it and damaged it beyond repair. He stated that he does not interpret that to mean that somebody removed it. Mr. Nelson stated that the ZBA will make the ultimate decision and that the Planning Board is doing a referral and might ask the ZBA to consider whether they view this as a situation where it's a restoration or a reconstruction and then to apply the rules depending on which choice they make.

Mr. Gordon summarized that the applicant can either reconstruct it within the same footprint and continue his use without a variance or make it the size he wants and get a variance. Dr. Fischer noted that the proposed structure is a little bit bigger and will be even closer to the lot line, which makes it more non-conforming.

Ms. Seaman asked when the building was torn down. Mr. Turowski stated that it was torn down in May 2009. He reported that he measured via the satellite imaging and estimated that the old structure was about 5 ft. from the property line. He stated that he never physically measured it. Mr. Labriola noted that the new building will be 3 ft. from the line and will be more non-conforming. Mr. Turowski explained that that is based more on modern construction. He stated that the old building was an odd size and to utilize the building materials it makes sense to build 24 ft. x 40 ft. rather than 20 ft. x 45 ft. He stated that he gains 50-60 sq. ft. and utilizes the wood more efficiently – that he will not be throwing away a foot of lumber per board just to make it exactly like the original building. He stated that that does not make any sense.

Mr. Labriola stated that he understands the situation and asked the Board whether they have any problems with making a positive recommendation to the ZBA. Dr. Fischer stated that he thinks that this is more non-conforming and that the Board has been reasonably diligent in not doing that. Mr. Labriola asked Dr. Fischer what impact he thinks there is on this application from moving 2 ft. closer to the property line. Dr. Fischer stated that on this one probably nothing, on a lot of them probably nothing; but

that it is just the way the rules are. Mr. Gordon stated that he thinks the positives are that the neighbors will get a better looking building to look at and that the Town will get more tax money. He stated that he does not have a problem with it.

Mr. Fracchia asked if Mr. Turowski has spoken to any of the neighbors about it. Mr. Turowski stated that the neighbor in the front loves it and the people in the back are just weekenders and don't seem to mind.

Mr. Labriola asked whether Mr. Turowski can construct the new building, whether it's 3 ft. from the property line or 5 ft. from it, and stay on his property or whether he will need to access the adjacent property owner's property to build the structure during construction and grading. Mr. Turowski stated that he's within his own property. Mr. Labriola stated that he understands that the footprint will be on Mr. Turowski's property, but asked whether he needs more than 3 ft. on the side to be able to build it – ladders and such. Mr. Turowski stated that it is simple construction and that there won't be any overflow on neighboring property as far as machinery or materials.

Board member asked if it is stick built. Mr. Setaro stated that it is a pole barn so there wouldn't be any footings. Mr. Turowski stated that there are footings for each pole and that the advantage of the pole barn is that you use less lumber. He stated that from the outside it looks like it's stick built.

Mr. Turowski asked if the non-conforming aspect refers to the setback or to the construction. Mr. Labriola explained that it is non-conforming to the setback.

Mr. Karis stated that he thinks the Board needs to be consistent and recalled a recent application for a trailer for which the Board sent a negative recommendation because the trailer could be moved to conform with the setback requirements. He pointed out that the Board is now talking about making a positive recommendation for a building that will be more non-conforming to a property line, which is contradictory. Mr. Gordon stated that Mr. Turowski does not have the option of moving it into conformance. Dr. Fischer stated that there is the option of size of the building. Mr. Karis stated that to make it more non-conforming seems to be opposite from the Board's discussion last month. Dr. Fischer wondered how much Mr. Turowski can move in towards the driveway. Mr. Gordon stated that there is not enough room for the new building to meet the setback. Mr. Labriola pointed out that if Mr. Turowski can keep the building 5 ft. from the lot line, it would make the situation no different from the current non-conformity and asked if that would leave him enough room for the driveway. Mr. Turowski stated that he could move the driveway and asked if there is a setback on driveways. Board responded no. Mr. Fracchia estimated that he will still have 19 ft. for the driveway. Mr. Turowski noted that when you're on the site it does not look like 19 ft. and stated that it's fine with him to shift the driveway.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION BASED ON THE FACT THAT, IN DISCUSSION WITH THE APPLICANT, HE BELIEVES THAT HE CAN MOVE**



**THE PROPOSED STRUCTURE TO BE 5 FT. FROM THE PROPERTY LINE, WHICH WOULD KEEP THE LEVEL OF NON-CONFORMITY CONSISTENT WITH WHAT WAS ORIGINALLY ON SITE. ALSO, THE OTHER FACTORS THAT THE PLANNING BOARD CONSIDERED ARE THAT THE HEIGHT OF THE BUILDING WILL BE A SINGLE-STORY BUILDING AND THAT THE BOARD THINKS IT WILL BE AN IMPROVEMENT OVER WHAT WAS PREVIOUSLY THERE. THE PLANNING BOARD ALSO ASKS THE ZBA TO LOOK AT SECTIONS 98-30 AND 98-33 TO DETERMINE WHETHER THIS IS A RECONSTRUCTION OR A RESTORATION WHICH WILL HELP THEM DETERMINE THE SIZE OF THE BUILDING THAT WILL BE ALLOWED.**

**SECONDED BY H. FISCHER**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Turowski asked about next steps. Mr. Labriola explained that the ZBA will decide whether they will grant the appeal. He stated that Mr. Turowski will still need a variance, that he is asking for a 12 ft. variance, which the Planning Board has said is not a good idea. He suggested that Mr. Turowski go to the ZBA, tell that Board that he will keep the building 5 ft. from the property and will, therefore, require a 10 ft. variance, which will be exactly where the old building was and, therefore, the level of non-conformity will not change. He stated that the ZBA will make its determination based on that information. Mr. Turowski asked if he will be on the ZBA's agenda at the August meeting. Mr. Labriola confirmed that he will be on that agenda.

**3. APPEAL #948 – NETHERWOOD BAPTIST CHURCH – AREA VARIANCE**

**Grid #6465-01-019560**

**Location: 1211 Netherwood Road, Salt Point**

Mr. Quentin Johnson, treasurer and chair of trustees, was present on behalf of the church and stated that he is also a Pleasant Valley resident. He stated that the church is looking to replace its sign, that the sign is old, is internally lit and does not function properly all the time. He stated that they have two goals: one is to turn the sign perpendicular to the road – the current sign is parallel and no one sees it. The other goal is to have a sign of a size that is adequate to announce worship times and Sunday School, the pastor and church affiliation and also events. He stated that they would like a sign that is no bigger than the Traver Road School, which is an internally lit sign in a residential zone, and markedly small than the Central Baptist Church sign, and significantly small than the West Road School sign.

Dr. Fischer asked if the proposed sign will be internally lit. Mr. Johnson stated that they chose to make it internally lit for two reasons – one is that the existing sign is internally lit and, the other, is that they were told that that is the best for changeable text.

Ms. Bramson asked if the sign will be visible from both signs. Mr. Johnson confirmed that it will be. Ms. Bramson asked if the other, historical, sign will remain. Mr. Johnson



explained that it was put up a few years ago on an existing post. He stated that they plan to take it down. Ms. Seaman stated that she is in favor of knowledge of the historic buildings in Pleasant Valley and asked if they could put that on the building. Mr. Johnson stated that they thought of that. Ms. Seaman stated that otherwise the knowledge of that becomes lost. Mr. Johnson stated that they cannot get the blue sign from NYS anymore unless you want to pay for it. He stated that one of the congregants made the sign a few years ago and that if it were OK with the Planning Board, they would like to attach it to the building. Board members discussed the process of identifying a building on the historic registry. Again, Mr. Johnson stated that someone went through that channel and discovered that if you want that you must pay for it.

Mr. Labriola asked for comments from Board members. Mr. Gordon mentioned a planter at the base of the sign and stated that he's OK with the size of the sign. Dr. Fischer noted that there's a planter around the old sign. Mr. Johnson stated that they plan on digging up the old planter and the pachysandra that's all around it. He stated that they plan on planting pachysandra around the base of the new sign. Dr. Fischer asked if there is enough room to put the pastor's name as well as events. Mr. Johnson mentioned that Gloede Signs is doing the new sign and he will confer with them about using rows of smaller text for their affiliation and the pastor's name. Dr. Fischer asked if the sign will be bigger. Mr. Johnson responded no.

Ms. Seaman asked if the posts are wood. Mr. Johnson stated that the posts are metal. Ms. Seaman asked if they will be blue. Mr. Johnson responded yes. Dr. Fischer asked if the color means anything. Mr. Johnson responded no.

Dr. Fischer stated that he lives around that area and has been wanting to see what kind of church it is. He stated that it's on a curve and every time he takes his eyes off the road to try to read the current sign, there's always a car coming the other way. He stated that he's given up trying to read the sign. Therefore, he stated that for safety sake the new sign will be better. Ms. Seaman agreed and stated that she has had some cars end up in the front fields.

Mr. Karis asked what the conforming size is. Board member responded 6 sq. ft. Mr. Karis noted that they are applying for a 300% variance. Mr. Johnson stated that he's applying for 24 sq. ft., the same size that would be allowed in a commercial area. Mr. Labriola asked what the size is of the existing sign. Mr. Johnson responded that the existing sign is 9.85 sq. ft. Ms. Seaman noted that the new code allows businesses that are non-conforming in residential areas to have commercial sized signs. Dr. Fischer asked if that is in effect yet. Ms. Seaman thought that the new sign ordinance has been passed. Other Board members did not think it has been passed yet. Also, comments were made about whether a church is a business. Mr. Karis stated that this seems like a substantial request – to go 3 times the size of conforming signs in the area.

Board discussed options for reducing the size of the sign. Ms. Seaman stated that under the new Code, if passed, a non-conforming business would be allowed 4 ft. x 5 ft. She stated that they made that change so that businesses outside of the commercial district

would not be disadvantaged with having small signs. Mr. Karis asked if that includes churches. Ms. Seaman responded that she thinks so, although churches are not really classified as businesses, but it essentially is – they are trying to draw people in. Mr. Fracchia stated that they need a bigger sign so that it can be read without people driving on her lawn. Mr. Gordon stated that he does not have any problem with the proposed sign.

Mr. Fracchia asked if the new sign will be lit all the time. Mr. Johnson stated that it would be up to the Board. Dr. Fischer suggested that if it will be backlit, then the letters could be a little smaller and still be legible. Mr. Johnson stated that they will be open to putting the sign on a timer so that it would go off at a reasonable hour in the night.

Mr. Karis noted that the existing sign is 9 sq. ft. Mr. Johnson stated that it is just under 10 sq. ft. Mr. Karis asked if it will be the same width times twice as high. Mr. Johnson stated that it will be 5 inches wider and twice as high. Board members noted that the drawing shows the sign as 8 ft. high. Mr. Johnson noted that adding a base planter would raise it up a bit. Dr. Fischer stated that visually that would be high for the area. Ms. Bramson asked how tall the existing planter is. Mr. Johnson estimated that it is about 2 – 2.5 ft. high. Ms. Bramson asked how tall the existing sign is. Mr. Karis stated that the top of the new sign will be at 10 ft. Board discussed options for putting the planter up to the base of the sign, but then there's a problem with flowers or whatever is planted in the base obscuring the lettering on the sign. Mr. Karis asked if the sign could be more horizontal than vertical. Mr. Johnson stated that they considered that option, but that they did not want it to be any closer to the road.

Mr. Labriola noted that Mr. Karis is questioning whether the Board wants to support a design that is 2.5 times greater than the existing sign. Board members agreed that 10 ft. is too tall for that area. Mr. Labriola pointed out that if the ZBA grants the area variance, then the application will come back to the Planning Board for a sign permit, at which time the Board can deal with the height and how big the planter should be, etc. He stated that the question at hand is whether the Board is comfortable with passing a recommendation that says, based on where this is, the problem that is trying to be solved, the Planning Board is comfortable making a positive recommendation on the size of the sign or is the Board going to say that it would like the sign to be smaller but still non-conforming. He advised the Board that that is what needs to be resolved at this meeting and noted that the Board can get into the specifics of sign design later after the ZBA makes its decision.

Ms. Seaman suggested that it may not need to be conforming but that some adjustment in the design and size would be good. She stated that the Board may forward a recommendation to the ZBA that says an area variance may be appropriate but maybe not to this size and that the Planning Board would like to work with the applicant. Dr. Fischer stated that the size should not be any higher than a 6 ft. tall person. Mr. Karis noted that the Board usually recommends an 18-inch planter and made suggestions on how to adjust the dimensions of the sign to accommodate such a planter. Board members agreed that 10 ft. is too tall. Ms. Seaman explained that the applicant has only asked for

8 ft. but that adding a planter will add additional height to the sign design, which is the difficulty with approving the variance that they have requested. She stated that it has been the practice of the Planning Board for the last several years to ask for a masonry base that can then be planted and is more attractive. Mr. Karis suggested that the plantings could be around the outside of the masonry base and, thereby, not obscure the sign.

Mr. Labriola again reminded the Board that its job at this time is not to design the sign but rather to comment on the requested 24 sq. ft. sign. He stated that the Planning Board will deal with the height and will make sure that whatever recommendation goes to the ZBA will include the requirement that the application come back to the Planning Board for deliberations about the design. He stated that the question before the Board now is whether 24 sq. ft. is OK or is it too big.

Ms. Bramson stated that she's OK with the size, that it needs to be readable. Mr. Fracchia stated that it meets the new code. Mr. Labriola noted that he drove by there and almost drove off the road trying to read the existing sign – that it's a very short stretch of road and you only have an instant to get the message across. He stated that there are homes before and after the church site, but it is not an area that will probably ever be built up with lots of adjacent properties looking at the sign. He stated that from a safety perspective a larger sign is probably warranted. Dr. Fischer asked whether you would want the sign to be taller than 6 ft. Ms. Bramson stated that the Planning Board will deal with that when the application comes back for sign permit. Dr. Fischer stated that the Planning Board could suggest it now. Mr. Labriola stated that the Board is not designing it now and advised the applicant that, if they get their variance, the Planning Board will require the top of the sign to be lower to the ground with an 18" stone base with or without plantings, and that 8 ft. is too tall.

**Mr. Labriola: MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION, THE RATIONALE BEING THAT THE STRETCH OF ROAD IS DIFFICULT AND THE APPLICANT SEEMS TO NEED A LARGER SIGN SO THAT PEOPLE CAN SAFELY READ THE MESSAGES THEY ARE TRYING TO CONVEY. IF THE ZBA APPROVES THE VARIANCE, IT WILL REQUIRE THE APPLICANT TO COME BACK BEFORE THE PLANNING BOARD FOR A FULL SIGN APPLICATION REVIEW. AS DISCUSSED WITH THE APPLICANT, THAT REVISED SIGN APPLICATION WILL NEED TO INCLUDE A STONE PLANTER BASE. THE PLANNING BOARD ALSO IS CONCERNED ABOUT THE OVERALL HEIGHT OF THE SIGN THAT WILL NEED TO BE FACTORED INTO THE REVIEW. AND THE APPLICANT MAY WANT TO LOOK AT MORE OF A HORIZONTAL DESIGN IF AND WHEN HE COMES BACK BEFORE THE PLANNING BOARD.**

**SECONDED FROM H. FISCHER**

**VOTE TAKEN AND APPROVED 7-0-0**

4. **ROSSWAY PROPERTIES – Subdivision – 90-DAY EXTENSION**

**Grid #13-6563-03-176033**

**Location: Rossway Road, 13.03 acres, R-2**

Michael White, Spectra Engineering, was present representing the applicant. He explained that they are requesting an extension of the preliminary approval. He stated that the wet weather has stalled their soil testing until the last couple of weeks. He stated that they are now completed and can now get on with the Health Department work and some of the other items.

Mr. Labriola: **MOTION TO GRANT 90-DAY EXTENSION OF THE PRELIMINARY APPROVAL (original on file):**

- **Extension is approved to 11/8/09**

**SECONDED BY M. GORDON**

**VOTE TAKEN AND APPROVED 7-0-0**

5. **GASPARRO – SITE PLAN**

**Grid #13-6363-03-453036 & 447030 & 443019**

**Location: 1325 Route 44**

Mr. Ron Gasparro, applicant, and Mr. Michael White, engineer with Spectra Engineering, were present.

Mr. Labriola summarized the progress of this application and its current status. Mr. Labriola explained that the application was last before the Planning Board in January 2009 at which time the applicant was asked to go to the ZBA regarding the question of office versus offices and it also required a waiver request from the building moratorium, which was not granted. He explained that although the waiver was denied, the moratorium law permits the applicant to move forward, at his own risk, for SEQRA related discussions. Therefore, the applicant is before the Planning Board at this meeting for those conversations around SEQRA implications for a 10,000 sq. ft. office building. He asked Mr. Gasparro to report on changes to the plan since it was last before the Planning Board.

In addition, Mr. Labriola stated that this is an unlisted action under SEQRA and, as such, the Planning Board can either do a coordinated review or an uncoordinated review. He recommended that the Board do a coordinated review so that all the interested agencies, the permitting agencies, are involved. He stated that the Planning Board can circulate its intent to act as lead agency on this SEQRA process and give those interested parties an opportunity to either say yes or no, and will allow the process to start moving forward.

Mr. Labriola emphasized that this evening's discussion must focus on SEQRA related issues and that any site review issues and concerns will be addressed when the application gets to the site plan portion of the review.

Mr. Labriola noted for the record that the process is moving forward with SEQRA while fully recognizing that, until the comprehensive plan is adopted, until the supporting zoning laws are adopted, there is a chance for things to change and something that the Board may have decided either was or was not an environmental impact, may change in the future. Therefore, he noted that the Board may have to reassess this application under SEQRA after the comprehensive plan and the zoning laws have been fully adopted.

Mr. Labriola asked if there are any questions about what the Board is trying to accomplish at this meeting. No one spoke.

Mr. Gasparro stated that there isn't much to add other than the fact that he originally applied for two applications, one for the professional building (on Route 44) and one for the senior housing (on Bower Road). He stated that after many meetings with the Town Board, they denied the waiver request and he lost the funding for the senior citizen housing. He stated that he was forced to continue on with this one plan and that he has no plans for the other piece of property and that he is now trying to sell it so that he does not lose it. He stated that the setback that he had with the Town really caused him a problem. However, he stated that he is moving forward with the site plan for the professional building. He stated that he took some of the comments from the last meeting with regard to the parking areas and also the comments from the Town engineer and incorporated them into the plan. Since then, he stated that he has been working on it from the standpoint of the engineering aspects and has received conceptual approval from NYS for the entrance and also received preliminary approval on the design concept from the Department of Health with regards to the sewage disposal system for the site. He stated that he met with Pete Setaro to go over some of Morris Associates' concerns with regard to the actual site plan itself. He stated that he has implemented all of Mr. Setaro's recommendations. He stated that he hopes to start the process while the moratorium is in effect and to get lead agency and SEQRA process underway.

Mr. Gasparro asked for confirmation about permission under the moratorium law to have site plan discussions with the Planning Board. He stated that he understood that 4 meetings for discussion were permitted under that law. Mr. Labriola stated that his understanding is that they are SEQRA related discussions. Mr. Nelson stated that he will review the law and report on it in a moment. Mr. Gasparro stated that he questioned the Town Board about this and that the Board told him he could have the discussions but that nothing can be finalized until the moratorium is over.

Mr. Gasparro stated that he has read in the newspaper that the moratorium may be extended for another 3 months. Ms. Seaman stated that, hopefully, it won't be that long. Mr. Gasparro agreed that he hopes it won't be long because he is losing the property in the back, that he lost the funding and he needs to pay off the property in a certain period of time and he won't be able to do that. He stated that he tried to put that one up for sale so that it won't impact this one. He stated that they are trying to keep this property for the office building and that he has so much time, effort, and money into it that he cannot lose it, too.



Mr. Gasparro stated that he has made all the corrections on the EAF as specified by Morris Associates. Mr. White submitted copies of the revised EAF and plans.

Mr. Labriola asked about the correction in the EAF that talked about a 10,000 sq. ft. professional services offices, approximately 2500 sq. ft. Mr. Gasparro stated that they took that out and made it conform to what the Special Use Permit was granted for. He also pointed out that he supplied the Board with elevations of the building regarding the siding and the surfaces.

Mr. Setaro reviewed the Morris Associates comment letter. He asked about the water usage calculation; Mr. White clarified the calculations. Mr. White stated that he designed this with the Health Department with John Glass and James Napoli. He stated that they have agreed with the Health Department for designing for 500 gallons per day. He stated that the fact of the matter is that it does not matter whether it is 18 gallons a day or 1800 gallons a day because the soil is pure gravel down to the 14 ft. length of the backhoe. He stated that even one pit would serve anything you would put there. He stated that it will never ever be an issue, whether it is sewage or stormwater management. Mr. Labriola asked if this is throughout the entire site. Mr. White stated that they did 18 deep tests and every one they pegged down 14 ft. and they hit gravel, no rock and no ground water. Mr. Setaro stated that that is OK if they have already agreed with the Health Department on this.

Mr. Setaro stated that they wanted to clarify who the approvals were with in order to clarify that there were two DEC permits and the DOT permits. He stated that he wanted them to list DC Department of Planning as a 239 M referral.

Mr. Setaro reported that he had a meeting with the applicant's engineer on 8/3/09 to discuss site plan related issues. Mr. Gordon mentioned that County Planning is going to have a big problem with the location of the building with parking up front on Route 44. Mr. Labriola concurred that, based on lots of referrals from DC Department of Planning, that they will mention that. Mr. Gasparro reminded the Board that he has a 100 ft. deeded setback requirement, that they cannot be any closer to the road than that. Mr. Labriola stated that one of the suggestions the Board made previously was to turn the building and tuck the parking behind the building so that the building is shielding the parking. He recalled that the discussion last time was about the need to locate the septic system in a certain location, however it now appears that the soils would allow them to put it anywhere on the site. Mr. Gasparro stated that that would be true except for the setback requirements from the other wells and septic systems on adjacent properties. He stated that being the last guy on the block he has to meet all of the setback requirements from the surrounding wells and septic systems in the area. He stated that in working with the Health Department and meeting all the setbacks, where he has the designs for the septic and the well is the only place they can put them on the site. Mr. Gasparro pointed out that the location of the retention pond in the front of the property is the only place where it can be put. He stated that all of those things taken into consideration, even if he wanted to turn the building, which he stated he does not want to and objects to from a design standpoint, basically is a moot point when they got to the engineering and design of the



property and the requirements for septic, drainage, and well. He stated that they just can't do it.

Mr. Gordon asked where the wells are located. Mr. Gasparro pointed them out on the plans.

Mr. Setaro stated that he spoke with Mr. Labriola about this. He stated that he thought one of the issues was with regard to the senior housing project in the back because there also was a septic system for that and a storm water pond. However, in reviewing the plans he now thinks it would be possible to turn the building and meet the setbacks. He stated that he thinks they could meet the separation distances based upon the elevations that are shown on the map.

Mr. Gasparro stated that the other issue to keep in mind is that he has the other piece of property although he not going ahead with it he cannot restrict the other property for the purposes of satisfying this one because he will never be able to sell it because they won't be able to meet the requirements for water and sewer. He stated that if he changes the locations on the property with the professional building, he would not be able to get rid of the other 2.5 acres. Mr. Labriola suggested that it would depend on what the other parcel would be used for – residential or commercial. Mr. Gasparro stated that he does not know at this time what it will be used for, that it may be commercial, multi-family, or another office building. He stated that he does not want to restrict it, in good conscience he cannot do that and that economically it would kill him.

Mr. Gasparro stated that the professional building works very well on the site. He stated that it sits back from the road 100 ft.; the parking is almost shielded as much as possible with the landscaping. He reminded the Board that there are 200 ft. of road on a 40 mph district and for 1.5 seconds is all a driver will see the property when driving by. He stated that for them to put the building up front is contrary to all the other buildings on that side of Route 44 in that area. Mr. Labriola stated that the Board is not asking him to move it closer than 100 ft. from the road. Rather, he stated that the Board is asking him to turn the building and move the curb cut, which will move effectively shield what now looks like a sea of impervious surface and hide it much more behind the building.

