

**PLEASANT VALLEY PLANNING BOARD**  
**January 12, 2010**

A regular meeting of the Pleasant Valley Planning Board took place on January 12, 2010, 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  
                              Rebecca Seaman  
                              Henry Fischer  
                              Kay Bramson  
                              Rob Fracchia  
                              Peter Karis  
                              Lynn Sticker, Alternate

Members absent:     Michael Gordon

Also present:         Jim Nelson, Esq., Planning Board Attorney  
                              Pete Setaro, Planning Board Engineer

**1.    APPEAL #942 – ZANI CORPORATION – USE VARIANCE**

**Grid #6464-04-917084**

**Location: 2048 Route 44**

Mr. John Lulgjuraj, owner, was present. He explained that he is trying to reopen a restaurant at 2048 Route 44. He stated that there used to be a restaurant there. Also, he stated that he owns the property next door, 24 residential units, that he rehabilitated. He stated that he thought he could also bring the restaurant back but learned from the Zoning office that he needed to get approval from the Zoning Board of Appeals via a Special Use Permit. He stated that it was a restaurant for a long time and that he thought he bought it as a restaurant. He stated that it is fully equipped and is set up as a restaurant and just needs a little touch up and a paint job and is ready to go.

Mr. Fracchia stated that the biggest question is the septic on the site. Mr. Lulgjuraj stated that, according to his knowledge, he does not think there is a problem with the septic. He noted that there was a problem for the residential building next door, but not for the restaurant. He stated that it is equipped for a restaurant. Mr. Fracchia recommended that Mr. Lulgjuraj talk with Gordon Daly Sanitation in Pleasant Valley – that Daly has done work on that site. Mr. Labriola recalled some history of problems with the septic on that site. Mr. Fracchia advised Mr. Lulgjuraj to check with Daly to make sure that the septic is adequate for the restaurant use. Mr. Lulgjuraj stated that if there is a problem he will correct it.

Mr. Setaro advised the applicant to, first, go see the Dutchess County Health Department. He noted that he will need to have a food service permit, and in order to have that permit, the Health Department will check with the sanitary engineers to make sure that the site has adequate water and sewer. Also, he stated that if there were some documented

problems on the site, then the County would advise the applicant on what needs to be fixed. Mr. Setaro stated that the applicant might as well go to the Health Department now and not expend dollars and time on a project that may have some major problems.

Mr. Labriola suggested that the Planning Board, in its referral to the ZBA, would ask the ZBA to ensure that there is sufficient water quality and quantity and sufficient septic to handle this use – a prerequisite for the ZBA to make its decision on the use.

Ms. Bramson stated that she drove by the site and that it has been vacant for a long time and is looking bad. She stated that she would like to see something in there and the site cleaned up. Mr. Labriola concurred and stated that if the ZBA grants the Use Variance, it will come back to the Planning Board for a full site plan review. He explained that the Planning Board will want to understand parking, lighting, landscaping, and any upgrades the applicant plans to do on the outside of the building. He explained that the Planning Board always looks, when applicants apply to re-establish a business, for an opportunity to rehabilitate the site, especially ones that have been abandoned for a number of years.

Mr. Labriola asked how much parking is available on the site and whether there is adequate parking on the restaurant parcel to handle the expected crowds. Mr. Lulgjuraj stated that there should be and that he does not know exactly how many parking spots there are on the site. Mr. Labriola advised him that he could calculate how many spots he could get on the site. Also, he noted that there will need to be a handicapped spot that is paved and lined with the appropriate signage. He stated that also as a condition of ZBA approval, the Planning Board will ask that the ZBA be comfortable that the site has the right amount of parking to handle the number of seats or the square footage.

Mr. Labriola advised the applicant that he needs to go to the ZBA with accurate information about how much parking is possible on the site and that he has reviewed the Code and can assure the ZBA that there will be adequate parking per the Code. Further, Mr. Labriola advised the applicant to go to the ZBA after meeting with the Health Department and with the assurance from the Health Department that the site has adequate water and septic to support the use as a restaurant. He stated that this will make the ZBA's job a lot easier.

Mr. Lulgjuraj stated that he cannot get Health Department permits until he has the approval from Town Hall that he can use it as a restaurant. He stated that he has had restaurants for the past 25 years and he knows the process. Mr. Setaro, again, advised the applicant to check these things out before he spends time and money. Mr. Lulgjuraj stated that the Board can leave the Health Department up to him, that he can handle the Health Department and has handled it for the residential units next door that were shut down. Mr. Labriola assured Mr. Lulgjuraj that the Board does not think he can't handle it, rather the message is that the Planning Board needs documentation from the Department of Health that states that they have assessed the situation and all is OK. He stated that the Planning Board expects this from every applicant. He also suggested that the ZBA will ask him for that information, as well, and that without that information the ZBA would not be able to grant the Use Variance.

Mr. Lulgjuraj asked for clarification of what is needed from the Health Department – that the permits usually come after approval for a restaurant. Mr. Setaro stated that he should get a letter from the Health Department that says that it was a restaurant before and evaluates the kind of system that exists and states that they would be amenable to issuing a permit. Mr. Setaro suggested, alternatively, that the Health Department may discover some major issues that would prevent the site from being used as a restaurant. He stated that the ZBA would look for some assurance from the Health Department that the site can be used as a restaurant and approved by the Health Department. Mr. Setaro pointed out that the applicant may decide that based on the Health Department's evaluation it is not worth his time or money to upgrade the system in order to open a restaurant on the site.

Mr. Setaro also pointed out that it is a very small site and that there is a stream that runs behind the property and affects the septic and the well. He noted that it is a very tight site even though it has operated as a restaurant in the past. He wondered how long it has been closed. Board members suggested that it has been closed for more than 5 years. Also, Mr. Setaro wondered if the Health Department's regulations have changed such that it could not be operated as a restaurant and advised Mr. Lulgjuraj to check with the Health Department to discover what steps he would have to take and if it would be economically feasible to open it as a restaurant. Mr. Lulgjuraj stated that he will check it out but that his issue was not with the Health Department but was with Town Hall.

Mr. Nelson stated that the Town Code p. 123 states that the design and layout of such systems must be approved by the Department of Health prior to site plan approval. Again, Mr. Nelson advised the applicant that there must be some level – probably a fairly high level of approval – from the Health Department before the site plan review can be concluded.

Mr. Karis stated that the process is not meant to work sequentially, but rather is meant to work in parallel. He stated that the applicant will need to push through on a lot of fronts – the Town and the Health Department and the design – all at the same time to make this happen. Otherwise, he noted that the applicant will be before the Board for a very long time.

Board members assured Mr. Lulgjuraj that they would like to see the site rehabilitated and reopened. Members discussed giving this appeal a positive recommendation to the ZBA. Mr. Karis stated that from a use perspective – a Use Variance, which is an extremely difficult process to meet those criteria – he does not mind there being a restaurant on that site and having the site cleaned up. He noted that there are a lot of issues that will need to be taken care of because it is a dilapidated site – and not just the building – but also the site. He noted that the Department of Transportation will have input on the access points to the site. He stated that the entire site is within 100' of the watercourse in the back and he will need a wetland permit.

Mr. Lulgjuraj stated that he has dealt with the Health Department on the adjacent residential units – that he knows the system. He stated that he did the new water system for the 24 units that had been shut down by the Health Department.

Mr. Labriola asked if this is a shared water and septic system with the adjacent residential units. Mr. Lulgjuraj stated that he could have made it as a shared system but that he chose not to do so. He stated that the wells and septic systems are separate on the two properties.

Strictly from a use perspective and notwithstanding the water and sanitation question, Mr. Karis stated that he does not have a real objection to it reopening as a restaurant. Board members agreed. Mr. Karis noted that it will go through site plan review and that there will be a lot of requirements that have to be met.

Mr. Labriola: **POSITIVE REFERRAL TO ZBA WITH CONSIDERATIONS**

**Motion to pass this appeal along to the ZBA with a positive recommendation and ask that the ZBA pay particular attention to:**

- That there is sufficient water quality and quantity to support the proposed use
- That the septic system can handle the proposed use
- That there is sufficient area for the 100% expansion area of the SDS system

The Planning Board also asks that the ZBA ensure that there is adequate parking, including handicapped parking, and that there is some documentation from the NYS Department of Transportation that the DOT is OK with the access point. The Planning Board also requires that, if the ZBA grants the Use Variance, it is mandatory that this applicant come back before the Planning Board for a full site plan review where the Planning Board will look at landscaping, parking, external upgrades to the site, lighting, handicapped access, etc.

**SECONDED BY K. BRAMSON**

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

Mr. Labriola explained to the applicant that the Planning Board's recommendation goes to the ZBA and that the ZBA will use that in their review of his appeal. He stated that if the ZBA grants the Use Variance, he must come back to the Planning Board for a full site plan review.

2. **APPEAL #950 – BJORK – AREA VARIANCE**

3. **APPEAL #951 – BJORK – AREA VARIANCE**

**Grid #6363-04-543092**

**Location: 15 McGill Road**

Mr. Labriola stated that these are two appeals to the ZBA regarding a structure that pre-dates zoning:

- **#950:** area variance from Zoning Code for an addition, which has already been built without a Building Permit, and exceeds the permitted 50% increase on the existing structure

- #951: area variance from Town Code – variance from the requirement that the existing dwelling be made flood proof

Mr. Wade Silkworth, engineer for the applicant, and owner/applicant Mr. Doug Bjork were both present. Mr. Silkworth stated that the site is 1.1 acre located on McGill Road. He stated that the site extends from a small frontage on Route 44 and that the rear of the property borders on Wappingers Creek.

Mr. Silkworth stated that the existing home is 657 sq. ft. and was constructed before zoning. He stated that the addition was constructed without a building permit. He explained that Mr. Bjork would like to remedy the situation and have the proper permits in hand to continue construction.

Mr. Silkworth stated that Appeal #950 is from Section 98-57 to expand over 50%. He stated that the construction of this addition will have no negative effects on the neighborhood – the surrounding homes are all larger size. He stated that the existing home – 657 sq. ft. – is one bedroom – a cottage-like home. He stated that the addition will be located in the rear of the home, extending towards the Wappingers Creek.

Mr. Labriola asked for clarification – the addition “will be” or “is” constructed. Mr. Silkworth responded – the addition is partially through construction - “is” at this point. He stated that the total area of the house after the addition is 1188 sq. ft., which is still fairly small by today’s standards. He stated that the 1974 PV Zoning Code did require properties in that zoning district to have a minimum of 1000 sq. ft.

Mr. Silkworth explained that the addition is simply upgrading the home to make it more livable space for the applicant.

Mr. Silkworth stated that Appeal #951 is for a variance from Town Code 50-17 – Flood Damage Prevention – Residential Structures. He stated that this section of the Code states that homes with a first floor elevation constructed below the base flood elevation in the flood plain have to be flood-proofed. He stated that they have submitted plans for flood-proofing of the addition to upgrade that portion to be properly flood-proofed. He explained that the reason that was constructed below the base flood elevation was that the existing home existed in that location at that elevation and the first floor was extended outward to make a smooth transition into the addition for the home.

Mr. Silkworth stated that Appeal #951 is requesting a variance not to flood proof the existing portion of the home because it is an older house, was constructed prior to 1950, has been there and has sustained flooding thus far. He stated that to bring it up to today’s current standards with flood-proofing would mean rebuilding the better part of the structure.

Mr. Labriola asked if there is a stamped set of architectural drawings for this addition. Mr. Silkworth responded yes, that they were submitted with the package for these appeals. He also stated that Mr. Bjork had the architect’s plans done for the addition

without flood-proofing measures and then Mr. Bjork hired him after the fact. He stated that he has also submitted his engineer's plan for the upgrades that need to be done for flood-proofing the addition.

Mr. Labriola asked if there are additional bedrooms in the addition. Mr. Silkworth responded no – that it will still remain a one bedroom home.

Mr. Labriola asked how much has already been constructed and what level of inspection could happen at this point. Mr. Silkworth stated that the framing is done, the roof is done, the insulation is done, a better portion of the sheet rock in the interior is completed however not taped or finished. Mr. Labriola stated that it would be interesting trying to inspect plumbing or electrical at this point without tearing stuff down. Mr. Silkworth agreed.

Ms. Bramson stated that she read through the information on what must be done to flood-proof and asked how that will be accomplished – whether things will have to be taken down and exchanged for other materials. Mr. Silkworth stated that many of the materials that have been used are flood-proofing materials. He stated that the house exists on piers – all of the wood structural components underneath are already pressure treated, which is what's required. He stated that some of the interior finishes will have to be changed, such as the sheet rock. He stated that the applicant used a closed-cell blown insulation, which is required. He stated that the work will be minimal to bring it up to flood-proofing standards. He stated that the biggest portion of the flood-proofing will be to install the Smart Vent Flood Vents near the floor of the structure to allow the water to flow in and out. He stated that the wet flood-proofing proposed for this kind of structure is designed to minimize the damage that occurs during a flood. He stated that most of the materials that were used thus far met the flood-proofing standards.

Ms. Bramson asked if Mr. Bjork lived in Pleasant Valley during the flood and asked what kind of damage he had then. Mr. Bjork stated that he did not own the house at that point, that the house belonged to his uncle for 30 years. He stated that 3 ½ years ago he came to Pleasant Valley to start to take care of his uncle's estate and loved the area and that he and his wife have decided to retire here. He explained that when everything got finalized, the house was still in his uncle's name when the flood happened even though he was taking care of it. He stated that the reasons why he started this construction was that he had to clean out the basement because it got flooded. He explained that the back of the house had a rear entrance garage door where the flood accessed the entire basement. He stated that he started out by closing up the basement door – removing it – and eliminating the flood coming into the basement that way. He stated that he got a little carried away and it turned out that he went a little far. He stated that he realized now that he should have done things differently and he wishes that he would have. He stated that at this point he's trying to do everything he can to have a house that he can live with.

Ms. Bramson asked if the water came to the first floor. Mr. Bjork responded no – that it was about 40+” in the basement. He stated that he was not here when it happened but



that he could see the marks on the walls – that the flood picked up everything in the basement and threw it all over the place.

Mr. Labriola asked Mr. Bjork whether it ever occurred to him to get a building permit. Mr. Bjork stated that he got carried away and that he did not really think about it at the time. He stated that he was trying to eliminate the problem that he had, then, and that he did not think too much about it at the time. He admitted that he did not think of getting a building permit.

Mr. Bjork stated that he understands and reiterated that at this point he would have done it totally differently. He stated that at the time he did not realize all the problems he would run into.

Mr. Setaro asked if Mr. Bjork did the work himself or whether he used a contractor. Mr. Bjork stated that he did the work himself.

Dr. Fischer asked if, any other floods over the 30 years, whether the water ever got into the home. Mr. Bjork stated that he heard from one of his neighbors that in the 1950's there was a flood that did some damage. He stated that he did not notice any damage inside the house, itself, when he opened up the walls. Dr. Fischer stated that he thinks the most recent flood did not come up nearly as high as it has in the past.

Dr. Fischer asked how high off the ground the addition is and whether there's crawl space underneath. Mr. Bjork stated that it is a full basement. Mr. Silkworth pointed out the structure on the map – the existing house and the addition. He stated that the addition is on pylons, but the original house was not built on pylons.

Mr. Fracchia asked what it would take to flood-proof the old part of the structure. Mr. Silkworth explained that it requires the installation of louvers in the side to let the water flow in and out, it would require quite a bit of excavation or open it back up to allow the water to flow because now it is an enclosed space. He explained that now when the water does get in, the applicant will have to pump the water out. He stated that the effort is to minimize damage.

Mr. Karis asked whether flood-proofing prevents water from getting in or allows the water to flow through and to get out. Mr. Silkworth stated that it is to allow the water to flow through and get out. Mr. Karis asked how they can flood-proof the new part and not affect the old part. Mr. Silkworth stated that the water will flow into the structure and it will not be possible to stop the water from accessing the old portion the house. He stated that they are trying to avoid having to redo the old portion of the house – to avoid having to replace all the materials. He stated that the house was not originally constructed with all pressure-treated wood or the proper insulation or sheet rock to meet all the guidelines.

Mr. Fracchia stated that they could mitigate that with a pump. Mr. Silkworth responded yes. Mr. Bjork stated that he already moved the existing heating system into the attic because the basement was flooded. Mr. Fracchia asked if the electric has also been

moved. Mr. Bjork stated that it has not yet been moved – that it is his next plan. He stated that he wants to get everything out of the basement that could get damaged.

Mr. Labriola suggested that the Board address each of the Appeals individually. He stated that Appeal #950 is an appeal for a variance from 50% expansion. He stated that he is looking at it from a planning perspective. Mr. Karis noted that a 1000 sq. ft. house is not big. Mr. Labriola stated that it seems to be in concert with homes in the neighborhood. Ms. Seaman stated that the purpose of the 50% expansion limitation is to try to avoid non-conforming uses that, already, have an impact on the neighborhood from having a greater impact, which is not the case with this appeal.

Further, Ms. Seaman stated that the Planning Board should state very clearly on the record that the Board is considering this as though the addition had not been constructed. She stated that the Board does not want to set a precedent that it is ok to appeal for a variance after the fact. She stated that from her standpoint it is possible to make a positive recommendation if considering this project as still being on the drawing board and not existing and from the consideration of the public policy of non-conforming uses – that it does not impact the neighborhood and, in fact, is probably an improvement for a single family home.

Mr. Labriola: **POSITIVE REFERRAL TO ZBA – APPEAL #950**

**Motion to pass Appeal #950 to the ZBA with a positive recommendation. The Planning Board makes this recommendation based on the feeling that this will not have a negative impact on adjacent property owners and that the Board is assessing this appeal as if the expansion had not already occurred.**

**SECONDED BY R. FRACCHIA**

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

Mr. Labriola stated that the second appeal, #951, is a variance from the requirement to flood-proof the existing home. He stated that his inclination is to have the house flood-proofed and noted that if the applicant had gone through the process of getting a building permit prior to construction he may have decided to do nothing at all to the existing home. Mr. Labriola noted the other pertinent factor, which is that it is an existing building that has been on the site and has sustained and survived previous flood damage.

Mr. Bjork mentioned that as part of the flood-proofing for the addition they are putting enough vents in to cover the entire 1200 sq. ft. Also, he stated that since the building is all on the same level, it will all flood together. Mr. Labriola asked for clarification of what flood-proofing he is planning to do on the pre-existing portion of the house. Mr. Silkworth explained that the vents are designed to take into consideration the entire square footage. Mr. Labriola asked if there will be any vents on the old foundation or is all the venting in the new addition. Mr. Silkworth stated that all the venting will happen in the new addition.



Mr. Silkworth explained that the variance is from the requirement to change out all of the materials that the original house was built with to conform to today's flood-proofing standards. He stated that the fact is that this was an existing home, it has sustained damage; and whether the addition was added or not, this house would be there in the flood plain. He also stated that Mr. Bjork has flood insurance to cover that damage.

Mr. Silkworth also explained that there is no possibility that the new addition would stand but the old portion of the house would be swept away in a flood because the vents cover the entire square footage and there will be equal pressurization when the flood comes up. He stated that the structural stability of the house is not the issue as much as the damage that will occur after the flood waters recede.

Dr. Fischer asked what type of insulation is in the old portion of the house. Mr. Bjork stated that he gutted the old portion of the house and replaced the insulation.

Mr. Karis asked about the pump that will go in the basement. Mr. Silkworth stated that the sump pump will pump out the waters after the flood as receded. Mr. Karis asked if the applicant gets ground water in the basement now. Mr. Bjork stated that it is damp but not wet.

Dr. Fischer stated that the sump pump will need to be larger than they think in order to keep up with the flood. Mr. Silkworth explained that the pump is not meant to keep up with the flood, but rather to remove the water after the flood has receded.

Ms. Bramson asked if the applicant gutted the existing structure. Mr. Karis stated that it looks like there was a whole new floor plan that incorporates the old house into the new structure. Mr. Silkworth described the changes to the old house and that some of the materials were upgraded, but not all.

Dr. Fischer asked where the pitch is to the house – whether it is towards the front or back. Mr. Silkworth stated that he does not know. Mr. Bjork stated that the old house had sunk a little bit in the middle and that now it is fairly level now.

Mr. Labriola asked if there is a shared driveway on this property. Mr. Silkworth stated that he has to check the survey. He stated that he thinks that McGill Road used to be a right-of-way. Board members reviewed the map. Mr. Karis noted that the applicant's property has a 10' flag out to Route 44. Mr. Labriola asked who owns the property of McGill Road. Mr. Bjork stated that they do not know, that the person who may have subdivided the land originally never deeded the property to anybody. He stated that his surveyor could not find out. Mr. Labriola asked if there is a driveway maintenance agreement. Mr. Bjork responded no.

Mr. Nelson recommended that the applicant do an abstract of title to discover whether the property has a deeded right-of-way and that there is an obligation on behalf of the people who use it to keep it open. He noted that there are safety concerns regarding access of emergency vehicles. Mr. Bjork stated that there is a drain that runs from Route 44 to the

Creek through his back property that is a right-of-way for the DOT. Mr. Nelson stated that the Town has to make sure that emergency vehicles can get in and out and it is necessary to make sure that there is a maintenance agreement and an easement. He suggested that the Board ask the applicant to do whatever search of the title appropriate to discover whether there is a deeded right-of-way and whether there are obligations in that right-of-way that require that people keep the access open. Mr. Karis pointed out that there is a note on the survey that states that the survey was done without the benefit of an up-to-date abstract. Mr. Labriola stated that this should be made as one of the conditions of referral to the ZBA. Mr. Silkworth doubted that there is anything in writing and noted that the person who owns the end of the property is the one who maintains the road. He stated that he does not know if there is anything in writing that obligates him to do that. Mr. Karis suggested that the applicant's surveyor, Brian Franks, could find the necessary documents.