Mr. Gasparro asked what the purpose is of hiding the parking. He stated that all of the existing buildings, including his own, along Route 44 are very pleasant looking with nice lawns and parking lots in the front. He stated that none of them is visually distracting. He noted that across the street there are buildings that are right on the roadway with very minimal parking. He stated that his design will not be a deterrent from an environmental or appearance perspective. He stated that, first of all, he does not want it that way. As the applicant, he stated that he has a right to have the building the way he wants it because everything else works – the parking works, the drainage works, the septic works.

Mr. Labriola stated that this is a discussion around SEQRA and one of the SEQRA considerations is visual. He noted that this proposed building is in a residential zone and the Planning Board cannot un-ring the bell on approvals that were granted on other sites

in the area 10-15-20 years ago. He stated that planning principals have changed over that time. He stated that other sites that the Planning Board has approved most recently have had buildings tucked as close to the road as possible, putting parking behind the buildings, because parking is less appealing to look at than landscaping and grassed areas. Mr. White noted that if the building were turned, this would expose the rear of the building to Route 44, rather than the current design where you see the front of the building that would seem to be a bit more attractive. Mr. Karis stated that that is an architectural detail. Mr. Labriola concurred. Mr. Karis stated that you can have two fronts.

Mr. White asked why the Board wants the building closer to the road. Mr. Labriola reiterated that the Board is not asking for the building to be closer to the road. He stated that the Board is aware of the 100 ft. setback that they must honor. He stated that the Board is asking them to rotate the building, keep it at 100 ft. Mr. Gasparro stated that, if they are able to accomplish this, then they have the issue of the adjacent buildings looking at the parking versus the drivers along the road who would be seeing it for 1-2 seconds. Mr. Labriola suggested that the parking can be shielded with landscaping. Mr. Gasparro asked if it is necessary to do that from an environmental and aesthetic standpoint? He asked what it really accomplishes and stated that he does not understand the premise of this request because it is the only undeveloped piece of property left in the area. He stated that he could understand if it were the only property to be developed in an area and the Board wanted to set a precedent. But he noted that he's the last one and he's going to be sticking out like a sore thumb. Mr. Labriola stated that it's a matter of opinion whether he would be sticking out like a sore thumb. Mr. Gasparro stated that he thinks it would.

Mr. Labriola stated that this is on for a SEQRA discussion at this point and that he agrees with Mr. Gordon's point that when this application ultimately gets to DC Department of Planning, the high likelihood is that they will ask the applicant to look at an alternate design to move the parking to the back. Mr. Labriola stated that the Planning Board can wait for the County to weigh in, but that he suspects that the Board will get that input from the County. Mr. Gasparro stated that he's trying to make a case for why he would like to see it left this way; it's a nice looking building. For the purposes of the SEQRA process, he stated that he cannot see any criteria that would force him to change the design – there is nothing to equate this property to. Dr. Fischer stated that there might be in the future. Mr. Gasparro stated that this is the last piece of undeveloped property, so the Board is assuming that someone else is going to take down something and build something else. Dr. Fischer stated that this happens. Mr. Labriola also noted that there may be other locations in Town that end up being developed in a similar way.

Mr. Labriola stated that the applicant is asking the Board for some input, and it is his prerogative to choose to ignore it. However, he stated that if Mr. Gasparro is looking for what the Board thinks are some potential environmental considerations that he needs to be looking at, that's what the Board is trying to do. Mr. Setaro reminded Mr. Gasparro that if the County comes back on the 239M referral with a negative recommendation, then the Planning Board must act with a super majority vote. Mr. Gasparro stated that

that does not automatically mean that this Board will vote against him. Dr. Fischer agreed. Mr. Gasparro stated that he was on the Board for 15 years during which time the members took the County's recommendations into consideration. He stated that he will not try to convince the County, that the County has a policy on environmental issues and SEQRA reviews that he doesn't think anyone could satisfy. He stated that he's trying to convince the Board that from an practical standpoint, from an environmental standpoint, from an aesthetic standpoint, and from an economic standpoint that this design works. He stated that it is his job to do that and that he's hoping he can do that.

Mr. Labriola asked if it will cost Mr. Gasparro more money to turn the building. Mr. Gasparro stated that it will if they have to put two fronts on it.

Ms. Seaman stated that she feels very strongly about this and noted that just because these face this way and this way does not mean that he can do it really cheap and cheerful and offensive to adjacent properties. She stated that that is not two fronts, but that Mr. Gasparro should construct something that is very architecturally pleasing. She stated that he is right in the middle of Town and should create something that is architecturally pleasing on all fronts. Mr. Gasparro agreed with Ms. Seaman and noted that he is the one that has to deal with looking at the adjacent properties and that right now he's looking at torn down buildings and the back of garages and storage.

Ms. Seaman stated that the Board is trying to set a pattern in the Town to put the building up front. She gave as an example the Hudson Valley Federal Credit Union, who came to the Planning Board and was unanimously turned down and they had to go back to the drawing board. She stated that they came back with a much more pleasing design for the Town. Mr. Gordon recalled that they wanted black top right up to North Avenue. Ms. Seaman stated that now they have the building up front. Further, she noted that things always redevelop, that things do not last forever.

Ms. Seaman suggested an alternative design: to lose the three parking spaces in the front and totally plant out the front areas to screen it completely. She stated that despite the fact that things have been done in the past, in the future the Town wants to avoid constructing the buildings that are set way back with miles of tarmac out to the street. She stated that it is just not pleasing and does not enhance the business of the Town. She stated that people are starting to avoid those types of places. Regardless of how this goes, she stated that people want to screen parking. So, she stated that it is one or the other: either Mr. Gasparro turns the building or he plants out the front completely so that it looks like a garden so that you cannot see the parking. Dr. Fischer also suggested something more permanent such as a stonewall. Mr. Gordon commented that it's only a matter of time that the adjacent properties are redeveloped and totally transformed.

Mr. Gasparro stated that he understands and pointed out that they have no lateral movement possible from the Health Department. Mr. White pointed out the separations that are required between wells and septic and expansion area. Board members and applicant discussed other configurations for the building, the septic, the well, and the future expansion areas. Mr. Setaro measured the separations. Mr. Gasparro stated that

no matter what they do on this site, there is only one location for the well and septic on his other property (where he had planned the senior housing). Mr. Setaro asked him if he is trying to take into account future plans on his other property. Mr. Gasparro stated that he has to take it into account or no one will be able to use that property. He stated that the Health Department was very adamant about where the septic systems and wells must be located.

Mr. Karis asked if the senior housing project is still an open application. Mr. Gasparro stated that it has been withdrawn. Mr. Karis stated that Mr. Gasparro is talking about planning for development on an adjacent property and asked whether that needs to be part of the SEQRA process. Mr. Gasparro stated that he's not planning it, that he does not have anything planned – that the property is for sale. Ms. Seaman and several Board members pointed out that either the Board has to take that other property into account or they don't. Mr. Karis stated that if the Board is looking at the environmental impacts of designing this site and taking into account the future development of an adjacent site, shouldn't the Board be looking at the impacts of the adjacent site as part of the SEQRA process. Mr. Gasparro stated that he does not have anything planned on the adjacent site and that he's giving the Board the information he was able to acquire during that process about what was going to happen on the adjacent property with regards to water and septic. Ms. Seaman stated that it would be helpful if Mr. Gasparro were to draw that on these plans. Ms. Bramson stated that if Mr. Gasparro wants the Board to take that into consideration, then the Board needs to see what it is. Mr. Gasparro stated that they can do that.

Mr. Setaro asked for information on where the septic for the other parcel would be located. Mr. White pointed it out. Mr. Setaro stated that, therefore, it would be a setback from septic to septic and there is no requirement. Further, he stated that if the well is in the other corner of the lot, that is not a concern to a septic. Ms. Seaman stated that there is no requirement for setback from septic to septic. Mr. Setaro agreed.

Mr. Gordon asked Mr. Nelson, when the Board is considering an application for a site, whether the Board can consider or defer to some future, vague plans on an adjacent site as a part of the application. Mr. Nelson stated that if the applicant had one large piece of property and wanted to develop a part of it, you would run the risk of segmenting, which is what Mr. Karis is talking about, if you did not consider the entire property. He stated that the Board has to consider what's going to happen on the rest of a lot. Mr. Nelson asked Mr. Gasparro whether the lots are owned by the same entity. Mr. Gasparro responded yes. Mr. Nelson stated that the question is if the applicant's ownership is in two lots, as opposed to one lot, do the segmentation rules still apply and do they require that the Board consider the future build out of the other lot. He stated that he will research this question. Mr. Gasparro asserted that he does not have any plans for the adjacent lot and that he is not going to submit any plans for potential build out when he does not know what's going to be there. Mr. Karis stated, therefore, that his point is that Mr. Gasparro cannot say that he cannot do certain things because of the potential build out of an adjacent property. Mr. Gasparro stated that he did not say that. Mr. Karis stated that he did say that – that he said that he cannot move the septic on the one

property that he is developing because of what might happen on the adjacent property in the future. Mr. Labriola agreed. Mr. Gasparro stated that, if he said that, he meant to say that inconsideration for what he knows will happen on this site. Mr. Karis stated that that still goes back to his point – that either it's tied or it's not – either the Board has to consider it or it does not and can study the property against what is existing now not what may be existing 10 years from now. Mr. Karis stated that he does not know the answer.

Ms. Seaman brought the discussion back to Mr. Setaro's point that it does not matter either way because it would be a matter of septic to septic and there are no setback requirements and the well is removed quite a distance beyond any setback requirement. Ms. Bramson stated that it sounds like it's not going to matter. Mr. Gasparro responded right.

Mr. Setaro mentioned the houses that are behind and above the property and the visual impact on them – what would be more visually pleasing – to look at a parking lot or an upgraded back of a building. Mr. Gordon stated that those houses are high enough that they will see everything. Mr. Gasparro stated that it is the back of their yards that look down on his property with their storage sheds and piles of leaves. Mr. Setaro stated that they must front onto Clark Heights. Mr. Gasparro agreed.

Mr. White asked if this can be resolved the way Ms. Seaman suggested with landscaping. Dr. Fischer stated that he thinks it should be resolved with something that is more permanent than landscaping – such as a stonewall. Mr. Gasparro pointed out areas that are high and where there could be stonewalls.

Ms. Seaman recommended a site visit by the Board. Mr. Gasparro concurred with that idea so that the Board members can also see what he is looking at from the site. He pointed out landscaping and a fence that they have planned for their own visual screening.

Mr. Labriola asked if Mr. Gasparro has submitted a copy of the drainage easement to Mr. Nelson for his review. Mr. Gasparro stated that he has not and that he will do so.

Mr. Gordon stated that Mr. Gasparro is the last undeveloped site in that area right now but that he is not the last development that is going to happen on this strip in the future. He stated that the other properties will be redeveloped at some point. Therefore, he stated that that is one of the concerns of this Board, that the Board is doing these precedents for Town-wide applications.

Mr. Setaro asked about an alternate design for the building that would not have an L-shape. Mr. Gasparro referenced the problem with access to the building and mentioned the desire to provide a pleasing view for the occupants of the building looking out of the building. Mr. White also mentioned that the L-shape is more aesthetically pleasing.

Mr. Gasparro stated that he would have no problem with agreeing to the suggestion for the stonewalls and heavy landscaping. Mr. Labriola asked for confirmation that Ms.



Seaman is talking about losing three spaces in the front. Ms. Seaman explained her suggestion to lose at least the three spaces in the front and landscape right across the front of the property. Mr. Setaro pointed out that there is probably some restriction on planting within so many feet of the big storm drain. Mr. Gasparro pointed out the area that is 4-5 ft. high above the roadway.

Mr. Labriola asked if Mr. Gasparro needs the other parking spaces in the front. Mr. Gasparro responded that he needs them for handicapped and to meet the requirements for the number of spaces. Ms. Seaman and Mr. Labriola both stated that that is changing. Mr. Gasparro stated that it might change from a standpoint of a minimum number of spaces, but that he wants extra – he wants to have spaces for employees and extra parking. He stated that he does not remember ever being on the Board where they denied someone having extra parking. Board members responded that the Board has imposed such restrictions in recent years. Mr. Gasparro stated that he can eliminate the three spaces they are talking about, but that he needs as many as he can get into this space. Mr. Labriola asked him why he needs the extra spaces. Mr. Gasparro stated that he needs them for employees and/or clients. He noted that he only has 35 spaces and 34 spaces are required, so eliminating the 3 spaces will not meet the requirements. He stated that regardless of what the new code says he will want the extra spaces, he does not want to cut himself short on parking spaces for the sake of putting more green on the site. Mr. Karis asked why he rolled his eyes when he said “more green.” Mr. Gasparro responded because he has enough.

Mr. Labriola stated that he does not agree with the number of parking spaces on the site, that he thinks it is excessive for a single office use. Ms. Bramson asked whether this is for Mr. Gasparro’s real estate office. Mr. Gasparro responded that he hopes so, if not that he will have to get a tenant because he still does not know where this is going. Mr. Labriola asked whether Mr. Gasparro’s plan is to relocate his office into this proposed professional building. He stated eventually, and if not, he still has the ability to have a single client move into this building – whether it’s a doctor’s group or an accounting group or an attorney’s group – it will still be one office. Mr. Gasparro stated that it is economics right now and that it is killing him the way that the market is now. He stated that if he can afford to do it, he will, and if not, he will get a tenant for the building. He stated that, as the Board pointed out, he does not have the right to have four tenants in the building unless he comes back for a change later on. He stated that he does not have any intentions of doing that right now; he stated that he is pretty secure in getting one tenant if he cannot afford to move into it himself. He stated that he does not want to cut himself short on the parking spaces, if he does not have to.

Mr. Setaro asked if it is permissible to do a 239M referral to the County at this time, or is it part of the planning process. Mr. Nelson explained the process: that, tonight, the Board is talking about lead agency and, having discussed that generally, now the Board is discussing SEQRA, which will the Board will deal with after it is established as lead agency.



Mr. Gasparro asked Mr. Nelson about the question of 4 discussion meetings with the Planning Board. Mr. Nelson stated that earlier in the meeting there was a question about proceeding and reported that the moratorium law states that “the Planning Board may continue to review applications solely to the extent of compliance with SEQRA and completion of the State SEQRA process.” Further, he noted that the moratorium law says that this will be “undertaken at the applicant’s sole risk, and shall not be construed as vesting any development rights in said developer ....” Mr. Nelson stated that Section 5 of the law talks about information conferences: “Developers ... which are covered by the provisions of the Local Law may have informational conferences with an appropriate officer or board at the discretion of the office or board while this Local Law is in effect.” Mr. Nelson stated that he does not know if informational means informal or how it would be construed, but it says that you can have information sessions which are different from substantive sessions that have to wait for the moratorium to be lifted. Mr. Gasparro asked if that would preclude the Board from entertaining him at a couple of future meetings so that we can clear up these kind of issues. Mr. Labriola asked if these issues would be SEQRA issues. Mr. Gasparro responded that after we get through the SEQRA then whatever site plan issues that we didn’t resolve – lighting, landscaping – and asked if the Board would allow him to come back and do that. Mr. Labriola stated that the Board can continue the discussions.

Ms. Bramson stated that she would like to see some options, similar to other applications where they have submitted things for the Board to look at. For example, Ms. Bramson stated that the Board has talked about rotating the building. Mr. Labriola concurred and added that he would like to see what the parking would look like, the traffic flow, where the curb cut might have to go. Mr. Labriola suggested an overlay, and Mr. Setaro suggested an onionskin overlay. Mr. Labriola stated that the Board would not need an engineered drawing. Mr. Gasparro agreed to bring the Board some drawings per their request. He stated that he will try to rotate the building. Mr. Setaro suggested that Mr. Gasparro show the Board where the wells are and the setbacks.

Dr. Fischer asked if the Board wants to do a site visit before seeing new drawings. Mr. Labriola and Ms. Bramson agreed that they would like to have some things to look at before doing a site visit. Mr. Gasparro agreed to provide drawings for the Board review, after which everyone could go to the site and looking at the options.

Mr. Labriola stated that he noticed that there are no lights in the parking lot on the plans. He asked about floodlights or other plans for lighting. Mr. Gasparro stated that they are proposing high-pressure sodiums on the building directed down at the parking lot. He stated that he objects to using pole lights. He stated that he thinks it works fine on his building, the lights are turned off at 10:30-11 p.m. and that it marks the parking lot pretty good. He stated that he does not want to put pole lights in there because there’s always a maintenance problem with them. He stated that the wires always have a problem and someone is always hitting the light poles. He stated that he would like to eliminate them, but that if the Board is insistent on it, then there’s nothing he can do about it. He stated that he would like to be able to bring in the lumens and provide a copy of plans that show how they light. He stated that he would like to do that first, and if the Board is satisfied

that it is protecting and opening the parking lot, then he would rather not put in any pole lights. Mr. Labriola stated that they will look at the plans and wondered what other projects have been lighted with floodlights. Mr. Karis stated that it has not been done on new buildings. Mr. Setaro stated that it's OK if you are going to light a small area right around a building. Mr. Labriola agreed and stated that this is a fairly extensive parking area. Mr. Setaro stated that he had asked Mr. Gasparro how he would light parking that is 100 ft. away from the building. Mr. Labriola state that it will be more than 100 ft. away. Mr. Gasparro stated that they will provide information on the lumens and then Mr. Setaro will tell him whether it works or not and whether he has to put in a pole light. Mr. Gasparro stated that he does not like them, but that if he has to do it, he will. Mr. Karis pointed out an area of parking on the current design that will probably need a couple of pole lights. Dr. Fischer stated that if he turns the building, it may help out.

Mr. Setaro noted that he did not prepare a lead agency resolution for tonight's meeting but that the Board can pass a motion on the floor and will, then, work with Ms. Dickerson to identify agencies to send the packet to. Mr. Labriola stated that he would like to circulate the Board's intent to act as lead agency.

Mr. Labriola: **MOTION TO DECLARE THE PLANNING BOARD'S INTENT TO BE LEAD AGENCY. MR. SETARO AND MS. DICKERSON WILL WORK UP THE APPROPRIATE LIST OF INVOLVED AGENCIES TO CIRCULATE TO. THE PLANNING BOARD WILL LET THE 30-DAY RESPONSE PERIOD TIME OUT AND THEN, DEPENDING ON WHAT RESPONSE IS RECEIVED, IF THERE IS NO RESPONSE, THE PLANNING BOARD WILL ASSUME LEAD AGENCY.**

**SECONDED BY M. GORDON**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Setaro stated that he will work with Ms. Dickerson and she will contact Mr. Gasparro to pull the packets together. Mr. Gasparro asked if it is possible to be on the agenda for September 09. Mr. Labriola pointed out that the 30-day response period will not have timed out yet, but the Board and the applicant can continue to have the SEQRA discussion and review alternative drawings submitted by the applicant in September. Mr. Gasparro stated that he will bring in some modifications for the Board's review.

Mr. Fracchia asked about the status of discussions with the DOT regarding a light at Bower Road. Mr. Gasparro stated that every time he has had conversations with them they say no light.

## **6. MINUTES**

Mr. Labriola stated that he has no comments on the minutes from the 7/14/09 meeting and asked Board members for any comments. No one offered any comments.

Mr. Labriola: **MOTION TO ACCEPT THE MINUTES, AS WRITTEN, OF THE 7/14/09 PLANNING BOARD MEETING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

**7. MISCELLANEOUS**

Mr. Karis announced that the CAC is putting together a wetlands workshop scheduled for Thursday, 9/10/09 from 7 – 9 p.m. for a classroom session. He stated that we will learn about wetlands, hydrology, vegetation and all the functions of wetlands. He stated that it would be a good idea as the Board is making decisions that impact the wetlands. He explained that it also consists of a Saturday field session on 9/12/09 from 9 a.m. to 12 p.m. Ms. Meta Plotnick stated that Redl Park is one possible location for the field session. Mr. Karis stated that Redl Park has a local wetland that attaches to a hardwood forested DEC wetland, so there is a lot of habitat there.

Mr. Gordon stated that he has swamps and every possible kind of wetland on his property.

Ms. Plotnick stated that the workshop will look at DEC regulations and NWI, that are new and complicated and no one quite knows them. She stated that they will take a stab at trying to figure those out. Mr. Karis stated that in the field they will go out and delineate wetland line – look at the soils and vegetation. Mr. Gordon stated that he has a kettle shrub pool, a swamp, three other ponds.

Mr. Labriola and Dr. Fischer stated that they will not be able to make the 9/12/09 field session.

Ms. Seaman announced that tomorrow night, 8/12/09, there is a public hearing at 7 p.m. on the subdivision and zoning codes.

Mr. Karis stated that the wetlands workshop will cost \$50 per person and asked if there is money in the budget to pay for Board members' attendance. Mr. Labriola stated that there should be money in the budget for education and asked Ms. Dickerson to check this out. Ms. Plotnick suggested that she will put through a voucher for all attendees. Dr. Fischer asked whether it would be \$25 for the classroom session and \$25 for the field trip. Mr. Karis will check into this. Mr. Gordon stated that he could attend a morning session on a Saturday.

Dr. Fischer asked if the presenter would be able to do an afternoon field session some other Saturday for the people who cannot attend the morning session on 9/12/09. Mr. Plotnick stated that she will check into this. Dr. Fischer stated that he would very much like to attend the field session but that he works on Saturday mornings. Mr. Karis stated that he will get more details.

Meeting adjourned at 8:30 p.m.

Minutes submitted by:

Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the August 11, 2009, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_ Approved as read

\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY PLANNING BOARD**  
**September 8, 2009**

A regular meeting of the Pleasant Valley Planning Board took place on September 8, 2009, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:37 p.m.

Members present:     Joe Labriola, Chairman  
                              Rob Fracchia  
                              Michael Gordon  
                              Kay Bramson  
                              Henry Fischer  
                              Peter Karis  
                              Lynn Sticker, Alternate

Members absent:     Rebecca Seaman

Also present:         Jim Nelson, Esq., Planning Board Attorney  
                              Pete Setaro, Planning Board Engineer

Chairman Labriola opened the meeting with a moment of silence for those who lost their lives on September 11, 2001 and for all the men and women in the armed services who have given their lives in the past 8 years.

**1.    APPEAL #949 – PFLEGER – AREA VARIANCE**  
**Grid #6363-12-829707**  
**Location: 22 Barbara Lane**

Todd and Rose Pfleger were present. Mr. Pfleger stated that they are intending on installing a 5KW solar panel array in their backyard. He stated that this will help to reduce their electricity costs and help with the environmental concerns in the area. He stated that it will reduce the carbon emissions in the area. He stated that they plan to install this array in their backyard where a swimming pool had been located. He stated that the array is slightly larger than the pool so it will extend about 4 ft. beyond where the pool was located. Consequently, he stated that the array will encroach upon the 15 ft. setback requirement from the side property line. He stated that the array will be 10 ft. away from the property line and, therefore, they are applying to the ZBA for a 5 ft. area variance.

Mr. Pfleger stated that his property line abuts a piece of property that is a right-of-way that goes into a section of land behind their property that is not a buildable lot. Further, he stated that the house just adjacent to that piece of property is, basically, a garage and that the owner uses that property for working on servicing his own vehicles. He stated that they don't see how there would be any impact on local area residents.

Further, Mr. Pfleger stated that they need the location because on the opposite side of the solar panel array the ground slopes off and it makes it more difficult to build on that

portion of land. Mrs. Pfleger also pointed out that there would not be the required amount of rays for overall effectiveness for NYSRTA to approve them, which is at least 80%. She stated that the optimum location is approximately 84%, which is another consideration regarding the location of the array.

Mr. Labriola stated that he did a site visit. He reported that the property starts to slant down in the back and that there are a row of trees on the adjacent property that are very tall. He stated that the solar panels will point in that direction and, thus, if the array were moved the trees would block the sunlight. He also pointed out the right-of-way and the garage on the adjacent property. He pointed out the garage door and a couple of garage windows. He stated that it seems like that the location the applicant's are suggesting for the array is the only feasible spot on the property for the panels to be effective. He also stated that it did not appear that it would have any significant visual impact on any of the adjacent property owners.

Mr. Gordon suggested that the trees on the property line will continue to grow and that in 5-6 years they will be a problem. Mr. Pfleger stated that they are mature trees that have been growing there. He stated that the house has been there for over 60 years and those trees have been established trees. He stated that the growth will be minimal and whatever does occur, he can top the ones that are on his property to retain the percentage of sunlight required for the array.

Mrs. Pfleger stated that they were informed that they would be producing, on average of 4.9 kilowat hours and lowering their electric bill. Also, she said that it would be equal to planting 9,855 acres of trees and saving 8,030 lbs. of CO2. Mr. Pfleger stated that they did not get battery backup, so that if the power goes out the array will not produce electricity. He explained that it has to be in conjunction with the grid.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BASED ON THE FOLLOWING POINTS:**

- 1. IT APPEARS THAT THE LOCATION PROPOSED IS, IN FACT, THE OPTIMAL LOCATION TO GET THE MAXIMUM AMOUNT OF SUNLIGHT POSSIBLE**
- 2. REGARDING THE ADJACENT PROPERTY OWNER – THERE IS A FLAG LOT BETWEEN THE TWO PROPERTIES AND THE HOME ON THE ADJACENT PARCEL ACTUALLY DOES NOT OVERLOOK THIS PROPOSED SET OF SOLAR PANELS, BUT IT IS THEIR GARAGE. THEREFORE, THE PLANNING BOARD THINKS THAT THE VISUAL IMPACTS TO ADJACENT PROPERTY OWNERS WILL BE MINIMAL, AT BEST.**
- 3. THE PLANNING BOARD WILL LEAVE IT UP TO THE ZBA TO DETERMINE WHETHER THEY WOULD LIKE TO HAVE SOME SORT OF EVERGREEN TREES PLANTED BETWEEN THE PROPERTIES TO PROVIDE SOME LEVEL OF SHIELDING.**

**SECONDED BY R. FRACCHIA**



**VOTE TAKEN AND APPROVED 6-0-1 (L. STICKER - ABSTAINED)**

Mr. Labriola explained to the applicants that the ZBA will receive the Planning Board's recommendation. He stated that the ZBA will use this recommendation at their meeting when the applicants present their case.

**2. TACONIC HOMES – Site Plan**

Mr. Labriola stated that this application is on for the continued discussion of site plan and, specifically, for North Country Ecological Services to report on the review of the applicant's wildlife surveys. He explained that the Planning Board retained the services of North Country to assess the thoroughness of the applicant's wildlife survey reports and conclusions. He stated that North Country has completed that work and invited Mr. Stephen George to provide the Board with an update of their findings, conclusions, and recommendations. He also stated that it is an opportunity for the Board to ask any questions. He acknowledged that the Board and the applicants only received North Country's report late this morning and that they may not have had a chance to review it prior to the meeting. Mr. Labriola noted that the applicants are present at the meeting and invited them to articulate any questions that they have.

Mr. Labriola asked North Country to brief the Board, after which the Board and applicants will map out some tactical next steps.

Mr. George deferred to Mr. Tom Ward to make the presentation. Mr. Ward introduced himself and stated that he is vice president of North Country Ecological Services. He stated that they were retained by the Planning Board to review the documents that were provided regarding wildlife flora and fauna inventories, wetlands assessment, regulated areas on the Taconic Homes site.

Mr. Ward stated that they reviewed the documents that were given to the Planning Board by the applicant and reviewed their comment letter. He stated that North Country wants to commend the applicant for what they have done to date. He stated that based on the materials provided, they have made a good faith effort to provide the information that is pertinent and that they felt was important to provide. He stated that it is in line with the scoping document as far as Sections 4.2, 4.4, and 4.5 with what the board asked for. He stated that North Country does feel that there is sufficient information lacking to allow the Board to make a significant determination of effect of the project on these critical issues. Specifically, he stated that they wanted to point out that the documentation provided is based on older information – reports that were done in 2004, correspondences that were received from DEC Fish and Wildlife Service in 2003 and 2004. He stated that they did not come across any documentation in the pile of paperwork that was here in the office where newer correspondences with these agencies have occurred since what was originally done by the Chazen Companies.

Mr. Ward stated that they took the opportunity to briefly look at the Fish and Wildlife Services website and did identify 7 species, as noted in their report, that are now on the

Fish and Wildlife Services website for information regarding species that aren't necessarily known to occur on this property but have been recorded to occur or historically occur within all of Dutchess County, NY. With that being said, Mr. Ward stated that they felt that the reports need to be updated to be current with what the Fish and Wildlife Service now requests.

Mr. Ward stated that the other deficiency that they found with the updated reports provided by Mack and Associates was that they lacked any detail regarding any wildlife species. He stated that North Country was informed that the Chazen Companies had completed an initial study and that it was the Planning Board's decision, based on review of that study, that the study was deficient and that the Board requested 3 additional surveys at 3 different times during the year to provide additional flora and fauna information. However, he stated that no flora information was provided – it was just a species list of plants that was very well put together. He stated that he does not think they missed any plants at all. He, again, commended the applicant on that and stated that they did that to the best of their ability and to provide exactly what the Board wanted. However, he noted that the species of wildlife was not documented on the site.

Mr. Ward stated that the Chazen Report documented adequate Blandings Turtle habitat or potential Blandings Turtle habitat within 2 miles of the site – both to the northeast and the southwest along two different wetland drainages and habitat corridors. He stated that a map that documented those wetland areas accompanied the report. He stated the applicant has alluded to the fact that no primary Blandings Turtle habitat is found on the site. He stated that North Country agrees with that assessment. However, he stated that they do not agree with the applicant's claim that the property would not be utilized as a migratory corridor between these habitats due to the fact that roads separate the habitats from each other. He stated that it is documented that these turtles do, in fact, cross roads, and go through culverts to get from one habitat to another. He stated that, looking at that same habitat complex map that showed the 2 mile radius, the site is a natural wetland drainage corridor that extends between the two areas, thus connecting them with viable habitat to move through. Therefore, North Country felt as though the habitat complex should be looked at a little more closely to define the species that are utilizing it to move back and forth between adjacent undeveloped properties.

Mr. Ward stated that the documentation was lacking specific information relative to Bog Turtle habitat. He stated that the Chazen Companies did an assessment for Bog Turtle habitat and stated that there is no Bog turtle habitat there. Mr. Ward stated that there are some wetland areas that exhibit the 3 criteria: the open canopy, soft mucky soils, and low herbaceous vegetation. He stated that they identified one small pocket along the property boundary, which they are not saying is definitely Bog Turtle habitat. He recommended additional documentation of the exact ecological parameters with the wetland to be provided to disprove that it is potential Bog Turtle habitat.

Mr. Ward stated that they found trees on the property that are consistent with Fish and Wildlife's and DEC's criteria as Indiana Bat roosting habitat. He stated that the Indiana Bat is an endangered species, which was not a concern in 2003 but is very much a

concern now in 2008-2009 especially since white nose syndrome has wiped out several populations in upstate NY.

Mr. Ward stated that there was a direct question posed regarding habitat fragmentation. He stated that the applicant needs to provide more information regarding habitat fragmentation created by their proposed development. He stated that the applicant has made efforts to give valuable upland buffers to screen the development from adjacent properties. However, he stated that the fact remains that developing the property is going to result in habitat fragmentation and those impacts need to be discussed. He stated that simply saying that the applicant will preserve adjacent lands is not addressing the habitat fragmentation created by the development.

Mr. Ward stated that, most importantly, North Country took seriously the comments issued by Mr. John Mort regarding vernal pools on the site. He stated that it is their experience in dealing with the DEC and the Fish and Wildlife Service that vernal pools are some of the most valuable wildlife habitat on pieces of property. He stated that they reviewed the information contained in the delineation report done by Chazen, the threatened and endangered species report done by Chazen, and then the subsequent vernal pool study that was done with Dr. Brook Crossan and Mr. John Mort together. He stated that in the information that was available in the office, the photographs were black and white and were not adequate for them to get a grasp of what really is at the property. He stated that they wanted to review the site and met last week with Ms. Paula Vincitore and Dr. Brook Crossan in search of this vernal pool habitat. Dr. Crossan took them to the spot exactly where he had been previously with Mr. Mort. He stated that what they found was not habitat that is totally correlated to vernal pools. He stated that the area was

- completely filled in with vegetation
- did not have standing water
- did not have any characteristics of previous, long drawn out durations of ponded water
- it did not look like it was hydrologically connected to any other wetland that is found on the site
- it did not possess a dominance of hydrophytic vegetation.

He stated that this area appears to them to be an ephemeral empoundment created when they put the road in. He stated that there is a culvert that is encased in concrete and is raised, so water cannot get into the culvert easily unless water builds up to the point where it flows over the concrete that protects the culvert.

Mr. Ward stated that North Country wanted to make the Planning Board aware that the vernal pool that was identified is not really a vernal pool, but is more of an ephemeral empoundment. He stated that they do not disregard that has habitat, but that maybe it does not need to be taken in as much of a direct light as it may have been provided to the Board before. He stated that North Country definitely likes the idea that the applicant is willing to create a vernal pool to replace this habitat. He stated that with the proper design and implementation in and adjacent to a regulated wetland and protected by buffers, a vernal pool habitat would benefit this site. He stated that North Country commends the applicant for doing that and looks forward to seeing how they would

propose that. He stated that North Country has some questions regarding the construction of a vernal pool and the timing of it. He explained that you don't want to impact the habitat if it is utilized by breeding amphibians during the springtime when they are actually breeding. Also, he stated that you don't want to destroy the habitat in the middle of the winter, either. He stated that he would be really interested to see how that would progress and be constructed in the long term.

Mr. Ward stated that the wetland delineation is outdated. He stated that, typically, the regulated agencies don't accept delineations that were completed in the wintertime because it is very hard to get an accurate determination of where the wetland boundaries are. He stated that during the winter you don't have the hydrophytic vegetation and hydrology is skewed based on the amount of run off and snowmelt there is or is not. He stated that the agencies want the delineations to be started at the end of March and early April and continued through the growing season and revalidated later in the year. He stated that North Country recommended that the delineation be updated because it is 8 years old now. He stated that they were told by Dr. Crossan that they anticipated doing that at the next phase of planning with the Planning Board. Mr. Ward stated that North Country recommends that this be done as early in the process as possible because going through the planning process costs a lot of money and having a wetlands jump in at the 11<sup>th</sup> hour because something has changed on the site would be problematic. He stated that North Country noted that the utility company had cleared and graded and that there might be some additional impacts that weren't foreseen - not really associated with the development but were created by the utility company - that may need to be addressed. He stated that North Country recommends that they update the delineation and get the agencies on board as soon as possible.

With regard to DEC wetland jurisdiction, Mr. Ward stated that it has been North Country's experience that lately the DEC is adamant about updating the wetland delineation maps and does take jurisdiction over wetlands that weren't currently mapped but that do meet the criteria. He stated that they noted in the Chazen Report that there is 11.74 acres of contiguous wetlands on the property. He stated that these wetlands are contiguous with other wetland habitats that are on the adjacent properties, which would exceed the DEC's regulatory threshold of 12.4 acres. He stated that he used to work with the DEC in Albany and stated that they do have the discretionary authority to assert jurisdiction over these wetlands at any time. Therefore, he stated that it is North Country's recommendation that the applicant also contact the DEC as early as possible to get further clarification – either a letter in writing saying that they will or will not take jurisdiction based on the existing ecological conditions on the site.

Mr. Ward stated that the unnamed perennial tributary of the East Branch of the Wappingers Creek is a class CT stream and is, therefore, regulated under Article 15, Protection of Waters. He stated that North Country recommended that, in order to complete the crosses, they will need an Article 15 permit from the DEC. He stated that the DEC has best management practices with which the applicant will be required to comply.

Mr. Ward stated that there were other streams on the property that were identified in the delineation report but weren't given any classifications or designations as to what they were. Also, he stated that there are stream symbols shown on the wetland delineation map that are not contained within delineated boundaries. Therefore, he stated that North Country does not know whether or not the Army Corps of Engineers or the DEC would take regulatory jurisdiction over these because they are not currently mapped. He stated that they are shown on the delineation report, and North Country thinks that the delineation mapping needs to be updated to include these areas as well. He stated that, lastly with streams, it was indicated in several of the reports by Mr. Mort that fish were identified in the streams. He stated that they took a quick analytical look at the streams and did identify species of fish. He stated that they did not key them out or catch them. In the reports provided to the Board so far, he stated that there is not a definitive assessment of species that inhabit the streams and whether or not any of those species could be correlated to any ETR species.

To tie streams and wetlands together, Mr. Ward stated that the wetland delineation map also needs to be modified to make a distinction between what is actual vegetated wetland and/or stream channel. He stated that these areas are jointly regulated, but that they are regulated differently with different impact thresholds associated with different permits by the DEC and the Army Corps. Therefore, he explained that the distinction needs to be made as to how much of the wetland boundaries they have – how much of the 11.74 acres is actual stream and not necessarily vegetated wetland. He stated that that makes a big difference in the regulatory proceedings later in the process.

Mr. Ward stated that during their site visit they tried to get a general assessment of what was present at the property and that he identified several other ecological community types on the site that were not outlined in the previous documents provided by the applicant. He stated that he listed vernal pool – there are vernal pool-like habitats within the delineated boundaries of the wetlands. However, he stated that the vernal pool area as identified in a separate vernal pool report is not a vernal pool.

Mr. Ward stated that the other habitat types are listed. He stated that it would not take much to document what those are and how much of each habitat type there is on the site as far as existing acreage and, then, correlate that to the proposed development plan to determine how much of each ecological community type there will be post-development. He stated that this will provide the definitive answer of what habitats have been impacted, which can then be correlated to the species of wildlife that utilize or inhabit those habitats to get an idea of what will actually be impacted on the site.

Mr. Ward stated that there is a misleading nomenclature regarding buffers. He stated that North County commends the applicant for proposing buffers – that not many people are willing to give up lands that are technically “developable” in order to protect certain habitats. He stated that it is valuable to incorporate buffers into any design and they feel that the applicant made a significant effort to provide buffers – especially where they extended the buffer from 30 ft. to 300 ft. along the Rockefeller property. He stated that this was a significant undertaking that should be noted by the Planning Board.



Mr. Ward explained that the problem with the buffers is the fact that of these 17.60 acres of buffer that they have proposed, 5+ acres of that – or roughly 30% - is proposed to be significantly disturbed by clearing and grading activities. He stated that the purpose of a buffer is to protect the habitat by not disturbing its surroundings. Therefore, North Country does not agree that the area slated as temporary buffer impact are truly buffers at all – that they are going to be significantly altered by clearing and grading. He stated that in 3 instances there is storm water detention basins that are proposed that is a totally different habitat that would be created. He stated that, even though there are no physical structures – such as buildings – it is a definite disturbance and it should not be labeled as a buffer.

Mr. Ward noted that it looks like there are buffers shown on neighboring property, which is not contained within this site, near Route 44. He stated that they felt that proposing buffers on someone else's land is not a good idea. He noted that it is possible that the applicant owns those lands, but it was not indicated as such on the site plans. Therefore, they recommend that the site plan be modified to remove the buffers on the adjoining properties so that the buffer line ends at the property boundary.

Mr. Ward stated that there were definitely some areas adjacent to the development where wetlands and streams did not possess a buffer at all. He stated that if the Board will attempt to protect the remaining wetlands on the site, there ought to be a buffer around all the wetlands and all the streams that are not going to be disturbed, if at all possible, even if it is 5-10 ft.

With regard to the regulatory proceedings with the Army Corps of Engineers and the DEC regarding buffers that are typically approved or mandated in developments, Mr. Ward stated that, if the DEC takes jurisdiction over the wetlands, they will impose a 100 ft. buffer on everything excluding the intermittent stream channels that come in – they would just put a buffer on the vegetated wetlands portion of the site. He stated that it has been their experience that the Army Corps of Engineers would like to see between 40-50 ft. buffer – not so much with commercial development. He explained that the Army Corps feels that you need that space to be able to adequately construct and grade and get machinery and equipment behind the buildings and to avoid any impact to adjacent wetlands.

Tying in all that information, Mr. Ward stated that North Country asks whether these buffer areas and remaining undeveloped lands and wetlands were going to be subject to any deed restriction or conservation easement as a means to protect them in perpetuity. He stated that it has been their experience that the agencies – the DEC and the Army Corps – will require the applicant to provide the full build out of the property. He noted that the plans indicate that it will be a phased project, but the Army Corps and the DEC will want to know what the full project is and that is what the applicant will get a permit for. Therefore, he explained that anything that is not going to be developed, those agencies typically ask for deed restrictions to make sure that 5 years later the applicant



does not come back for more impacts later on. He stated that the project has to be complete as of the day the permits are issued.

Mr. Ward stated that North Country questioned hydrological data that was not necessarily supplied in the documents that they reviewed. He stated that they were concerned with the fact that where underground utilities are installed, it cuts off some ground water and the ground water can run along the utility lines and is no longer directed into the adjacent wetlands. He stated that the adjacent wetlands suffer because of that. He stated that there was not enough information for North Country to be able to determine what the contributing drainage area to these wetlands were, what the hydrological input of the wetlands area is, and whether or not the construction will have a negative effect on those wetlands and streams.

Mr. Ward stated that this concern correlates to his comments on water test wells and pump drawdowns. Also, from the plans, it looked as though the majority of the development surface water runoff from storm events is going to be directed to two large detention basins on the down gradient side of all the wetlands that are being preserved in the center of the site. Therefore, he stated that North Country questioned – if they are going to collect all that existing surface water and direct it around the wetlands, what is that going to do to the wetlands that they are trying to preserve.

Mr. Ward stated that they also noted a water treatment plant being proposed on the property with a direct discharge into the wetlands. He stated that they understand that the DEC has departments that review those type of permit applications, but that is another permit that will be required. He stated that North Country questioned how this water is going to directly discharge into the wetland and whether it will have any effect on temperature or stream flow or the adjacent habitat.

With regard to temporary disturbance areas, Mr. Ward stated that North Country thinks that while the temporary disturbance areas should not be constituted as buffer, they can be utilized as a viable habitat by species that inhabit the property. So, as long as the applicant tries to install a native grass or shrub or tree species that are currently found on the property, they can restore habitat.

Mr. Ward stated that he only saw one reference in the documentation to DEP. He stated that if these waters go to a water body that is maintained as part of the reservoir system for NYC, DEP would regulate these areas. He questioned whether that would apply to this area. Mr. Karis responded that this project is not in the DEP watershed.

With regard to Army Corps regulation, Mr. Ward stated that impacts were identified on the site. He stated that they obtained clarification from Ms. Vincitore that the road was installed in 1970, at which time there were some impacts generated by the utility clearance and mechanized clearance. He stated that they bulldozed and cut through wetlands. He stated that those impacts, while minor in nature now, may have to be viewed cumulatively with any future Army Corps permitting.

Finally, Mr. Ward again commended the applicant for the efforts they have put in so far. He stated that they need a little more documentation to be able to represent to the Planning Board the exact ecological conditions on the site at this time and the species of wildlife, specifically, that utilize the site.

Mr. Labriola thanked Mr. Ward and Mr. George for a very comprehensive set of findings. He stated that it seems to be a combination of some potential issues, concerns, and questions raised that may directly affect the Findings Statement, others may be permitting issues that will need to be directed at the appropriate time in the process, and the remaining issues may be something that can be picked up during site plan.

Mr. Labriola asked the Board for any questions for Mr. Ward. Mr. Gordon asked, with regard to the 300 ft. buffer adjacent to the Rockefeller property, whether that is the buffer that they will be working in during construction. Mr. Ward stated that he does not believe that there is any, other than that they were proposing a road and a water tower in that area, other than that there is just the minor clearing and grading to get the road and the water tower installed – those are the only impacts planned in that area. He stated that all the other buffer impacts have to do with the 25-50-100 ft. buffer they put on the wetland complex in the northern half of the site. He stated that he believes that most of those impacts are associated with the 2 storm water basins and the road going in and looping around to get back out.

Ms. Bramson stated that some of the buffering pertains to visual screening and some are to protect the wetlands, which she believes are different. She asked if Mr. Ward's comments pertain to all the buffers – the ones for visual screening as well as the ones for the wetlands. She stated that they are all labeled as buffers on the map, but that she thinks they are not the same. Mr. Ward stated that they appear to be shaded the same on the map. He stated that they looked at it as cumulative buffer not for visual but as a means to protect adjacent habitat. He stated that to a biologist that is what a buffer is and noted that there are other buffer types such as visual and noise and other issues that the Board must address. He stated that North Country looked at it as it pertains to an ecological or biological benefit to protect the adjacent habitats. Therefore, he stated that if you are disturbing habitat, you should not call it a buffer or be utilized as a means of mitigation to offset those impacts.

Ms. Bramson stated that that describes the wetland buffers. However, she stated that the applicant may do some work in the other buffers and then restore the area as a visual buffer. Mr. Ward stated that he understands what Ms. Bramson is saying and cautioned that it should not be labeled a buffer. Ms. Bramson asked what it should be called. Mr. Ward stated suggested that it be called a temporary disturbance area. Mr. Labriola pointed out another question that Mr. Ward raised is how to protect the preserved areas in the future so that they are not further encroached upon. He stated that the Board has instituted a buffer – similar to this 300 ft. buffer – on other projects and designated it as a no-cut zone so that 100's of feet of forest are being protected. He stated it is probably good to delineate buffers that are mandatory around wetlands versus buffers that are trying to protect major forests. Also, he stated that a buffer that someone is actually

disturbing is, therefore, not a buffer. Mr. Ward stated that that is the point he was trying to make. From a regulatory aspect, Mr. Ward stated that the Army Corps and the DEC like to see the buffers because it is a means of protection of the habitat that they regulate. He stated that if we say that they are not going to impact that 50 ft. swath, there is less of a chance during construction of the property that the bulldozer operator will tip the bulldozer into the wetland and muck things up.

Mr. Labriola listed other things that Mr. Ward pointed out that will be significant for the Board to address and resolve quickly. One is current delineations because that will affect the starting point for any buffers and then the jurisdictional questions. If the Army Corps and/or the DEC were to step in and claim jurisdiction, he stated that that will dictate, potentially, some larger buffers than are currently identified in the proposed site plan. He stated that this is something that needs to be addressed quickly. Further, Mr. Labriola noted that the DEC list of ETR species has been updated. Mr. Ward stated that it is the Fish and Wildlife Service, but the DEC came back with the same – no known occurrences – but that does not substitute for on-site surveys as standard procedure.

Mr. Ward agreed that the delineations definitely need to be updated and correlated to existing wildlife species. He stated that just in the limited time that they were on the site, they documented the presence of species that were not listed in any of the reports that they looked at. He stated that this is not to dismiss the applicant's efforts and what they have done to date because North Country thinks that what the applicant has done is totally in line with the scooping document and exactly what was asked for – only it was for half – for the plants. He stated that they did a wonderful job for the flora and needs to have the same input for the wildlife species and document not only to identify what's there, but to also dismiss and prove what is not there is almost as important. Ms. Bramson asked if that needs to be done seasonally. Mr. Ward stated that it should have been done at the same time as the botanist, that a wildlife biologist could have done the same exact thing during the same exact days to list the animals and the birds that they see – and the fish and whatever habitats that are on the site.

Mr. Karis stated that he agrees with Mr. Labriola's comments regarding threshold issues - that depending on their outcome and what other involved agencies say could have direct impacts on the site plan and the layout and where things are located. He stated that it is not appropriate to delay a wetland delineation until the site plan process – he stated that it should be done tomorrow and that the Army Corps and the DEC should be contacted to start the process.