Mr. Labriola read into the record the letter from the Fire Advisory Board dated 1/6/2010: no position as this is uniquely a matter for the ZBA.

Mr. Labriola asked the Board's thoughts on referral to ZBA for this variance. Ms. Sticker stated that it is remarkable that, although the original structure is at 193' elevation and the Town Code requires 198' – the original builder did a pretty good job.

Mr. Labriola: **POSITIVE REFERRAL TO ZBA WITH CONSIDERATIONS - #951**  
**Motion to pass Appeal #951 to the ZBA with a position recommendation.**  
**The rationale for this is that it is an existing home; if the addition had never been built, the existing home would still be there and still subject to flood conditions. The Planning Board asks that the ZBA consider the following before it makes any final decisions on Appeal #950 and #951:**

- **that the ZBA is comfortable that for the flag area of the property that provides access to the home there is a title search done and that there is a deeded right-of-way that provides access to the site and that there are the necessary provisions for ongoing maintenance so that emergency vehicles can access the property**
- **that the ZBA consider passing along a recommendation to the Town Board that the appropriate fines be levied against the applicant**

**SECONDED BY R. SEAMAN**

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

**4. HOMELAND TOWERS, LLC – SITE PLAN**  
**Grid #6565-03-131274**  
**22 Camp Nooteeming Road, Pleasant Valley, NY 12569**

Mr. Robert Gaudio, Snyder & Snyder, was present on behalf of Homeland Towers.

Mr. Labriola stated that this was on the agenda in December 2009 and asked Mr. Gaudio to update the Board on this application.

Mr. Gaudioso stated that there were 3 key issues identified last month. The first was a referral to the FAB, which has happened. He stated that he does not see a problem with meeting the FAB's recommendations. The second was a recommendation on a removal bond. He stated that the Code requires that the applicant come to an agreement with the Town Board, as a condition of approval, to have an agreement to remove the facility in case it is abandoned and a bond in place to secure that agreement. He stated that they have provided a couple of estimates to the Town engineer – starting at \$22,000 – based on his comments it has been raised to \$36,000 that includes a 5% contingency and a 11% adjustment for the area. He stated that \$36,000 is a fairly substantial amount of money to remove a facility, keeping in mind that the Code also requires that every 5 years the amount automatically be increased by the consumer price index.

Mr. Gaudioso stated that the third item was that the Planning Board was leaning toward a design as a tree pole. He stated that they submitted a detailed drawing of that tree pole from the manufacturer. He pointed out that there will be branches at a height of 60' up to approximately 90' and that the tree design will only have to extend 5' above the pole. He stated that they have decided to install all branches with the initial build – in this way all branches will weather and wear more consistently and will look better from day one. He stated that they have tried to do the right thing all through the year-long application process and this is another example of that effort.

Mr. Gaudioso noted that the new Code requires a public hearing and provides a provision for the Planning Board to waive that requirement. He pointed out that there were 2 separate public hearings during the ZBA appeal process and that all the public comments were incorporated into the record. He stated that two of the individuals who spoke during those public hearings are present at this Board meeting tonight and that he would have no objection to them speaking tonight even though this is not an official public hearing. He stated that he thinks the comments have been discussed again and again over the past 12 months since the initial application was filed. He stated that there were 2 separate hearings at the ZBA and this is the second meeting with the Planning Board for site plan but that they also came before this Board for the moratorium waiver and for the SEQRA referral.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that Mike Takacs worked with the applicant's engineer with regard to the performance bond. He noted that, in the event that a town has to remove a tower, it must be done as a municipal bidding project. He stated that any construction project must be done based on prevailing wage rates. He stated that the latest construction estimate was about \$36,000, with which Morris Associates concurred. He stated, however, that that estimate does not cover the cost for the Town to have an engineer produce the plans, put it out for bid, supervise the actual work. Therefore, he stated that the Town should add an additional \$10,000 to the bond to cover preparation of plans, specs, and construction supervision.

Mr. Labriola asked if Mr. Setaro remembers what the performance bonds were for the other cell towers in Town – both on Pine Hill, one a monopole and one a lattice tower.

Mr. Setaro stated that he does not know if Mr. Takacs checked that. Mr. Labriola stated that his recollection is that they were in the same ballpark – the mid-\$40,000.

Mr. Setaro asked about a driveway maintenance agreement. Mr. Gaudioso stated that they have a draft that they will submit to the Mr. Nelson.

Mr. Setaro noted that the Board still needs to see the plans for the colors, type of materials of the proposed building. Mr. Gaudioso submitted a photo of a sample of the stone aggregate of the building. Board members reviewed and approved the sample.

Mr. Setaro stated that the Fire Advisory Board provided comments:

1. applicant be required to maintain the access road to a minimum of 15' wide and cleared to a minimum of 12' high
2. the roadway shall be built in such a way that any culvert or other crossing will support the weight of fire and safety vehicles
3. applicant shall coordinate these conditions with the fire department

Mr. Setaro stated that he has not reviewed the plans to discover whether there are any culvert crossings, and if there are they will have to be looked at by the applicant. Further, he stated that the Board needs to determine how it wants to handle the FAB's recommendations.

Mr. Labriola suggested that the FAB's requirement that the roadway be cleared to a minimum of 12' high is standard but did not know whether 15' width is necessary. Mr. Karis asked how wide the existing dirt road is now. Mr. Gaudioso stated that it is about 12' wide now. He suggested that they will clean up any places that need to be rehabilitated on the road. Mr. Setaro suggested, however, that in order to get the construction vehicles onto the site there will need to be some work done on the road, in any case. Mr. Gaudioso pointed out that they already got a crane up onto the site when they did the balloon test.

Mr. Karis pointed out that the culvert comment is appropriate – to make sure that the roadway is accessible for emergency vehicles. Mr. Gaudioso agreed and stated that this could be a condition of approval. Mr. Setaro stated that the Board needs to decide whether Morris Associates would work together with the applicant's engineers to look at the culverts before the Planning Board Chair signs off on the map. Mr. Labriola stated that that seems reasonable.

Mr. Fracchia asked who will do the snow plowing on the road. Mr. Gaudioso stated that they will have a maintenance agreement for that. Mr. Fracchia asked whether there are any turnouts required by the FAB. Mr. Labriola suggested that there's not much need for a turnout because there's not going to be any traffic.

Mr. Labriola asked about the design of the branches. Mr. Gaudioso pointed out that they are tapered. Mr. Labriola expressed the Board's appreciation to the applicant for their willingness to fully build out the branch design at the time of construction.

Mr. Fracchia asked how long the construction will take. Mr. Gaudioso stated that construction is usually 4-6 weeks depending upon weather but that there are still some steps that are needed in order for them to get a building permit. Mr. Labriola asked if they were planning on getting a building permit. Mr. Gaudioso responded yes!

With regard to the request for a waiver from the required public hearing, Mr. Labriola stated that he recognizes that the ZBA process included a couple of public hearings. He stated that the Planning Board is very interested in what the Town's residents have to say and if there are any residents present at this meeting this evening, he would be happy to set aside the normal protocol and ask for their input tonight. He stated that he agrees that Town residents have had an opportunity to weigh in on this application, but that the Planning Board and the Town never wants to shut down that input. He stated that he would be comfortable opening the meeting to public comments and then waiving the requirement for a public hearing on this application, based on the fact that this would be the 3<sup>rd</sup> opportunity for people in a public forum to comment. Mr. Karis suggested that if the public is permitted to speak this evening that they speak only to the site plan issues and not comment on whether or not this pole should be constructed. Mr. Labriola concurred with this suggestion.

Mr. Labriola: **MOTION TO OPEN PUBLIC COMMENT SESSION**

**MOTION TO SET ASIDE NORMAL PROCEDURE AND OPEN THE MEETING TO THE PUBLIC FOR ANYONE WHO WOULD LIKE TO SPEAK REGARDING THIS APPLICATION. THERE WERE A COUPLE OF PUBLIC HEARINGS HELD WHERE THE SPECIAL USE PERMIT WAS DISCUSSED AND DECIDED UPON – THAT IS A DECISION THAT HAS ALREADY BEEN MADE AND WILL NOT BE DISCUSSED AT THIS MEETING. SITE PLAN IMPLICATIONS ARE BEING DISCUSSED AND DECIDED UPON AT THIS EVENING'S PLANNING BOARD MEETING AND COMMENTS ARE INVITED IN THAT REGARD. MOTION TO OPEN THE PUBLIC COMMENT SESSION**

**SECONDED BY R. SEAMAN**

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

Mr. Kurt Schollmeyer, Salt Point resident, stated that he appreciates all the work that the Town has done on this application especially with regard to the use of the Boy Scout property. He stated that he's a volunteer Scout leader. He stated that he is part of the Hudson Valley Council but not part of their staff. He stated that emergency access to the site is very important and that he has been on the receiving end as a Scout leader waiting for Pleasant Valley Fire Department trying to get up the camp road. He stated that camp roads are usually in very poor shape and that heavy equipment has caused damage over the years. He stated that there are a couple of culverts on that roadway that really need help. He stated that most of it is an open drainage system that needs constant maintenance. He stated that there are areas where there are water breaks and water bars that the camp has not been able to maintain – there has been construction equipment that

has broken down and has not been repaired. Therefore, they are not maintaining the road. He stated that it would be very good to have this agreement to take care of the maintenance of the road in order to have safe access.

Mr. Schollmeyer stated that the 12' width is the minimum width of the paved section of the camp road. He stated that there is also a 3' gutter, which is washed out right now and has not been maintained in a long time. He stated that the main portion of the road is considerably wider. He stated that on any given weekend there could be a Scouting event with several hundred scouts located in that portion of the camp. He stated that many towns require access to be much wider. As an engineer, he often is arguing on the other side to reduce the width. He stated that the camp does not want the road to be any wider than the footprint as it now exists. He also stated that there are usually sufficient areas for pull offs. However, he stated that it is really important that the drainage issue be addressed – that a good firm aggregate base be put in – especially with the construction equipment coming onto the site to build the tower.

Mr. Schollmeyer stated that he appreciates the safety fence that is going around the building and the removal of the steps from the tower and the performance bond in the event of removal.

No one else from the public spoke.

Mr. Labriola: **MOTION TO CLOSE THE PUBLIC COMMENT SESSION**

Mr. Nelson pointed out that under the new Code if the public hearing is going to be waived any referrals from other agencies must be read into the record before the approval of the resolution is completed. Additionally, Mr. Nelson mentioned that the Town may or may not want to be able to enforce the road maintenance agreement and asked the Board whether the applicant would be willing to have the Town be a party to the agreement and be able to enforce that maintenance and clearance obligation. Mr. Labriola asked whether the Town has ever exercised its option to accept that offer. Mr. Setaro recalled that the Town has its antennas on the first Pine Hill tower and may be a party to that maintenance agreement.

Mr. Nelson explained that the way to do this is for Mr. Gaudio to ask his client whether he would agree, if the Town wanted, that the Town could enforce the maintenance agreement. Mr. Gaudio stated that there's a Code provision for a maintenance agreement that is almost automatically a condition of the site plan approval and that he does not know if it is necessary to make that decision tonight – that the agreement be conditioned upon acceptance by the Town Board and the Town attorney. Mr. Nelson stated that that's OK as long as there is an understanding by the applicant and noted that the Town has not been involved in these agreements on other sites but noted that the Town may wish to be in this instance. Mr. Gaudio stated that he's not opposed to it but wishes to discuss this with the applicant.



Mr. Labriola asked for clarification of the requirement to read into the record referring agencies' comments in the event the public hearing is waived. Mr. Nelson read from the Code section 98-79 (E) (2): "If the public hearing is waived, all responses from referrals to reviewing agencies will be read into the record at the final review meeting, before a decision is made." Board and Mr. Nelson concurred that the only reviewing agency was the Fire Advisory Board and that referral to Dutchess County Department of Planning was not required for this site plan review. Mr. Nelson underscored that this section of the Code refers specifically to "formal application to the Planning Board."

Mr. Setaro asked whether a note should be put on the map stating that before a C.O. is granted for the tower the access road be inspected for suitability of access – after all construction is complete to confirm that it has an acceptable sub-base that is passable, that the culverts have been upgraded if necessary, that all the work has been done before a C.O. is issued. Board members agreed. Mr. Gaudioso stated that what is being discussed is the existing footprint of the road and making the necessary repairs to bring it up to a minimum standard and that the suggestion is not being made to put in a new driveway. Board members agreed. Mr. Gaudioso gave, as an example, that the road would be repaired prior to the C.O. if the crane caused some damage during construction. He pointed out that after construction access by the applicant would be limited to a 4-wheel drive pickup truck once a month. Mr. Gaudioso asked if the Town engineer or the building department or the Planning Board engineer would do the inspection. Mr. Labriola and Board suggested that a representative of the Fire Advisory Board and the Planning Board's engineer conduct the inspection.

Mr. Labriola read into the record (original on file) a letter dated 1/7/2010 from the Fire Advisory Board. He noted that this was the only referral letter received from interested agencies.

Mr. Labriola: **MOTION TO CLOSE THE PUBLIC COMMENT SESSION;**  
**SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO WAIVE THE FORMAL PUBLIC HEARING REQUIREMENT – HAVING HEARD COMMENTS FROM THE PUBLIC TONIGHT AND BASED ON THE FACT THAT THERE WERE TWO PUBLIC HEARINGS DURING THE SPECIAL USE PERMITTING PROCESS BY THE ZBA**

**SECONDED BY K. BRAMSON**

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

Discussion of final performance bond amount – final agreement is \$46,000.

Mr. Labriola: **MOTION TO GRANT CONDITIONAL FINAL APPROVAL**  
**(original on file) with following conditions:**

- **Morris Associates comment letter dated 1/8/2010**

- **Payment of all fees**
- **Fire Advisory Board's comments dated 1/7/2010**
- **Before the C.O. is granted, the road will be inspected by the Planning Board engineer and the Fire Advisory Board to ensure that the post-condition of the road meets accessibility requirements and that a note will be added to the plan**

**SECONDED BY R. SEAMAN**

**Discussion:** Mr. Gaudioso stated that the FAB had a strict 15' wide requirement and that the discussion tonight was concluded that the road be maintained to 15' where it is 15' and to 12' where it is 12' and that the applicant will not be required to expand the existing road. Mr. Labriola suggested that as part of the review of the existing road and the culverts, etc., the FAB be involved in that discussion with Morris Associates. Further, he stated that typically there is a note on the drawings regarding clearing the roadway to 12' ft. high and maintaining it to a specific width. Mr. Karis suggested that those improvements be added to the site plan prior to the Chair's signature – if the culvert is being replaced, it must be noted on the plan, for instance – if the corner is being widened it must be noted on the plan. Mr. Gaudioso concurred.

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

**5. GREAT SPRING CREEK MGMT – AMENDED SITE PLAN**  
**Grid #6363-02-634985 & #6363-02-678937**  
**Location: 13-33 Spring Creek Drive**

Mr. Labriola noted that this application was last before the Planning Board in January 2009.

Mr. Bill Povall, engineer for the project, was present. He stated that they have gone through various iterations of different sketches and positioning of the proposed 9-unit residential building at the Spring Creek Apartment complex. He stated that at the last meeting with the Planning Board agreement was reached on the a final sketch plan. Since that meeting, the Town went into the moratorium and he reported that this project has been postponed until the moratorium expired.

Mr. Povall stated that he has met with Mr. Setaro to discuss drainage and he pointed out the features on the map. He stated that the drainage crosses the yard and through a pipe into the NYS wetlands. He stated that they have incorporated a drainage basin in the lower area to mitigate the various storm events. He stated that they propose to incorporate an infiltration basin on the low side of this lot that will capture the runoff from the parking lot and through drainage swales around the building. In this way, he stated that this would return the excess rainwater runoff, which is created by the impervious parking lots, to pre-development levels. Secondly, he stated that they have incorporated an infiltration trench for all the roof drainage. He stated that that was the major engineering change to the sketch plan.

Mr. Povall stated that they have also provided details for the refuse enclosure, grading for the parking lot, grading around the house, trees, etc. He stated that his goal now is to continue the site plan review and initiate the SEQRA review.

Mr. Setaro reviewed the Morris Associates comment letter. He reviewed corrections that are needed on the EAF: soil type, materials removed from site. He mentioned that the parking stall sizes are not to Code. He stated that the plan does not qualify for a full storm water pollution prevention because they are not disturbing an acre. He stated that a lighting plan is needed and some additional sediment and erosion control details. He asked about the retaining wall as part of the storm water management system and mentioned that he would like to talk about putting more of that system underground. Mr. Povall agreed and stated that their goal in designing the pond and basin area was to mitigate the quantity of runoff. Mr. Setaro stated that the concept is good and suggested that instead of a wall create a berm in combination with more underground chambers. Mr. Povall stated that they incorporated the walls to control the volume and to stabilize the slope.

Mr. Setaro reported that they prepared a lead agency resolution to initiate the SEQRA process.

Ms. Seaman mentioned that this property is now in the Medium Density Residential and a variance for density may now be required. Mr. Povall stated that he will check the calculations on density and noted that they have almost 28 acres. Mr. Nelson will research limitations on expansion.

Mr. Labriola asked about the applicant's intention to "dissolve the property line" and asked if a lot line realignment is required. Mr. Povall explained that they own both properties and that they will combine the two parcels into one. Mr. Nelson stated that a deed to merge the parcels will be required.

Mr. Labriola stated that elevations will be required for circulation to the County Planning. Mr. Povall provided black and white copies of an individual unit to the Board. He stated that they will have vinyl siding, will be similar to the existing buildings, will have a shingle roof, and that they haven't decided on the color yet. He stated that the proposed building will be a 2-story unit and that there is no attic. Board members agreed that it looks like a nice building.

Mr. Labriola asked about doing the 239M referral to the County Planning without the lighting plan. Mr. Setaro stated that County needs copies of the site plan, the EAF, the application, and the elevations. He stated that the County may ask for more information on what the building will look like.

Mr. Labriola read into the record a letter from the Fire Advisory Board dated 1/6/2010 (original on file): "extreme concern regarding the proposed parking island in front of the building." Issue is the truck turning radius. Ms. Dickerson reported that the FAB

determined that a fire truck would not be able to drive through the parking lot to the front of the building and would have to park on the road. Mr. Povall will meet with the FAB.

Mr. Labriola stated that the primary SDS straddles the existing driveway and the expansion straddles the road right before the right hand turn into this new building. He asked how repairs would be done in the expansion area if the system were to fail. Mr. Povall explained how it would be done – building the new trench up to the center of the road and keep one lane open with a flag man directing traffic. Mr. Setaro mentioned that the Health Department may have some comments. Mr. Karis pointed out that the whole site is set up that way – that the 100% expansion area of the next septic system on the site is in the middle of the parking and driveways.

Mr. Labriola: **RESOLUTION FOR LEAD AGENCY – SEQRA** (original on file)

**SECONDED BY R. SEAMAN**

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

#### **6. MISCELLANEOUS**

Mr. Labriola expressed the Board's appreciation to Mr. Nelson for providing them with copies of the new Zoning Code. He pointed out that there are procedural differences in the new Code. He stated that new applications for subdivisions and site plan require:

- a conceptual discussion phase and a resource analysis form
- that the Planning Board will have a pre-sketch plan approval meeting with the applicant to provide them with direction prior to starting the serious planning process
- that site plans will now be subject to public hearings

#### **7. MINUTES**

Mr. Labriola: **MOTION TO APPROVE THE MINUTES OF THE 12/8/09 PLANNING BOARD MEETING AS WRITTEN; SECONDED BY L. STICKER; VOTE TAKEN AND APPROVED 6-0-0**

Meeting adjourned 8:30 p.m.

Minutes submitted by:  
Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the January 12, 2010, 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 9, 2010**

A regular meeting of the Pleasant Valley Planning Board took place on February 9, 2010, 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  
                              Rebecca Seaman  
                              Henry Fischer  
                              Kay Bramson  
                              Rob Fracchia  
                              Peter Karis  
                              Michael Gordon  
                              Lynn Sticker, Alternate

Members absent:

Also present:           Jim Nelson, Esq., Planning Board Attorney  
                              Pete Setaro, Planning Board Engineer

**Announcement:** Mr. Labriola announced that Taconic Homes has asked to be removed from the agenda. He noted that the plan for next month is to identify which comments from North Country Ecological Services are (1) not a problem, (2) are something that need to be attended to at site plan, (3) or are a gating issue and the Planning Board cannot adopt the FEIS until they are resolved. Mr. Setaro pointed out that the DEC needs to render a decision on whether it will assume jurisdiction over the wetlands on the site, which will impact the buffers.

1.     **APPEAL #952 - WILLIAMS LUMBER – AREA VARIANCE**  
          **Grid #6564-529886 & 6564-02-507860**  
          **Location: 2424 Route 44**
2.     **APPEAL #953 - WILLIAMS LUMBER – AREA VARIANCE**  
          **Grid #6564-529886 & 6564-02-507860**  
          **Location: 2424 Route 44**

Mr. Labriola stated that Appeal #952 is for an area variance for the front yard setbacks. Also, he explained that Appeal #953 is for an area variance for the maximum square footage of the proposed buildings.

Mr. Larry Boudreau, The Chazen Companies, was present. Ms. Kimberly Williams, Williams Home Center, was present. Mr. Scott Cruikshank, Kirchhoff-Consigli, was present.

Mr. Boudreau stated that they are seeking a positive recommendation from the Planning Board on the two Appeals. He stated that the site is the former Miracle Ford site on Route 44 east of the Taconic Parkway. He stated that the site is currently configured in

two parcels, which will be drawn into one parcel. He stated that the principal use of that one parcel will be a retail home improvement center, which will be located in the existing Miracle Ford Building. He noted that the site is now in the Mixed Commercial zoning district per the new zoning code and that the use does comply with that district.

Mr. Boudreau explained that there are 4 accessory buildings that are labeled A, B, C, and D on the plans. He stated that the building A is enclosed, that buildings B & C are open sheds, and that building D is the security building. He stated that for all the buildings there is over 34,000 sq. ft.

Mr. Boudreau explained the changes to the plan. He stated that they have removed some of the impervious surfaces along the frontage on Route 44 and have added some landscaping in that area. He pointed out changes to the parking plan to make it more efficient.

Mr. Boudreau explained the area variances. Appeal #952 is for a variance from the 30' front setback for the buildings. Mr. Karis asked for clarification on this appeal. Mr. Boudreau explained that the variance is to set the buildings farther back from the road than the Code requires.

Mr. Boudreau explained that Appeal #953 is for a variance from the maximum footprint per non-residential establishment. He explained that the Code limits the maximum footprint to 10,000 sq. ft. and that they are proposing a total of 34,000+ sq. ft. He stated that the existing building is 23,000 sq. ft.

Ms. Seaman provided some insight on the front setback requirements per the new Code. She stated that the maximum 30' was to provide a hamlet feeling and that she would be in favor of this Appeal because this is an existing site and it cannot be retrofitted. Also, she stated that the existing building is much larger than the new Code permits, which also cannot be scaled to hamlet scale. She stated that she strongly supports both Appeals because of those factors.

Mr. Labriola suggested the addition of screenings in front of the buildings A, B, and C. He stated that what the applicant is proposing on the site as far as the setbacks is consistent with the adjacent neighbors – Reardon Briggs and Superior.

Board members agreed with a positive recommendation to the ZBA on both appeals.

Mr. Labriola asked the applicant to provide a site plan application prior to their appearance before the ZBA.

**Appeal #952 – area variance – front setback**

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION FOR EXCEEDING THE MAXIMUM FRONT SETBACKS BASED ON THE FOLLOWING REASONS:**



1. The setbacks in the Code were intended for hamlet centers and this site is not a hamlet center.
2. The existing building is 79' back and the Board is trying to maintain a consistent setback of all of the buildings in the area.
3. Additional landscaping has been proposed to shield the buildings A, B, and C from Route 44.
4. These setbacks are consistent with buildings on adjacent properties.

**SECONDED BY R. SEAMAN**

**Discussion:** Dr. Fischer suggested adding to the above list of reasons the point that it is desirable to set the storage-type buildings farther back on the property.

Mr. Labriola: **AMENDED RESOLUTION:**

5. The buildings A, B, and C are storage buildings that one would typically want to get as far away from the road as possible.

**SECONDED BY R. SEAMAN**

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

Mr. Gordon pointed out that there is no owners name listed on the application forms. Mr. Labriola stated that he will discuss this with Ms. Dickerson, secretary to the Zoning and Planning Boards. Mr. Boudreau reported that Tony Bruce is the property owner – AJOB is the name of the company who owns the property.

**Appeal #953 – Area Variance – building footprint**

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION FOR THE FOLLOWING REASONS:**

1. The 10,000 sq. ft. maximum footprint for non-residential establishment is intended to avoid large, single footprint retail establishments.
2. The existing building currently exceeds the maximum footprint allowed. While there is some small additional square footage being added to the existing building, it is not increasing the size of the footprint.
3. The additional square footage for 3 of the 4 buildings is for storage, not retail.
4. The Planning Board thinks that the proposed use of the property is consistent with the balance of the adjacent properties.
5. The Planning Board thinks that this is a good way to redevelop an existing piece of commercial property.

**SECONDED BY R. SEAMAN**

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

Mr. Karis pointed out that if the applicant is successful with the ZBA, they will have to submit a full site plan for review by the Planning Board.

**3. GASPARRO – SITE PLAN**  
**Grid #13-6363-03-453036 & 447030 & 443019**  
**Location: 1325 Route 44**

Mr. Labriola stated that this is a continuation of site plan review and was last before the Planning Board in November 2009 at which time the Board provided a negative declaration under SEQRA.

Mr. Gasparro pointed out the updates to the plan – fencing, refuse area, additional landscaping, and revised lighting of the parking area. He stated that the Health Department is on board for the sewage treatment system.

Mr. Setaro reviewed the Morris Associates comment letter. He mentioned a letter from the Dutchess County Department of Planning that mentioned a deed restriction. Mr. Gasparro stated that he had provided a letter regarding this.

Mr. Setaro asked if the Planning Board had reviewed the landscaping plan. Mr. Karis stated that it's a nice building but that the landscaping does not complement it. He stated that some of the selections are going to be decimated by deer, especially the arbor vitae. He suggested that the applicant talk with someone at a nursery, look at the building elevations, and add some small flowers or trees – something that is going to complement the look of the building. He stated that there is some room for improvement on the landscaping plan.

Mr. Setaro referenced the light poles in the parking area and suggested a reconfiguration of the parking and the lighting.

Board members and Mr. Gasparro discussed the dumpster location. Mr. Karis suggested moving the dumpster closer to the building. Mr. Gasparro agreed.

Mr. Setaro and Board discussed the storm water drainage. Mr. Karis suggested a reconfiguration of the drainage. Mr. Setaro will talk with Bruce Donegan, Storm Water Management Officer, and Walter Artus, coordinator of the Town's MS4 plan.

Mr. Karis commented on the grading of the parking lot – it is creating a hole in the elbow of the building and there's a basin there. He stated that it is not the best practice and asked if there is a way to eliminate that basin and make the water sheet out of there. Mr. Setaro asked if the septic is in that area. Mr. Gasparro pointed out the location of the septic. Mr. Karis asked that the applicant take a close look at the grading. He stated that he fears that the basin will clog up over time and create a pond in front of the building.

Mr. Labriola asked about colors for the building. Mr. Gasparro stated that he will resubmit them. Mr. Labriola asked about doors on the east elevation. Mr. Gasparro stated that they are emergency exits. Mr. Labriola asked if a concrete slab in front of the doors will be needed and expressed the concern that in the winter with snow the doors

won't open. Mr. Gasparro stated that he will install the slabs so that the snow can be removed and the emergency exit will open.

Mr. Labriola pointed out the parking spaces in the north corner of the parking lot – that those spaces start to encroach into the existing tree and shrub line. He stated that he's concerned about the potential for plowing snow into the tree line and eventually deteriorate the barrier. Mr. Gasparro stated that everything that they left there were pricklers – he stated that they have room to cut that back an additional 5' – 6'.

Mr. Labriola mentioned that a letter from Central Hudson is needed that confirms that they will remove the utility pole that is located in the access lane. Mr. Gasparro stated that they have designed around that pole.

Mr. Labriola mentioned that a letter from Dutchess County Department of Planning commented that the maximum building square footage in the HDR zone is 4,000 sq. ft. and that in this new zone (HDR) office is not an allowed use. He reported that he and Mr. Nelson have had a couple of conversations with Scott Volkman, Ed Feldweg – trying to understand if this is a problem or not under the new Code. He reported that Scott is still doing some investigation and has not reached a decision yet on what he thinks the Code is saying and has not made a recommendation to Bruce Donegan, Zoning Administrator. He stated that the Planning Board will address this next month but emphasized that this is something that is on the table that could dramatically affect this project.

Mr. Labriola stated that in the interest of moving this application forward, Mr. Gasparro has done a really good job in responding to the Board's comments over the past few months.

Mr. Labriola authorized Mr. Gasparro to advertise for the Public Hearing at the March 2010 Planning Board meeting. He did point out that this will be dependent on the decision regarding the use in the zone and the square footage of the building.

**4. 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 Steven Burns, Barger & Miller, were present.

Mr. Burns reported that they met with Morris Associates regarding final details on the bridge, they satisfied the FAB's request that the bridge will support a fully loaded fire tanker. He stated that there are a couple of stages for the erosion and sediment control plan. He stated that they have put some notes on the map with the construction sequence on the first sheet detailing that the driveway will be built in 100' sections and portioned off for silt fencing. He stated that they will work down the hill in stages, the swales that everything will drain into will be rip rapped, so there won't be any erosion that will take place. He pointed out a culvert pipe that crosses the driveway and discharges to the stream. He stated that the limit of the disturbance line has been added.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that most of the previous comments have been taken care of. He explained that the Fire Advisory Board had asked for specific bridge capacity and that he forwarded the calculations to one of Morris Associates' structural engineers for review. He asked for guidance from Mr. Nelson on how to proceed on structural approval of the bridge by Morris Associates and by the Planning Board.

Mr. Karis stated that the Board has not talked about mitigation. He referenced the Lictro Wetlands application – that applicant was required to put markers in the field to prevent clearing and disturbance beyond the approved limits of the wetlands permit. He stated that he recalls it was a split rail fence to keep that development contained. He stated that he thinks this is an appropriate thing to request on this application, as well. He stated that it's going to notify everyone currently and in the future that these need to be maintained intact – some kind of marker in the field where you should not go beyond. Mr. Labriola asked where Mr. Karis is thinking that delineation should be. Mr. Karis stated that work is being done above a severe slope above the stream – on the west side of the driveway near the house where there is a steep slope. He stated that there is a limit of disturbance line shown on the plan. He suggested some kind of a fence along that general line – something in the field to mark and give people a point of reference. Mr. Labriola asked if Mr. Karis is only concerned about the west side. Mr. Karis responded no. Mr. Burns pointed out areas where a fence would be needed. Mr. Karis stated that it needs to make sense with the development of the site and that there needs to be something in the field that will prevent clearing and disturbance into the buffer beyond what is approved.

Mr. Labriola asked whether, instead of a fence, signs could be put on the property to identify the boundary. Mr. Karis suggested that the applicant should make a proposal. And he pointed out that it will prevent future owners of the property from developing further into the wetland. Mr. Gordon asked if this could be handled in a deed restriction. Mr. Karis stated that there should be some reference in the approval documents. Mr. Gordon stated that deed restrictions were used at Fox Run.

Mr. Joyce stated that he would not want any permanent markers on the property. Mr. Burns stated that there are a number of ways to delineate a boundary – boulder, fence, anything that marks the boundary of the buffer. Ms. Seaman suggested that it is something that can be referenced in a deed. Mr. Labriola recalled that at Avalon Hills they put a stone wall by the pond and at the mobile home park they put a split rail fence. Mr. Karis stated that he's sensitive to not asking for the world but noted that in the past the Planning Board has requested a demarcation in the field that can be pointed to. Mr. Labriola asked the applicants to propose some kind of visual reminder of the boundary of the buffer. He stated that there should also be notes on the map and something in the deed that identifies the area that will be protected and not cleared. He noted that this is consistent with what the Planning Board has done on other projects.

Mr. Karis asked about the bypass pipe that goes under the driveway to a rip rapped apron – that the apron looks like it's about 8' above the elevation of the stream. He asked

whether the apron should continue down to the stream edge to prevent erosion on that 8'. Mr. Setaro stated that they would look at it.

Mr. Setaro asked Mr. Nelson for guidance on how involved Morris Associates and the Planning Board should get on the design of the bridge. He pointed out that this is a private project that will not be taken over by the Town and that the applicant's engineer will be putting their P.E. seal on the bridge. He stated that Mr. Labriola had asked him to take a cursory look at the bridge calculations. He stated that, if Morris Associates were to approve the bridge, then they would have to spend a significant amount of time looking at it. He asked how far the Town would go in the approval process – if the Town is approving the bridge does it mean that the Town is approving the 9 specifications for the bridge and asked about the liability for that. Mr. Burns pointed out that the application is for a Wetlands Permit not for a Town road. Mr. Setaro expressed concern that the Town wants to make sure that the bridge is safe.

Mr. Labriola stated that another way of looking at this question is whether, for a bridge that has a P.E. stamp on it, the Planning Board accepts that as confirmation of its ability to support the weight of a fully loaded fire truck – is that as far as the Board needs to go.

Mr. Nelson stated that he would not give an opinion regarding liability at this meeting, but that in general he thinks that it is up to Mr. Burns to do the calculations and make the Planning Board's engineer comfortable that the calculations have been done correctly so that the Board can accept and grant the permit. Board and Mr. Setaro discussed the extent of review of the bridge that Morris Associates must do. Dr. Fischer asked what happens 10 years in the future – are there periodic reviews that are done on the bridge. Mr. Setaro stated that his structural engineer stated that because of the length of the bridge it may have a NYS DOT bridge number on it. He stated that he needs to talk with the applicant about this.

Dr. Fischer asked what the expected engineering life span is of the treated lumber that will be used. Mr. Burns stated that, typically, pressure treated lumber will last at least 30 years if it is not buried or in direct contact with soil. He pointed out that the bridge has a slope and that it does drain away – it will not be wet all the time and is way above the water level. Dr. Fischer stated that his fear is that the bridge would last forever for a car but some years later there is a 70,000 lbs. vehicle that needs to go over the bridge. He noted that there will be private cars that will use the bridge and possibly commercial vehicles also. Mr. Burns noted that there will be oil trucks and other trucks that will go across that bridge. Dr. Fischer pointed out that there is that point where the last straw breaks – that it does not break with the lighter vehicle but breaks with the heavier vehicle. He asked who checks on things. Board members concurred that the same question pertains to culverts, corrugated metal pipes under driveways, or concrete decks. Mr. Setaro stated that if it is not going to be a NYS DOT regulated bridge then it is up to the homeowner. He pointed out that there are factors of safety built into all engineering calculations. Mr. Labriola stated that there is also reasonable expectation that the property owner will do normal maintenance on the driveway and the bridge. Mr. Setaro

pointed out that any problems with the bridge will be major. Mr. Gordon suggested that the real test will come when he applies for home insurance.

Mr. Nelson pointed out that any advice that Mr. Setaro gives is given only to the Planning Board and not to the applicant or his engineer – that Mr. Setaro's and Morris Associates' function is to advise the Planning Board.

Mr. Labriola stated that the application for Regulated Activities in a Wetland requires a Public Hearing and authorized the applicant to advertise for a Public Hearing at the March Planning Board meeting.

## **5. MISCELLANEOUS**

Resource Maps: Ms. Seaman reported on a meeting that she and Mr. Fracchia had with Lindsay Carille from DC Planning, Helen Dickerson – Zoning & Planning, and Lynnette Macina – Building. She stated that the new Code requires the applicants to provide resource maps for the Resource Analysis and Concept Plan. She displayed several maps to the Board members that show steep slopes, wetlands and buffers, and soils. She stated that the scale that is specified in the Code is really small – too small for the purpose of placing houses and resources in appropriate locations.

Ms. Seaman asked Mr. Nelson whether the Planning Board can promulgate its own request for larger scale maps or does it have to go back before the Town Board to amend the Code.

Ms. Seaman discussed the scale that is functional for different uses.

Ms. Seaman stated that they asked DC Planning to put a legend on the map that helps in the determination of the lot count. She stated that this is just a guideline – that any developer has to do this calculation themselves – flag the buffer zones, calculate the steep slopes and remove those from the lot count. She stated that this allows the Board to get a start because that's the whole point of the Resource Analysis meeting – to keep the discussion in the right direction.

Mr. Labriola asked why the developer and County wouldn't end up with the same answer. Ms. Seaman explained that the County works off of maps that may not be as accurate as what the developer works with. Mr. Karis stated that the County works off of GIS information whereas the developer would be working off the detailed topographic survey. He stated that GIS data is general information and that detailed topographic surveys are much more detailed. Ms. Seaman stated that if the Planning Board allows the County to provide these maps, it gives the Board a general idea of the resource analysis without the developer having to go to that depth at that stage. Mr. Karis stated that the GIS maps are good at looking at broad relationships.

Mr. Labriola asked about the value of the County input given that the maps are less specific, which could result in unnecessary discord at the outset of the process. Ms. Seaman concurred that it can be misleading – and the question becomes whether the



general information provided by these maps would be helpful or just too misleading to be useful.

Mr. Karis stated that, in his experience of providing these resource maps to towns, he would do a resource analysis of the property on the specific survey to come up with the calculations – that he would not do it off of GIS information. He stated that GIS information will tell you if there is potential for wetlands, where the buffers are, generally the topography, steep slopes and the lay of the land from aerial photographs. He stated that it will not be what a calculation is based on. Mr. Labriola pointed out that it gives the applicant the pick list of what they must report on – steep slopes, where the buffers and wetlands are. He stated that the Planning Board's engineer would look at the applicant's calculations and catch any outstanding differences.

Board members discussed the validity of maps generated from GIS for purposes of the Resource Analysis. Mr. Gordon expressed concern for saving the applicant's money and time on engineering fees for this process. Ms. Seaman stated that the legend takes more work for County and will cost more, also.

Ms. Seaman displayed a map of the nursery and pointed out that the GIS map shows the wetlands and buffer going right through the middle of the property. She stated that in reality the stream comes right down the side of the property. Therefore, she stated that the applicant will point out that the GIS map is inaccurate. But, she stated that at least there is an idea, which is what the Resource Analysis is supposed to be.

Mr. Labriola suggested that GIS is a contextual starting point that provides the lay of the land, but it is not what will be used to do the calculations. Mr. Karis agreed because the difference may be 10 lots instead of 12 lots. Mr. Gordon asked about the fees for the County to provide the maps. Mr. Fracchia stated that it is \$12.50 per page and \$1.50 per additional copy. He pointed out that the problem with the inaccuracies on the GIS maps.

Ms. Seaman explained that the concept of the Resource Analysis meeting was to alert developers to issues before they begin their engineering. She stated that it may be that the GIS map is sufficient because once the site plan process begins the applicant must go out in field and do the field mapping and field work themselves. Mr. Labriola stated that, for the Resource Analysis, it is probably to the applicant's benefit to do a fairly in-depth study, which will reveal issues on the site with steep slopes, wetlands, buffers, etc. He stated that he's not troubled by using the GIS maps as a resource for the big picture.

Ms. Seaman asked whether the Board needs the expanded site map. Mr. Karis stated that it depends on the size of the property. Mr. Labriola stated that getting it bigger will just make the inaccuracies more obvious.

Ms. Teddi Southworth offered that she has been providing these maps to the Board for many years. Board discussed the need to have the County involved at all. Ms. Southworth stated that she cannot provide the legend; Board stated that they don't need that.

Board discussed procedures for printing and e-mailing the maps. Ms. Seaman emphasized that the applicant must do a field study; the fact that the Town provides the resource maps does not exclude them from doing their own wetlands mapping, their own steep slopes mapping. She explained that the purpose of the Resource Analysis and Concept Plan is to provide the applicant the chance to discuss their project before they go to all the expense. However, she stated that the applicant can choose to have a fully engineered resource analysis.

Mr. Karis stated that the Town does not have a responsibility to provide applicants with these maps. Ms. Seaman disagreed and stated that the Town has a responsibility because the Code requires them to do a Resource Analysis and the Board has to have the information. Mr. Karis asked if the Town is required to give the applicant these maps. Ms. Seaman and Mr. Fracchia pointed out that the Code states that the maps are available at Town Hall. Mr. Karis stated that it is – there's a computer with GIS on it. Mr. Labriola stated that if we have the ability to provide these maps – soft copy – to the applicant, that's great; and if they want to go to the next level, then it's up to them. Ms. Southworth stated that they cannot get the wetlands maps. Ms. Seaman stated that when they are calculating the wetlands, they have to do the field work – the Code does not allow them to work off of maps. Mr. Karis stated that when they calculate steep slopes, they have to work off the topography. Ms. Seaman agreed that they have to do the field work. Mr. Labriola stated that if the Town sets the expectation that these GIS maps are contextual and are intended to provide a lay of the land and surrounding areas and understand what resources are available. He stated that the applicant needs to use real maps and real fieldwork to figure out what needs to be subtracted from the bulk area because of steep slopes, buffers, etc.

Board discussed the advantages of having the County's input on these maps, input that would provide additional data to support the Board's calculations. Mr. Karis read from the Code the requirements for submission for Resource Analysis and Concept Plan and where the information is available. Mr. Karis stated that he does not think the Town should be providing any information to the applicants – that it is public information and applicants have a responsibility to do due diligence.

Mr. Labriola stated that he is going to expect Morris Associates to verify that the calculations are reasonable based on the preliminary information that has been provided.

In reference to information being available at Town Hall, Mr. McNair, Supervisor, stated that 4-5 years ago Dutchess County wanted a display in the clerk's office where any citizen can access their lot number and a display of their property. Mr. McNair stated that the Town never chose to install that display terminal. Mr. Karis stated that in other towns there are computer terminals dedicated to public access of such information – East Fishkill, for instance.