Mr. Ward stated that, typically, if you have a delineation done tomorrow and it was resurveyed by the end of September, the likelihood of getting the Army Corps out there to review it before the end of the year is slim to none. Mr. Karis noted that Mr. Ward's comments indicate that the Army Corps was never out there to sign off on the wetland delineation. Mr. Ward agreed that it has not yet been done and that it must be done. He stated that he knows the Army Corps is backlogged, that there are only 2 men who travel up this way from NYC, and it takes a long time to get them on board and to schedule something. He stated that it could be putting off – if you waited until next year

to do it, you are looking at next October potentially that they could get to the site, which puts off the development another year. He stated that that is why they recommend doing it as soon as possible because it is a major step.

Mr. Labriola stated that there is a lot here to digest and that the Board and the applicant only just received North Country's report today. He proposed, based on his conversation with Ms. Vincitore before tonight's meeting, that the applicant needs some time to go through the report and digest the comments. He stated that some of these potential issues may be able to be attended to quickly by somebody saying here's a letter that was not in the file and that will resolve something. However, to give the applicant an opportunity to go through this, they requested that they be permitted to review and respond to North Country's comments. He suggested that this will be accomplished through a series of meetings between the applicant's and the Board's consultant and Mr. Setaro. He stated that the plan is to receive, in a week's time, a response from the applicant to the North Country letter. He stated that this would give the Board an opportunity to digest that and then do a workshop later in the month to go through this in much more detail. Mr. Labriola agreed with Mr. Karis' point that there are some threshold issues that could significantly change the proposed layout of this site. Therefore, he suggested that before a lot more time is invested doing anything else, everyone must work their way through this set of findings.

Mr. Labriola stated that Ms. Vincitore suggested Wednesday, September 30, 2009, at 6:30 p.m. for this workshop. He noted that this date would be predicated on receiving a response by 9/16/09 from the applicant to North Country's comment letter. Board members stated that they are available. Mr. Labriola asked Ms. Vincitore to confirm that they can produce their response in this time frame. He stated that this meeting must be advertised for the public and asked Mr. Nelson for confirmation that it should be advertised. Mr. Nelson agreed and stated that it is a special meeting. Mr. Labriola stated that it is not going to be a public hearing, but that the Board would like the public to be informed of this meeting and that they can sit and listen to this conversation.

Mr. Labriola asked if Ms. Vincitore had any questions for the Board or for North Country. Ms. Vincitore stated that Mr. Hyman, from Parish and Weiner, would like to comment.

Mr. Richard Hyman, Parish and Weiner, stated that Nat Parish is vacationing in Italy. Mr. Hyman stated that the North Country report is very comprehensive and that the timing is a little awkward since they received it at 10 a.m. and did not give them a chance to respond. He noted that Parish and Weiner has responded to everything that the Board has requested to date, that they have done additional site surveys and additional analysis, and that they will continue to do that. He stated that he expects to have a response prepared within a week. He agreed with Mr. Labriola that a lot of the issues have to do with permitting, which is much further down the line in the process and have to do with site plan issues. He stated that a lot of things are written into the Findings Statement that will determine how the Board views the project and its impact and what requirements the Board will put on the project. He stated that the developer wants to proceed, that it has

been a long process for everyone and that it has been very costly for the developer. He stated that they would like to proceed as quickly as possible to continue to move this along. He stated that they appreciate having the opportunity for a working session with the Board to go over things and, hopefully, to resolve all the issues. He stated that it is his understanding – and Ms. Vincitore will confirm this with the Board – that the developer is willing to go ahead with site plan process based upon the current delineation of the wetlands. He stated that it is their understanding that there has not been a major change in the delineation of the wetlands and that any change that may have occurred they always intended to update the delineation of wetlands. He stated that if it were to impact in some ways the site plan, they would definitely adjust the site plan as necessary. He stated that there is no expectation that it will have a major impact on the current plan, which has been gone over and adjusted many times and seems to meet a lot of the requirements. Further, he pointed out that there is a letter from the County Department of Planning that documents that a meeting was held with them regarding the Route 44 frontage. He stated that they think they have answered all of the County's questions to make that an opportunity for a better development along Route 44. He stated that they think that issue is resolved and that hopefully they will be able to answer all of the question and issues to the Board's satisfaction.

Mr. Labriola stated that he wants to make sure that a letter from DC Department of Planning's letter is discussed at the workshop. He stated that there was a meeting and that it seems like there are some changes that are being proposed, which should be included as part of the discussion along with the North Country report.

Mr. Labriola asked for any other comments or questions. No one spoke. Mr. Labriola thanked Mr. George and Mr. Ward for their time and their help on this project.

**3. GASPARRO – SEQRA Review**  
**Grid #13-6363-03-453036 & 447030 & 443019**  
**Location: 1325 Route 44**

Mr. Labriola stated that this site plan application is on tonight's agenda for continued SEQRA discussion. Mr. Ronald Gasparro, applicant, and Mr. Michael White, Spectra Engineering, were present.

Mr. White distributed to Board members additional copies of the alternate layout. He noted that they rotated the building 90 degrees and, in so doing, they were able to put the parking in the rear of the building and a little on the side. He stated that they relocated the access a little bit to the east and that there is no sight distance issues along this section of Route 44. He pointed out the location of the SWPP area in the center. He stated that they were able to preserve the same amount of parking spaces. He explained that he did not put all the engineering detail on the revised map because they wanted the Board's blessing first. He noted that he will show the catch basins and drainage and landscaping. He stated that the Board had asked them to come up with several alternative designs but noted that there really is only one alternative if the Board wants the parking in the rear and still preserve the required 100 ft. setback and the sanctity of the property line.



Mr. Gasparro concurred with Mr. White's statements. He noted that the alternate layout provides a greener view of the property from Route 44. He stated that they will do a design on the building that shows the front dressed up and might even consider having dual access so that it is also functional. If not, he stated that they will make the back of the building look like the front, even though not utilizing that.

Mr. Karis stated that this is a good opportunity, where they have the water quality basin, not to have a rectangular hole. He stated that it can blend and go away. Further, he stated that, because they have such great soils, he cannot imagine that there will ever be any ponding. He stated that if it is just a slight depression, it could be an asset. Mr. Gasparro stated they will do that and will landscape the front.

Mr. White stated that they, intentionally, did the perk tests in the pouring rain. He stated that you cannot keep water on the site. Mr. Gasparro stated that the mechanicals were never a question on the property. Mr. Karis asked if the septic will be under the parking area in the back. Mr. Gasparro responded yes and stated that that is what the Health Department has agreed to. Mr. Gasparro stated that they will dress it up and bring it back in next time.

Mr. Labriola asked for comments from the Board members. Ms. Bramson asked if the number of parking spaces was calculated on the new regulations. Mr. Gasparro stated that there are a little bit more and they want to keep a little bit more. He stated that since they put them in the back of the building they did not have to worry about the visual aspect of it. Ms. Bramson asked if there will be two businesses in the site. Mr. Gasparro stated that there will be just one business. Ms. Bramson asked if he thinks he needs 34 parking spaces. Mr. Gasparro stated that the building is 10,000 sq. ft. and the number of spaces is based on the square footage plus a couple of extra for employees. He stated that if they took away a number of spaces, given where the parking is located, it would not have an impact because it is all hidden anyway. He stated that if it were in the front he would agree. Ms. Bramson stated that she's thinking about the amount of asphalt on the site. Mr. Gasparro stated that whatever they would take out would be minimal because they still have to provide access to the site. He stated that he's very cautious about reducing the number of parking spaces and that he thinks he's going to need them later on.

Mr. Labriola stated that there is still some work in progress on the zoning ordinance regarding minimum and maximum parking, so the Board and applicant will have to watch that story as it unfolds. He stated that he agrees that with the parking in the back. One of the concerns he had was the sea of asphalt, and with it shielded behind and landscaping, it's only going to improve the condition. He expressed the Board's appreciation to the applicant for coming up with the alternate plan. He stated that it is much more in line with the development approaches that the Board has been promoting. He stated that he thinks that this can be an outstanding looking site.

Mr. Labriola stated that they have done a good job with the stockade fence on the western side and a bunch of shrubs on the east. He asked about shielding to the north in the back



of the site. Mr. Gasparro stated that he would like to plant a heavier line of trees in the back. Mr. Karis suggested a row of shade trees that will grow in. He stated that if Mr. Gasparro plants evergreen, it's going to take a long time. Mr. Gasparro spoke about honey locust – they grow skinny but they grow fast. He stated that they will put a line of evergreens and another line of honey locust, which should take care of the height effect and also give the low visual effect immediately.

Mr. Fracchia asked if Mr. Gasparro is doing a lot line realignment. Mr. Gasparro stated that the lots are already separate – that nothing has changed.

Mr. Labriola asked for comments and if the Board is comfortable with the alternate design. Board members concurred that they like the alternate design. Mr. Gordon noted that it meets the County's recommendations, as well.

Mr. Gasparro stated that they will remove black top wherever they can. Ms. Bramson advised them to make whatever they can green. Mr. Gasparro responded that they will. Dr. Fischer especially asked for landscaping along the entire front. He asked about the idea of a stonewall. Mr. Gasparro explained that there's a bank in the front and that he does not want to put a wall there. However, he pointed out an area where he can put a stonewall in the front and bring it to the end of the curb – this way he will define the entrance. Dr. Fischer stated that it will look good. Mr. Karis stated that they can incorporate the sign into the stonewall. Mr. Gasparro explained that he can tie it right into the bank in the front.

Mr. Setaro advised that the Fire Department needs to review the alternate plan before they get too far down the road with development. He pointed out an area where the Fire Department may need to have access and may need to have grass pavers or some other features. Mr. White agreed that they do need to have access. Mr. Setaro advised that the Fire Department needs to see the plans sooner rather than later. Mr. Gasparro stated that he will take a copy of the plan to the Fire Department and ask them to make some comments.

Mr. Labriola stated that there was a question at last month's meeting about segmented reviews. He stated that he spoke with Janis Gomez Anderson from Van DeWater and Van DeWater and that she provided him with a copy of the DEC draft SEQRA handbook. He stated that there are some questions that the Board should be thinking about. He stated that the question of segmentation pertains to the two pieces of property. The following are the questions to be considered:

1. Is there a common purpose or goal for each segment? Mr. Labriola stated that the answer to that is no; that there are two very independent things.
2. Is there a common reason for each segment being completed on or about the same time? Mr. Labriola stated that he does not think so.
3. Is there a common geographic location? Mr. Labriola stated that the answer is yes.
4. Do any of the activities being considered for segmentation share a common impact that may, if the activities are reviewed as one project, result in a potentially

- significant adverse impact? Mr. Labriola stated that an example would be if these two parcels needed to share a water system or septic system, but they don't.
5. Is there common ownership? Mr. Labriola stated that the answer is yes.
  6. Is a given segment a component of an identifiable overall plan? Mr. Labriola stated that he thinks these are independent things.
  7. Can any of the interrelated phases of the various projects be considered functionally dependent on each other? Mr. Labriola stated that the answer to that is no.
  8. Does the approval of one phase or segment commit the agency to approve the other phases? Mr. Labriola stated that the answer to that is no.

Therefore, Mr. Labriola stated that he does not think there is a segmentation issue with regard to Mr. Gasparro's properties. He stated that he wanted to make sure that this was discussed for the record and wanted the applicant to be comfortable with that. Mr. Gasparro stated that it is good to hear from the Board on this subject.

Mr. Labriola stated that immediate next steps:

- Ms. Dickerson to have the Fire Advisory Board review and respond to the alternate plan at their next regularly scheduled meeting the first Wednesday in October 2009. Mr. Gasparro stated that he's OK with the FAB reviewing it the week before the regularly scheduled Planning Board meeting and that they will go forward with the engineering and receive the FAB's comments at the next Planning Board meeting.

Mr. Setaro asked if the EAF needs to be updated for the new layout? Mr. Gasparro stated that nothing has changed but that they will look at it and modify as necessary.

Mr. Setaro asked if the applicant has received a conceptual letter of approval from the Department of Transportation. Mr. Gasparro responded yes and will work with them. He stated that he would provide a copy of that letter to Mr. Setaro and to Ms. Dickerson.

**4. APPEAL #946 – MILLER – AREA VARIANCE**  
**Grid #6363-03-370166**  
**Location: 37 Gleason Blvd.**

Mr. Labriola noted that the applicant is not present at the meeting. He reported that the applicant has installed a gazebo on the front portion of their property and they are looking for a variance of 20 ft. from the center of the road setback. He stated that he drove by the site and noted that they have as much property on the side of their property as they do behind. He stated that the gazebo is nicely nestled underneath the trees in the front and is a beautiful location. However, he stated that there is an abundance of room behind it to put it. He stated that there does not seem to be a problem with space.

Mr. Fracchia agreed that it looks nice. Mr. Labriola stated that if they had come to the office for a discussion of where to place the gazebo, they could have placed it well within the setbacks. He stated that he did not see any property dropping off or any other impediments to complying with the setbacks.

Dr. Fischer asked about the history of this appeal. Ms. Dickerson recalled that they needed a building permit, which they did not get prior to installing the gazebo. Mr. Gordon asked why it would require a building permit since it was not built on site. Mr. Labriola stated that he needed a building permit for his shed and that the shed came fully built on the truck.

Mr. Karis stated that the applicant owns two parcels and that the gazebo sits in the trees on the second parcel. Board members discussed the fact that the gazebo does not comply with the setback from the center of the road. Mr. Labriola stated that he thinks there are other places the applicant could have placed the gazebo on his property and that it is unfortunate that it is already on site. Dr. Fischer suggested that the gazebo looks like it is mobile and noted that Mr. Hahn's building was moveable.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZONING BOARD WITH A NEGATIVE RECOMMENDATION BASED ON THE FACT THAT IT APPEARS THAT THERE IS SUFFICIENT LAND ON THE PARCEL TO ALLOW THIS GAZEBO TO BE PLACED WHILE PRESERVING ALL OF THE NECESSARY SETBACKS**

**SECONDED BY H. FISCHER**

**VOTE TAKEN AND APPROVED 6-0-1 (K. BRAMSON ABSTAINED)**

**5. WILSON – DISCUSSION**

Mr. Labriola explained that the Wilson Discussion was removed by the applicant, that someone else bought the property.

**6. MINUTES**

Review of the minutes of the August 2009 Planning Board meeting will be postponed to the next Planning Board meeting.

**7. MISCELLANEOUS**

Reminder: Thurs. 9/10/09 at 7 p.m. workshop on wetlands and Sat. 9/12/09 at 9 a.m. is the field study. Dr. Fischer asked for an additional date and time for the field study because he will be at work. Mr. Karis will ask check this out.

Dr. Fischer stated that, with regard to the wildlife discussion that will come up on 9/30/09 on Taconic Homes, he recalled the fragmentation seminar he attended. He stated that the seminar stated that the Boards cannot anymore consider 100 ft., 1000 ft., 6000 ft. setbacks, that it is an interaction between the adjoining properties and that it is not a matter of a permissible distance. He stated that he does not know how the applicant will work this into the plan, for sure, there is fauna on that site that won't be there anymore and will move over to the other property and will wander back and forth between the adjacent properties. Dr. Fischer suggested that the Board has to incorporate that new knowledge regarding tracking the migration of fauna.

Mr. Karis explained that they did an annual cycle of the Bog turtle, which shows that it is not just in the wetlands but is also in the upland habitat. He stated that it migrates between habitats during the seasonal changes of the year. Dr. Fischer stated that he sees this in his area where there's a lot of open land. He stated that everyday he sees something for a month and all of a sudden it is gone and shows up 800 acres away in a different spot. He noted that wildlife inhabits different locations at different times of the year. He suggested that the applicant and Board need to think about providing a pathway or corridor for this migration.

Mr. Gordon stated that the Board's responsibility is to have this thoroughly and professionally delineated and evaluated and then, in all practicality, determine what can be done. He stated that not all of the items will be able to be mitigated. Mr. Setaro agreed that there are some things that cannot be mitigated. Mr. Gordon stated that the Planning Board's responsibility is to do a thorough check on the applicant's surveys. He stated that he was very impressed with North Country's presentation. Dr. Fischer agreed that it was excellent.

Mr. Karis stated that they had good comment on the hydrology part. He noted that the plan cuts off half of the drainage area that goes into the wetland and the plan will pump 90,000 gallons a day out of the ground and taking all of the surface runoff and discharging it at the bottom, downhill side of the wetland, and the plan pumps down the ground water – what happens to the wetland that the Board is trying to save. He asked what the hydrological impacts of the proposal are; and thinking back, he stated that he is not sure that the Board fully understands that.

Mr. Gordon asked how you build and maintain a vernal pool. Mr. Karis stated that it sounds like the vernal pool is of little value. Dr. Fischer stated that it is that vernal pool. Mr. Karis stated that there are others that are built that are in the wetland that are worthy and are probably closer to the wetlands. He stated that he assumes that it is just a farmer ditch to divert water. Mr. Setaro stated that it was created when the road was created. Mr. Karis stated that it is transitioning and provides a little bit of habitat. Dr. Fischer stated that you cannot mitigate against the corridors; that if the corridors are blocked, they are blocked. He stated that they must make sure that there are corridors and that it is for the benefit of the people on the property, also, to have some of the wildlife around.

Mr. Setaro stated that he spoke with North Country earlier, they did not think that the wetlands would change that much because they are pretty well defined. He stated that, if the DEC is interested in taking jurisdiction of this wetland, this will present a big problem because then 100 ft. buffers will be automatically required. He stated that he has not looked at the plan to see if that will create an issue. Mr. Karis noted the question of whether the DEC will connect wetland areas with a linear corridor, too. Mr. Setaro stated that there's a pipe that goes underneath Route 44. Dr. Fischer stated that he's sure the wetland is bigger than what they say with the adjacent properties. Mr. Karis stated that it does not end at the property line.

Ms. Bramson asked what they will do with the little area where the road comes in, the property that they bought. Mr. Karis stated that there are existing crossings there. Mr. Labriola noted that what Ms. Bramson is talking about is that there is a stream at that site and asked if they are staying 100 ft. out of that area. Mr. Karis responded yes and that the Board considered an alternative to let them encroach a little bit to get a better design for that community center. Mr. Setaro stated that the DEC's buffer is only 50 ft. and that he does not think it is a DEC classified stream. Board members disagreed and stated that it is a class CT stream. Mr. Setaro stated that Pleasant Valley's Code, Chapter 53, has the most restrictive buffer that can be applied. Discussion of whether that parcel is grandfathered.

Mr. Gordon asked what the Planning Board's responsibility is for involving the DEC. Mr. Nelson stated that, ultimately, all of this comes around to the Board in the Findings Statement, which is where the review is wrapped up. He explained that the Findings Statement discusses what was done, why it was done, and how the plan was modified. He stated that, when the Board signs on the bottom line, it is confirming that this project has mitigated the significant impacts to the greatest extent practicable. He noted that Nat Parish offered to draft a Findings Statement a couple of months ago and that the Board's position was for him to draft something up. But he pointed out that it has to come through this Board so that what comes out is truly the product of the Board because it is the Board that has to find that this plan mitigates to the greatest extent practicable, which he stated he believes is a combination of practical, within the realm of economic reason, and can be done reasonably from an engineering perspective.

Mr. Gordon asked again who addresses the involvement of the DEC – does the Planning Board get them involved. Mr. Labriola stated that the DEC will make a determination on whether the DEC or the Town has jurisdiction over these. He stated that if the DEC decides that it is they, then the 100 ft. buffers are required. Dr. Fischer asked what Mr. Setaro thinks the DEC will decide. Mr. Setaro stated that he was thinking about this and did not have a chance to go back and look through the file, but that he was surprised that when the DEIS was circulated to the DEC there was no response. He stated that it was very clear in the document that there are 11.7 acres of wetland and an aerial map shows the offsite wetlands. Mr. Karis also wondered why the Army Corps did not respond. Mr. Setaro stated that he can understand that the Army Corps did not respond because they do not have a lot of people.

Mr. Setaro stated that the DEC has the regulatory authority to take jurisdiction of 12.4 acres or more of wetland. Mr. Labriola noted that the DEC has the option to opt out – to choose not to assume jurisdiction even if it were 15 acres. Mr. Karis stated that this is because it is not a currently mapped DEC wetland. Mr. Labriola stated that that is one of the issues on this site, getting delineation. Mr. Karis stated that it is not mapped but it has been identified that it is larger than 12.4 acres; therefore it is a grey area and the DEC gets to make a determination whether or not they want jurisdiction.

Dr. Fischer asked who notifies the DEC about this. Mr. Gordon agreed that that is the question. Mr. Labriola stated that he assumes that they were notified when the DEIS was

sent out. Mr. Setaro stated that one would think that the DEC would have seen the information that everyone else saw – that this amount of wetlands is getting pretty close to what they regulate. Dr. Fischer asked whether it is the Planning Board's obligation to now notify the DEC, given that they did not respond to the DEIS. Mr. Setaro stated that North Country thinks that, typically, the consultant hired by the applicant should, as good practice, contact the DEC and ask if the DEC wants to take jurisdiction. Dr. Fischer stated that they may not do that. Mr. Setaro stated that it is the agency, like the Planning Board, to make the decision to notify the DEC. Mr. Labriola stated that, rest assured, if the consultant does not do it, the Planning Board will do it – that it will get passed along to the DEC. Dr. Fischer stated that he knows it will get done and is concerned that the applicant and the Board not spin their wheels until the DEC weighs in. He asked why the applicant would act blindly. Mr. Labriola stated that the file needs to be researched to determine if a letter has been received. Dr. Fischer stated that he does not remember this ever coming up. Mr. Labriola suggested that it was probably 5 years ago.

Mr. Gordon stated that he's concerned with someone, in the future, looking at all the steps that the Planning Board has taken on this rather major project. Therefore, he questions who's obligation it is to notify the DEC. Mr. Nelson stated that, ultimately, the DEIS, the FEIS, and the Findings Statement are the Planning Board's documents – they are not the applicant's but are the Board's documents. Ultimately, therefore, he stated that it falls on the Planning Board to make sure that it is as complete as possible to the Board's satisfaction as lead agency. Mr. Gordon asked whether, therefore, the DEC should be notified sooner rather later. Mr. Nelson stated that they want to map it first. Mr. Setaro stated that the DEIS was sent to the DEC as an involved agency; therefore, the question could be asked why the DEC did not comment at that time. Mr. Labriola stated that he thinks when the new delineation is done, the project will be circulated again to the Army Corps and DEC and perhaps others. Dr. Fischer noted that it must be done now because it is on the record – that the Board's consultant said that it must be done. Mr. Labriola noted that the delineation is outdated and, therefore, requires another step in the process.

Ms. Bramson stated that the 5 year time frame was interesting and wondered how things would not change in all that time. Mr. Setaro stated that the DEC has now changed their regulations to 10 years. Dr. Fischer asked what that means. Mr. Setaro stated that if a wetland is mapped and the DEC validates it, it is now good for 10 years. Board suggested that this is due to insufficient budget and staff. Mr. Setaro mentioned a project that his office is working on where they finally received a comment letter from the DEC on the DEIS two and a half months after the comment period closed.

Mr. Labriola suggested that the workshop on 9/30/09 will be helpful for the Board to separate the tactical issues that must be dealt with, what's site plan related, and what is normal permitting activity. He stated that when the Board gets the short pick list of the issues, the applicant will have to come back with a plan and a timeline that says what they will do to delineate and address the issues. Mr. Karis asked whether Mr. Setaro and North Country should meet with the applicant's consultant prior to the workshop. Mr. Setaro stated that this is already arranged.



Meeting adjourned 8:15 p.m.

Minutes submitted by:  
Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the September 8, 2009, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_ Approved as read

\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY PLANNING BOARD**  
**October 13, 2009**

A regular meeting of the Pleasant Valley Planning Board took place on October 13, 2009, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:40 p.m.