Mr. McNair stated that Ms. Southworth could create the maps and print them out, but that is not the process that is referred to in the Code. He stated that he would like to see this Planning Board ask him and the Town Board to provide that terminal.

Mr. Karis stated that he does not think it is the Planning Board's responsibility to provide information to applicants beyond procedure – that it is up to the applicants to provide their own information. He stated that it is clear in the Code where the source of the information is. He stated that he agrees that it should be available to Town Hall as a resource for the public for a fee. Mr. Labriola stated that that approach works for him.

Mr. Gordon stated that he's concerned about the bully who thinks he can bully the Planning Board to get what he wants. Dr. Fischer stated that the Board has to go by the laws in the Code. Mr. Karis advised that this is the first step to identify development questions. Mr. Labriola stated that the purpose is to set expectations for what is feasible on the property. Mr. Karis stated that it is meant to identify resources that are supposed to be protected.

Mr. Labriola summarized that applicants will be directed to access the GIS maps through County as the source data. Mr. Karis suggested that the County is a possible source – not the only source. Ms. Southworth stated that she has the same data that the County has – that she gets it from the County.

Board agreed to rely on Ms. Southworth for these maps and not use Dutchess County Planning and Development.

New Code: Mr. Karis suggested that the Planning Board maintain a running list of issues in the New Code that are unclear or, perhaps, don't work. He stated that after a certain time frame, the Planning Board can then have a conversation with Mr. McNair and the Town Board about where improvements can be made. He stated that the new Code is new to everybody and it's not perfect. He volunteered to keep the running list and invited other Board members to give him ideas about issues with the Code and share them with everybody. He suggested that after about 6 months, or so, the Board can have a conversation about what it's learned about applying this new Code to applicants. Board members agreed.

Meeting adjourned 8:30 p.m.

Minutes submitted by:  
Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the February 9, 2010, 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 9, 2010**

A regular meeting of the Pleasant Valley Planning Board took place on March 9, 2010, 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  
                              Henry Fischer  
                              Rob Fracchia  
                              Peter Karis  
                              Michael Gordon

Members absent:     Lynn Sticker, Alternate  
                              Kay Bramson  
                              Rebecca Seaman

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

**Announcement:** Mr. Labriola announced that the Netherwood Baptist Church sign permit application has been removed from the agenda. He stated that the design of the sign does not meet the new Zoning Code because there were too many words on the sign. Additionally, Mr. Labriola stated that at the end of this meeting the Board will have a brief discussion about the status of Mr. Gasparro's site plan application. And, finally, he stated that the Beckwith Appeal will be discussed at the end of the meeting because the applicants will not be present at this meeting.

**1.     SWANSON – SPECIAL USE PERMIT – AMENDED – APPEAL #955**  
**Grid#6463-01-296827**  
**Location: 1777 Route 44**

Mr. Matt Swanson, owner, Out On a Limb, was present.

Mr. Labriola stated that Mr. Swanson has a Special Use Permit on Route 44 – it was a non-conforming use going to another non-conforming use. Mr. Swanson had informed the Planning Board that he was thinking that, because of the current economic climate, he would like to have a second business in his proposed building. Mr. Labriola stated that the Planning Board, at that time, advised Mr. Swanson that if he wants to do that he must apply to amend his Special Use Permit, which he is now doing.

Mr. Labriola stated that the Planning Board needs to understand the type of use – not the user – but the type of second business he would have in his building. He asked whether it would be retail or office space or a beauty salon. He explained that the type of use will have a bearing on site plan implications and will also be information that the ZBA will need.

Mr. Swanson stated that he's looking for a business that is similar to his in size, if not smaller, such as a plumber or electrician – something clean cut, maybe store some trucks inside and materials and go out and do his business off-site and have an office on-site. He stated that he does not anticipate a lot of customers coming in and out of the store – definitely not retail, but maybe consultation from time to time.

Mr. Labriola asked if the footprint of his proposed building would increase to accommodate this second business. Mr. Swanson responded no – that he will reduce the size of the portion of the building that he will use for his business. He stated that he can get by with using 3 bays. He stated that he's still looking at between 5 and 6 bays, so the building should not get any bigger. He stated that he has it speck'd at 102' wide and 50' deep. Also, he stated that he's reduced the setback – it was at 80' and is now at 50'. He stated that they are going to pull the building closer, which helps him and the Town from the perspective of how they want the parking situated.

Mr. Gordon asked about access to the site – where the second business will enter from. Mr. Swanson stated there will be two separate entrances. He stated that there will be two returns on the roof and two separate entrances and maybe a community conference room in the middle depending on the needs of the second business. He stated that each business will have its own bathroom. He stated that he's looking more at shop space than office space.

Mr. Labriola asked if there will still be a single curb cut onto Route 44. Mr. Swanson responded yes – they will share the same entrance in the front. He stated that there will be landscaping in the front. He stated that parking for the second business will be on their side of the building with his own parking on his side with employees in the back.

Mr. Gordon asked if the bays will still be in the back. Mr. Swanson responded yes. He stated that the design has not changed, but that the interior layout has changed a little bit depending on the needs of the other business. He stated that he needs to bring in between \$2000-\$3000 in rent to make this project work with the taxes and the cost of heating. He stated that it's a large building – 5,000 sq. ft.

Mr. Labriola read into the record a letter dated 3/2/10 from the Fire Advisory Board: no position and the request that the FAB review the site plan application. Further, the FAB expressed an interest in what the second business will be with regard to fire and safety issues. Mr. Labriola stated that the Planning Board will make sure that the site plan goes to the FAB for review.

Mr. Labriola: **MOTION TO PASS THIS APPEAL TO THE ZBA WITH A POSITIVE RECOMMENDATION BASED ON THE FOLLOWING:**

- **The applicant is proposing a similar and like use to the use that has already been approved for a Special Use Permit**
- **The Planning Board thinks it is a good use for the site and for the building.**

- **If the amended Special Use Permit is granted, the Planning Board will review parking, landscaping, and other SEQRA related factors pertinent to two businesses during the site plan review process**

**SECONDED BY M. GORDON**

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

**2. WILLIAMS LUMBER – SITE PLAN  
Grid#6564-02-529886 & 6564-02-507860  
Location: 2424 Route 24**

Mr. Larry Boudreau, Chazen Companies, Mr. Scott Cruikshank, Kirchhoff Consigli, Ms. Kim Williams, applicant, and Mr. George Cronk, Chazen Companies were present.

Mr. Labriola noted that the last time this application was on the Planning Board's agenda was for a couple of variances, that the Planning Board had provided a positive recommendation to the ZBA, and the variances were granted by the ZBA with conditions. He stated that this evening the focus is on the Resource Analysis and Concept plan discussion.

Mr. Boudreau stated that the property is two parcels and that a lot of the discussion by the ZBA centered on joining those parcels and that it was a condition of approval of the variances. He stated that they intend to join the two parcels.

Mr. Boudreau stated that the Planning Board had suggested that they prepare a site plan, which really helped with the discussions with the ZBA – that it articulated the setbacks and how it fit with the adjacent properties.

Mr. Boudreau mentioned the Resource Maps that were submitted to the Planning Board and which show a stream and 100' buffer in the back of the property. He stated that they are working within the context of the existing development – that they are not going outside that. He stated that they are reducing the impervious surface. He mentioned that Mr. Cronk will report on strategy for storm water management and water quality and any questions on utilities. Mr. Boudreau pointed out the row of parking that has been removed and replaced with landscaping. Mr. Boudreau stated that the layout has been reconfigured. He also displayed the soils map and stated that they are not going outside the development area.

Mr. Cronk stated that the storm water is considered a redevelopment project so the criteria for that is a little different from what it would be for a new development. He stated that from a water quality point of view they will do some level of water quality treatment – about 25% of the impervious area that they are impacting will now be treated. He stated that the site runs through a basin on the back end of the parking area located behind the proposed buildings. He stated that there is no water quality treatment there, there is a peak flow attenuation control. He stated that they will be adding structure that will address water quality issues, which is beneficial because the flow eventually



discharges to a stream off the back end of the property. He stated that that is actually an improvement from the current conditions on the site.

Mr. Labriola asked if that will treat all of the runoff from the site. Mr. Cronk stated that that will treat all of the area that is being changed. He stated that there are other areas of the project that discharge now through different ways. Mr. Labriola asked if just the western part of the site will go through this new water quality system. Mr. Cronk responded yes – he stated that that is how the DEC Code is set up. He stated that they are planning to meet with the Town engineer to go through the design with him to make sure that he finds it acceptable. He stated that they will not have as many DEC requirements on this because they are undersized. He stated that this is a small project and that they do want to make sure that the Town is on board with the changes on the site. He stated that as far as the DEC rules that govern storm water, they will exceed all of those requirements.

Mr. Cronk stated that there will be no change to the sewer and that they have contacted the Health Department. He stated that they are not changing the use of the building – that it is still considered a retail-style use with the sewer originally designed based on the square footage of the retail space and taking into consideration the number of employees. He stated that the Town Building Department has probably already received a copy of a letter from the Health Department that says that the use is not changing on the site with respect to the sewer. He stated that the waste water flow is not increasing.

Mr. Labriola asked if there will be bathrooms in the big new building – building A. Mr. Boudreau responded no.

Mr. Cronk stated that the Health Department will require that the water be tested prior to the final C.O. He stated that there is a standard screening for that and that he believes that the site already has a filtration system – carbon filter and UV light. He stated that he believes the water is in pretty good shape at this time.

Mr. Gordon asked if they have looked at the septic. Mr. Boudreau stated that they have not done an inspection today or in the last few weeks, but that it was fine when the site was shut down. He stated that the tank may need to be pumped. Mr. Fracchia asked how many employees the system was designed for. Mr. Boudreau responded 25 with a peak of 30.

Mr. Boudreau stated that the access on Route 44 is unchanged. He stated that they did not reconfigure the access but did remove some of the parking along the front. He pointed out a shared access that is currently only serving one part of the site now.

Mr. Cruikshank stated that he met with the DOT, that they are an interested party and did not see any issues with what they intend on doing with the secondary access, as long as they have an agreement with adjacent parcels. Mr. Karis asked if the westerly access will be mostly closed – he noted a gate and Building D, the guard site. Mr. Cruikshank stated

that it is exit only. Mr. Karis noted that it will be drive through. Mr. Cruikshank explained that you pick up your materials and exit out past the guard shack.

Mr. Gordon asked about their plans to remove the asphalt areas and whether it will be grass. Applicant responded yes – that it is in the right-of-way.

Mr. Karis noted that this site is in the hamlet district and that the Taconic Homes project is behind that site. He stated that Taconic Homes is bringing sidewalks out to Route 44 and asked whether it makes sense, as part of this site plan, to have a pedestrian connection along Route 44 for a future connection to Washington Hollow hamlet. He stated that as the properties are redeveloped along Route 44 that the sidewalk system is installed for the hamlet. He stated that a pedestrian system is appropriate in a hamlet district.

Mr. Boudreau responded that this site is commercial and even through it was changed to a hamlet district it really did not fit. He displayed a plan that shows all of the setbacks along the corridor.

Mr. Gordon stated that the hamlet designation is more for the future. Mr. Labriola stated that this is something we should be thinking about because it is a hamlet and suggested that, as an alternative, they reserve space that would provide the future capability to put a contiguous sidewalk system. Mr. Karis stated that the DOT right-of-way in the area is huge between the property line and the edge of the road.

Mr. Cruikshank stated that he met with John Clark at DC Planning, who recommended the same thing. He stated that Mr. Clark suggested that they allow for a sidewalk but not to make it a hard walk – to make it either a path of stone dust or crushed stone – and to let the DOT handle it since most of it is in their right-of-way. Mr. Karis repeated that it is in a hamlet zone and the future development vision for this area is as a hamlet and that a hamlet should be walkable. He pointed out that the future development on this site is right now. Mr. Cruikshank asked whether it would be in the right-of-way or out of it. Mr. Gordon stated that it would have to be in the right-of-way. Mr. Cruikshank stated that the paved area is in the right-of-way. Mr. Labriola suggested that this is a conversation that should be had with the DOT regarding providing space for future sidewalk. He pointed out that this will be a conversation with the DOT on every application along this stretch of road.

Mr. Cronk asked if the Board is looking to create a sidewalk district similar to a lighting district. He stated that if that is the intention, then they would provide the grading and leave it in a prep state that in the future could be transformed into a sidewalk. Mr. Labriola stated that that's what the Board is looking for – not something that is finished but something that provides the infrastructure for a sidewalk. Mr. Karis stated that his vision is that this is a walkable community, much like Pleasant Valley. Dr. Fischer agreed – from the Taconic east down to Route 82 and 44 intersection. Mr. Karis suggested that the Town needs to plan for that.

Mr. Boudreau asked if the DOT would maintain it. Mr. Labriola stated that that conversation would have to be had at some point in the future – who pays for the infrastructure, who maintains it. He suggested that it is premature to address these issues at this time but that this is something that is pertinent for all future development in the area.

Mr. Labriola asked Board members for any other comments on the Resource Analysis materials that have been submitted. He stated that this is a redevelopment of an existing site, that they are not expanding the footprints of the impervious surfaces, that they are actually making them smaller and they are staying out of the buffer areas. He stated that there does not appear that there is anything surprising or new in this Resource Analysis submission that would affect what they are proposing to do.

Mr. Labriola read into the record a letter from Bruce Donegan, Zoning Administrator, (original on file) his comments and a request for a rain garden to be incorporated within the landscaped area in the parking area. Mr. Karis explained that a rain garden is a redevelopment storm water management technique that is meant to promote infiltration of runoff primarily from roofs. He stated that Bruce is suggesting that the applicant look into incorporating a rain garden as a redevelopment storm water mitigation amenity into the landscaping. Mr. Labriola asked if that would make the detention pond smaller, therefore. Mr. Karis stated that it would be a pretreatment to the storm water basin – that's where you treat your water quality and the basin is treating quantity. He stated that, ideally, roof water would go into the bio-retention area rain garden, travel through – most of the storms would infiltrate into the ground – they would have an overflow pipe that would connect into the drain system. He stated that it is designed for a specific quantity of water. Mr. Labriola asked if that would be for all the leaders. Mr. Karis stated that it would be for all or some of the leaders or some place where it would work. He explained that it is adding a level of treatment more than what is there currently, which is probably just a direct connection. Mr. Labriola stated that it cannot get in the way of the traffic flow.

Mr. Karis stated that all of the DEC redevelopment storm water requirements are pointing towards these low impact development techniques – rain gardens, bio-retention.

Mr. Cronk stated that that is one of the techniques they are looking into and that the biggest challenge is getting runoff from the buildings up to wherever you put the garden and then, eventually, back through that same existing system. He stated that the location of the garden will depend on the topography of the site, that it might not be up front, that it may be on the side.

Mr. Labriola stated that the Resource Analysis materials provided by the applicant confirm what the Board had already expected – that what they are proposing is not going to impact any of the existing resources in the area and that they are taking measures to reduce the impacts. He stated that, therefore, the Board is exiting the Resource Analysis Conceptual design phase of the process and are ready in earnest to get going on the site plan process.

Mr. Boudreau asked about the process going forward. Mr. Labriola stated that the Board will anticipate receiving an updated plan with the Board's comments included. He estimated that the Planning Board will probably declare lead agency and start the circulation and get DC Department of Planning's input and all the other interested parties. He noted that there is a 30-day window which will dictate when the Board can get to a SEQRA determination on the project.

Mr. Labriola asked if there are any SEQRA related gating issues that the Board or consultants can think of. He stated that the Board will need to see a revised lighting plan, landscaping plan, and the traffic counts. He stated that it's a busy stretch of road and pointed out that Taconic Homes – across the street – will be adding to the volume of traffic on Route 44. Mr. Karis pointed out the turn lanes that are planned on Route 44 for Taconic Homes – so the geometry is changing in that area of Route 44. He stated that the main exit from Taconic Homes is across from Reardon Briggs and the Williams site. Mr. Gordon asked if they will be permitted to turn left out of Taconic Homes. Board members responded yes. Mr. Labriola noted that the westerly cut on the Williams site is an entrance only access. He suggested that the DOT will tell them if they need to add turn lanes. He stated that traffic will be an important issue and consideration.

Mr. Labriola stated that conceptually everyone is on the same page with regard to the site plan. He stated that the Board needs to see the storm water management plan, the lighting plan. He stated that there are still some areas where parking goes up to the parking line and up to fences and he asked about snow plowing and where the snow will be moved to and whether it will impede traffic around the storage buildings. He stated that it is not permitted to plow the snow off of their property. Ms. Williams stated that they can back blade it and will remove it.

Ms. Williams asked for an estimate of when site plan approval may be granted. She stated that the sale is contingent upon getting some sort of approval. Mr. Labriola estimated that in April the Board gets comfortable with the plan for circulation, in May would be the earliest time that the Board would have enough input to make a SEQRA determination. Pending any feedback, he stated that it may take yet another month of engineering work to complete. He suggested that June is the earliest date the process could be completed; however, it will depend on DOT, the traffic studies, and how quickly the details are completed.

Ms. Cruikshank stated that they will have a completed site plan next month. Mr. Labriola requested elevations, full landscaping, storm water, lighting, traffic. Ms. Williams asked for suggestion on lighting on the site. Mr. Labriola recalled that there are tall light poles on the site because there is a lot of space to cover and issues with security. He stated that he's hoping that Williams will reduce the lighting – that this is a hamlet center so the lighting should be hamlet friendly, which may require more light poles but lower wattages. He stated that there are some security needs on the western side of the property and that the applicant should suggest some options to the Board for how to deal with that.

Ms. Williams asked if, instead of light poles, they could put the lights on timers so that they would dim at a certain time. Mr. Gordon stated that the problem with tall poles is spillage of light on other properties. Ms. Williams noted that in the winter months the lights will come on at 4 p.m., but could be on a timer at 8-9 p.m. with half being turned out.

Mr. Karis suggested that they look at the credit union in the hamlet of Pleasant Valley – that they have pedestrian scaled decorative lights along the road and more utility parking lots lights in the back of the property. He stated that all lighting standards are going to full cut off so that there is no night sky spillage – that the light is totally encased in the fixture itself. He suggested decorative lights in the front along the road and more utility in the back. Ms. Williams stated that she is also concerned for some of the tractor trailers coming in and the contractors. Mr. Karis stated that they will have to look at some of their circulation flows. Mr. Gordon stated that the Board is not talking about light on the site but, rather, is talking about light that spills onto other properties. Ms. Williams reiterated that she understands that. Board agreed that timers and photo cells are good ideas and that the Board will need a complete lighting plan. Ms. Williams pointed out that security is important as is safety, especially during winter hours when the store is open in the evening. Mr. Karis stated that the general effort is to get those lights lower in height because you are not lighting a new car parking lot. Ms. Williams appreciated the guidance from the Board. Dr. Fischer suggested that the Board look at the site and that the gradation of the lighting will be important to protect the inventory – motion detectors and such. He pointed out that times have changed and the Town's intention with regard to lighting has evolved. Mr. Labriola stated that the Board will need guidance from the applicant regarding what is reasonable for their needs, as well. Mr. Cruikshank stated that they will use the credit union as a basis for their planning.

Mr. Cruikshank asked whether the traffic count will be requested by the DOT – at what point in the review process will that be required. Mr. Labriola stated that as part of the DOT signing off on the plan, they will want to be comfortable with traffic counts to determine whether there is a need for another turning lane. He agreed with Mr. Karis' point that when Taconic Homes eventually gets built out, there will be a significant increase of vehicles entering and exiting at the eastern portion and that there will be another major curb cut to the west where there will be drivers waiting to pull in or out. He stated that the Board needs to hear from the DOT that they have looked at it and understand the traffic implications in concert with Taconic Homes and whether there's a need for additional turn lanes. Board talked about peak shopping hours and how they intersect with peak commuter hours. Board referred the applicant to talk with Paula Vincitore at Kirchhoff Consigli for information on the traffic studies they have done for Taconic Homes.

Mr. Labriola asked about Williams Lumber's store hours. Ms. Williams stated: Monday – Friday 7 a.m. – 7 p.m.; Saturday 7 a.m. – 5 p.m.; and Sunday 9 a.m. – 4 p.m. She pointed out that it is mixed use – contractors will arrive at 7 a.m. and home owners throughout the day or in the evening on the way home from work. She stated that on Saturday they have all day traffic and on Sunday it depends on when people return from

church. She stated that they have a high volume of traffic on Saturday at their store. Mr. Labriola stated that there may be a lower volume of commuter traffic on Saturday and stated that a good starting point will be the studies done by Taconic Homes.

Mr. Karis pointed out that there is a description of the traffic impact report in the new Code in the site plan requirements.

Mr. Labriola noted that the new Code does not indicate that the Planning Board makes a resolution that states that the Resource Analysis and Concept Plan has been successfully completed. Mr. Karis stated that the Code refers to "Concept Plan approval." Mr. Labriola asked Mr. Nelson for guidance on whether a resolution is required to exit Concept Plan for site or subdivisions, but that it does require that the Board notify the applicant. He asked whether the Board needs to do a formal resolution or whether a brief memo to the applicant and to the file would suffice. Mr. Nelson stated that it probably would be a good idea for Morris Associates to generate a resolution to complete the Concept Plan stage of the site plan review process. Mr. Labriola asked Mr. Takacs to create a resolution and a letter that will automatically be generated for site plans and subdivisions at the completion of the Resource Analysis and Concept Plan stage.

### **3. JOYCE – WETLAND PERMIT – PUBLIC HEARING**

**Grid # 13-6463-02-892660**

**Location: 133 Drake Road, 3.3 acres, R-2**

Mr. Steve Burns, Barger & Miller, and Jeremy Joyce, applicant, were present. Mr. Labriola asked Mr. Burns to update the Board on any changes to the plan. He stated that this application was on the agenda in February 2010. He stated that remaining issues were questions about the bridge design and the public hearing.

Mr. Burns stated that there have been no changes to the plan since February 2010. He stated that he has held off on answering Morris Associates' questions about bridge design and was waiting to address everything at once and to hear any public comment.

Mr. Takacs reviewed the Morris Associates' comment letter. He mentioned that there are 4 incomplete items:

1. Wetlands flood plain development permits
2. Submission of the design of the bridge and the calculations for Morris Associates review and approval
3. Approval block on the plan needs to reflect 2010
4. Owner's certification needs to be signed and dated prior to the chairman signing the plan.

Mr. Nelson raised the question of runoff generated during construction of the driveway and in particular if the driveway was not properly completed whether the Town could require a bond. He stated that based on prior discussions the determination is that the Town can require a reclamation bond under 98-27F. He stated that there also was a discussion of the storm water prevention code sections that allows the Town, if there is runoff, to come in on an emergency basis to mitigate the problem and charge the costs to



the property owner on the tax bill. He stated that he recalled the Board's thought was that if the Town could take care of the problem and get paid through that process, that it was not necessary to require the applicant to post a bond. Mr. Labriola concurred with that summary.

Mr. Nelson stated that Mr. Takacs' impression is that a storm water prevention permit would not be required. He stated that he wanted to make sure that in the approval of this application there is some mention of the need either for a bond or for a Town permit that allows the Town to remediate runoff and charge it back on the taxes.

Mr. Labriola asked whether this is covered by the Town's storm water management protocol. Mr. Burns stated that the only storm water management that is required by NYS – that they have prepared an erosion and sediment control plan as part of the plan set and that they will have to file a notice of intent because they will disturb greater than one acre. He stated that because they are under the 5 acre threshold, they do not have to meet water quality treatment standards.

Mr. Nelson suggested that, if the Board approves this application this evening, to add a condition that either the applicant be required to post a bond under 98-27F or that there be satisfactory proof that they are subject to an article in the Town Code which allows the Town to remediate and charge back on the tax. He stated that when we are able to add the article and section of the Town Code that allows that, then that would do away with the requirement for a bond. Mr. Labriola asked if he is referring to Chapter 74 of the Town Code.

Mr. Labriola asked Mr. Joyce whether he understands the implications of this discussion. Mr. Joyce responded yes. Mr. Labriola asked if Mr. Joyce is OK with that as a condition of approval. Mr. Joyce responded yes.

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

**I move that the Planning Board determine as set forth in the attached declaration dated 3/9/10 prepared by the Board's engineer that the Jeremy Joyce 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 following reasons are in support of this determination of non-significance:**

- 1. erosion and sediment control measures will be employed**
- 2. NYS Department of Environmental Conservation has issued a stream disturbance permit**
- 3. the proposed driveway is to be constructed in 100' to 200' sections to control erosion and runoff impacting the stream**

**SECONDED BY M. GORDON**

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

Mr. Labriola: **MOTION TO OPEN THE PUBLIC HEARING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 5-0-0**

Ms. Meta Plotnick, Conservation Advisory Council, stated that this is one of those lots – that we don't know what they were thinking. She stated that the CAC is disappointed that there wasn't some alternative to coming down a steep slope and over a stream. However, she stated that since it is going forward the CAC hopes that the Planning Board will take all precautions to protect the stream. She stated that this is a major tributary of the Wappingers Creek that goes into a lake, out of the lake over the waterfall that is across from Albrecht's; it is a major stream and it needs to be protected as much as possible.

Ms. Plotnick stated that the CAC is always concerned about unforeseen consequences, therefore, she stated that she is glad to hear about the bond or the decision for the Town to remediate if necessary. She stated that it is a beautiful spot. Mr. Labriola agreed and stated that the fact of the matter is that there was no choice – that the Board and applicant looked at alternative ways to get to the site, which did not work out. He stated that that was investigated and that the Board and applicant spent much time discussing this project in an effort to make sure that it will move forward with a design that will mitigate the impacts to the maximum amount that is practical and that that is reflected in the documentation of the current plan. He expressed the Board's appreciation for the CAC's involvement in this project from the beginning and stated that the Board hopes that the CAC can see its input in the final plan.

Mr. Rick Bibolet, adjacent project owner. He asked whether the covenant that gives a right-of-way around the property for Dutchess Corral was taken into account and what resolution was made. Mr. Labriola stated that it absolutely was taken into account and that a right-of-way was maintained to allow for horses and riders to traverse the property. Mr. Burns explained that it is a 30' right-of-way around the outside of the perimeter of the parcel and described how the right-of-way is designed around the driveway. Mr. Bibolet asked if it goes around the entire outside of the property. Mr. Burns pointed out the right-of-way on the plan. Mr. Labriola stated that the Board and the applicant spent a lot of time talking about this covenant and accommodating it into the final plan.

No one else from the public spoke.

Mr. Labriola: **MOTION TO CLOSE THE PUBLIC HEARING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 5-0-0**

Mr. Labriola: **MOTION FOR CONDITIONAL FINAL APPROVAL WETLANDS PERMIT**

**I move that the Planning Board grant Wetlands Permit Approval to Jeremy Joyce with regard to the application of Jeremy Joyce Site Plan in the form of the attached resolution dated 3/9/10 prepared by the Board's engineer and now before the Board subject to the following conditions:**

- 1. Morris Associates letter dated 3/8/10**
- 2. Final approval letter from the Highway Superintendent for the driveway access**
- 3. Submission of plans and calculations for the bridge designed by a NYS licensed professional engineer acceptable to Morris Associates**
- 4. Subject to the applicant posting acceptable security for reclamation as required by the Pleasant Valley Code 98-27F or proof that this development is subject to the Pleasant Valley Code provision allowing the Town to remediate erosion and runoff and to charge the cost to the property owner via the tax bill**
- 5. Payment of all fees**

**SECONDED BY H. FISCHER**

**Discussion:** Mr. Karis raised the point about mitigation and field markers to prevent future encroachment into the wetland buffer and stated that that has not been addressed. Mr. Labriola recalled that the Board had talked about boulders or a fence. Mr. Karis asked if the applicant and his engineer have addressed this. Mr. Burns stated that they have met every request that the Board had and that they believed that they had completed addressing the Board's comments and Morris Associates' letters. Mr. Labriola asked if they have addressed the issue. Mr. Burns responded no and stated that the applicant does not want to delineate the buffer line on the property. He stated that they have shown the disturbance areas on the map and he thinks that is adequate.

Mr. Labriola asked whether they understand the rationale for the Board's request that markers be placed to indicate the buffer. Mr. Burns responded that he understands that it is to prevent further encroachment. Mr. Labriola pointed out that it is not just for this property owner, but it is also for the next property owner who claims not to understand the restrictions and does something that they should not do. Mr. Burns stated that, in all reality, any form of marker – trees, boulders, etc. – if someone wants to push the line out, it will happen. Mr. Labriola stated that the Board recognizes that – that if there is a marker and someone disturbs beyond it the person is doing it willfully, not because of ignorance. He explained that the Board is trying to avoid a situation in the future where someone claims that they did not realize that they were not permitted to encroach into the buffer. Mr. Burns stated that part of the uniqueness of the site is the beauty of the site and the markers will detract from the beauty.

Mr. Karis stated that the Board gave Mr. Burns and Mr. Joyce an opportunity to come up with a proposal and that they have not acted on this. Mr. Burns stated that any marker will detract from the beauty of the property. Mr. Karis asked if a stonewall would be a fitting element in the landscape on that lot. Mr. Burns stated that it would be a financial burden. Mr. Karis asked about some other things that they could do to mitigate this. Further, he pointed out that the Planning Board has required this from other wetland permit applicants and everybody has complied.

Mr. Burns asked if the Code allows the Planning Board to require this of this applicant.

Mr. Nelson responded that under the Wetlands and Watercourses Law this Board has, traditionally, taken the position that inherent in the power to grant or deny a permit comes with the power to attach conditions to that permit. He stated, therefore, that the answer is that the Code does not say specifically that conditions can be attached but, the last time he looked at the cases on this question, the power to grant a permit comes with the implied power to condition the grant of the permit if you do certain reasonable things.

Mr. Karis stated that it is not OK with him for Mr. Burns and Mr. Joyce to not provide the Board with a proposal and to simply say no. He stated that the Board has required this of other applicants; the practice seems to work; it gives some comfort with controlling further encroachment for future property owners; and that it has been the Planning Board's practice.

Mr. Joyce stated that that the Board has only provided examples of businesses that were required to put down markers. Mr. Karis referenced the Lictro permit application for a residence – they put in a post and rail fence on the DEC buffer line. Mr. Burns stated that the DEC usually requires that. Mr. Karis stated that that was a Town requirement. Mr. Gordon referenced Capell subdivision. Mr. Karis stated that they put in field markers to delineate limits of disturbance lines. Mr. Joyce asked if that was one lot. Board members stated that it was a 6-lot subdivision. Mr. Labriola referenced a property on Smith Road with a driveway through the wetland buffer and they put in a split rail fence.

Mr. Labriola summarized that the Board has required this from businesses, mobile home park, subdivisions, and single family properties. Mr. Burns stated that it will impact the visual appearance of the stream. Mr. Labriola stated that they have not offered a proposal and that they cannot say that it will impact it if there has been no suggestion given. He stated that the Board had talked about boulders, posts with a marker on it, that there are options. He pointed out that it is hard to say that it will have an impact when there has been no proposal offered. He agreed that this was discussed at the last Planning Board meeting.

Mr. Joyce stated that he does not want to put anything on his property, that he does not want to have to look at anything – that boulders in a row do not look natural. He stated that he has not thought of anything that would be acceptable. Dr. Fischer suggested a square granite marker with some message on it every 200'. Mr. Karis agreed that he likes the idea of monumentation every 50' along the limit of the disturbance line – or 100'.

Other suggestions were offered for placing markers at major changes in direction along the buffer line and the Board reached the following decision: something permanent that somebody in the future could find and would put people on notice that they are passing over into a non-disturbance area. Further, Mr. Labriola stated this will add, as a condition, that the applicant and his engineer figure will determine what the markers will be and Morris Associates will review these markers when they do their final review to make sure that the conditions have been satisfied. Additionally, the markers will be put

on the map and will be described in the deed. Applicant and Mr. Burns agreed to this condition.

Mr. Labriola: **MOTION TO AMEND THE CONDITIONAL FINAL APPROVAL FOR REGULATED ACTIVITIES IN A WETLAND TO ADD THE FOLLOWING CONDITION:**

- 6. Markers at major changes in direction to delineate the wetland buffer zone will be added to the map and described in the deed.**

**RE-SECONDED H. FISCHER**

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

- 4. ROSSWAY PROPERTIES – Subdivision – 90-DAY EXTENSION  
Grid #13-6563-03-176033  
Location: Rossway Road, 13.03 acres, R-2**

Mr. Labriola stated that this is a request from Rossway to extend their preliminary approval because they need time to complete design work for the Planning Board and the Department of Health.

Mr. Gordon asked if this is their second extension. Mr. Labriola noted that it is their 3<sup>rd</sup> extension.

Mr. Labriola: **MOTION TO GRANT 90-DAY EXTENSION OF PRELIMINARY APPROVAL (original on file) – extension to expire on 5/6/10**

**SECONDED BY H. FISCHER**

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

- 5. GASPARRO – SITE PLAN**

Mr. Labriola reported to the Board on the status of this application. He stated that Mr. Gasparro was before the Planning Board in February 2010, at which time the Board authorized him to advertise for a Public Hearing at the March 2010 meeting – but that was assuming that a determination had been made on whether this was an allowed use in the new zone. He stated that Mr. Volkman has done considerable research on this and has determined that the application is not grandfathered.

Mr. Labriola stated that there were a series of conversations about this and that there was a workshop on 3/3/10 with the Town Board. He stated that the proposal was to modify the Exemptions Section of the new Code, which allows for exemptions for subdivisions and site plans that have reached a certain criteria (i.e., conditional final approval or SEQRA determination). He stated that Special Use Permits should probably have been included in that section and they were not. He explained that the thinking is that the Town Board will amend the Exemption Section of the Code to include Special Use

Permit. He stated that the only Special Use Permit that would be affected by this would be Mr. Gasparro's site plan.

Mr. Labriola stated that the time line for this procedure could be:

- March 3 –Town Board workshop
- March 9 – Planning Board meeting – discuss pending action before the Town Board
- March 10 – Town Board meeting – to discuss this again and authorize for a Public Hearing at the April 14 meeting
- April 13 – Planning Board meeting – to provide a referral to the Town Board on the amendment to the Code and re-authorize Ron to advertise for a Public Hearing at the May Planning Board meeting pending the Town amending the Code
- April 14 – Town Board meeting – Public Hearing on amending the Exemption Section
- April 15 – Ms. Dickerson refers Mr. Gasparro's application to DC Department of Planning – pending the Town amending the Code

Dr. Fischer asked about the Special Use Permit that Mr. Gasparro was granted. Mr. Labriola explained that the SUP was granted in 12/08 and that Mr. Gasparro was denied a waiver from the Moratorium but has proceeded with the SEQRA determination on his site plan with the Planning Board.

Mr. Labriola reported that the Town Board members who were involved in the workshop seemed to think that this was a reasonable approach. He reported that Ms. Seaman was involved in the discussion to make sure that the intent of the Comprehensive Plan and the Recodification is consistent with this approach. He stated that Ms. Seaman reported that Special Use Permit should probably have been included in the Exemption Section. He explained that the amendment to the new Code will allow Special Use Permits that were granted and that had not expired to be exempt from the new Code.

Mr. Gasparro stated that he presented at the workshop with the Town Board members that Mr. Gasparro has done everything that the Planning Board has asked him to do – move the building forward, put the parking behind, upgrading on landscaping, lighting, etc. – it is very much in concert with the design requirements of the new Town Code. He stated that this seems to be a reasonable approach moving forward. Ms. Dickerson stated that that would relieve Mr. Gasparro from having to have a Use Variance. Mr. Labriola concurred.

Dr. Fischer stated that, theoretically, the project would have been built if the moratorium had not been in effect. Mr. Labriola stated that Mr. Gasparro might have been able to get through the SEQRA determination phase of site plan. Dr. Fischer pointed out that there are no special favors being granted, that he would have been able to have it built if the moratorium hadn't been an issue. Mr. Labriola stated that the moratorium made it impossible for him to complete SEQRA which was the only condition under which he could have proceeded without a waiver from the moratorium. Further, he stated that the Town Board also took into account that the project is in line with how the Town wants to see things developed. Mr. Gordon stated that the Special Use Permit allows Mr.



Gasparro to build one building for one use. Mr. Labriola agreed and stated that he can build a 10,000 sq. ft. professional office building for a single business – that is what he was granted a Special Use Permit for. He pointed out that he was granted a Special Use Permit for a single office, which was discussed at length and which also went back to the ZBA and that Board confirmed that it is a single office.

**6. BECKWITH INTERPRETATION – APPEAL #954**

Mr. Labriola asked Mr. Nelson to inform the Board on the status of this appeal.

Mr. Nelson reported that this application is one that involves the transition from the old Zoning Code to the new Code. He stated that there was a ruling by Bruce Donegan, Zoning Administrator, as to how this property could be developed vis-à-vis manufactured/mobile homes. He stated that the Code then changed in December 2009 and notwithstanding that the Code changed, Mr. Beckwith appealed Bruce's decision. He stated that over the past couple of days he has had numerous conversations with Mr. Labriola and several other Town officials about this project because it involves the Zoning Board and is before this Board for an advisory opinion that will go to the ZBA. He stated that Mr. Labriola is trying to get this sorted out as well as possible because the process will step off with the Planning Board's advisory opinion.

Mr. Labriola: **MOTION TO GO INTO EXECUTIVE SESSION; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 5-0-0**

Mr. Labriola: **MOTION TO CONCLUDE EXECUTIVE SESSION; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 5-0-0**

**7. MISCELLANEOUS**

Rossway: Mr. Takacs will e-mail the applicant to explain the new Code requirements in 82-11 regarding the restrictions on extensions of preliminary approvals.

Williams Lumber: Mr. Karis referenced Section 98-47 of the new Code – Site Design and Architectural Standards for Non-Residential Development. He quoted from the portion of that section that deals with Hamlet Zoning District and pointed out that Williams Lumber is in the Hamlet District. Specifically, Mr. Karis read from the Code that states that sidewalks are required throughout the hamlet and details dimensional requirements. He also pointed out that there are lighting standards – minimum or maximum heights and other details - as well as landscaping standards.

Mr. Labriola noted that that Section of Code also specifies how street trees shall be planted and that the area is all within NYS right-of-way. He pointed out that the DOT has to concur with these specifications. Mr. Labriola asked Mr. Takacs to send an e-mail to the applicant that directs them to this Section of the Code. Board discussed the option of requiring the applicant to put in the infrastructure for future sidewalk construction.

Mr. Fracchia also pointed out that the Code specifies the building materials that must be used in the hamlet – vinyl or aluminum siding materials are not allowed.

Mr. Labriola stated that there are very specific directions in the Code and must make sure that the applicant understands this.

**8. MINUTES**

Mr. Labriola: **MOTION TO APPROVE MINUTES OF 1/12/2010 AS CORRECTED; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 4-0-0**

Mr. Labriola: **MOTION TO APPROVE MINUTES OF 2/9/2010 AS CORRECTED; SECONDED BY P. KARIS; VOTE TAKEN AND APPROVED 5-0-0**

**9. PUBLIC HEARING AND SEQRA**

Dr. Fischer raised the issue of the fact that Public Hearings are held after the SEQRA determination is made. He pointed out how ineffective it is to make the determination on environmental impact before the public has an opportunity to speak on the project and before the Planning Board hears all of the public's concerns. Mr. Labriola concurred and said that he and Mr. Nelson have talked about this very subject many times and, also, that the Board has had this conversation. He stated that Mr. Nelson informed him that, per law, that is the order, even though it makes no sense to him either.

Dr. Fischer suggested that the Board think about having a public hearing early on in the process. He stated that if there is a development happening, he wants to hear what the neighbors think because they are the ones who live there. Mr. Labriola pointed out that in the old Code there never was a Public Hearing for site plan because the Code did not require it, however subdivisions always had Public Hearings, which were per law held after the SEQRA determination. He stated that if something were to come up in the Public Hearing, such as an archeological site, then SEQRA would have to be redone.

Dr. Fischer stated that an interested party in the neighborhood who wishes to speak on a project cannot do so until after SEQRA has been determined. He stated that the Board does not get the information from the public unless they write a letter.

Mr. Labriola asked for Mr. Nelson's guidance on the order of SEQRA and Public Hearings. Mr. Nelson stated that the Board has raised this very point several times, that it is backwards. Dr. Fischer asked what the Board can do about it, can it have a Public Hearing earlier on. Mr. Nelson stated that the Board could probably do two Public Hearings and noted that, in the past, the Board has held Public Information Sessions on sensitive projects.

Board discussed who pays for the publication and how and whether to notify the neighbors. Dr. Fischer suggested that this be done early on so that the Board can hear what the neighbors have to say on the project and inform them that there will be a future Public Hearing after the SEQRA determination is made. Mr. Gordon suggested that, with regard to Taconic Homes, it would have been beneficial for the Board to have heard from Mr. Mort much earlier in the review process. Mr. Labriola noted that for Taconic Homes

the Board went outside the process and held public information sessions and heard from Mr. Mort.

Dr. Fischer stated that for a small subdivision – 3-4 lots – he would like to have the neighbors come to the Board early in the process and he would like to have them feel that they are involved early rather than feeling that they are disenfranchised. Mr. Labriola stated that the Planning Board would have to be consistent across the board with all site plans and subdivisions.

Mr. Labriola asked about procedures for Public Hearings vs. Public Information Sessions – who advertises and who notifies the neighbors. Ms. Dickerson asked what the difference is between the two hearings. Mr. Nelson stated that Public Hearings are required and Public Information Sessions are informal. Ms. Dickerson stated that she does not think that she's ever been involved in a Public Information Sessions since she has worked for the Town.

Mr. Labriola suggested that the office would have to be responsible for advertising and notifying for the Public Information Session. Dr. Fischer pointed out that at the time when the applicant puts the yellow subdivision sign up on the property is when the neighbors become aware that something is happening. He suggested that there should be a Public Information Session at the next meeting after that yellow sign goes up. Mr. Karis has seen this happen in other towns.

Mr. Labriola suggested that, at the time when the Planning Board circulates for Lead Agency, at that point the Board authorize the applicant to advertise for a Public Information Session at the next meeting. Board members agreed. Ms. Dickerson asked if the Board allows input from the public during a Public Information Session. Board members responded yes.