Members present:     Joe Labriola, Chairman  
                              Rebecca Seaman  
                              Michael Gordon  
                              Kay Bramson  
                              Henry Fischer  
                              Lynn Sticker, Alternate

Members absent:     Rob Fracchia  
                              Peter Karis

Also present:         Jim Nelson, Esq., Planning Board Attorney  
                              Mike Takacs, Planning Board Engineer

**1.     J.P. MORGAN CHASE – SIGN PERMIT**

**Grid #6363-02-890562**

**Location: Pleasant Valley Shopping Center**

Ms. Nancy Forrest, GNS Signs, was present representing J.P. Morgan Chase. She reported that the applicant is proposing a set of channel letters with their logo attached directly to the wall and centered over the storefront. She stated that the sign is within code and is less than what is allowed. She stated that the letters will be white with the blue 4-piece logo.

Mr. Labriola asked if the sign will be on a timer. Ms. Forrest stated that it has to be off at a certain time, but that she is not manufacturing the sign and normally it is attached to a timer. Mr. Labriola recalled that Marion's Salon Spa was approved with the condition that the sign would be turned off no later than 11 p.m. He also reported that Bruce Donegan, Zoning Administrator, has verified that this sign is well within the size limitations.

Mr. Labriola asked for comments or questions from Board members. No one spoke.

Mr. Labriola: **MOTION TO GRANT SIGN PERMIT**

**Whereas the Town of Pleasant Valley Planning Board has received an application from J.P. Morgan Chase for the approval of one sign dated 9/15/09, and**

**Whereas an environmental assessment form has been submitted and reviewed by the Board, now**

**Therefore be it resolved that the Planning Board determines this to be an unlisted action and that it will not have a significant effect on the environment, and**

**Further be it resolved that the Planning Board grants approval for one sign as shown in the application and drawing and consisting of the materials, sizes, and colors shown in the application except as follows:**

- 1. that the sign will be placed on a timer that turns the sign off at 11 p.m.**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 6-0-0**

**2. PARTY-RIFIC – SIGN PERMIT**

**Grid #6363-12-841622**

**Location: Milestone Square**

Ms. Nancy Forrest, GNS Signs, was present representing Party-Rific. She reported that this business is in Milestone Square and that the sign consists of channel letters attached to the façade of the building. She stated that the sign is within the square footage limits as set by Code.

Ms. Bramson asked whether it is necessary to have every letter be a different color. She stated that she visited the plaza to see how this sign will look. Ms. Forrest stated that when Milestone Square plaza was built, the intention was that all signs would be red with white channel and trim. She stated that since that time the landlord has seen fit to allow the tenants to change that. Therefore, she stated that now there are multi-colors throughout the plaza. She stated that given this is a party store, that's what they wanted – they wanted it to look party-like. Ms. Bramson stated that most of the signs on the right are red – that seems to be the predominant color. Ms. Forrest stated that Hudson Valley Wines and Liquor is purple and green. Ms. Bramson stated that she understands that it is a party store. Ms. Forrest stated that it is hard to tell the applicant and that she understands Ms. Bramson's point. Mr. Labriola asked if that is a corporate logo or is it an independent store. Ms. Forrest stated that it is not a corporate logo, that this is their first store. Dr. Fischer stated that he does not think the Board can do anything about the coloration, that we have strayed from that and that this is further straying from it.

Mr. Gordon asked who the applicant is – who is the business owner of Party-Rific. He noted that he has reviewed all the paperwork and that the business owner's name is not listed anywhere. Ms. Forrest stated that it is Joe and Sylvia Mazzello. Mr. Gordon asked whether that should appear somewhere on the application. Ms. Forrest noted that the signature on the application comes from the owner of Milestone Square. She noted that some towns do have the business owners name on the application – listed as "Owner of Sign." Mr. Labriola suggested that this be added to the sign application form. Ms. Dickerson will revise the sign application form.

Mr. Labriola: **MOTION TO GRANT THE SIGN APPLICATION**

**Whereas the Town of Pleasant Valley Planning Board has received an application from Party-Rific for the approval of one sign dated 9/24/09, and**

**Whereas an environmental assessment form has been submitted and reviewed by the Board, now**

**Therefore be it resolved that the Planning Board determines the application to be an unlisted action and that it will not have a significant effect on the environment, and**

**Further be it resolved that the Planning Board grants approval for one sign as shown in the application and drawing and consisting of the materials, sizes, and colors shown in the application except as follows:**

- 1. the sign will be placed on a timer that will turn off the sign at 11 p.m.**

**SECONDED BY L. STICKER**

**VOTE TAKEN AND APPROVED 6-0-0**

**3. ROSSWAY PROPERTIES – Subdivision – 90-DAY EXTENSION  
Grid #13-6563-03-176033  
Location: Rossway Road, 13.03 acres, R-2**

Mr. Labriola stated that this application is on for an extension of preliminary approval. He reported that a letter arrived from Michael White, engineer on this project, that explains the rationale for this second extension (original on file). Mr. White states in his letter that they continue to work on submissions for Dutchess County Department of Health, they are finalizing the design of the retaining walls, they are in process of designing the final drainage system along Rossway Road and into the Wilson's property, the common driveway, and conservation easements are in process, and they are finalizing the SWPP designs and addressing any comments from the Planning Board, Town engineers, and highway superintendent.

Mr. Labriola noted that the Planning Board granted preliminary approval in February 2008 and gave them their first extension in August 2009.

**Mr. Labriola: MOTION TO GRANT 90-DAY EXTENSION OF PRELIMINARY APPROVAL**

**Whereas an application for the approval of a subdivision entitled Rossway Properties Subdivision located at Rossway Road was submitted to the Planning Board on 2/25/08 by Spectra Engineering, and**

**Whereas conditional Preliminary Approval was granted by the Planning Board on 2/10/09, and**

**Whereas in accordance with Town Code Section 8214 (e) said approval is valid for 180 days beginning 2/10/09 and ending 8/9/09, and**

**Whereas the applicant was granted an initial 90-day extension that expires on 11/8/09, and**

**Whereas the applicant has requested an extension of said approval due to the applicant needs to complete design work for the Planning Board and the Department of Health, now**

**Therefore be it resolved that the Preliminary Approval be extended for a period of 90 days beginning 11/8/09 and expiring on 2/6/10, and**

**It is the responsibility of the applicant to submit the final plat within the 90-day period granted by the Planning Board.**

**SECONDED BY H. FISCHER**

**VOTE TAKEN AND APPROVED 6-0-0**

Mr. Gordon asked what happens in February 2010 if the applicant is not ready. He asked if they have to start all over again. Mr. Labriola stated that he had a conversation with Audrey Scott about preliminary approvals and extensions. He stated that the NYS law currently says that preliminary plat approval is a significant milestone and that the Town may revoke it. He stated that the Town law says that the Town shall revoke it, but that it does not have a lot of in-depth language about the 90-days and such. He stated that the only way the Planning Board could revoke an applicant's preliminary approval is:

- circumstances have changed significantly, or
- a significant amount of time has passed where there has been no activity, or
- there's been a complete lack of due diligence

Mr. Labriola stated that with Rossway Properties he does not think that any of those conditions apply. He stated that they have been working diligently and have been in touch with Morris Associates and have been working with Greg Bolner. He stated that he thinks the applicant has been up against some things that need to be done and that he's comfortable that they are doing what needs to be done.

**4. JOHNSON – SUBDIVISION – FINAL APPROVAL**  
**Grid #6564-03-365337, 8.06 acres, R-2**  
**392 Masten Road, Pleasant Valley, NY 12569**

Mr. Labriola stated that the Planning Board granted preliminary approval on this application in January 2009.

Mr. Steve Burns, engineer with Barger and Miller, was present. Mr. Burns stated that they have provided a pull off on the driveway and that he has to extend the easement by 10 ft. to provide a little more space around the outside of the pavement. He stated that there is a septic and well design on there. Mr. Takacs explained the location and that they need to move the easement line over 10 ft. – to make the easement 40 ft. wide in that

section. Mr. Burns stated that there have not been any major alternations to the plan except that.

Mr. Takacs reviewed the Morris Associates comment letter. He stated that they are waiting for the maintenance agreements and descriptions of easements. Mr. Burns stated that the descriptions have been written, but one needs to be rewritten now. Mr. Takacs pointed out paved swale for water that was a concern. He stated that the applicant needs to show the areas that will be paved and reference the detail on the plan. He stated that the silt fence needs to be closer to the house and around where the construction is. He mentioned that the dry wells for the leaders off the house are not shown and that there are no details. Mr. Burns stated that he has added the dry wells to the current plan. Mr. Labriola asked if a single dry well will suffice. Mr. Burns stated that they will be 8 ft. diameter and 4 ft. deep.

Mr. Labriola asked about the wooded area on the lot. Mr. Burns pointed out the wooded area of the lot and an area that is all field. Mr. Labriola stated that he would like to see on the map some indication of where they will be clearing and where they will be preserving trees.

Mr. Labriola: **MOTION TO WAIVE THE SECOND PUBLIC HEARING;  
SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO GRANT CONDITIONAL FINAL APPROVAL**  
**I move that the Planning Board grant final approval for the subdivision of lands of Donald and Sharon Johnson in form of the attached resolution dated 10/13/09 prepared by the Board's engineer and now before the Board subject to the following conditions:**

- 1. payment of all fees**
- 2. Morris Associates letter dated 10/9/09**
- 3. indicate areas of disturbance on lot B on the plat**

**SECONDED BY L. STICKER**

**VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **RESOLUTION FOR RECREATION FEES**

**Whereas the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town, and**

**Whereas that finding includes an evaluation of the present and anticipated future needs for parks and recreational facilities in the Town based on projected population growth to which this subdivision or site plan will contribute, and**



**Whereas the Planning Board has determined that a suitable park or parks of adequate size to meet the requirements cannot be properly located on the subdivision or site plan, now**

**Therefore be it resolved that as per Town Law 277.4 and 8223 A (4) of the Code of the Town of Pleasant Valley, the Planning Board recommends to the Pleasant Valley Town Board that a sum of money in lieu land be imposed for the subdivision entitled Johnson Subdivision located at Masten Road for one newly created building lot.**

**SECONDED BY H. FISCHER**

**VOTE TAKEN AND APPROVED 6-0-0**

**5. JOYCE – REGULATED ACTIVITIES IN A WETLAND**  
**Grid # 13-6463-02-892660**  
**Location: 133 Drake Road, 3.3 acres, R-2**

Mr. Jeremy Joyce, applicant, and Mr. Steve Burns, engineer with Barger and Miller, were present.

Mr. Labriola stated that this application was last before the Planning Board in June 2009 and asked the applicant to provide an update to the Board.

Mr. Burns stated that for the most part the plans have not changed. He noted that the total disturbed area and the buffer and wetland area that will be disturbed has been shown on the plans. He stated that a plan has been developed for erosion and sediment control. He stated that a retaining wall has been added up near the house and the grading for the lawn has been shown as requested to see what the actual impact would be for the total proposal as well as the grading for the septic area has been shown.

Mr. Burns stated that he was trying to meet with Pete Setaro on this before the submission deadline for the Planning Board meeting, but that he was not able to do that and was not able to go over a couple of questions that he had for Mr. Setaro. He stated that he had to submit documents for this Planning Board meeting prematurely because he was not fully comfortable with a couple of the comments that were left outstanding. He stated that for the most part they have progressed forward and have a more detailed set of plans for the Board. Mr. Labriola stated that Mr. Burns can hand the Board plans, but nobody has had an opportunity to look at them. He stated that the Board should all be staring at the same thing and then we'll figure out next steps. He stated that it is not appropriate for the Board to accept plans at the meeting. Mr. Burns stated that he understands and that the review of the HEC RAS study is still outstanding. He stated that there have been changes to it, but that Morris Associates has been unable to review it. Mr. Takacs stated that his office has been tied up since the study came in and that he has not been able to free up someone to review it. He offered to meet with Mr. Burns. Mr. Burns concurred.

Mr. Joyce stated that he thought this meeting would result in approval with contingencies and asked if the Board talked about that at the last meeting. Mr. Labriola agreed that the Board talked about that at the last meeting, but that it does not sound like the plan is final and that there are still outstanding questions. Mr. Burns stated that without review of the HEC RAS study, it cannot be finalized. Mr. Joyce stated that the study was handed in a month ago and that Mr. Burns tried to set up a meeting with Morris Associates, which got canceled. Mr. Joyce stated that he and Mr. Burns are doing all the proper things. Mr. Labriola asked if Mr. Joyce is suggesting that the Planning Board should just approve the project. Mr. Joyce stated that he does not know why it was not reviewed, that they handed it in two weeks before to have it reviewed, but it did not get reviewed. He stated that the HEC RAS was handed in a month ago. Mr. Burns stated that it was handed in two weeks ago and that the plans were reviewed. Mr. Labriola stated that the Board is sorry that the review was not complete. Mr. Joyce stated that he thought the Board had come to some sort of agreement before and asked what will happen at the next meeting. Mr. Labriola stated that he cannot predict what will happen at the next meeting. Mr. Joyce asked if the study will be reviewed before the next meeting. Mr. Labriola asked Mr. Takacs to make sure that someone reviews the study. Mr. Takacs stated that that is part of what they want to meet and discuss, to get rid of all these comments, so that when they do come back before the Planning Board it will be ready for conditional final. Mr. Labriola pointed out that there still are comments on the plat review from Morris Associates that the Board has not gone through. Therefore, he stated that there are some open switches on the project that need to be resolved. Mr. Burns stated that there needs to be a meeting with Morris Associates to work out a couple of last final things.

Mr. Labriola stated that he will ask Mr. Takacs to review the salient points in Morris Associates letter, then he will open the discussion to the Planning Board to see if there are any other comments, and hopefully this will result in a punch list of items that need to be addressed between now and the next meeting or whenever the applicant is prepared to come back with the updates and move forward. He stated that the Board and the applicants are not in a position to do that this evening.

Mr. Nelson asked whether one of the questions that is on the Board's review list is the fact that this elevation is considerably higher than where the stream is and that there's a culvert under the road. He stated that he recalled conversation in the past about controlling run off as it comes down the driveway, half of which is a drainage easement. Mr. Burns stated that there will be riprap lining the swale with check dams down into a culvert pipe. He stated that there will be riprap outlet protection into the stream. Mr. Takacs suggested that the whole swale needs to be riprap because they will never get grass to grow there. Mr. Burns stated that the detail does show that it is riprap.

Mr. Nelson stated that there is a question secondary to that – how long it will take to install that and whether there is any risk of flow into the stream while the excavation is open. He stated that he wanted to make sure that that is on the list of things to be discussed. Mr. Takacs stated that in the past meetings the Board has discussed sedimentation basins at the bottom to catch it. Mr. Burns stated that that is one of the questions he wants to discuss with Morris Associates. He stated that it is one of the areas

that is kind of a difficult task especially if you look at the blue book standards. He stated that he needs something that has a capacity of 3600 cubic ft. and that's a pretty substantial area to dig a basin. He stated that, in a sedimentation basin, if he puts it anywhere – under the driveway or in the driveway location for temporary and then put a driveway in - you always have to worry about a soft spot in the driveway. Mr. Takacs stated that it might take some working out with Morris Associates to come up with something that will work.

Mr. Takacs reviewed the Morris Associates comment letter. He asked if the FAB has signed off on the plans. Mr. Labriola concurred that the FAB has weighed in with where they wanted the turn off and are also comfortable with the turn radius to get onto that bridge.

Mr. Takacs mentioned some details that are needed for the catch basin and the pipe installation. He stated that on the detail for the bridge they want to see some more dimensions and elevations of what the footings are going to be. He noted that there is a width of the footings but no depth. He asked what elevation the footings will be placed at. Mr. Burns stated that that will be field determined because it is rock on the bank. He stated that they had discussed that with Pete and the actual depth is a question because it is bedrock and it depends on when they hit something that is solid. Mr. Takacs asked what the elevation of the bridge will be and that it needs to be noted on the plans. Mr. Burns pointed out the top of wall and bottom of wall on the plans. Mr. Takacs asked if that is the actual decking. Mr. Burns pointed out that top of the abutment which will be the top of the decking.

Mr. Takacs pointed out the areas where there will be two retaining walls. He stated that one will require some temporary construction easement from the neighbor in order to install that wall. Mr. Burns stated OK.

Mr. Labriola asked where the transformer will be relocated. Mr. Joyce stated that it is for telephone. Mr. Burns stated that it is not a transformer but is a telephone connection box and just needs to be lifted off. He stated that it is sticking out of the ground further than it has to be. Mr. Labriola stated that it looks like it's right on the driveway. Mr. Takacs asked where it's going to be relocated. Mr. Burns stated that it would be up to the telephone company. Mr. Joyce suggested that a coupling be put on it and bury it. He stated that the phone company probably just did it to pull the wire, and now that it's pulled it can be buried. Mr. Takacs stated that some notation needs to be added to the plan that documents what will happen with that. Mr. Burns stated OK.

Mr. Takacs noted a temporary crossing where the culverts are, but there is nothing on the other side. Mr. Burns stated that the only thing that is crossing the temporary construction easement is an excavator and that there are no real trees in that area. Mr. Labriola stated that it should be on the plan for completeness.

Mr. Labriola asked about the grading for the lawn and the SDS and asked where the disturbance will be. Mr. Burns looked for it and stated that it must be on a layer that he

had turned off. He stated that it should be on the erosion and sediment control plan. Mr. Labriola asked if he's got that. Mr. Burns responded yes.

Mr. Labriola asked for confirmation that the areas that will be disturbed for the temporary crossing will be replanted with native grasses and asked about the plan for restoration of the buffered areas. Mr. Burns pointed out that the note is in the construction sequence on the plan. He noted that the DEC regulation states that if it is not going to be restored in 21 days it must be stabilized in 14 days. He stated that the stream crossing is only allowed to be in creek for a limited time – two weeks.

Mr. Takacs stated that the profile needs to be revised for the new elevations of the house. Mr. Burns stated that there is a typo on it – 59 instead of 69 – or vice versa.

Mr. Takacs stated that the area for cleaning out the cement trucks may not be big enough and should have some silt fence and hay bales around it. Mr. Burns stated that he will run silt fence along the property line with some hay bales against the back so that there is some extra capacity. Mr. Takacs stated that 6 x 6 x 2 may not be big enough for all the trucks. Mr. Burns stated that he thinks it will be a staged construction, where one wall gets poured one day and by the time they are ready to pour the other one the area will be cleaned out.

Ms. Seaman asked about the erosion control plan for after the driveway is paved. Mr. Burns stated that the driveway will slope into the drainage swale on the side that is riprap, so that will be the erosion and sediment control. Ms. Seaman asked how it ends at the bottom where the swale comes down. Mr. Burns stated that it levels out and then gets picked up by an 18-inch culvert which is not very steep slope and then the end is protected by rip rap so that it does not erode the slope down into the stream itself. Ms. Seaman asked if the riprap is sufficient because the driveway will be paved and salted. Mr. Joyce stated that it will not be paved, but will be gravel. Mr. Burns stated that it will be sized per the NYS regulations. Ms. Seaman stated that in one of the applicant's submissions it states that the driveway will be paved. Mr. Burns stated that there's an apron that needs to be paved – the platform by Drake Road. Mr. Takacs stated that he believes that driveways that are that steep have to be paved the entire length.

Mr. Burns stated that it is not in the Town Code. Mr. Takacs advised Mr. Burns to talk with Mr. Gardner, the highway superintendent. Mr. Burns stated that he did and that he has checked everywhere that he could. He stated that the only thing that has to be paved is the first 100 ft. if the driveway goes uphill off the road, or if not it is the first 35 ft. Mr. Gordon asked if there is a letter from the highway superintendent. Mr. Labriola stated that there has been correspondence with Mr. Gardner about removing the guardrail and the platform. Mr. Gordon stated that Mr. Gardner has to see the final thing. Ms. Seaman stated that it is an outstanding question, because #19 in the construction sequence it states paved driveway – it does not say paved apron. She stated that if they are going to pave the whole driveway, that means they will be salting it. She stated that they, therefore, need a higher standard, rather than things running down through riprap. She stated that they need something that will collect salt before it gets into the stream. She stated that if

they are not going to pave the driveway, that's a different thing but the Board needs to make sure that that is part of the approval so that two years from now the applicant does not pave the driveway and not have sufficient environmental protections against that salt eroding down into the stream. Mr. Burns stated that he will clarify as to what exactly will be paved.

Mr. Nelson asked if the Board has gotten to the point of issuing a Negative Declaration under SEQRA yet. Mr. Labriola responded no. He stated that the Board will plan on doing that next month. Mr. Nelson stated that the point is that all of these questions are things that feed the SEQRA process and that the Board needs to be comfortable that any potential significant impacts have been appropriately mitigated.

Mr. Labriola stated that a key next step will be a meeting between the applicant and his engineer and Morris Associates. He stated he would like a letter to come out of that meeting that says here's everything that's on the list that needs to be done, which is the punch list for the Board to go through to determine whether we're ready to move forward on this project.

Mr. Joyce asked what Mr. Nelson was referring to as SEQRA. Mr. Labriola stated that the Board has to do a determination of significance as to whether the proposed action will have a negative impact on the environment. He stated that that is a motion the Board will make at the next meeting. Per Mr. Nelson's point, he stated that much of the issues that the Board has been discussing are SEQRA-related issues – protecting buffers, protecting the stream, making sure that there is a safe entrance onto the Town road. He stated that the Board has been able to slowly work through to addressing those – Board members agreed – so that the Board will be able to move forward with a Negative Declaration unless there's a surprise at the last minute. Mr. Labriola stated that he thinks everyone understands how we will deal with mitigating many of the impacts that this proposed action will have.

Mr. Gordon stated that this is a very complicated proposal and has been from the very beginning.

Mr. Labriola stated that the next steps are:

- final office meeting between Morris Associates and Mr. Burns and Mr. Joyce
- letter stating the outcome of that meeting
- punch list of items remaining to be addressed

**6. HOMELAND TOWERS – SEQRA – COORDINATED REVIEW**  
**Grid #6565-03-131274**  
**22 Camp Nooteeming Road, Pleasant Valley, NY 12569**

Mr. Labriola stated that the site plan application has not officially been submitted to the Planning Board. He noted that the Town Board granted a waiver from the moratorium to this application. He reported that it is now before the ZBA for a Special Use Permit and that the ZBA has assumed lead agency under SEQRA. He stated that the process this evening is for the applicant to brief the Board and then for the Board to have a discussion

about SEQRA related issues, questions, or concerns that the Planning Board should pass along to the ZBA so that when they make their determination of significance the Planning Board's input is included. He stated, therefore, that when the application comes back to the Planning Board for site plan review hopefully the SEQRA related issues will have been addressed.

Mr. Robert Gaudio, attorney with Snyder & Snyder, representing Homeland Towers was present. He confirmed that Mr. Labriola's recitation is correct, that it is the procedural statute of this application. He pointed out that at the time of the moratorium application the Planning Board made a positive recommendation to the Town Board. He stated that the Planning Board also looked at the application in connection with the ZBA's Special Permit process and did make a positive recommendation back in March 2009 with a letter recommending that the ZBA review certain key issues. He stated that one of those issues was that the Planning Board wanted the ZBA to look at current cell towers to understand the gaps in coverage and to determine whether the Boy Scout Camp was an optimal site to handle co-location. He stated that the ZBA hired their own radio frequency expert, Mark Hutchins, to review those issues. He stated that Mr. Hutchins confirmed that the existing towers were not feasible alternatives, that there was a gap in coverage for Verizon, and that the site was attractive for co-location given its location and the gaps in the area.

Mr. Gaudio reported that the Planning Board also asked the ZBA to confer with the Planning Board regarding the date of the balloon test. He stated that they had the test in April 2009 and that they brought a crane to the property and raised it to the height of the proposed tower and flew a 4 ft. x 6 ft. American flag at that height. Also, he stated that they floated a balloon 6 ft. above that – a bright orange balloon – for part of the visual analysis.