Mr. Nelson stated that he will check to make sure that the Planning Board can do this and that it will be a minor modification to the process. Mr. Labriola agrees that this is a good suggestion. He stated that when the Board makes the resolution to circulate for lead agency it will also authorize the applicant to advertise for a Public Information Session at the next meeting. Ms. Dickerson asked if the Board is specifically making the distinction between the Public Hearing and the Public Information Session. Mr. Labriola explained that it is because one is required (Public Hearing) and one is not (Public Information Session).

Mr. Labriola stated that the Board will not ask the applicant to notify the neighbors via certified mail because that's not in the Code. He stated that it will be posted at Town Hall and on the website and in The Poughkeepsie Journal but not ask the applicant to spend money to mail certified letters to adjacent property owners. Ms. Dickerson pointed out that, for anything that requires SEQRA – wetland permits, site plans, subdivisions, if you do not notify the neighbors it will be a useless effort. She stated that few people read the legal notices in the newspaper and neighbors won't know to look at the website or come to Town Hall to see the notice. Mr. Labriola questioned who would have to pay for

notifying the neighbors – that the Code does not require this Public Information Session. Ms. Dickerson suggested that if the Board really wants the input from the public, then the neighbors need to be notified. Mr. Gordon suggested that they could be notified by regular first class mail. Mr. Labriola stated that it would be an unreasonable expense for the applicant to have to notify the neighbors by certified mail.

Board members agreed to request the applicant to notify the adjacent property owners via regular first class mail. Dr. Fischer agreed that this procedure would avoid a situation where the neighbors learn about the project at the 11<sup>th</sup> hour. Mr. Karis asked whether an ad in the paper would be required. Mr. Labriola summarized that there would be an ad in the paper, a notice on the website, posted on the bulletin board at Town Hall, and notification to neighbors via regular mail.

#### **10. GIS PRESENTATION**

Mr. Karis asked if the Board would like a senior GIS instructor from Cornell Cooperative Extensive to make a brief presentation to the Board about the capabilities and limitations of GIS information. Board members responded yes. Mr. Karis will set this up for the May 2010 Planning Board meeting.

#### **11. SECTION 98-71 – SUBMISSION REQUIREMENTS**

Mr. Fracchia pointed out a discrepancy in Section 98-71(B)(3)(e) – the text reads “The location of structures and uses on adjacent properties within one hundred (five) feet of the subject lot line.” Ms. Dickerson reported that she noted that error, had spoken with Lindsay Carille at DC Planning who was on the recodification committee, and that according to Ms. Carille the correct information is 500 feet. Board members agreed that 500 feet was not workable, that they want to see structures within the immediate area of the lot, and that 100 feet is plenty.

Meeting adjourned 9:30 p.m.

Minutes submitted by:  
Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the March 9, 2010, 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 13, 2010**

A regular meeting of the Pleasant Valley Planning Board took place on April 13, 2010, 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  
                              Henry Fischer  
                              Rob Fracchia  
                              Peter Karis  
                              Michael Gordon  
                              Kay Bramson  
                              Rebecca Seaman  
                              Lynn Sticker, Alternate

Also present:           Jim Nelson, Esq., Planning Board Attorney  
                              Pete Setaro, Planning Board Engineer

**Announcement:** Mr. Labriola announced that the applicant for Taconic Homes asked to be removed from the agenda. However, he stated that the Board will have a conversation among the Board members about the status of this application and the work that Mr. Setaro has done in contact with the applicant and North Country Ecological Services.

**1.     BJORK – SPECIAL USE PERMIT – APPEAL #956**  
**Grid#6363-04-543-092**  
**Location: 15 McGill Road**

Mr. Wade Silkworth, engineer for the applicant, and Mr. Doug Bjork, applicant, were present. Mr. Silkworth reviewed the history of this application for variances. He stated that their application falls under the new Zoning Code and, therefore, per 98-57(C) they must apply for a Special Use Permit. He stated that he and Mr. Bjork are available to answer any questions and to ask for a positive recommendation to the ZBA.

Mr. Karis asked if there have been any changes to the project since they were last before the Planning Board. Mr. Silkworth responded no.

Mr. Labriola asked for confirmation from Mr. Nelson that Section 98-11 states that site plans are not required for single family homes even though Special Use Permits require site plans. Mr. Nelson concurred. Mr. Labriola stated, therefore, that the resolution should include a disclaimer that a site plan will not be required for this piece of property. Mr. Nelson stated that if the Board wants to be complete that it would be fair to let the ZBA know that it does not need to come back for site plan review.

Mr. Labriola asked about a maintenance agreement on the road. Mr. Silkworth explained that the title search has revealed that there is a maintenance agreement on file and that the agreement states that Phil Fern, who resides at the end of the road, is responsible for

maintaining the 20' strip that provides access for Mr. Bjork and other homes in that community. He stated that Mr. Bjork, subsequently, has a right-of-way over that portion.

Mr. Labriola read into the record a letter dated 4/6/10 from the Fire Advisory Board: no position as they see no fire or safety issues.

Mr. Labriola: **MOTION TO PASS THIS APPEAL #956 ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION AS THE PLANNING BOARD HAS PREVIOUSLY REVIEWED THIS SET OF VARIANCES AND HAS PROVIDED A POSITIVE RECOMMENDATION TO THE ZBA ON THE APPLICANT'S BEHALF. THE PLANNING BOARD SUPPORTS THIS POSITIVE RECOMMENDATION BASED ON THE FACT THAT THE APPLICANT DID A TITLE SEARCH AND VERIFIED THAT A MAINTENANCE AGREEMENT IS IN PLACE FOR THE SHARED DRIVEWAY. FURTHER, THE PLANNING BOARD STATES THAT, BASED ON SECTION 98-11, IT DOES NOT REQUIRE THIS APPLICATION TO COME BACK FOR SITE PLAN REVIEW BECAUSE SITE PLANS ARE NOT REQUIRED FOR SINGLE FAMILY RESIDENCES.**

**SECONDED BY R. SEAMAN**

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

**2. WUERZ – AREA VARIANCE – APPEAL #957**  
**Grid #6564-03-378420**  
**Location: 422 Masten Road**

Mr. Henry Wuerz, applicant, was present. He stated that he wishes to construct a combined horse barn and indoor exercise area. He stated that it has a 100' setback from the nearest neighbor living there and that he is requesting a 60' variance from the rear setback. He noted that the rear property line on the eastern portion of his property borders the Taconic State Parkway. He explained that he's requesting this variance in order to avoid excavating a great deal of rock and save some money.

Mr. Karis noted that the Zoning Administrator's memo states that there are 2 access points onto Masten Road. Mr. Wuerz stated that that is incorrect, that there is only one.

Mr. Karis asked about the sight distance at that driveway. Mr. Wuerz stated that he measured that today. He reported that to the north it is just shy of .2 tenths of a mile - 1/5 of a mile - and to the south also .2 tenths – 1/5 of a mile. He stated that there is no problem with sight distance.

Mr. Karis asked about trailers exiting and entering the property – he asked what the largest vehicles will be. Mr. Wuerz stated that it would be a horse trailer and no tractor trailers or 18 wheelers. He stated that hay delivery is done in a small truck.

Mr. Karis asked if the terrain is fairly flat on the property. Mr. Wuerz responded yes, except for where the building was going to go – that there's a big rock ledge. Mr. Karis



asked if there is earthwork involved in constructing the barn. Mr. Wuerz stated that the excavation is to take the material out, that they are not adding any material, but rather are moving the earth from one side to the other.

Mr. Karis asked if there are any wetland areas adjoining the area that will be constructed. Mr. Wuerz responded no and no DEC wetlands.

Mr. Labriola asked where the parking area will be for the clients and the pickup trucks with trailers. He noted that none of that is shown on the plans, and asked what kind of traffic he will be expecting. Mr. Wuerz stated that they do not expect any more traffic than what they, personally, have had since 1997 or what the property has had under the last three owners, himself included, for the past 30 years. He noted that it has been run as a horse boarding operation and one owner used it as a riding academy, as well. He stated that he's putting up a 10 stall barn and that he is not looking for any more boarders or any more horses than they have previously had. He stated that they have had sufficient parking for those boarders all of those years, and this would only add additional parking on the side between the Taconic Parkway and the new building. He stated that they would put in some item 4 there. Mr. Labriola asked if the parking, then, would be behind the barn. Mr. Wuerz responded yes, and some people can park where they currently park now. Mr. Labriola asked if they are cleared right up to their property line. Mr. Wuerz responded that he is currently cleared right up to his property line and that he is not taking down any trees but that he will trim back the thorn bushes.

Mr. Labriola asked if he is intending to expand the operation. Mr. Wuerz responded no. He explained that he retired from the ministry in December 2008 and due to the building moratorium, he could not build until now. He stated that this is to supplement his pension and that he wishes to appeal to a broader range of clientele with a much nicer facility. He stated that most of his boarders now are field board – meaning that they are not in stalls. He explained that the stalls in his proposed barn have soft stall mattresses and therapeutic footing for the horses; it is an indoor exercise area. Therefore, he stated that he can appeal to a broader range of clientele.

Mr. Labriola asked where the septic and well are on the site. Mr. Wuerz pointed them out on the map. He stated that when they bought the property they installed a new pump and that he was told it was a very good well.

Mr. Labriola read into the record a memo dated 4/6/10 from the Fire Advisory Board: the Board sees no fire or safety issues but asks that, if the ZBA grants this appeal, the site plan application comes back for review by the FAB.

Mr. Labriola: **MOTION TO PASS APPEAL #957 ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION AS THE PLANNING BOARD DOES NOT SEE THIS CREATING ANY PLANNING ISSUES. IF THE VARIANCE IS APPROVED, BASED ON THE ZONING ADMINISTRATOR'S ADMINISTRATIVE DECISION, SITE PLAN REVIEW IS REQUIRED.**

**SECONDED R. SEAMAN**

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

Mr. Wuerz brought to the Board's attention a document he received from Mr. Somers at Ag and Markets – Guidelines for Review of Local Laws Regarding Horse Boarding Operations - regarding an abbreviated site plan review process. He referenced the Zoning Administrator's decision that states that due to traffic, safety, and adequate vehicle parking. He asked if it would be possible to proceed with the abbreviated version of the site plan review as per Ag and Markets. He asked if he would be required to go through the long drawn out procedure with the engineers and the architects.

Mr. Labriola responded that long and drawn out is a matter of opinion and stated that the site plan requirements in the Code are pretty specific regarding what is going to be required. He stated that the Planning Board needs an engineered set of drawings that will show the elevations; he will have to provide colors and materials; he will have to show parking; he will have to fill out the long form EAF although a lot of it will not apply to this project.

Mr. Wuerz read from the Ag and Markets document: "In general, the construction on farm buildings and the use of land for agricultural purposes should not require site plan review. Special Use Permits will be subjected to non-conforming use requirements when located in a County-adopted State-certified agricultural district." He noted that the Planning Board has the right to request a site plan. Mr. Gordon asked if the property is in an agricultural district. Mr. Wuerz responded yes.

Mr. Wuerz read further from the document: "However, discussed in more detail in the Department's guidelines for review of local zoning and planning laws, the Department recognizes the desire of some local governments to have opportunity to agricultural development and projects within their borders. Therefore, the Department developed a model streamlined site plan review process which attempts to respond to farmers concerns while assuring that local issues are examined, as well." Mr. Wuerz asked if it would be possible to go to the Ag and Markets' guidelines for review of local zoning and planning laws which has a shorter process of doing this.

Mr. Labriola stated that he cannot think of a single instance where the Planning Board deviated from its process. However, he assured Mr. Wuerz that the site plan review is not such a heavy process that will take many months to complete. He stated that the Board will need a set of engineered drawings that show what he is proposing to do. He stated that it is typically not a long drawn out process because this is a fairly simple thing he is requesting. He noted that it would be different if the property were virgin territory on which he was proposing massive development.

Ms. Dickerson asked if the applicant will have to do the Resource Analysis and Concept Plan stage, which is the first step in the site plan review process. Mr. Labriola responded

yes – that the Board and the applicant must follow the procedures in the new Zoning Code. Mr. Wuerz stated that that is what the Ag and Markets procedures avoid.

Mr. Nelson stated that the Ag and Markets law does place certain limits on the ability of local Planning Boards to act, but it does not supersede the Planning Board's ability to do its job, where it's necessary. He stated that he thinks Rev. Wuerz is referring to suggested amendments to a code and that he does not think that those amendments have been adopted in Pleasant Valley. Further, he stated that the Planning Board's practice has always been to honor the limitations in the Ag and Markets law on the ability of the Board to do certain things. He stated that the Chairman is suggesting that Mr. Wuerz go through the process and that the Board has always honored what NYS Ag and Market law requires. Further, he stated that this is a Board that is easy to work with and is fair. Again, Mr. Nelson stated that Mr. Labriola is advising that Mr. Wuerz go through the process and that the Board will be mindful of the Ag and Markets law.

Mr. Labriola advised the applicant to proceed to the ZBA and to come back to the Planning Board for the next steps. Mr. Wuerz asked who he checks with now on what those next steps will be – to go through the PV site plan application or, rather, provide a sketch of the parcel on a location map which is what the Ag and Markets documents says. Mr. Labriola stated that the Town has a brand new Code that the Planning Board is working with that details some very specific steps that he needs to take. Mr. Wuerz stated OK. Mr. Labriola stated that if the ZBA grants the variance, then the Planning Board will work with him to try to make this as streamlined and as painless as possible. Mr. Wuerz stated that he trusts that.

Ms. Dickerson asked for clarification that the answer Mr. Labriola just gave is that we will go via the PV Zoning Code procedures for site plan and not the abbreviated version that Mr. Wuerz is referring to. Mr. Labriola responded that that is correct. Mr. Wuerz responded OK.

**3. WILLIAMS LUMBER – SITE PLAN**  
**Grid#6564-02-529886 & 6564-02-507860**  
**Location: 2424 Route 44**

Mr. Larry Boudreau, Project Manager - Chazen Companies, Mr. Scott Cruikshank, Construction Manager – Kirchhoff-Consigli, and Mr. Sandy Williams and Ms. Kim Williams were present.

Mr. Labriola read into the record the **Resource Analysis and Conceptual Design Resolution** (original on file) – acceptance is based on the following reasons:

1. redevelopment of an existing site
2. the amount of impervious surface is to be reduced
3. no additional disturbance is required

**SECONDED BY M. GORDON**

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

Mr. Boudreau introduced his team. He displayed a site plan that was submitted at last month's Planning Board's meeting and referenced the engineering drawings that were submitted this month. He stated that he reviewed Morris Associates' comments and stated that he would like to discuss the following:

1. sidewalks
2. landscaping
3. lighting

He stated that he will work out the engineering issues but would like to discuss the above 3 topics. He stated that they are still unclear on whether the sidewalks will be required now or in the future. He also mentioned the issue with the sidewalk being in the DOT's right-of-way. He stated that the sidewalk is shown on the plans as 8' and as future. Mr. Labriola stated that the Code says a minimum of 5' and up to 12' wide. Mr. Boudreau mentioned the buffer between the sidewalk and the road and some street trees where appropriate.

With regard to landscaping, Mr. Boudreau stated that he agrees that there are a lot mature shrubs that can be reused in addition to what they have proposed.

With regard to the lighting, Mr. Boudreau stated that they are caught in the transition of two zones. He stated that if it were still commercial, the current lighting would be fine. He stated that the current poles are 22' and the design, as is, retains all the existing light poles except for 4. He stated that the thought is to move those 4 and make them compliant with the Code for the Hamlet district. He stated, however, that after visiting the site and reading the comments, he understands that even the poles that are in place are non-conforming and that they would have to appeal to the ZBA for a variance on the poles.

Mr. Boudreau stated that the existing lights are typical for an auto dealership where they articulate both horizontally and vertically. He noted that lights in commercial districts generally try to avoid that. He asked the Board's opinion on that and stated that they would rather not apply for another variance. He suggested that they are thinking of making the lights compliant – to cut them down to 15' and put shoe boxes on top and run the photometrics and add poles where they need to in order to meet the safety requirements.

Mr. Setaro stated that Mr. Takacs, from Morris Associates, has been at the last two Planning Board meetings where this application was discussed. He stated that he and Mr. Takacs went through the Williams Lumber plans and talked about the two issues. He stated that he understands the reality of the transition to the new Zoning Code and that Morris Associates is not looking to make any more work for the applicant – that they think it's a great project. He stated that he looked in the Code and spoke with Mr. Takacs, and if there are provisions in the Code that enable the Planning Board to waive some of the requirements because it is a pre-existing site, Morris Associates would be ok with that. He stated that he wants to make it clear that if there are ways that the Planning

Board can waive certain things, Morris Associates would not have any issues with that. He stated that they are flexible and want to work with the Planning Board on this.

Mr. Boudreau stated that they ran the photometrics keeping the same pole height because the shoe boxes work more effectively at the 22' height. He stated that at 15', it is more of a top mounted light. Also, he stated that at 15' the shoe box with 150 watt, it starts to blast the foot or the base because it is getting so close to the ground. He stated that the way the hamlet is set up, the 15' pole lends itself to a top mounted thing, which would not be appropriate on this site. Therefore, he stated that he ran it two ways – at 15' at 100 watt and at 22' at 250 watt. He stated that it works and they get away from the articulating lights and avoids going above the horizontal plane.

Mr. Labriola stated that he has not found anything in the Code that grants the Planning Board the ability to waive requirements or modify without going back through the ZBA. Mr. Gordon agreed and stated that with regard to the sidewalks, 5' wide is adequate and suggested that they do whatever is necessary to provide for them in the future. He stated that he thinks the Board needs to be concerned about the lighting more so than the sidewalks.

Mr. Labriola stated that he does not think the Code gives a provision to the Board to approve a plan with known non-conformance items. Mr. Boudreau asked if there are provisions to permit future sidewalks.

Mr. Labriola stated that there are two different issues: the light poles are a very real engineering discussion. He stated that the issue with the sidewalks involves the complication of NYS's right-of-way and asked if they have reached out to the DOT yet about the ability to put something in their right-of-way. He stated that the Board is very interested in their response to this as this is the first application to which this feature applies. Therefore, he noted that the DOT's position sets the tone for any subsequent development in that area. He stated that if the DOT responds negatively, then it will be up to the Town and maybe DC Department of Planning to discuss this with DOT. He stated that the Board needs to hear the DOT's response first before discussing sidewalks. He advised Mr. Boudreau to talk with the DOT as soon as possible.

Mr. Labriola stated that in his opinion on the question of the sidewalks and the lights, he does not think the Planning Board has the flexibility to say that it can be done in the future. Mr. Karis concurred and stated that the Code is very specific and says that they are required. With regard to the sidewalks, he stated that the Code says a minimum of 5' and with a preference that they are larger – 8' to 12' when adjacent to commercial uses.

Mr. Karis expressed his perspective that the Town has just gone through this process of rezoning and recodification and that this is a hamlet district and the goal of the comprehensive plan is to create walkable hamlets. He stated that, although it's not going to make a lot of sense initially to have this sidewalk to nowhere out in front of this big commercial use, 20 years from now hopefully properties are redeveloped and/or

developed and everything starts to interconnect. He stated that he thinks the Board needs to think long-term on the development of Washington Hollow hamlet in the future.

Mr. Karis stated that, in his experience, he has never had the DOT say that they don't want sidewalks in a hamlet district or that they will not allow sidewalks in their right-of-way. He pointed out that Taconic Homes is not widening Route 44, they are just restriping turning lanes. He noted that that is 250 new units coming onto that road and there is plenty of space to put a 5' sidewalk. He stated that it looks like it's going nowhere right now, but in the future it will start to connect.

Mr. Labriola agreed with Mr. Karis's comments regarding Taconic Homes and noted that if/when it gets approved, there will be people walking places. Mr. Karis pointed out that Taconic Homes is putting in sidewalks as part of their development down to Route 44. He stated that there is going to start to be this connection of pedestrian walkways for this hamlet. He agreed that the applicant should reach out to the DOT and that he would be very surprised if they came back with a negative response.

Mr. Setaro stated that his experience has been that the NYS DOT or the DC Department of Public Works don't have issues with sidewalks but that they don't want to be responsible for maintaining them because they are within their right-of-way. He stated that they have typically required a maintenance agreement and the maintenance agreement usually between the NYS and the municipality. He stated that he does not think they will let the property owner be responsible for maintenance and advised Mr. Boudreau to clarify this with NYS DOT. Mr. Gordon pointed out that NYS only deals with municipalities; they don't get involved with private property owners.

Mr. Gordon asked if there is a way to move this along without having to wait for all of this. Mr. Labriola stated that it's not possible to move ahead without a response from the DOT – that the Code requires sidewalks. He stated that either the applicant gets a variance or the sidewalks are put in. Mr. Gordon asked what happens if the DOT says that the sidewalks cannot be put in. Mr. Labriola stated that if the DOT says no, then his suggestion would be for the Town Board and DC Department of Planning to reach out to the DOT for negotiations. If the answer is still no, Mr. Labriola stated that the only other avenue is a variance from the ZBA.

Ms. Seaman and Mr. Setaro agreed that the DOT will not respond negatively. Ms. Seaman stated that there are no sidewalks that are not in the right-of-way. Mr. Gordon asked again if there is a way to approve this conditioned on this issue. Mr. Labriola cannot condition this based on the ZBA granting a variance. Mr. Labriola stated that the Planning Board cannot approve a plan with a non-conformance.

Mr. Boudreau stated that what they will do if that will be a problem is to put it on their site and that the landscaping would go away. He stated that they would have to work out the slope with the DOT, in that instance. Ms. Seaman stated that she would not even want to present that to the DOT because the landscaping is more important than the



sidewalk for hamlet presentation especially as this is a storage building that needs to be screened from view.

Mr. Gordon again asked if it is possible to condition the approval on a period of time – 18 months – to get the sidewalk issue resolved. Mr. Nelson stated that the Board cannot condition an approval based on getting a variance afterwards – this is not a viable alternative.

Mr. Labriola suggested that the next step is to get the DOT's position on this – they may say this is not a problem but that there needs to be a maintenance agreement with the municipality. Ms. Bramson suggested that it could be simpler than expected. Mr. Boudreau will call the DOT and send the plans to them. Mr. Labriola asked him to notify the office immediately they hear a response from the DOT. Ms. Dickerson stated that he can e-mail or send a letter.

With regard to lighting, Mr. Boudreau stated that they will make them conform – they will cut them down to 15' and will use the shoe box light. Ms. Bramson asked if they would do that in the front, too. She suggested something more decorative in the front. Mr. Boudreau stated that he visited the credit union site and noted that the lights are gorgeous but that's the Cadillac.

Mr. Karis stated that he agrees – that this is an existing site and it is an undue burden to start doing things internally. He noted that this is in the hamlet and the Town wants to create a hamlet feel. He stated that the focus and resources should be put on the frontage look and have an integrated design across the front with the landscaping and the sidewalk. He stated that shoe boxes on poles are ok for the parking areas and that his preference would be something more decorative for the front. He stated that they can still be 15'. He described the lighting on a project he's working on in another hamlet. He suggested that they focus along the front and especially on the main user area, which is the main building.

Mr. Labriola stated that they will have to integrate into the design with the sidewalks some signage – an alert that there is pedestrian traffic that will need to cross out onto Route 44. Also, he noted that there will need to be some way for pedestrians to get from the sidewalk to the store – some cut that will bring walkers to the front of the building.

Board discussed the options for light poles on the site. Ms. Seaman recommended that they spend their resources on the sidewalk – where the attractiveness needs to be at the sidewalk. He noted that the non-conformity was created in December 2009, therefore this project is within that first year period. Mr. Labriola asked if there is a non-conformity clause in the new Zone. Mr. Nelson stated that there is – Section 98-81(T) – after a Public Hearing the Planning Board can approve a site plan authorizing the erection of buildings and structures, if the lot has existing development on it, which fails to conform to the standards of this Article provided that certain conditions are met. Mr. Nelson stated that the second condition is that non-conforming signs and lighting will be brought into conformance. He stated that the answer is yes, there is a limited waiver

clause but it appears to not apply to lighting or at least appears that the lighting must be brought closer to conformance. Mr. Karis asked whether going from 22' to 20' would be bringing it more into conformance. Ms. Seaman mentioned changing the heads and bringing them down 2'. Mr. Nelson reminded the Board that there needs to be a Public Hearing and he reviewed the other conditions.

Ms. Bramson asked if they would change the light poles in the front to be more decorative. Mr. Karis clarified that there are 2 issues: the lighting in the parking lots and the lighting along the front of the property. He agreed that the front of the property should be appropriately designed and the internal guts of the site, if it is brought more closely into compliance than it currently is by changing the heads to zero cut off and lowering the height closer to the code, is an improvement. Mr. Labriola stated that the lights meant for the hamlet area are all net new lights. Mr. Karis noted that this will set the stage for development of the hamlet. Mr. Labriola agreed that this seems like a reasonable approach to moving forward.

Mr. Boudreau asked for clarification on what area the Board is referring to as the front. Board members reviewed the site plan and discussed the number of decorative lights to be installed. The plan agreed upon is 20' poles and change the heads internal to the site with 15' pedestrian-scale decorative poles along Route 44.

Mr. Setaro asked about timers on the lights – which lights would be turned off and which would be left on for security. Dr. Fischer suggested that some of them could be dimmed. Mr. Scott Cruikshank stated that this can be arranged. Mr. Boudreau mentioned the wall packs that would be on the buildings. Dr. Fischer asked also about motion detector lights. Mr. Karis stated that any building-mounted lights must be zero cut off as well. Mr. Boudreau asked if this must be shown in the photometric as well. Mr. Karis stated that they should be shown on the site plan – 15' would be the maximum height and zero cut off.

Mr. Boudreau stated that the fence is 8' high and will be green vinyl – chain link. Mr. Karis asked if this will be across the front, as well. Mr. Boudreau responded yes and will be screened by landscaping.

Mr. Boudreau pointed out that the fence will be 31' off the right-of-way, which allows the fence to be 8' for security purposes. He stated that if it were 30', it could not exceed 4'. He stated that it needs to be 8' for security purposes.

Mr. Karis stated that he would like to see a more decorative fence along the front and that chain link would be ok in the utility areas. He noted that the front is more of a public space rather than private space. The Board and applicants discussed options for decorative security fencing. Mr. Cruikshank pointed out that the Dutchess County Fair Grounds where they changed the silver chain link fence to a black fence and it does disappear into the landscape. Mr. Labriola noted that this is a redevelopment of a very commercial site into a hamlet zone. Dr. Fischer asked what kind of 8' decorative fence would be possible. Mr. Karis described the design of decorative fencing he is suggesting

and mentioned that they put it in at BOCES on Salt Point Turnpike. Dr. Fischer agreed that that fencing is a good idea. Mr. Karis pointed out that a chain link fence does not meet the intent of the hamlet district. Mr. Cruikshank stated that he will look into pricing for fencing.

Mr. Setaro reviewed Morris Associates letter – that most of the highlights have already been discussed and the rest are housekeeping. He stated that the sidewalk and the lighting are the significant details.

Mr. Labriola stated that the next step is to circulate for lead agency and to authorize the applicant to publicize for a Public Hearing at the May Planning Board meeting.

Mr. Labriola stated that the Board received the elevations and colors for the new proposed storage buildings and noted that DC Planning will want to see the elevations for the Guard House

Mr. Labriola asked if there is only one dumpster on the site. Mr. Boudreau stated that there is one location for the dumpster. Mr. Labriola suggested that they would need another dumpster on the western portion of the site, so that should be updated.

Mr. Labriola asked about a parking space on the northeast corner of the site that appears to extend beyond the property line. He asked the applicant to fix that.

Dr. Fischer asked about the façade of the building facing Route 44 – it seems monotonous in its appearance. Mr. Karis pointed out that there will be materials stored on the outside of that building, so that building won't be visible.

Mr. Setaro suggested that the chairman make a motion to assume lead agency and to circulate to involved agencies. He noted that the only other involved agency could be the DOT if the sidewalk is going to be put in. He stated that DC Department of Planning does not have an approval and it is the usual 239M referral. He noted that DC Department of Health has issued a letter saying that the water and sewer systems are fine. He stated that the only approval agency is the DOT if the sidewalk is going in.

Next Steps:

- Circulate for lead agency to DOT
- 239M referral to DC Dept. of Planning
- Circulate to interested agencies: CAC, FAB, PV Highway

Mr. Karis asked if the wetlands buffer comes close to this property. Mr. Boudreau confirmed that this property is outside of the buffer. Mr. Karis asked if there will be any storm water improvements that will impact the buffer. Mr. Boudreau pointed out the 100' flood zone on the map. Mr. Labriola stated that no areas will be disturbed.

Mr. Labriola: **MOTION THAT THE PLANNING BOARD ASSUME ITS INTENT TO ACT AS LEAD AGENCY AND THAT THE BOARD WILL CIRCULATE THIS TO APPROVING AND REVIEWING AGENCIES**

**SECONDED BY R. SEAMAN**

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

Mr. Labriola stated that we must receive the elevations for the Guard House before referral to DC Department of Planning.

Mr. Setaro suggested that the applicant meet with the DC Department of Planning and explain the project. Mr. Boudreau stated that they already have met with the County.

Mr. Labriola advised the applicant that they are authorized to advertize for a Public Hearing at the May Planning Board's meeting and that they will have to notify adjacent property owners.

Mr. Cruikshank asked whether the Code requires certain materials to be used for the sidewalks. Mr. Karis reviewed the Code and responded no but that they must be ADA compliant and, therefore, concrete or asphalt.

Mr. Labriola asked the applicant to let the office know as soon as they receive a response from the DOT.

#### **4. TACONIC HOMES – SITE PLAN**

Mr. Labriola stated that Mr. Setaro has been working closely with the applicants and North Country Ecological Services (NCES) reviewing the correspondence between them and will now provide a presentation to the Board on the items that need to be attended to before the Planning Board can accept the FEIS.

Mr. Setaro provided Board members with a memo dated 4/13/10 (copy on file) that reviews the outstanding SEQR issues and with attachments of the most recent correspondence between the applicant and North Country. The memo lists the NCES comments that have been addressed by the applicant and Morris Associates is satisfied with, but have not been included in the FEIS document yet.

Mr. Setaro pointed out comments that need additional work and are subject to upcoming field studies that the applicant recognizes must be done for SEQR. These include:

1. Bog turtle: absence/presence survey to be conducted by the applicant. Mr. Setaro stated that the applicant's consultant stated that there's a very small area of the wetland that could be Bog turtle habitat and it should be investigated. The DEC informed Nat Parish that the survey must be done or put a 300' buffer area around the wetlands. Mr. Labriola asked the survey is done once or several times. Mr.

Setaro stated that he thinks he must be done twice – in April and May. He stated that the applicant will conduct the survey.

2. Indiana Bat: there is some work by the applicant that must be done.
3. DEC jurisdiction: Mr. Setaro stated that it is his understanding that the DEC does feel that the wetlands are linked and will probably take jurisdiction on them. He stated that that triggers the 100' buffer and the applicants are looking at the impact of that buffer on the design of their plan.

Mr. Setaro enumerated items that have not been resolved between NCES and the applicant regarding action that will be taken by the applicant for the SEQR process:

1. Number of wildlife studies: Applicant proposed one study in April and one in May; NCES proposed two in April and one in May. Mr. Setaro stated that they will work it out between themselves. Mr. Labriola pointed out that it is now the middle of April and that these are seasonal studies and that the applicant needs to act now. Mr. Setaro stated that Mr. Parish is fully aware of that. Mr. Labriola suggested that the Planning Board would have zero tolerance for the applicant claiming that they missed the April window for the wildlife study. Mr. Setaro stated that they don't plan on doing that. Ms. Bramson pointed out that the two studies should not be conducted on 4/30/10 and 5/1/10. Mr. Karis asked if there are Federal guidelines for the Bog turtle study. Mr. Setaro responded yes, there are; and NCES has provided all the guidelines to the applicants. He reiterated that Mr. Parish is aware of the need to act now on these wildlife studies.
2. Additional Studies on Blanding Turtles: The applicant thinks that the original study done by Chazen several years ago is adequate for the SEQR process; NCES thinks the study should be submitted to the DEC for further evaluation. Mr. Setaro stated that the applicant concurs that the turtles are probably on the site and that there are standard mitigation measures that must be employed. He stated that the applicant will provide the DEC with more information once the permit process starts. He stated that this is still being discussed and hopes that this will be clarified by the time they come to the next Planning Board meeting.

Mr. Labriola thanked Mr. Setaro for organizing this information and providing the Board with this presentation. He stated that it appears to be down to a very manageable, almost an agreed-to list between the applicant, NCES, and Morris Associates. He appreciated Mr. Setaro's work and noted that this memo clarifies what must be addressed before the Planning Board can do anything else on the FEIS.

Mr. Setaro stated that a lot of progress was achieved once the applicant reached out to the DEC. He noted that a lot of the things NCES was telling the applicant were corroborated by the DEC. Mr. Setaro stated that there has not yet been official word that the DEC will take jurisdiction over the wetlands. Board and Mr. Setaro agreed that this should have been done years ago.

## **5. JOYCE – REGULATED ACTIVITIES IN WETLAND**

Mr. Labriola stated that the Planning Board approved the Joyce Regulated Activity in Wetland. He stated that the resolutions read as a Site Plan. He explained that even though the Planning Board handles these Wetland applications as Site Plans, the Board is actually approving Regulated Activities in a Wetland. Therefore, he explained that the corrections to the motions passed at last month's meeting must be ratified.

Mr. Labriola read into the record the following revised motions:

**SEQR NEGATIVE DECLARATION:** I move that the Planning Board determine, as set forth in the attached declaration dated March 9, 2010 prepared by the Board's engineer, that the Jeremy Joyce Regulated Activities in a Wetland is an unlisted action under SEQRA, that it will not have a significant effect on the environment for the following reasons; and that no environmental impact statement shall be required.

**SECONDED M. GORDON**

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

**CONDITIONAL APPROVAL OF WETLANDS PERMIT:** I move that the Planning Board grant Wetlands Permit approval to Jeremy Joyce with regard to the application of the Jeremy Joyce Regulated Activities in a Wetland in the form of the attached resolution dated March 9, 2010 prepared by the Board's engineer and now before the Board subject to the following conditions (see original resolution for the conditions)

**SECONDED BY R. SEAMAN**

**Discussion:** Mr. Karis stated that he did not see mention in the minutes of the condition that requires the applicant to place markers on the property that delineate the wetland buffers. Ms. Dickerson pointed out in the minutes where that is noted.

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

**6. TOWN OF LA GRANGE – KONDAS SUBDIVISION – COMMENT**  
**Grid #6462-01-191677**  
**Location: 380-384 Freedom Road**

Mr. Labriola announced that the Board received an application from the Town of La Grange for a proposed subdivision on a property that abuts the PV Town Line and a request for comments from this Board.

Board members reviewed the submitted map, noted that it is on Freedom Road. Mr. Labriola pointed out that this is just past the Avalon Subdivision and is a 141 acre parcel and there will be one proposed 3 acre lot. Mr. Karis pointed out that the new small lot will have the existing house and barn on it. Mr. Labriola stated that he anticipates that the owner will sell the remaining 138 acres and the new owner will subdivide, however



there is no documentation on that at this time. The Planning Board has been notified of this subdivision because the Town of Pleasant Valley is within 500' of this proposed subdivision.

Mr. Gordon and Ms. Seaman stated that they would want to know what will happen in the remaining 138 acres. Mr. Karis pointed out a large wetland corridor and open fields and wooded area. Board members remarked on the view from the top of the property.

Mr. Labriola suggested that this Board ask the Town of La Grange Board to pay particular attention to the wetlands and the buffers because the wetlands extend into the Town of Pleasant Valley. Further, he suggested that the Town of La Grange notify the PV Planning Board of any proposed future development and give this Board the opportunity to comment on it. Board members concurred.

Mr. Labriola: **MOTION TO PASS THE FOLLOWING COMMENTS ALONG TO THE TOWN OF LA GRANGE REGARDING THE KONDAS SUBDIVISION:**

- **The Town of Pleasant Valley Planning Board asks that the Town of La Grange Planning Board takes into account the wetland and the wetland buffers and potential impacts that this development might have on that**
- **Because there is no proposed development for Lot #2 at this time, the Town of Pleasant Valley Planning Board asks that if there is a subsequent application to further subdivide Lot #2, the Town of La Grange Planning Board allows the Town of Pleasant Valley Planning Board to review and provide comments**

**SECONDED BY R. SEAMAN**

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

**7. EXECUTIVE SESSION**

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

**8. AMENDMENT TO SECTION 98-107 - EXEMPTIONS**

Mr. Labriola: **Motion to pass along a positive recommendation to the Town Board for the revised language of Section 98-107(C) – Special Use Permits - to allow an exemption of Special Use Permits as revised. The Planning Board noted that Section 98-107(C) does not exempt any applicable applicant from pursuing a site plan review and still requires them to have a Public Hearing for any site plan associated with the Special Use Permit and, further, it requires them to adhere fully to all the requirements of the new zoning Code. In addition, the Planning Board agreed that it is not a requirement for the Town Board to cycle this back to the Planning Board for review and referral as long as the Town Board adopts 98-107(C) as written in the document reviewed by the Planning Board at this meeting tonight, April 13, 2010.**

**SECONDED BY R. SEAMAN**

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

**9. MINUTES**

Mr. Labriola: **MOTION TO APPROVE THE MINUTES AS WRITTEN OF THE 3/9/10 PLANNING BOARD MEETING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 5-0-0**

Meeting adjourned 9:35 p.m.

Minutes submitted by:  
Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the April 13, 2010, 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 11, 2010

A regular meeting of the Pleasant Valley Planning Board took place on May 11, 2010, 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  
Peter Karis  
Michael Gordon  
Kay Bramson  
Rebecca Seaman

Members absent: Henry Fischer  
Lynn Sticker, Alternate

Also present: Jim Nelson, Esq., Planning Board Attorney  
Pete Setaro, Planning Board Engineer

**Announcement:** Mr. Labriola announced three changes to the agenda: Capell/Steeplechase Acres has been removed as it is a matter for the Town Board, Taconic Homes asked to be removed from the agenda, and the GIS presentation will be held at the June 2010 Planning Board meeting.

1. **MCLAUGHLIN – SPECIAL USE PERMIT – APPEAL #958**  
**Grid #6463-03-306490**  
**Location: 693 Traver Road**

Mrs. Dawn and Mr. Joseph McLaughlin were present. Mrs. McLaughlin reported that they plan to extend their existing family room at the back of their home to create an accessory apartment for her parents.

Mr. Labriola asked if they are planning to add bathrooms. Mrs. McLaughlin responded yes, that they have been in touch with the Department of Health. Mr. McLaughlin stated that their house is actually a 4 bedroom house. He stated that he spoke with Jim Napoli, at the Health Department, and he agreed that 750 gallon septic tank would be fine. He stated that he has a 1000 gallon tank already, so they will have two lines into the field.

Mr. Karis asked if they are adding a septic tank and no new fields. Mr. McLaughlin stated that Mr. Napoli told him that he needs to run two new lines with 50' for each line. Mr. Karis asked if the septic is in the front of the house. Mr. McLaughlin responded yes. Mr. Karis asked where the well is. Mr. McLaughlin stated that it's community water.

Ms. Bramson asked if the addition will be visible from the road. Mr. and Mrs. McLaughlin responded no – it will be in the back.

Mr. Labriola asked if the main entrance to the accessory use would be off the driveway. Mrs. McLaughlin responded yes – that it will be right next to the garage doors. Mr. Labriola asked if there will be a light installed outside. Mrs. McLaughlin responded yes.

Mr. Gordon asked if they have a letter of approval from the Health Department. Mrs. McLaughlin responded yes and submitted a copy of the letter to the Board's secretary.

Mr. Labriola explained that the ZBA will hear their appeal for a Special Use Permit and, if it is granted, then this application will come back to the Planning Board for a Site Plan review. He stated that the Planning Board is the board that will need to be convinced about the septic. Mr. McLaughlin stated that he was going to try to complete the changes to the septic in the next two weeks. Mr. Setaro stated that that is really up to the Health Department.

Mr. Labriola stated that this application is consistent with the Comprehensive Plan and is a good way for the family to attend to their needs without any negative impact on the neighborhood. He stated that the Planning Board would make a positive recommendation to the ZBA with that being the rationale and then the application will come back for Site Plan when the details will be addressed.

Mr. Labriola explained the next steps to the applicants:

- Planning Board reviews the ZBA appeal and makes its recommendation
- ZBA rules on the Special Use Permit, if granted then
- Planning Board conducts the Site Plan review

He stated that the site plan review will be streamlined – no Resource Analysis and Concept Plan phase, no aerial maps required.

Mr. Labriola authorized the applicant to advertise for a Public Hearing and to notify their neighbors of the hearing. He advised them to mark up their survey to scale of what they are planning to do. He stated that if there's going to be an outdoor light, to tell the Board how many watts it will be and where it will be – where the parking will be. He stated that they will need any additional documentation from the Health Department.

Mr. Labriola explained that a Public Hearing will be held at the next Planning Board meeting and there does not seem to be anything that would preclude the Planning Board from granting conditional approval at its next meeting.

Mr. Gordon asked if they need to provide engineered drawings. Mr. Labriola responded no – that they should submit a survey marked up as much to scale as possible. Mr. Fracchia provided a copy of a filed subdivision map – Ivy Hills - that would be helpful to the DOH.

Mr. Setaro stated that a signature block will be needed on the map for the chairman's signature.

Ms. Dickerson asked the applicants to call her the next day to go over the Site Plan review procedures and she apologized for not alerting them in advance to the need for Site Plan review. Mr. Labriola stated that the Planning Board will streamline the process and keep things to the absolute minimum, because this is a minor alteration; but he noted that there are certain steps that the application must go through. He stated that this Board will try to make it as painless as possible. Ms. Dickerson advised the applicants that the deadline for submission is 5/24/10 and asked them to call her tomorrow.