Mr. Gaudio stated that the third item the Planning Board asked the ZBA to look into were 8 specific locations for photographs to be taken from. He stated that the ZBA took that into account and gave the applicant direction. He stated that they took photos from 24 locations and 9 additional sight lines from 9 additional locations. He stated that they did visual renderings of where the facility would be visible from and provided copies to the Planning Board as part of that process.

Mr. Gaudio stated that the Planning Board reminded the ZBA that, ultimately, the Planning Board would have site plan approval over the application.

Mr. Gaudio stated that since that time there has been a public hearing with the ZBA and that it has been held over until the next ZBA meeting on 10/22/09. He stated that the applicant has received Morris Associates' comments and has responded to those. He stated that there have been a few modifications on the plan, some additional details regarding color, regarding the access drive, regarding some construction details. He stated that they revised the EAF in some minor areas and supplemented the EAF with confirmation from the NYS Historic Preservation Office that the facility would have no adverse effect on the Taconic State Parkway and other archeological and historical



resources. He stated that they also confirmed with the DEC that there are no known occurrences of threatened or endangered species in the project location.

Mr. Gaudioso stated that at the public hearing the ZBA raised the issues of noise and asked the applicant to submit a letter, copies of which have been distributed to the Planning Board members this evening. He stated that the letter confirms that the amount of noise in the facility is very low. He stated that there are 2 air conditioning units on the equipment shelter. He stated that they combined that with the noise from the rest of the operation and gave calculations both at the compound and at the property line and compared it to some typical noise levels in the environment. He stated that the noise is not a factor.

Mr. Labriola asked about the acoustical readings. He stated that based on a letter from Kurt Schollmeyer there are some cabins and camping locations that are adjacent to the proposed site. He asked if the application recorded decibel readings from those areas where people and children will be actively using Camp Nooteeming. Mr. Gaudioso stated that they did not get into that much detail but did take readings from the center of the compound. He stated that the letter points out that even in the center of the compound it will be at 78.5 decibels, which will be further buffered by the 8 ft. fence, as required by the Code. He stated that the fence will have privacy slats in it, which will buffer the noise, and he noted that there is significant vegetation in the area. He stated that it will be somewhere between the 78.5 and 35.5 decibel level.

Mr. Labriola stated that it has been a while since the Planning Board has had an application that entailed acoustic readings. He asked whether 78.5 decibels is something that a person could comfortably deal with or is that like a chain saw. Mr. Gaudioso stated that a normal conversation at 3-5 ft. is 60-70 decibels. He advised the Board that the air conditioning unit, which is the majority of the noise source, is 73 decibels, and that it only runs intermittently. He stated that the generator is only for emergencies and is the other noise factor. He stated that it cycles for 20-30 minutes once a week in the morning. Mr. Gaudioso stated that they took a worst-case scenario and added them up as if they were operating all the time, which is not the case because the air conditioning unit operates intermittently.

Dr. Fischer asked if the generator starts up each day. Mr. Gaudioso stated that it cycles once a week. Dr. Fischer asked if the air conditioner unit is only on during the summer. Mr. Gaudioso stated that it probably kicks on once in a while during the winter just to clear out the heat from the equipment room to make sure that the equipment that is running there is operating at the right temperature.

Mr. Gordon asked for clarification on the application's process – that it is before the ZBA for a Special Use Permit and if they are granted that permit then it comes to the Planning Board for site plan review. Mr. Gaudioso confirmed that that is correct. Mr. Labriola also confirmed that if the Special Use Permit is granted by the ZBA after doing SEQRA, then it comes back to the Planning Board. Mr. Gordon asked if they have everything covered for the Planning Board in that eventuality. Mr. Gaudioso responded yes, and that

rather than waiting they responded to Morris Associates comments earlier in the process. He stated that the specific wireless ordinance has a lot of different wireless requirements that they had to meet as part of the Special Use Permit. He stated that there are a lot of documents, including the EAF, that picks up a lot of the issues.

Dr. Fischer asked if the air conditioning units will be running most of the time during the regular camping season. Mr. Gaudioso stated that they cycle on and off. Dr. Fischer asked what the decibel level is of that. Mr. Gaudioso stated 78.5 decibels. Dr. Fischer stated that the issue is not necessarily the decibel level but it is the steady drone noise. He suggested that there may be something that, given the nearby camping site, can lower the noise impact. He stated that even though there is vegetation, which provides some buffer, the ambiance of camping with noise like a generator running is not that great, that it is the steady droning noise that is the problem. Mr. Gaudioso stated that 5 ft. from the air conditioning unit is 73 decibels, whereas a normal conversation at 5 ft. is 60-70 decibels. Dr. Fischer stated that he understands and referenced the Board's experience with a local transformer and that the steadiness and the constant drone is different from a conversation. He noted that a conversation between people sounds different from a person on the bus talking on a cell phone.

Mr. Labriola stated that his assumption is that the owners of this property have bought into the noise impacts. Also, he suggested that one of the Planning Board's comments to the ZBA should be that the ZBA understand the visual, acoustical impacts of leasing this property because the proposed location is pretty close to campsites. He stated that, with regard to the application that involved the transformer, the Planning Board worked hard to protect the adjacent property owner, who did not have a choice. He stated that one of the comments back to the ZBA is that they have to be comfortable that the owner of the property understands these impacts because they are the ones who will be directly affected. He stated that if they are saying that they can live that, then that's OK. He stated that the ZBA needs to factor that into their review. Dr. Fischer stated that although they may be able to live with that, nonetheless it may not be the best. He noted that their rationale may be that the children are there for short periods of time and may come from the noisy city, anyway, but there may be some attenuation of the noise that could occur at a reasonable cost to the applicant. Mr. Labriola stated that the Planning Board can pass that along.

Mr. Gordon noted that the proposed location is significantly far from the property line and the noise is probably totally mitigated by the time it gets there. Dr. Fischer stated that he's not talking about the property line, but rather is talking about the campers. Mr. Gordon stated that he understands that and noted that this is a different situation from the other application. Dr. Fischer explained that he raised this point because of the type of noise that is obnoxious.

Mr. Gaudioso stated that they discussed both of these comments at the ZBA and the point was that the Hudson Valley Boy Scout Council, the owner of the property, is in favor of the application. He explained that it was a long process of selecting the site, going through the lease agreement, making them comfortable. He noted that the Boy Scouts

will receive revenue, which is no secret. He stated that they have accepted that as the trade off and will help improve other parts of the camp. So that while there may be a minor noise issue, he stated that it will improve other aspects of the camp. He stated that as part of adopting the lease, the condition was that the money from this project go to this camp, that it not go to the Council in general. He stated that that is one of the positives of this application, that it is a 200+ acre property and that it is very distant from the property line – that the closest point is over 700 ft. He stated, therefore, that these types of impacts are minimized to the greatest extent possible.

Mr. Labriola stated that, having spent summers at Camp Nooteeming, he noted that any time a child sees something tall it is a huge invitation to climb it. Mr. Gaudioso stated that they discussed that also with the ZBA. He noted that the Code requires an 8 ft. fence. Mr. Labriola stated that this could be a site plan issue and noted that there is a safety concern on the site that an 8 ft. fence is not going to keep a 12 year old out – that it would only be an inconvenience and the 150 ft. tower is a challenge and the fence is an inconvenience. He stated that the Planning Board needs to take a hard look at that. Mr. Gaudioso stated that he agrees that it be looked at hard and noted that the fence goes around the compound and the equipment is in a locked bunker that is monitored 24 hours, 7 days a week remotely. He stated that if someone opened the door, the operation center would know. He stated that it would have to be a burglar to get in.

Mr. Gaudioso stated that the answer on the tower is that they will make sure that the tower does not have any climbing spikes or ladders within 20 ft. of the base, or whatever the case may be. Mr. Labriola approved of that answer. Mr. Gaudioso stated that that should be part of the site plan. Mr. Labriola stated that it should be part of SEQRA.

Dr. Fischer stated that, with regard to the noise issue, the slats in the fence will rattle with the wind and add to the noise impact. He asked whether there is some type of noise insulation that can be incorporated in the fence. Mr. Gaudioso stated that they will look into a method for baffling the air conditioners.

Ms. Seaman suggested planting trees for screening around the installation. Mr. Gaudioso stated that they looked into this and determined that they would not live because it is so thickly vegetated there. He stated that they would look into baffling.

Mr. Labriola stated that the applicants went over and above the call on their viewsheds and the photos that they took. He noted a letter from DC Department of Planning and that they want to make sure that it is not visible from the Taconic State Parkway. He noted that the applicant's letter stated that it is minimally visible. Mr. Gaudioso stated that they did not know what the County was reading when they made their comments. He stated that they did 6 viewpoints from the Taconic. He noted that the County stated that the applicant did not do long views but that, in fact, they had views at 3.24 miles and 5.9 miles included in those 6. He stated that when they did the balloon test, the tower was not visible from the Taconic. He stated that when the president of the company drove around, he could not find it from the Taconic. He stated that the person who did the viewshed analysis did not see the orange 4 ft. diameter balloon that was 6 ft. higher

than the tower. He stated that they did not see any place where it was visible. However, he stated that someone could stop their car, cut down a tree, and see the tower – he stated that he is not going to tell the Board that they couldn't do that – or someone with binoculars could peak through a tree and see it. He stated that as an applicant he would be foolish to make that representation to the Board. However, based on the analysis and the good faith effort that they made that day, and based on the fact that they used a crane that would not blow in the wind so that they knew it was accurate to the proposed height, based on the fact that they went 6 ft. higher than that and scoured the Taconic and did not see it, he stated that they are comfortable with the materials that they submitted and that they are responsive to the County's comments. He stated that they were obviously responsive to SHIPO's concerns, which is the body that regulates this type of issue.

Mr. Labriola stated that there were some discussions with the ZBA and as part of the moratorium discussion about using stealth technology. Mr. Gaudioso stated that the discussion was that they would discuss it. He stated that they are open to suggestions. He stated that they did the visual analysis. He stated that it is visible in a few locations and that their photographs show that, but it is not visible from most locations. He stated that where it is visible it is not significantly visible. He stated that they think a low profile monopole is the better way to go. He asked whether the Board may think that a brown color might be better than a blue color, and stated that they can explore that and if the Board thinks there's a better alternative they are willing to discuss it. However, he stated that they do not think that a fake tree would be a good alternative. Mr. Gordon agreed that they are more of a distraction than a plain tower. Mr. Gaudioso stated that the tree adds bulk to it. Ms. Bramson stated that she's seen some that are OK.

Mr. Labriola stated that it depends what is surrounding it. He stated that from the photos it is a fairly significant visual impact on North Avenue, Davis Avenue, and Hurley Road where the monopole is sticking up many dozens of feet above the tree line. He stated that a stealth would just look like a cell tower trying to be a tree. Mr. Gaudioso pointed out that they stopped, found the spot, lined it up in the middle of the photograph, and did the test with no leaves on the trees. He stated that they really tried to give the worst-case scenario and that no one can question their good faith effort on that. Mr. Labriola stated that there is no doubt that the applicant did what was asked, it is just that those three areas are impacted significantly. He noted that it has been protected visually from Route 44 and from the Taconic State Parkway. Dr. Fischer asked whether he thinks some kind of fuzziness on the top would do anything. Mr. Labriola stated that he does not think a tree-like structure will minimize the impact. He wondered if the lattice design, which is less solid looking, would be any less or more appealing. He stated that it will be obvious that it is a cell tower.

Ms. Seaman stated that she saw a tower in Oregon that was 150 ft. high and was so camouflaged that you had to look twice. She also noted that Oregon has a lot of trees that are that tall. Mr. Labriola asked what was surrounding it. Ms. Seaman stated that it was by itself, although she noted that there are a lot of very tall trees left in Oregon. She stated that it is something that the Board should look at as part of the SEQRA.

Dr. Fischer noted the tree-like cell tower on the Hutchinson State Parkway, which after the first sighting seems to blend in a little more. He asked if they are much more expensive. Mr. Gaudioso stated that it is much more expensive. Dr. Fischer stated that it tends to hide all the co-location antennas, or that it seems to do so on the one on the Hutch. Mr. Gaudioso stated that the Code specifically leaves the design of the tower to the Planning Board as part of the site plan process, therefore the Board does not need to make a decision or recommendation tonight. He asked the Planning Board to think about it and give some feedback. Ms. Seaman agreed that it is not the ZBA's decision, that it is the Planning Board's decision. Mr. Gaudioso stated that there is a provision in the wireless law that the final decision is up to the Planning Board. He stated that the ZBA will make the SEQRA determination but that the final design will be up to the Planning Board. He pointed out that on Pine Hill there is one monopole and one lattice tower, as examples to consider. He also asked the Board to give thought to the coloring and suggested that the brown color works better than the blue when it is located in the woods.

Mr. Labriola listed the following comments for the ZBA:

1. The Planning Board asks the ZBA to take into account the proximity of the tower to the adjacent campsites with an eye on safety and ensuring that the design point is such that it will not entice campers to try to scale the tower. Mr. Labriola stated that a lot will be part of the site plan review, but that from a SEQRA perspective the ZBA needs to make sure that safety has been attended to.
2. The Planning Board asks the ZBA to make sure that it is comfortable that the property owner understands the acoustical and visual impact that this proposed action is going to present and asks the ZBA to consider potential baffling on the equipment to further reduce the acoustical footprint.
3. The Planning Board notes that the applicant has done an excellent job representing the potential visual impact and asks that the ZBA pay particular attention to the North Avenue, Davis Road, and Hurley Road profiles so that they fully understand the visual impacts to residents in those locations.
4. The Planning Board asks that the ZBA ensure that the proposed tower will not be visible from the Taconic State Parkway.

**7. MIKE ZENGEN, UNILOCK – DISCUSSION**

Mr. Labriola introduced Mike Zengen, from Unilock, who will make a presentation on pervious design alternatives. Mr. Zengen stated that his projector is not working, so he will make a verbal presentation.

Mr. Zengen stated that he lives in Pleasant Valley and works for Unilock Paving Stones out of Brewster, NY. He stated that they manufacture pavers right there in Brewster. He stated that pervious pavers is a new topic and field and in the last several years the activity has spiked up. He stated that it is good to hear the previous discussion at this meeting about stormwater runoff and drainage and protection of the wetlands.



Mr. Zengen handed out brochures and documents that explain these pervious pavers. He also brought with him samples of these pavers.

Mr. Zengen stated that the paving stones are super strength concrete produced in Brewster made of regular raw materials – sand, aggregate, cement, water, and pigment – which produces a product that is far in excess of 8,000 psi. He stated that it needs to be 8,000 psi to be a paver. He stated that regular poured concrete is 3500-4000 psi, so these pavers are at least double.

Mr. Zengen displayed the variety of shapes, some of which include a void area on the side that allows water to pass through. He displayed a diagram that provides an overview of the system. He stated that the water that passes down through the joint lines passes into the drainage reservoir underneath the installation, which will slow the impact and the passing of the water into the ground water. He stated that typically 95% of the water runs off the surface of the pavers, the concerns now are for low impact development and best management practices in order to keep the water on the site rather than run off into the wetlands. He stated that these pervious pavers provides a way to allow the water to percolate slowly into the ground, rather than flushing off and causing problems.

Mr. Zengen stated that his goal is to give the Board some familiarity with the product and to introduce himself as a resource and a go-to person and to open up the discussion about including these products in the future planning projects.

Mr. Labriola asked what the premium would be for this design rather someone putting down a rough course and something on top of it. He asked if this is a 25% or 100% premium. Mr. Zengen stated that a ballpark installation with everything is usually about \$12 per square foot, which would include excavation, proper base, the cost of the paver, and all of the labor to install. He stated that you could compare that to a typical black top installation that could run, if it is done properly, \$2-\$2.50 per square foot installed. He noted that that is approximately one quarter of the price, but explained that you have to look at the long-term use and what you are trying to design for. He stated that the black top is going to allow all the water to run off. He stated that he heard the discussion earlier about the riprap drainage swale and the pitch of the driveway. He noted that that water is still going somewhere very quickly. He stated that you can design this system to absorb an 8 ft. per hour rainfall and have zero run off. He stated that the design possibilities are endless and you can actually have no run off from your site. He stated that you need to compare the benefits to the environment to the cost of the installation.

Mr. Zengen stated that you want to look at the cost of the piping and the containment system underneath a typical black top parking lot or driveway, which is also very expensive. Therefore, he stated that when he quotes \$2-\$2.50 for black top that does not include all the storm drains and accessory structures, which can double or triple the price. He stated that he can provide information that would show long term the cost of the paving stones compared to a black top or cement application is actually cheaper – and depending on the size of the job. He stated that if you are doing a parking lot, there are contractors that actually install these with a mechanized machine that would drastically



reduce the cost of the installation. He stated that they have done some installations where it is as low as \$3 per square foot installed. He stated that it has to be the right application and size and accessibility and the right design.

Mr. Zengen reported on recent projects they have completed regionally – large parking lot in Danbury, CT, next to a lake. He stated that it was 100,000 sq. ft. of parking lots next to a condominium complex and the site mandated that there be zero run off. He stated that the only way they could achieve that and satisfy the aesthetics was to do a permeable installation. He stated that it was Poets' Landing in Danbury. Mr. Zengen stated that they just recently did permeable pavers at Vassar College – they extended some fire access ways and they wanted to contain some of the run off and they chose to use permeable paver.

Mr. Zengen stated that they have been producing pavers locally for 20 years and Unilock introduced paving stones 25 years. He stated that they have been doing permeable pavers for 20 years but it has really ramped up in the last half a dozen years.

Mr. Gordon asked for explanation of the diagram of the system. Mr. Zengen explained that the bottom is the native, subgrade material that is existing, provided that it is suitable to construct on. The next layer is a larger, clear stone to capture the water. Mr. Gordon asked if it is loose stone. Mr. Zengen stated that it would be clear stone, well compacted during installation, to provide good foundation and yet is porous enough. Mr. Gordon asked if it is in a block form or laid down loose. Mr. Zengen stated that it is clear stone. He explained that as they build up the system, it gets finer and finer and on the top they do something so that they are able to level it off perfectly and set the pavers right on top.

Mr. Zenger stated that they are doing a job in Staatsburg – the new NYS Parks location – they are doing the entire parking lot with permeable pavers.

Mr. Labriola asked how the system performs in the winter when the ground is frozen. Mr. Zengen stated that it performs great. He stated that the stone has enough open void area that it continues to drain. He stated that you can also design the system with a pipe so that you can drain off during the melting and the freeze/thaw. He also pointed out a unique advantage the permeable pavers over a black top parking lot – when the snow is plowed into a pile that will melt during the day and then freeze at night. He stated that with the permeable pavers the melt will perc back through the paver.

Ms. Seaman asked if plows have a tendency to catch the pavers. Mr. Zengen stated that once these paving stones are installed, it is virtually impossible to get one stone out. He stated that once they are locked together and the system is bound together with the joint sand and edge restraints, it is almost impossible to get one stone out. And he noted that the beauty of pavers is that if you have to do a repair, you can take one or two out with a specialized tool. He stated that for the most part they are impossible to get out, so you can plow it.

Mr. Gordon asked if you get frost heaves. Mr. Zenger stated that it is designed to flex as a blanket with the freeze/thaw. He stated that you will get the same movement as with black top and concrete and noted that concrete will crack. He stated that pavers will flex as a blanket and will work better in the northeast.

Mr. Labriola asked if the system requires edge restraints. He stated that places where we might want to use this would be overflow parking where there may be a sheet flow drainage. He asked if the edge restraint is required. Mr. Zenger stated that the edge restraint does complete the system in the sense that it locks it in as a system, but that you do not need to do an above-grade curb. He stated that you can do an at-grade or below-grade curb. He stated that you would not even see most of the plastic and steel edge restraints you would not even see. Ms. Seaman asked if you could hide them beneath grass. Mr. Zenger responded yes, you could allow the lawn to come right up to the edge.

Ms. Bramson asked if anything grows between them. Mr. Zenger stated that the entire system, although it drains water into the ground, is not a good environment to promote grass growth and weeds. He stated that for the most part, no, you would not get any more weeds than you would in any cracks in black top or relief joints in concrete.

Mr. Labriola asked about the ramps along the Taconic State Parkway that seem pretty green with pavers. Mr. Zenger stated that, at Arthursburg Road, the effect they wanted to achieve was for it to be vegetated. He stated that they installed permeable grid paver that has larger spacing. He stated that they planted with topsoil because they wanted to grow grass. He also referenced one up near Salt Point Turnpike where they used a grass paver that's made of plastic because they wanted it to be a plush lawn. He stated that it's the same type of closed-down U-turn just south of Hollow Road and that you cannot tell where it is.

Mr. Labriola stated that this would be good for some site plans where there are emergency access lanes that you really don't want to be paved but need to be plowable and maintainable and something that has less visual impact. Ms. Bramson recalled the additional parking area at Brookside where they wanted it not to be paved. Dr. Fischer mentioned Gasparro's also. Mr. Labriola stated that this may also apply to the Rossway project with regard to the platform at the bottom of the road potentially not being paved.

Mr. Zenger provided the Board with a couple of copies of a case study on different projects they have done with all the back up information regarding what they were trying to achieve. He noted that it adds property value. Ms. Bramson asked how long it would last. Mr. Zenger stated that residentially they guarantee the pavers for the lifetime of the consumer. He stated that they have installations that have been down for 35 years and they are still functioning. He stated that the concrete paver is virtually indestructible – you can salt it, you can snow plow it and snow blow it, and beat on it.

Mr. Labriola asked if Morris Associates has had any experience with this product. Mr. Takacs responded no. Mr. Takacs stated that there is one project that has been approved in Hyde Park at a church on 9G that is going in with pervious pavement and that they are

interested to see how that works. Mr. Zengen stated that that would be where the actual material is pervious. He stated that that material does get clogged up a lot more quickly because you are salting and sanding the parking lot and for it to be structural, the holes are a lot finer. He stated that they have a long way to go before they have some success in the northeast. Mr. Takacs wondered if it will work in the northeast. Dr. Fischer suggested that it might work for a couple of years. Mr. Zenger stated that at the NYS new Parks building, they are doing permeable asphalt, permeable concrete, and permeable pavers. He stated that they already know that the pavers will work.

Mr. Gordon asked how pervious recycled concrete is. Mr. Zengen stated that it would depend on the gradation of the material. He stated that they have charts that can show, depending on the size of the aggregate and how deep and how much water it can hold, as a rule of thumb. He stated that if it were ground up, like stone or gravel chip, he thinks it could be used as the base material for some applications. He stated that on Long Island everything down there is recycled cement products that are being used as base. He stated that it is not only for permeable pavers, but for regular installations as well.

Mr. Zengen stated that it is good to hear all the discussion tonight, all the feedback and concern and thought regarding where the water will runoff. He stated that a lot of projects that he gets called into now their goal is to qualify as a LEED project. He stated that they qualify as that and can qualify for up to 7 points. He stated that they have pavers that are lighter in color so that their reflectivity values are higher. He stated that they get points for keeping the water on site rather than running off into the wetlands. He stated that there are a whole series of qualifying points and that is one big factor on why the Parks Department building wanted to go the LEED Gold status.

Mr. Gordon stated that there is a lot of rock and a lot of water in Pleasant Valley. Dr. Fischer stated that there is also a lot of clay. Mr. Gordon asked how much soil is required below this system for it to be functional before you get to bedrock. Mr. Zengen stated that the answer would depend on the goals of the design. He stated that there is a system – a chart - by which to calculate what is required for a specific level of runoff. He stated that you can also use the conveyance system of pipes and regular catch basins beyond that. He stated that they have designed systems for zero run off with a foot of clear stone because they had a suitable sub-base that could allow the water to perc through. He stated that solid rock would, of course, be different. Mr. Gordon stated that there would be a difference if there's a lot of gravel on the property versus what most people have in Pleasant Valley. He stated that on his property there are very few places where he has more than 2 ft. of soil till you hit bedrock. Mr. Zengen stated that there's a computer system – a stormwater modeling software program – where you can plug in all those variables and come up with a design that determines all the parameters, how much stone, how deep. Mr. Gordon asked if that's what Mr. Zengen does when he comes on a site. Mr. Zengen responded that they work in conjunction with the local engineers to design a system for a project.

Mr. Labriola asked if there is a grade level beyond which this system would not work structurally. Mr. Zengen stated that, structurally, if you can drive on it you can pave it

with pavers. He stated that he did a 21% grade with pavers that worked fine. He stated that in terms of the permeable pavers – for them to work – the water can actually sheet faster than it can be absorbed by the joint lines. He stated that they did a storage facility on Rte. 6 in Mahopac that was steep – it was a ramp – they used more stone at the bottom than at the top to collect more water. He stated that it was possible to design it. Mr. Zengen stated that there are not any limits with what you can do with the pavers – as long as you can drive on it, you can use them for a roadway, a parking lot, and a driveway.

Ms. Bramson asked whether it would vary – the number that you needed – depending on the slope and the variety of other things. Mr. Zengen stated that the permeability of the soil below would impact the depth of the base. He stated that he has done many installations, even in some wet areas, that do not require 3-4 ft. of base material. He stated that they just did the new Mets Stadium City Fields – the bus overflow parking lots. He stated that there's a lot of wetland area down there and that design was fairly textbook – not much more than 1 ft. to 14 inches of clear stone underneath and then the thickness of the paver, which is about 3 inches. He stated that it is really no different from a parking should be if it is done properly. He stated that he's just substituting clear stone for the item 4 material that you would ordinarily use.

Mr. Zengen stated that more and more frequently they are being called in to make a presentation. He stated that Dr. Brian Schackle will do two seminars in November – the world-wide guru on this topic. He stated that there will be one in New York City and one in Danbury. Mr. Zengen invited the Board to attend. He stated that they offer these seminars for engineers and architects who have to maintain a certain continuing education. He stated that it is a popular topic right now. Dr. Fischer asked when the one in Danbury is scheduled. Mr. Zengen stated that it is on 11/16/09 in the morning 8 a.m. – 12 p.m.

Dr. Fischer asked what clear stone is. Mr. Zengen stated that it is crushed clear stone that would be used for a septic – ¾ inch clear washed stone. He stated that Dutchess Quarry has good material, good gradation, clean stone.

Mr. Labriola expressed the Board's appreciation for Mr. Zengen's presentation and his time before the Board. He stated that it was informative and helpful.

## **8. MINUTES**

Mr. Labriola: **MOTION TO APPROVE THE AUGUST 2009 MINUTES AS AMENDED; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO APPROVE THE SEPTEMBER 2009 MINUTES AS AMENDED; SECONDED BY K. BRAMSON; VOTE TAKEN AND APPROVED 6-0-0**

## **9. MISCELLANEOUS**

Mr. Labriola asked Board members if they have completed their mandatory 4 hours of continuation education training. All members are complete.

Ms. Sticker reported that the Cary Institute is doing a Road Salt Forum later this month, that they are trying to bring in the County and other interested parties – talking about road salt and its effects particularly to ground water and identifying other materials and other methods. She advised Board members to check the Cary Institute's website for the exact date and time. Dr. Fischer asked if it is daytime or nighttime. Ms. Sticker stated that it will be in the morning. Some Board members were disappointed that it is a daytime event given that they work.

Dr. Fischer asked the Board members to consider other options for the cell tower – different types of poles such as the tree design. He stated that he has gotten used to the tree design and that it blends in better. Ms. Seaman stated that she's seen a tower that is shaped as a Norway spruce. Ms. Bramson stated that she's seen some better ones, too. Ms. Seaman stated that there are some options now. Dr. Fischer suggested that the tree design also camouflages the co-located antennas. Ms. Seaman stated that you have a tendency not to look at it if it is a tree design - that your eye gets used to it. Mr. Gordon stated that he would like to see what it would look like and noted that some of the mitigated towers look very bad. Dr. Fischer suggested that Board members do some research on the Internet to familiarize themselves with the different design options.

Meeting adjourned 8:30 p.m.

Minutes submitted by:  
Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the October 13, 2009, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_ Approved as read

\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY PLANNING BOARD**  
**November 10, 2009**

A regular meeting of the Pleasant Valley Planning Board took place on November 10, 2009, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:31 p.m.

Members present:     Joe Labriola, Chairman  
                              Rebecca Seaman  
                              Michael Gordon  
                              Kay Bramson  
                              Henry Fischer  
                              Rob Fracchia  
                              Peter Karis  
                              Lynn Sticker, Alternate

Also present:           Jim Nelson, Esq., Planning Board Attorney  
                              Pete Setaro, Planning Board Engineer

**1.    SMITH – LOT LINE REALIGNMENT**  
**Grid #6364-02-577610 (75.4 acre) & 6364-02-593531 (0.874 acre)**  
**Location: West Side of Smith Road**

Calvin and Diane Smith, 149 Smith Road, Pleasant Valley, were present. Mr. Smith stated that they are proposing to take the present building lot that they have their home on and include the out buildings and the pool, which are currently on the farm property. He stated that they are taking land from the farm, which he and his wife own, and joining it to the house property, which they also own. He stated that he's trying to clean everything up so that his children do not have to deal with it in the future.

Mr. Setaro stated that the Morris Associates comments were mostly just housekeeping:

- County Health Department permission to file
- Owners certification note has to be signed
- Parcel is located within an agricultural district, therefore an Agricultural Data Statement needs to be submitted. Mr. Setaro stated that he will help Ms. Dickerson to generate and circulate this Statement.

Mr. Labriola read into the record (original on file) a letter dated 11/4/09 from the Fire Advisory Board stating that they take no position with regard to this application, as there does not appear to be any fire or safety issues associated with the proposed action.

Mr. Labriola: **MOTION FOR SKETCH PLAN APPROVAL**

**I move that the Planning Board grant Sketch Plan Approval to the Calvin R. Smith and Diane W. Smith Lot Line Revision Subdivision in the form of the resolution prepared by the Board's engineer and now before the Board subject to the following conditions:**

- 1. to address the comments in Morris Associates letter dated 11/5/09**



**SECONDED BY M. GORDON**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola stated that the next step in the process is for the applicant to advertise for a public hearing at the next Planning Board meeting. Mr. Smith stated that Brian Franks will place that advertisement and that he had expected Mr. Franks to be present at this meeting. Mr. Labriola stated that the Board should be able to do the SEQRA determination, Public Hearing, Preliminary and Conditional Final at the next Planning Board meeting. Mr. Smith stated that they are only changing the boundaries of the property.

Mr. Labriola asked if the applicant had any questions for the Board. Mr. Smith stated that for a lot line realignment this seems to him as a landowner and someone who's been around a few years, that this is a ridiculous step. He stated that when a man and his wife want to transfer some land to themselves and are not selling anything, this is creating work for the town and for the Board's consultants – Morris Associates. He stated that they have to get paid to make themselves worthwhile. He suggested that this step should be eliminated on this type of application – that it costs the town money, it wastes the Board members' time – and that the Board has more to do than to look at a silly application like this.

Mr. Labriola thanked the applicant for his comments.

**2. GASPARRO – SEQRA REVIEW**

**Grid #13-6363-03-453036 & 447030 & 443019**

**Location: 1325 Route 44 – Professional Building**

Mr. Ron Gasparro, applicant, and Mr. Michael White, Spectra Engineering, were present. Mr. Labriola reported that this application was last before the Planning Board in September 2009.

Mr. White stated that there have not been many plan changes, other than basic engineering. He stated that they are concentrating on getting the SEQRA negative declaration and the EAF in good order. He noted that they received a comment letter from the DEC, forwarded by Ms. Dickerson. He noted that there were two requirements, one regarding the SWPP requirements, which are in process. He stated that they have no concerns with this given the soil conditions on the site. He stated that he has never seen such incredible soil conditions as on this site – pure gravel down to the depth of the backhoe – in every hole – 17 holes. He stated that they found no rock and no ground water and that no water flows off the site and it won't when it is developed, either. He stated that it is not an issue.

Mr. White stated that there was another issue identified by the DEC: the possibility of Blandings Turtle within the site or within the vicinity of the site. He stated that they knew that there is no wildlife on the site, but cannot speak to the Wappinger Creek across

Route 44. But, he noted, that with 18,000 cars a day traveling that road, he does not think that any turtles will make it across the road. He noted a possibility that there is another site north, about ½ mile, where a stream comes under Bower Road.

Mr. White stated that they hired Ecological Solutions and Mike Nowicki went to the site and verified that there is virtually nothing on the site.

Mr. White stated that he has responded to the questions submitted to him by the Town engineer. He stated that they are before the Board tonight in the hope that they have addressed all outstanding issues and that the Board will be able to make their SEQRA determination.

Mr. Gasparro stated that the drawings that the Board has are the revised drawings. He pointed out the changes on the plans. He stated that they will bring the elevations for the next submission that will show how the building will look from Route 44. He stated that they will put dormers facing the road and windows on the front, so that it looks like the front of the building.

Mr. Setaro reviewed the Morris Associates comment letter, and that the applicant has pretty much covered it. He stated that the application is before the Board only for SEQRA determination. He noted that site plan details will be addressed in the future. In terms of SEQRA, he stated that comments on the EAF have been taken care of. He stated that there is a conceptual letter of approval from the DOT in regards to the entrance. He stated that Mr. White's 10/30/09 letter outlines reasons why there probably aren't any Blandings Turtles on the site and that they hired Ecological Solutions to review the property. He stated that the file should contain a report from them that documents that there is no habitat on the site for the Blandings Turtle. He stated that he thinks that all items have been addressed in order to consider SEQRA determination.

Mr. Labriola pointed out on the western edge of the property the drainage easement. He stated that there are provisions in the easement for a stockade fence, some landscaping, and the well. He stated that Mr. Nelson has reviewed a copy of the easement and that it does not look like there's anything in it that precludes that kind of activity. Mr. Gordon asked if this is the pipe that goes underground and comes down from the development on Bower Road. Mr. Labriola stated that that is correct. Mr. Labriola stated that it seems to have been addressed but asked Mr. White about a subsequent updated version of the easement. Mr. White stated that it is just a cleaned up copy of the easement. Mr. Labriola stated that the SEQRA determination can be conditioned on that easement.

Mr. Labriola pointed out 8-9 white pines on the northern edge of the property that appear to be outside the boundary of this site and on the other piece of property that Mr. Gasparro owns. He stated that because those trees are providing some visual screening for the people who live on Clark Heights, there will need to be some kind of easement for maintenance of those trees to prune and replace if they die. Mr. Gasparro stated that they will prepare an easement for that.

With regard to site plan, Mr. Labriola noted that the details of the stockade fence and of the dumpster will need to be provided. He asked which way the stockade fence will face. Mr. White stated that they will show the business side to the neighbors. Also, with regard to site plan, Mr. Labriola stated that a letter will be required from Central Hudson regarding moving the pole that is in the driveway cut. Mr. Gasparro was skeptical about being able to get anything in writing from Central Hudson, but stated that he will be in touch with them.

Mr. Labriola read into the record (original on file) a letter dated 11/4/09 from the Fire Advisory Board stating that they take no position on the application, as there do not appear to be any fire or safety issues.

Mr. Labriola: **SEQRA – NEGATIVE DETERMINATION**

**I move that the Planning Board determine as set forth in the attached declaration dated 11/10/09 prepared by the Board's engineer that the 1325 Dutchess Turnpike Professional Building is an unlisted action under SEQRA and will not have a significant effect on the environment for the following reasons and that no environmental impact statement shall be required.**

**The reasons in support of this determination of non-significance:**

- 1. the proposal is in conformance with the Town's Zoning Ordinance and the surrounding properties**
- 2. the applicant has met several times with Dutchess County Department of Health to review the conceptual layout of the well and the SDS and the Dutchess County Department of Health will review and approve detailed plans**
- 3. NYS Department of Transportation has issued a conceptual approval letter and will review and approve detailed plans for the new entrance onto Route 44**
- 4. Stormwater management facilities will mitigate increase in stormwater runoff**
- 5. the applicant has revised the building and parking layout to improve visual appearance from Route 44**
- 6. verification of the latest drainage easement to validate that a fence, well, and landscaping can be placed on it**
- 7. the applicant will prepare an easement and maintenance agreement for the proposed trees on the north side of the adjacent property.**

Mr. Nelson asked if the Board circulated for lead agency. Mr. Labriola confirmed that the Board did. Mr. Nelson asked if the Board did a motion to take on lead agency. Mr. Setaro pointed out that the resolution states "Whereas the Planning Board has acted as lead agency in the coordinated review of this action." Mr. Nelson responded OK.

**SECONDED BY H. FISCHER**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Gasparro stated that they intend to come back to the Board at the December 2009 meeting to have discussions about site plan issues and acknowledged that he is aware that the Board cannot make any decisions on the site plan until the moratorium is lifted.

**3. REALTY STOP – SIGN PERMIT**

**Grid #6363-12-841622**

**Location: Milestone Square**

Mr. Ron Gasparro, applicant, was present. He stated that the Board has a complete file and has provided photos of the site. He stated that the sign is an existing sign that they had on their building on Route 44. He stated that he's allowed to have 24 sq. ft. and the sign is 13.5 sq. ft. He stated that they have approval from the landlord. He stated that the sign will not be lighted.

Board members reviewed the photos and asked that the sign be more centered on the wall and in line with the liquor store sign.

Mr. Labriola: **MOTION TO GRANT THE SIGN PERMIT (original on file) with the following condition:**

- **the center of the sign will be at the same height as the liquor store sign and will be moved to the right**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 7-0-0**

**4. CARRINGTON HEIGHTS SUBDIVISION – FINAL MAP REVIEW**

**Grid #6565-01-410925 & 6566-03-415015**

**Location: Hibernia Road**

Mr. Brian Stokosa, with M. Gillespie & Associates, was present. Mr. Steven Page, applicant, was also present.

Mr. Labriola stated that this is on for discussion and review of final map. He noted that Mr. Setaro sent out an e-mail that outlined the status of this application. Mr. Labriola asked the applicant to describe the changes since the application was approved in 2003.

Mr. Stokosa stated that this project was originally in front of the Planning Board in 2003 for the Carrington Heights Subdivision on Hibernia Heights Road and Hibernia Road – right on the border of the Town of Pleasant Valley and the Town of Clinton. He stated that Mr. Page is in the process of finalizing all of the items related to dedication of the road to the Town. He stated that some of the drywells have shifted out of the Town right-of-way into what is formerly lots #4 and #5. He explained that originally the dry wells were located within the drainage easement. He stated that after doing some excavation for the dry wells, they discovered poor soil on one end of the dry well system. Therefore, he stated that it was decided to shift them down into sand and gravel, which is better material for the purpose. He stated that they secured an easement across the two lots for maintenance so that the highway superintendent can provide maintenance. He stated that

they need to amend the original filed map detailing the easement and the location of the drywells.

Mr. Stokosa noted that the “as built” map is on file with the Town and Morris Associates. He also provided a map of the two lots - #4 and #5 – and the right-of-way and the drainage easement addition. He explained that they are not planning to re-file the entire subdivision map, but rather will file this new map of the lots that were affected. Mr. Gordon asked whether it was just two lots that were affected. Mr. Stokosa responded yes.

Board members reviewed the “as built” map and the new map. Mr. Stokosa pointed out that the new map is a blow up of lots #4 and #5 and shows the current owners with the tax number on each lot and shows the dry wells and the easement. Mr. Setaro pointed out the note on the new map that references the original filed map. Mr. Stokosa stated that an easement description has been generated and has been forward to Mr. Page’s attorney.

Mr. Gordon asked if the two lots have been developed and whether the homes are up. Mr. Stokosa responded yes and noted that they have secured permission from the owners. Mr. Setaro pointed out that the owners will have to sign the map before it is filed.

Mr. Labriola noted that this is an administrative procedure that requires a resolution to authorize him, as Planning Board chair, to sign the map when all of the conditions have been satisfied.

Mr. Nelson pointed out a typo on the bottom of page 1 of the resolution for Amended Final Subdivision Approval – “was” is replaced by “has.”

Mr. Setaro asked for clarification on condition #1 and #2 – what action must the Town Board and/or the Town attorney take before Mr. Labriola signs the map. Mr. Nelson stated that Mr. Volkman had told the applicant that there will be a Town Board meeting on 12/1/09 at which the easement will be reviewed and accepted by the Town. Mr. Nelson stated that he does not know what formal or informal approval the PV and Clinton highway superintendents need to give. He suggested that the OK from them should come before the Planning Board chair signs the map. Mr. Labriola stated that that can be a letter or an e-mail that says the conditions have been satisfied. Discussion ensued on this process. Mr. Setaro stated that if the Town of Pleasant Valley accepts dedication of the road at the 12/1/09, that means that all conditions have been met and the highway superintendents are OK with it – all legal documents are in place and easements are correct and in favor of the Town of Pleasant Valley. Mr. Labriola suggested that the minutes of the 12/1/09 meeting where the Town accepts the dedication of the Town would be the document that would authorize him to sign the map. Discussion ensued.

Mr. Gordon asked what the Town of Clinton is going to require. Mr. Setaro stated that Mr. Stokosa is checking on that and that it is a grey area due to the fact that it is a very short section of the road that is in the Town of Clinton. He stated that the two town highway superintendents have an agreement that Mr. Gardner will plow the entire loop,

that it does not make sense for the Town of Clinton to drive all the way around to plow a small section of this road. He also pointed out that Mr. Gardner plows Hibernia Road all the way out to the Parkway. He stated that the Town of Clinton highway superintendent needs to send a letter to the Town of Pleasant Valley saying that he's OK with everything.

Mr. Gordon asked if the Town of Clinton will require that everything is done and the Town of Pleasant Valley has accepted the easements before they sign off. Mr. Setaro stated that there are no easements that are to the Town of Clinton. He stated that he does not know if there are separate descriptions for the portions of the road that are within the Town of Pleasant Valley and within the Town of Clinton – that Greg Bolner has been working with the applicant on this.

Mr. Nelson stated that the resolution is written in terms of “such approval and acceptance as may be required.” He suggested that the applicant may want to approach Mr. Volkman and suggest to him that these documents could come in after the map has been signed. He explained that he's trying to avoid having the Planning Board put itself in a cross position with the Town Board. He explained that his approach would be to have everything consented before the Mr. Labriola signs the map; but if the Mr. Volkman, the Town attorney, says that normal practice is for Mr. Labriola to sign the plat and take the easements later, then that would be OK with the Planning Board. Mr. Labriola stated that it is the Town Board that is in the driver's seat on this project.

Ms. Dickerson asked who will approach Mr. Volkman. Mr. Labriola responded that the applicant will approach Mr. Volkman. Mr. Stokosa and Mr. Page concurred.

Mr. Labriola: **MOTION FOR AMENDED FINAL SUBDIVISION APPROVAL  
(ORIGINAL ON FILE)**

Mr. Labriola read into the record the salient portions of the motion:

- **The Planning Board finds that there is no potential for any adverse environmental impact resulting from this modification and that the granting of this modification is part of the ongoing administrative function of the Planning Board involving no new programs or reordering of the priorities that may effect the environment**
- **Whereas the Town of Pleasant Valley Superintendent of Highways has acknowledged his consent to this modification as have the owners of Lots #4 and #5**
- **Now, therefore, be it resolved that the Chairman is hereby authorized to execute a modification to that portion of the filed map #11666 to reflect the change in location of the drainage easement and dry well subject to the conditions below:**
  1. **Such approval and acceptance as may be required from the Town of Pleasant Valley Town Board and the Towns of Clinton and Pleasant Valley Highway Superintendents**



**2. Preparation and submission of easements, subordinations, and other documents acceptable to the Town of Pleasant Valley Town Board and the Town Attorney**

**SECONDED BY K. BRAMSON**

**VOTE TAKEN AND APPROVED 7-0-0**

**5. MINUTES**

Mr. Labriola: **MOTION TO APPROVE THE OCTOBER 2009 MINUTES AS AMENDED; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

Meeting adjourned 7:25 p.m.

Minutes submitted by:  
Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the November 10, 2009, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_ Approved as read

\_\_\_\_ Approved as corrected with deletions/additions

**PLEASANT VALLEY PLANNING BOARD**  
**December 8, 2009**

A regular meeting of the Pleasant Valley Planning Board took place on December 8, 2009, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:34 p.m.

Members present:     Joe Labriola, Chairman  
                              Rebecca Seaman  
                              Michael Gordon  
                              Kay Bramson  
                              Rob Fracchia  
                              Peter Karis  
                              Lynn Sticker, Alternate

Members absent:     Henry Fischer

Also present:         Jim Nelson, Esq., Planning Board Attorney  
                              Mike Takacs, Planning Board Engineer

**1.     MARION SALON SPA – SIGN PERMIT**

**Grid #6363-02-890562**

**Location: PV Shopping Center**

Ms. Nancy Forrest, GNS Signs, was present for this application. She reported that this is an application for a wall sign on the rear of the building.

Mr. Labriola asked if the sign will be lighted. Ms. Forrest responded no.

Ms. Bramson asked if there was a sign previously on the rear of the building. Ms. Forrest stated that she does not know, that someone in Town Hall informed the applicant that if she kept this proposed sign no larger than the one on the front of the building she would be OK. Mr. Labriola stated that the combination of the front and back signs is well within the allowable square footage.

Mr. Labriola: **MOTION TO GRANT THE SIGN PERMIT; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

**2.     HOMELAND TOWERS, LLC – SITE PLAN**

**Grid #6565-03-131274**

**22 Camp Nooteeming Road, Pleasant Valley, NY 12569**

Mr. Robert Gaudioso, Snyder & Snyder, was present representing the applicant.

Mr. Labriola noted that this project has been before the Planning Board a couple of times as they were working their way through their application for a Special Use Permit from the ZBA, and that this evening is their first appearance with a formal site plan

application. He asked that the applicant brief the board and report on any updates to the plan.

Mr. Gaudioso stated that this is a communication facility at the Boy Scouts camp. He stated that this project as originally before the Planning Board for a waiver from the moratorium, at which time the Board gave a positive recommendation and the waiver was granted by the Town Board. Further, he stated that the project came back before the Planning Board for a recommendation on their Special Use Permit application. He reported that the ZBA granted both the negative declaration under SEQRA and the Special Use Permit.

Mr. Gaudioso mentioned that a performance bond will be required for the removal of the tower. Board members concurred that the Planning Board recommends the amount of the bond, but that the Town Board approves the bond. Mr. Gaudioso asked that Morris Associates provide an estimate for that bond.

Mr. Gaudioso noted that, as condition of site plan approval, they must submit full structural design drawings prior to getting a building permit and certify that the tower was built in accordance with those drawings. He also noted that, as a condition of approval, they must submit a highway maintenance agreement to the Town, which they are happy to do.

Mr. Gaudioso stated that Morris Associates commented that the plan should provide details of the noise-making equipment that will be on site – the air conditioners, the noise reducer external low noise blower, and the generator.

Mr. Gaudioso stated that the finish of the tower is under the purview of the Planning Board and that the ZBA stated in its final resolution that the Planning Board shall pick the design of the tower.

Mr. Gaudioso noted that they have contacted Central Hudson but will not get their approval until the design drawings are finalized. He noted that they will bring electric for the proposed Verizon facility and future co-locators to a maximum of about 1200 amps.

Mr. Gaudioso reported that they propose green vinyl slates for the fence and stone aggregate finish for the equipment shelter.

Mr. Gaudioso stated that the code does not allow guy wires, that it must be a freestanding tower. He stated that they are proposing a monopole – a slender pole with externally mounted antennas. Some options include a lattice tower, which is an open framework tower, and another option is a tree. He stated that the tower is 150' tall. He stated that they revised the visual analysis to reflect these different design options and submitted copies to the Board. He explained that they chose 2 of the most visible locations that are the worst case scenario and did 3 additional renderings from each of those viewpoints. He stated that the original rendering was a gray monopole and the revised renderings are of a brown monopole and also showed a lattice tower and, finally, the tree. He stated that

they are computer-animated renderings and that the tree would have to be a little taller to be able to get that coverage.

Mr. Labriola asked about the lattice tower design. He stated that when you start running the cable troughs, the design starts to fill in; and asked whether, if all the co-location antennas are on the tower, they will take the lattice and turn it into a series of cable troughs. Mr. Gaudioso stated that the benefit of the monopole is that it is slender and that the cables are all internal. He noted that this proposed tower is supposed to accommodate 6 future co-locators total plus municipal antennas. He stated that there are cables to reach a set of antennas. He stated that you can stack them on the tower, but that there will be the antennas, which they showed on the revised visual renderings. He pointed out that the cables will be visible with the lattice design as opposed to the monopole where the cables are internal to the pole and, therefore, not visible.

Mr. Gaudioso stated that the tree design is preferred in some places. Mr. Gordon stated that it does not look like a tree. Mr. Gaudioso stated that the tree design looks good if there is a mountain in the background behind the tower. Further, he stated that if the tree is low in height – 80' to 100' – it looks great. However, he stated that if the tree sticks up above the ridgeline it makes the antenna array look wider. Mr. Gordon stated that it looks like a large pineapple bush on a pole. Ms. Seaman pointed out that it sticks out even more when the leaves are off the trees.

Mr. Labriola asked how high above the canopy of the existing mature trees the pole will extend. Mr. Gaudioso estimated that the tallest trees are 75'-85' tall. He noted that it is more an issue of the angles and the perspective that you're looking at. Again, Mr. Gaudioso stated that they chose the 2 worst-case scenario locations. Mr. Labriola stated that Morris Associates had provided a website with tree designs for cell towers. Mr. Gaudioso referenced a company that provides the tree design and that they are happy to work with. He stated that the tree design will be 10' to 15' higher. Ms. Seaman mentioned a tree cell tower on Route 44 near Canaan that is very well camouflaged.

Mr. Gaudioso explained that, using a tree design with a total of 6 co-locators, 60' of the pole will be covered with branches for the antennas, which he stated is a lot. Ms. Seaman stated that the tree on Route 44 had about 80' of coverage. Mr. Gaudioso stated that that is a lot and that most towers max out at about 60'.

Mr. Karis asked how much of the pole is exposed above the trees from the Davis Road viewpoint. Mr. Gaudioso stated that the top of the pole is 150' and the antennas are approximately separated by 10'. Mr. Karis estimated, therefore, that it is about another 7' exposed above the trees. He asked whether the branches will be added individually as the co-locators are added or whether all branches would be installed from the beginning. Mr. Gaudioso stated that they put them on individually because of cost. Ms. Seaman stated that usually they are all installed at the same time. Mr. Gaudioso stated that they would probably install half at the beginning in order to reduce the cost. Mr. Labriola stated that he would prefer that they install as far down into the existing trees as possible because if they wait to install the branches it will still look like a tiny tree on top of a pole. Mr.

Gaudioso stated that there is a significant increase in cost between a monopole and a tree design. He explained that the costs exponentially start to increase with numerous branches and the steel required for the 360-degree loading. Mr. Labriola asked if there is an alternate vendor that costs less. Mr. Gaudioso suggested that the Town would want to have the better tree with a reasonable amount of branches – that it will look and wear better over time. He suggested that the company that makes the tree design could provide a proposal for a phased design. Mr. Karis suggested a build out plan and an interim plan.

Mr. Labriola asked about the specific approvals granted under the Special Use Permit – whether the 150' height was specified. Mr. Gaudioso stated that there is no height limitation in the code. He stated that the tower will remain at 150'; the zoning resolution was expressly clear that the Planning Board has the power to choose the finish of the tower, which includes the design. He stated that he has no concern about needing additional height approval from the Zoning Board – that the ZBA never approved the height. He stated that they approved the height of the antennas and that the discussion here is about the fit and finish as far as the tower. Board member asked how much higher the tower would be. Mr. Gaudioso responded that it would be between 8'-15' higher.

Mr. Nelson referenced the permitted height in the new code and noted that they received their Special Use Permit under the current code. Ms. Seaman stated that in the zone where this tower will be located the permitted height is less than 150' because it is in a residential zone. Mr. Nelson stated that in the new code this would not be a permitted use in the district. Ms. Seaman agreed and stated that it would be limited to 50' and stealth technology.

Mr. Labriola suggested that the ZBA should be informed if the tower's height will be raised to accommodate the stealth technology.

Mr. Fracchia asked how many companies have signed up to co-locate. Mr. Gaudioso stated that they have Verizon has an applicant. He stated that they have been in discussions with all the other wireless carriers. He stated that the normal procedure is to apply with one carrier, and the others sign on once the approvals have been granted.

Mr. Labriola noted there is agreement to use stealth technology to minimize the visual impacts. He stated that the top 30' of the tower will be fully branched, the next 30' will have fewer branches – and a rendering will be provided to show what the initial build out will look like and what the full build out will look like. Mr. Gordon asked whether it is accurate that the bottom of the tree will be 90'. Board members agreed.

Mr. Labriola commended the applicant for a good job on the balloon test and stated that the Board cannot guarantee that it will not be visible from the Taconic. However, he stated that the tree design will eliminate any of the concerns about whether you can see it because if it is visible it's going to be the top of a tree.

Mr. Gaudioso asked what needs to be done to conclude the site plan review. Mr. Labriola asked Mr. Takacs to review the Morris Associates comment letter.

Mr. Takacs mentioned the need for the FAB to review the plans. Mr. Gaudioso stated that he wants the FAB to be aware that the access road is adequate for installation of the tower – that they will bring a big crane onto the site. He stated that they prefer not to improve the access road.

Mr. Labriola stated that the plan needs to reflect the fact that there will be no climbing rungs on the pole for the first 20'. Mr. Gaudioso stated that they had submitted a letter from Tektonic certifying to that and provided extra copies for the Planning Board. Mr. Labriola asked that this be reflected on the plan. Mr. Gaudioso stated that they will put that on the construction drawings. Mr. Labriola stated that the Planning Board needs some documentation. Mr. Gaudioso wants to include this on the construction drawings and agrees that it be a condition of the site plan approval. Mr. Labriola asked Mr. Takacs how this has been dealt with on previous cell tower applications as far as construction drawings being available and reviewed as part of the site plan. Mr. Takacs recalled that the construction drawings on a previous cell tower were submitted separately. Mr. Labriola stated that this is also his recollection. Mr. Gaudioso stated that that is how it is usually done. Mr. Labriola asked how long it will take to do the construction drawings. Mr. Gaudioso stated that it could take a month or two. He stated that Town code requires that the construction drawings must be submitted prior to the issuance of a building permit. Mr. Labriola stated that he thinks the drawings must be part of what is considered for site plan review. Mr. Gaudioso stated that he is OK with the site plan approval being conditioned on the construction drawings but that he does not want the site plan approval to be delayed.

Mr. Labriola asked whether their submission will be updated to reflect the tree stealth technology. He stated that the Planning Board needs to have something – plans that when approved represent what will be built out. Mr. Gaudioso stated that if that's what the Planning Board wants that's what they will do. He stated that he's trying to minimize any unnecessary things. He stated that the site plan will show a tree – 156' – 158' subject to construction drawings and will show 90' but will not be more specific than that. Whereas the construction drawings will show all the details. Mr. Labriola stated that the Board needs a visual to represent what it will be approving. Mr. Takacs noted that the company's specifications for the tree will be in the plans. Mr. Labriola concurred and stated that some supplemental information shall be put in the master record.

Mr. Labriola asked about a mention in the record of the nearest activity on the Boy Scout camp being 150' away from the tower site. Mr. Gaudioso stated that that is the worst case scenario – that there are some broken down lean-tos in that area that are somewhere between 450' and 150' from the tower location. He reported that the representatives from the Boy Scouts informed the ZBA that they will move the lean-tos if necessary.

Mr. Labriola stated that it is hard to tell on the submitted plans what is adjacent to the proposed tower site – are there open fields or surrounded by trees. Mr. Gaudioso pointed out the detail on the plans that show trees surrounding it and that lean-tos are separated from the tower area by trees.



Mr. Labriola stated that key next steps are:

- He will contact John Dunn, ZBA chair, to let him know that the height of the tower will be slightly higher.
- He will ask Ms. Dickerson to put this application on the agenda for the Fire Advisory Board meeting in January.
- Applicant to provide a rendering of a phased build out of a tree design – initial and full build out.
- Maintenance agreement and removal agreement as conditions of final approval.

**3. SMITH – LOT LINE REALIGNMENT – PUBLIC HEARING,  
PRELIMINARY & FINAL APPROVAL  
Grid #6364-02-577610 (75.4 acre) & 6364-02-593531 (0.874 acre)  
Location: West Side of Smith Road**

Mr. Brian Franks, surveyor for the applicant, was present. He submitted proof of publication for the Public Hearing. Mr. Labriola asked him to report on any changes to the plans.

Mr. Franks stated that they took care of Morris Associates last review letter. He stated that they have the signature from the applicants and from the Health Department. He noted on the overview map the location of the property lines. He stated that they monumented the site and set steel pins in all the corners. He stated that on the site data he has shown the area of before and after of the parcels involved.

Mr. Takacs stated that the applicant has responded to all Morris Associates comments and that they are satisfied with the plan.

Mr. Labriola asked Planning Board members if they have any comments. No one spoke.

Mr. Labriola: **MOTION FOR NEGATIVE DECLARATION UNDER SEQRA**

**I move that the Planning Board determine as set forth in the attached declaration dated 12/8/09 prepared by the Board's engineer that the Calvin R. Smith and Diane W. Smith Lot Line Realignment Subdivision is an unlisted action under SEQRA and will not have a significant effect on the environment for the following reasons and that no environmental impact statement shall be required.**

**The reasons in support of this determination of non-significance are:**

- 1. no new construction is proposed**
- 2. lots meet all zoning requirements**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO OPEN THE PUBLIC HEARING; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 7-0-0**

No member of the public spoke.

Mr. Labriola: **MOTION TO CLOSE THE PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO GRANT PRELIMINARY APPROVAL**

**I move that the Planning Board grant preliminary approval to the Calvin Smith Lot Line Realignment in the form of the attached resolution dated 12/8/09 prepared by the Board's engineer and now before the Board subject to the following conditions: NONE**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO WAIVE THE SECOND PUBLIC HEARING; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO GRANT FINAL APPROVAL**

**I move that the Planning Board grant final approval to the Calvin Smith Lot Line Realignment in the form of the attached resolution dated 12/8/09 prepared by the Board's engineer and now before the Board subject to the following conditions:**

- **payment of all fees**

**SECONDED BY R. SEAMAN**

**VOTE TAKEN AND APPROVED 7-0-0**

**4. PV ANIMAL HOSPITAL – DISCUSSION ONLY**

**Grid # 6363-01-338998**

**Location: 18 Gretna Road**

Patrick Roberts, architect for the applicant, and Marianne Lichtrow, practice manager for the PV Animal Hospital, were present.

Mr. Roberts explained that the applicant has hired him to do a master plan. He stated that currently the facility is on a 2.6 acre site off of Salt Point Turnpike and Gretna Road. He stated that they are listed in the medium density residential district and the property line to the east is the boundary with the rural agricultural district. He stated that there is no proposed physical expansion of the footprint. He explained that they are proposing to build out the basement. He stated that the basement currently is an open garage area and they are proposing to develop that for training purposes and dog grooming. He stated that there will be increased build out area, but no increase in the footprint of the facility. He stated that currently there is one doctor on staff with approximately 4-5 employees per shift.

Mr. Roberts explained that this animal hospital has been existence prior to zoning and does not fall into any of the current zoning criteria. Therefore, he stated that they are looking for guidance from the Planning Board on what they can expect if they build out the basement. He stated that the basement is approximately 600 sq. ft.

Mr. Roberts displayed a plan of the basement to the Board. He pointed out the access area for the site. He stated that there are about 10 parking spaces along the front parking lot. He stated that he calculates that 8-9 parking spaces are required for the current facility. He stated that they have 10 plus the additional parking for employees down below.

Mr. Labriola noted that since nothing was submitted to the Board prior to the meeting, it's hard for the Board members to give specific reactions. He stated that if they are talking about grooming, the immediate question is will the well and septic handle the additional load. Mr. Roberts stated that they are looking at that with engineers.

Mr. Labriola also wondered what the traffic implications would be with this expansion – how many dogs would be groomed on a daily basis. Ms. Lichtraw stated that it won't be any more than it is right now. She stated that they are not planning to hire a professional groomer. She explained that the space that they have right now is very limited and is very cramped. She stated that they want to make an area in the basement where it is not as cramped for the basic grooming that they currently do. She stated that this will also give them enough space to put some smaller containment cages downstairs that they could use for isolation, which they currently don't have right now. Further, it would enable them to use it for cat boarding when the space is not being used for isolation, this way the cats can be separated from the dogs and aren't as stressed out. She stated that they are not looking to expand – they are not taking on any new employees. Rather they are trying to utilize the space that they have but that is not being used at this time.

Ms. Seaman stated that she does not think it is a conflict of interest but that she is a client of the PV Animal Hospital. She stated that the parking can be a little tight, but it is never out of bounds, and noted that they could definitely use some space for expansion of the business. She stated that it is a good idea to support a viable business in Pleasant Valley.

Mr. Labriola asked if there are any parking changes in the new zoning ordinance for this type of use. Ms. Seaman stated that the changes for the use track what was in the old code with the flexibility now that the decision regarding a reduction remains with the Planning Board.

Ms. Bramson asked about their plans to offer training. Ms. Lichtraw stated that the training would be for her own employees and would not be dog training.

Mr. Labriola asked Mr. Nelson whether this project would even need a site plan approval if they are not changing the physical footprint, not changing the use, and doing only internal reconfigurations to give the business more usable space and not offering new services. He asked whether, other than the implications for well and septic, this needs a

site plan approval. Ms. Seaman concurred that they are not changing the use – they currently do grooming. Ms. Bramson stated that it does not sound like it would impact the septic either.

Mr. Nelson stated that he will check into the question of whether a site plan will be required. Mr. Labriola summarized that this is an existing business that will continue doing everything that it was doing and proposes to do its business in a different space in the same footprint. Ms. Lichtraw stated that they wanted guidance from the Board before they do their master plan. Mr. Karis stated that the Building Department should be asking the applicant for the Health Department approval. Ms. Lichtraw stated that they are working with an engineer to look at the existing well and septic.

Mr. Roberts stated that they are concentrating on modernizing the upper level right now and that the build out of the basement constitutes potential future thoughts. He stated that if they were to do the master plan, they want to make sure that they have line items included for potential cost impacts for the future such as additional parking.

Mr. Labriola stated that the next step is to hear from Mr. Nelson about the need for site plan. Mr. Roberts asked about parking calculations. Ms. Seaman stated that they would follow the commercial calculation for parking requirements for their commercial use.

Mr. Fracchia asked about an area that looks like it's for a dumpster. Mr. Roberts explained that it is an enclosed outdoor runway for the dogs. Mr. Fracchia suggested that they could utilize that area if they needed more parking. Ms. Lichtraw agreed. Mr. Roberts pointed out a lower area that could also be expanded for parking.

## **5. WILLIAMS LUMBER – DISCUSSION**

**Grid #6564-529886**

**Location: 2424 Route 44**

Mr. Larry Boudreau, Chazen Company, project manager for the project, and Mr. Sandy Williams, Mr. Jim Williams, Mr. Scott Cruikshank, and Mr. Joe Kirchhoff were present.

Mr. Boudreau stated that the existing layout on the project is compliant with the current C1 zoning district. He noted that the proposed new zoning code will change that district to Mixed Commercial. He explained that the property is under contract with Mr. Williams pending due diligence.

Mr. Boudreau stated that the site plan is the old Miracle Ford site on Route 44 east of the Taconic Parkway. He displayed a plan and pointed out the existing building. He stated that there are two separate parcels: 3.5 acres and 2 acres. He stated that the 2 acre parcel is entirely paved. He explained that the proposal is to take the 23,000 sq. ft. building and convert it entirely – the front would be a showroom and the back would be converted into a home center. He stated that the entire 23,000 sq. ft becomes retail space.

Mr. Boudreau stated that the parking is reconfigured to fit and be more friendly with retail access. He stated that they are about 20 spaces above the required amount. He

stated that there are some non-compliant issues that the owner will correct – paving and lighting. Mr. Labriola noted that the Town never approved these non-compliant issues.

Mr. Boudreau stated that they are adding about 10,000 sq. ft. of non-self-serving warehousing. Mr. Labriola asked what the height of the buildings A, B, and C is. A project team member responded that they are roughly 24' high and displayed photos of existing buildings at various Williams Lumber locations. Mr. Karis asked if they are end-loaded with overhangs. Team member responded yes. Mr. Labriola asked if they would end-load from both sides or one side. Team member stated that it depends on which plan they go with – probably will be loading from the east and not from the west side at all.

Mr. Boudreau stated that there will be no new impervious surfaces – all is being configured within the existing asphalt. He discussed the access points to the site. Mr. Takacs presented an alternate plan that would eliminate the third curb cut. Mr. Labriola asked about the need for the mass of asphalt on the site. Mr. Boudreau explained there can be 2-3 tractor trailers on the site waiting to unload – that they need to be able to have enough holding space. Mr. Labriola mentioned the need for landscaping. Mr. Karis made some suggestions for removing some asphalt and installing landscaping and a berm in order to buffer the utility area.

Mr. Boudreau mentioned that the existing building is about 80' from the center of the road, which is essentially 60' from the property line. Mr. Labriola stated that that makes sense.

Mr. Gordon asked about security fencing on the site. Mr. Boudreau stated that they plan on a high chain link fence and that along the highway they will install a high quality attractive fence.

Mr. Labriola asked how they will handle plowing if the fencing is flush with the parking area and with the asphalt. Discussion regarding a snow storage area.

Mr. Karis pointed out a dead end parking area and asked if that area can connect with the driveway. Mr. Boudreau stated that it can be done. Mr. Labriola noted that it goes right up to the property line, which can create another situation with plowing off the property. He stated that there needs to be some space there. Mr. Karis suggested that they reconsider that corner for options.

Mr. Boudreau stated that 118 parking spaces are required and they will have 135 spaces. Mr. Labriola asked if the parking spaces along the front can be eliminated and that area would be landscaped and/or bermed. Mr. Kirchhoff stated that that is a prime location for retail with access to the front doors. He explained that it will be the upper end part of the facility for retail and that it will be important for people to be able to park in the front. He stated that he would rather not cut that parking down and indicated other area on the site to reduce parking. Mr. Labriola asked how much space exists between the property line and the front parking area in which to do some landscaping. Mr. Takacs estimated

that it is about 10'. Mr. Kirchhoff concurred. Mr. Boudreau stated that it is pretty well bermed already – that the parking is lower than the grade.

Mr. Williams noted that in their Rhinebeck store when they run sales they do not have enough parking and people will park along Route 9. He stated that he can see, when they get themselves established on this site in Pleasant Valley, that people will park wherever they can and it can become a nightmare on Route 44 with the traffic passing at 60 mph. He expressed his concern for safety for everyone. Discussion regarding landscaping on the site to break up the mass of parking.

Mr. Gordon asked about the location of the dumpster and the propane tanks. Team member responded that there are bollards in the area to ensure safety.

Mr. Takacs mentioned the need for variances on the site. Mr. Boudreau discussed the permitted uses on the site in the new code and the setbacks in the Mixed Commercial district: 15' to 30' setback in the front. Mr. Labriola suggested that the intent of that setback was for a very different set of commercial buildings – a retail store versus a storage building. Therefore, he stated that the applicant will have to go to the ZBA to get a variance, and that the Planning Board will be positive in moving the buildings farther away from Route 44 because of the use that they are proposing. Board members concurred.

Mr. Boudreau also mentioned the new code requirement – Area and Bulk Requirements – limiting coverage of the site to 10,000 sq. ft. per non-residential establishment. He stated that the proposed business for the site will total 40,000 sq. ft.: 23,000 sq. ft. existing building and an additional 11,400 sq. ft. proposed. Ms. Seaman explained that the restriction is intended to prevent big box stores from locating in Pleasant Valley and advised the applicants to appeal for a variance. She suggested that they are proposing storage area and not retail space – it is ancillary. Team member pointed out that this is not self-storage, that the proposed warehouse buildings support the main retail building.

Mr. Fracchia asked how many employees they anticipate on the site. Team member responded that they have 12-13 in Salt Point now, and will have 22-23 at this proposed site.

Team member stated that the water and sewer support this proposed use.

Mr. Labriola suggested that the Planning Board will probably want to see taller landscaping in front of buildings A, B, and C to provide visual shielding. Mr. Kirchhoff concurred.

Mr. Labriola asked about lighting in the parking lots. Mr. Boudreau stated that the lighting exists but needs to be reconfigured. He stated that the question is what lighting is on the building for security. Mr. Labriola pointed out that the parking lot for Miracle Ford was their showroom and that it is probably over lit for Williams Lumber – that some of the poles may not be needed. Mr. Boudreau stated that a lot of them are in the way of



where the buildings will go, in any case. He stated that they will do a new photometric plan – that some of the lighting will turn off after a certain time.

Mr. Williams stated that in their Rhinebeck store they light the entire yard at night. Mr. Karis agreed that there must be lighting for security.

Mr. Labriola suggested that the Planning Board is in favor of providing a positive recommendation to the ZBA about granting the necessary variances. He stated that it seems to be a good use for this site. Board members agreed.

Mr. Labriola expressed the Board's appreciation to the applicants for coming in for this discussion at the early stages of planning.

## **6. MINUTES**

Mr. Labriola: **MOTION TO APPROVE THE NOVEMBER 2009 MINUTES AS WRITTEN; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

## **7. MISCELLANEOUS**

Mr. Labriola expressed his personal thanks to everyone on the Board. He noted that it happened to be a fairly light year with regard to the number of applications that came to the Board. However, he observed that every year the applications are becoming more challenging and recognized that everyone on the Board sacrifices time from their families, hobbies, and jobs. He stated that he appreciates the investment that the Board members make in their time. He specifically thanked Lynn Sticker for her presence on the Board – that she is a very welcome addition. He also highlighted that the Board could not function without Mike Takacs and Pete Setaro and noted that they have a wonderful rapport with all the applicants. He noted that he's been on the Board a long time and that he no longer sees the adversarial kinds of applications that the Board used to have. Also, Mr. Labriola expressed his appreciation to Jim Nelson – a trusted advisor who helps keep the Board out of the murky legal messes that threaten. He stated that he always feels very prepared for every meeting knowing what the Board needs to do and thanked Mr. Nelson for his guidance all year long. Mr. Labriola noted that Helen Dickerson is on vacation and stated that she's a very welcome addition to the Board. He stated that he spends a lot of time on the phone with Helen, that she is digging in and making a lot of difference at the point of application. He stated that, as a result, applicants are more prepared when they come before the Board and there is a happier atmosphere dealing with the applicants. He stated that she keeps the Board moving forward. Mr. Gordon stated that Helen has a friendly way of dealing with the applicants. Mr. Labriola stated that Helen checks in with him on procedure and that 99% of the time she's correct in what needs to be done. He stated that she is making a difference. Lastly, Mr. Labriola stated that he wants to thank Michael Gordon and Rebecca Seaman for the leadership they provided on the comprehensive plan committee. He noted that it is almost done after many years of effort. Mr. Gordon asked that the Board members come to the Town Board meeting on 12/16/09 when the plan will be voted on. He stated that he hears from many sources that, from the perspective of the applicants, it is a pleasure to work with the Pleasant Valley

Planning Board. Further, he stated that it is also a pleasure for him to serve on the Board because of the caliber of the Board members, the quality of leadership that Joe provides, and the high quality of work that the Board is able to accomplish.

Meeting adjourned 8:15 p.m.

Minutes submitted by:  
Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the December 8, 2009, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

\_\_\_\_ Approved as read

\_\_\_\_ Approved as corrected with deletions/additions