Mr. Labriola read into the record a letter from the Fire Advisory Board dated 5/5/10: no position as this is uniquely a matter for the ZBA.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BASED ON THE FOLLOWING REASONS:**

- 1. The Planning Board thinks this proposed use is consistent with the Comprehensive Plan;**
- 2. The Planning Board thinks that the proposed design minimizes any disruption or negative impact on the neighborhood;**
- 3. If the ZBA grants the Special Use Permit, the applicant is required to come back to the Planning Board for full Site Plan review.**

**SECONDED BY R. SEAMAN**

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

**2. GASPARRO – PUBLIC HEARING**  
**Grid #13-6363-03-453036 & 447030 & 443019**  
**Location: 1325 Route 44**

Ron Gasparro was present and mentioned that he has submitted a revised site plan. He pointed out the revised landscaping with recommendations from Pete Karis. He stated that there was a significant number of engineering details that were accomplished. He stated that they moved the dumpster and have added stonewalls to the entrance and that the lighting was modified based on recommendations for eliminating one pole and putting one in the middle of the parking lot. He mentioned concrete pads that have been added outside of the emergency exit doors on the side of the building. He stated that another access way was added at the end of the walkway where it meets the driveway.

Mr. Gasparro stated that the biggest issue was the drainage coming off of the property because of the large size of the retention pond. He stated that after considerable work and money they revised the drainage to where it is only 4' to 6' deep – a change from the previous 10' depth – and they have access rights to the existing drainage. Further, he stated that they would like to eliminate the fencing around the retention pond now that it is shallower and safer. He stated that they would like to be able to mow the area.

Mr. Gasparro submitted color copies of the perimeter fencing and of the building.

Mr. Setaro stated that the only issue left to be discussed was the post and rail fence and that he and Mr. Labriola discussed it today. He stated that he concurs with Mr. Gasparro – that it was probably needed when the retention pond was 10' deep, but now that it is 4' to 6' deep it no longer needed and it will be much easier for the applicant to maintain the area. He stated that he does not have a problem with eliminating the fence. Mr. Labriola agreed that the fence calls attention to it and complicates maintenance. Mr. Setaro stated that it will be dry most of the time. Mr. Karis concurred.

With regard to the drainage in the back, Mr. Setaro stated that one of the check valves to be used in the drainage structure does not appear to fit with the other two valves.

Mr. Setaro stated that he did not check the number of handicapped parking spaces – the NYS Building Code requires a specific number of handicapped spaces per number of parking spaces. Mr. Karis suggested that it is one per 25. Mr. Setaro stated that he thinks that's correct. Mr. Karis pointed out that there are 2 handicapped spaces on the plan, and that there are about 35 spaces total; so this should be adequate.

Mr. Labriola read into the record a letter dated 5/5/10 from the Fire Advisory Board: recommends that site plan be approved as submitted as it does not represent any fire or safety issues.

Mr. Labriola reviewed the DC Department of Planning's comments. First comment is that the building is larger than is allowed in the zone. Mr. Labriola stated that the Board had dealt with that issue by going back through the Town Board and amending the Exemptions Clause of the new Zoning Code.

Ms. Seaman pointed out that DC Planning's letter cited provisions of the new Code, whereas the Special Use Permit would indicate that the application is under the old Code. Mr. Nelson stated that the application is processed by the Planning Board under the new Code and the application for the Special Use Permit from the ZBA was, specifically, for 10,000 sq. ft. Mr. Labriola explained that that is what has allowed the Planning Board to proceed and noted that Mr. Gasparro had already been designing to the new Code, so it is a moot point. Mr. Labriola stated, therefore, that the DC Planning's comment on the building footprint is noted and has been attended to.

Mr. Labriola stated that DC County had a question about deed restrictions and the setbacks and that it is more than what people would like to see in this area. He noted, however, that there is a valid deed restriction that requires a 100' setback and the plan maintains that. He stated, therefore, that the County's comment has been noted and has been addressed.

Mr. Labriola stated that the County's third comment pertains to connections to other sites thereby eliminating curb cuts. He noted that the Planning Board had that conversation with the applicant very early on in the process. He recalled that Mr. Gasparro contacted the site to the east and that it did not look like it was going to yield any results. He noted that there is emergency access to the site on the east side, which is one of the things the



County suggested. Also, he noted that at some point in the future there could be access over onto Bower but that is not known at this time. Mr. Labriola noted that the applicant has made the appropriate provisions and that the County's comment has been addressed.

Mr. Labriola stated that the County's fourth comment was about landscaping – potentially adding some additional trees along the frontage every 35' to provide a unifying feature in the landscaping and indicate a sense of space. He asked for comments on adding additional trees. Mr. Gasparro stated that the problems with that suggestion include power lines in the area, that they are only taking down one of the trees on the right hand side of the property for the driveway, and that they are leaving the whole buffer along the right side of the adjacent building. He also pointed out a telephone pole and a rise where the property goes up and then there's the easement for the gas and the drainage system. He stated that he would not know where he could even put some trees and that was one of the reasons he has added the stone walls to the property. He stated that he does not want to put anything under the lines or anything that would have roots to affect the gas line or the existing drainage pipe.

Mr. Labriola stated that he's comfortable with the current landscaping plan. Several Board members concurred, and Mr. Karis pointed out that they are saving the big evergreen tree in the front yard. Mr. Gordon agreed that the applicant is limited by the easement in the front. Mr. Labriola agreed that the addition of the stone wall at the entrance is a reasonable alternative. He noted that the DC Planning's comment has been discussed and addressed.

Mr. Labriola brought up the issue of lighting, as mentioned by DC Planning. Mr. Gasparro stated that he will lower the lighting. Mr. Setaro stated that there is only one area, in order to try to limit the number of poles, there's only one pole – that's the one that's in the center of the parking area. He stated that there are a couple of bright spots under it, but the whole point was to avoid putting a lot of light poles on the site. He reviewed the photometrics and noted how the light diminishes as it spreads out to the property lines. Ms. Bramson pointed out that it is pretty contained. Mr. Gasparro stated that it is hidden by the building. Mr. Setaro also pointed out the cut off shield behind the light pole. Mr. Labriola stated that the alternative would be to add more light poles with a lower wattage, which does not seem to be needed. He stated that this would be a different conversation if there were a house next door.

Mr. Setaro asked about timers for the lights. Mr. Gasparro stated that they will go off at 11 p.m. Discussion ensued that putting a condition on the final map that the lights must go off at a certain time could create an unsafe situation if someone were working late in the office. Agreement was reached to set the timer to turn off the lights at midnight.

Mr. Setaro stated that the final set of plans must include the elevation drawings with colors and materials. Mr. Labriola concurred.

Mr. Labriola noted that the last comment from DC Planning was with regard to building elevations and suggested that the Town may want to meet with an area architect to find

ways to design the building to better meet the intent of the Code. Mr. Labriola noted that the Planning Board has already done this; Board members concurred that this comment has been addressed.

Mr. Labriola noted that DC Planning has provided feedback; the Planning Board has acted on some of it and others have been discussed.

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

Mr. Bob Mullane, adjacent resident, stated that he lives behind the property. He asked if there will be a fence around the whole perimeter. Mr. Gasparro pointed out where the fence will be and pointed out the shrubs in front of it. He stated that there will be no intrusion onto Mr. Mullane's property. Mr. Mullane asked what kind of fence it will be. Mr. Labriola showed Mr. Mullane a picture of the fence. Mr. Gasparro stated that it is a 6' fence and that the finished side will face towards Mr. Mullane's property.

Mr. Mullane stated that he has very little property in the back of his house and that the fence will create an alleyway, which he said he will live with. He stated that the last time there was construction he was never notified. He stated that the next thing that happened they built a gas water pipe behind his house with a 6' trench. He stated that at that time a 14 year old girl lived in the house. He stated that the construction workers were raunchy in the morning with rude language. He stated that you have think of that, too. Also, he stated that as long as it is aesthetically pleasing to the eye, it's ok. He stated that right now his house is always cold because all the trees are gone and in the back of his house it's all bumpy and there is no real drainage. He stated that he'll live with it. Mr. Gasparro stated that the fence will give him the wind break all across his property. Mr. Mullane stated that he only has 4' before he hits the fence behind his house, which wasn't there. He stated that when he brought the property it was all trees and he did not realize the property outline and that the price was good and he took it. Mr. Labriola stated that the Board tried to take into account adjacent property owners' concerns and see what could be done with the design of the building and attention to lighting so that it does not spill onto adjacent property owners property and landscaping. He noted that the Board has tried to be sensitive to others in the area. Mr. Mullane agreed and stated that he's just going to have to go through 6 months of construction, which is not pleasant. He stated that the last time it wasn't good with the 6' ditch behind his house and no one told them it was happening. Mr. Gasparro stated that this time there will be nothing going on in that area except grading. Mr. Setaro asked what construction Mr. Mullane is talking about. Mr. Gasparro stated that it was the drainage for Stratford Farms.

Mr. Labriola thanked Mr. Mullane for his comments.

No other member of the public spoke.

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

Mr. Labriola noted that SEQR has already been done on this application.

Mr. Labriola asked about snow removal from the concrete pads outside of the exterior doors on the eastern and southern sides of the building. Additionally, he asked how someone would get to the pads to remove the snow so that those emergency doors would open. He wondered if there needs to be a sidewalk to access those pads and the doors.

Mr. Gasparro stated that these are for emergency exits only and someone would have to walk through the snow to get to them. He noted that it would be an extreme expense to put a sidewalk all around the building to those doors. He stated that it is no different from maintenance for any other building – that they have to do whatever they have to do. Mr. Setaro stated that someone would have to snow blow up to the doors. Mr. Gasparro stated that whoever contracts for the building will be responsible for sidewalks, emergency exits, etc. He also pointed out that the pad is 8” below doorway. He stated that it is a housekeeping issue. Board members indicated that they are OK with this.

Mr. Labriola discussed conditions for final approval: timers on the lights, removing the fence around the detention pond, maintenance agreement on trees on adjacent property. Mr. Nelson stated that the question is, if there will be new plantings in that easement area, whether there is a need for assurance that those plantings would survive for at least a full season. He stated that under the new Code this could be addressed by a maintenance bond or some other assurance that the plantings will survive. Mr. Gasparro asked for a note on the plan that states that if the plantings in the easement area fail within the first 12 months, they will be replaced. Mr. Labriola suggested that the problem is if they are not replaced, then the burden is on the Town to remedy the situation. He stated that the Board needs to make sure that the landscaping plan gets installed and survives, and that there is some recourse if it does not survive.

Discussion ensued about the Planning Board making a resolution to the Town Board for a performance bond. Mr. Gasparro asked if the site plan can be finished before the performance bond is accepted. Mr. Setaro stated that the performance bond becomes part of the Certificate of Occupancy – as a condition of receiving the C.O.

With regard to trees that are on the adjacent property to the west, Mr. Labriola asked if Mr. Nelson has looked at the language of that easement. Mr. Nelson stated that he looked at it awhile ago and will review it again and suggested that it be put as a condition of final approval. He noted that there is both a drainage easement and an easement for landscaping.

Further discussion ensued about the landscaping performance bond and the procedure for a formal motion to the Town Board. Mr. Gasparro suggested a \$5,000 bond. Mr. Setaro and Board members accepted that amount.

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

**I move that the Planning Board grant site plan approval to the Realty Stop Agency, Inc. with regard to the application from the Realty Stop Agency, Inc., 1325 Dutchess Turnpike in the form of the attached resolution dated 5/11/10 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 5/7/10**
- 3. Timers will be installed to turn lights off by midnight**
- 4. Remove the fence around detention pond**
- 5. Review of the drainage easement and tree maintenance agreement by the Planning Board attorney and found to be acceptable**
- 6. Add colors and materials to the building elevations and include as part of the final drawings**

**SECONDED BY R. SEAMAN**

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

**Mr. Labriola: MOTION THAT THE PLANNING BOARD ASKS THE TOWN BOARD TO IMPOSE A \$5,000 LANDSCAPING PERFORMANCE BOND TO ENSURE THAT THE PROPOSED LANDSCAPING IS INSTALLED AND REMAINS VIABLE FOR ONE YEAR BEYOND THE ISSUANCE OF THE C.O.**

Mr. Gordon suggested adding language that provides that any plantings that fail shall be replaced.

**Mr. Labriola: MOTION TO AMEND THE PERFORMANCE BOND TO INCLUDE THAT IF ANY PLANTS FAIL, THEY WILL BE REPLACED PRIOR TO RELEASING THE BOND.**

**SECONDED BY M. GORDON**

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

Mr. Labriola thanked Mr. Gasparro for working with the Planning Board. He stated that this application has come a long way and has broken a lot of new ground. He stated that he is pleased with the way this site has turned out.

Mr. Gasparro stated that he thinks the changes have been for the better.

**3. WILLIAMS LUMBER – PUBLIC HEARING**  
**Grid#6564-02-529886 & 6564-02-507860**  
**Location: 2424 Route 44**

Mr. Larry Boudreau, Chazen Companies; Mr. Scott Kruickshank, Kirchhoff-Consigli; and Mr. Sandy Williams & Ms. Kim Williams were all present.

Mr. Boudreau submitted proof of publication and notification to the adjacent property owners of this Public Hearing.

Mr. Boudreau stated that 4 items remain:

1. sidewalk along frontage
2. site lighting
3. security fence
4. signage

### **Sidewalks**

Mr. Boudreau reported on their contact with the DOT – no problem with going in their right-of-way. He stated that it has to meet the DOT's standards and maintenance reverts to the local municipality. He stated that they are questioning whether construction of the sidewalk can be deferred. He expressed confusion on why a sidewalk was required in Mixed Commercial District.

Mr. Boudreau stated that Joe Kirchhoff called him and discussed possible threshold triggers that would be the basis for the sidewalk being installed. Mr. Labriola reported that he also spoke with Mr. Kirchhoff and that he and Mr. Nelson have been having some conversations. He stated that there are 5 options with regard to the sidewalks:

1. don't require them – which is not a viable option
2. install them now
3. defer installation
4. petition the Town Board to change the Code
5. appeal to the ZBA for a variance

Mr. Labriola reviewed the thinking on this situation – show the sidewalk on the plan, all the details and necessary signage, cross walks, and label it as future. He stated that, because this is part of an emerging hamlet, there would a future trigger that would generate the need for construction of the sidewalk. A trigger might be a certain number of C.O.'s issued for residential units within the Hamlet District, which indicates that there is a sizeable population in the area to take advantage of the sidewalk. He explained that this still needs to go in front of the Town Board, because once the trigger occurs it would be the Town Board's responsibility to determine whether the sidewalk should be constructed. He stated that the Town Board has to be part of the discussion and agree to the decision.

Further, Mr. Labriola stated that based on his conversation with Mr. Nelson and Mr. Setaro it is not clear whether the Planning Board has the authority to approve a site plan with some future condition on it. He stated that this may have to go to the ZBA for a variance. He stated that the Planning Board needs to find out from the Town Board whether they are comfortable with this approach – part of which is that the Town will assume maintenance of the sidewalk. He noted that the applicants did exactly as they were asked to do – they contacted the DOT, which said no problem and the municipality must assume ownership for the sidewalk.

Mr. Gordon asked why the municipality would have to assume the responsibility to clear the snow from the sidewalks. Mr. Boudreau stated that the DOT is not going to make a deal with the landowner. Mr. Setaro stated that it is standard practice. Mr. Gordon stated that we've never had a commercial sidewalk cleared by the Town or the City. Mr. Karis asked whether there is a Town law that requires property owners to clear sidewalks. Ms. Dickerson concurred that that is accurate – that the Building and Zoning office struggle every winter with trying to get people to clear their sidewalks in this Hamlet. Mr. Karis stated that he does not know whether the local law pertains to the whole Town or if it is specific. Mr. Fracchia asked whether it is NYS that requires the Town to maintain it. Mr. Setaro stated that whenever there's a highway work permit issued for construction of a sidewalk, they have a standard maintenance agreement. Mr. Fracchia pointed out that NYS is not going to go after the individual, but will go after the Town. Mr. Karis suggested that the Town then goes after the property owners via the local law.

Mr. Labriola stated that this is a discussion that needs to be had with the Town Board to make sure that they are comfortable with the approach and that they understand how the maintenance will happen. He stated that this is a prerequisite to the Planning Board moving forward on this application.

Mr. Labriola asked the Planning Board members whether they are comfortable with the option to defer construction of the sidewalk where the trigger to commence construction might be a certain number – 100 – 125 – residential C.O.'s. Ms. Bramson asked if Taconic Homes would meet that number. Mr. Labriola stated that construction of Taconic Homes will be staged and that it may be years before that hits the triggers.

Mr. Gordon suggested that the trigger would be a certain percentage of the highway frontage being further developed – from the Williams property all the way to Washington Hollow. He suggested that in some point in time when other businesses come in, then pedestrians could walk from one business to another. Mr. Labriola asked whether it is the amount of commercial development in the area or is it the number of potential users as the trigger. He pointed out that the whole area could be built out with no residential units at all and, therefore, sidewalks that nobody would use. Mr. Gordon pointed out that there is now a limited amount of commercial development in the area and even if there were copious residents living in the area there would still be no reason to walk on that sidewalk because it doesn't go anywhere – from Williams to Reardon Briggs to Superior Telephone to the gas station. Mr. Labriola stated that the suggestion of residential units was a starting point for discussion.

Mr. Boudreau stated that the concept is to defer construction of the sidewalk to a certain trigger. Mr. Gordon suggested that the Town Board could set the trigger. Mr. Labriola stated that his preference would be to go to the Town Board with a strong recommendation. Mr. Boudreau stated that the specific suggestion was 125 residential C.O.'s issued in the Town of Pleasant Valley within a ½ mile radius of Williams Lumber. Mr. Gordon stated that that's not a lot of people to build a sidewalk along the highway.



Mr. Karis stated that the Board needs to keep in mind that this is supposed to tie together the entire area – that maybe it is beyond a ½ mile. Mr. Boudreau suggested that maybe the threshold is when the entire sidewalk is needed in the whole hamlet area – so that the sidewalk is not built in pieces and there is somewhere to walk to.

Mr. Gordon stated that the existing business owners in the area do not have any sidewalk requirement until they need site plan approval for some change. He stated that this would be the sidewalk to nowhere and perhaps it has to be triggered on a certain percentage of commercial properties along this strip putting in sidewalks either voluntarily or because of a new site plan. He stated that there are not going to be any sidewalks in front of Taconic Homes. Mr. Labriola stated that the site plan for Taconic Homes includes sidewalks out to Route 44.

Mr. Labriola stated that this is supposed to be a long-term vision of an emerging hamlet. Mr. Karis asked what the problem is with putting in sidewalks now. Mr. Kruikshank stated that it is a huge initial expense because it goes nowhere. He stated that they are willing to put it in, but they want to see the need. He stated that they will abide by whatever trigger the Board comes up with – residences or commercial development. He stated that it is a \$40,000-\$50,000 initial expense for 700' of DOT sidewalk.

Ms. Seaman stated that she can also understand that there would be additional costs for maintaining the sidewalk over a period of years when no one would be using it. Mr. Kruikshank pointed out that they will have a 10 year old sidewalk when the Hamlet does eventually develop and everything flanking them will be brand new.

Ms. Seaman suggested a dual trigger – commercial development linked to residential development. Mr. Gordon stated that the trigger would only apply to this application and to 75%-80% of the others that are not required to do it. Ms. Seaman stated that the same sort of trigger could be imposed on other smaller commercial sites in the area, so that the ultimate sidewalk construction would happen all at once. Mr. Karis stated that it makes sense to look at the Hamlet District as a whole and someone has to set this trigger number. He stated that he agrees that the Town Board has to set the policy for this area and that it be a dual trigger – commercial and residential. Ms. Seaman suggested that the 5<sup>th</sup> commercial redevelopment would trigger the construction.

Mr. Fracchia stated that he's concerned with liability if they were to construct the sidewalk – that it could turn into the skateboarding rink and that the Town would be liable if someone were to be hurt on it. Mr. Labriola asked if he is advocating against there being a sidewalk at all. Mr. Fracchia stated that he agrees with deferring the construction pending some triggering event.

Mr. Kruikshank asked whether the Hamlet is from Washington Hollow to the Taconic. Board members responded yes. Mr. Kruikshank estimated that it is about a mile and that doing it by percentage makes sense. Mr. Gordon stated that until such time as 80% or so of those properties turn over or improve or redevelop, it still will be a highway commercial district in appearance and there will not be anywhere to walk to. Mr. Karis

stated that the trigger will be when/if Taconic Homes gets built. Mr. Labriola agreed that that would generate some momentum. Mr. Gordon stated that even if there were sidewalks, the people living in the town homes would not avail themselves very much of Williams Lumber products and they are not going to have anything to do with Reardon Briggs and Superior is a commercial company. Mr. Labriola pointed out that that is what exists today but that at some point Superior Telephone may change and become a restaurant. Mr. Gordon stated that until 75% of the sidewalks are built, this is silly.

Mr. Karis stated that he is open to the trigger idea of deferring construction of the sidewalks along Route 44 and that he is not sure what the trigger(s) should be. Mr. Gordon stated that it should be tied to a percentage of the commercial properties along that strip. Mr. Labriola asked for clarification of what the percentage would be of – the number of properties? Mr. Gordon stated that it would be a percentage of the distance that would be required to be developed – otherwise until you have sidewalks that connect, no one is going to walk on them anyway. Mr. Labriola noted that this is the dilemma – no matter how many people are living there, until the sidewalks are in place there's nowhere for them to walk. He stated that he think it depends on users. Ms. Bramson suggested that it be a combination of factors. Mr. Labriola emphasized that it needs to be kept simple so that someone 10 years in the future can figure out what the Board was thinking.

Mr. Williams stated that, from being in business a long time, nobody walks to a lumber yard. He stated that nobody is going to walk in to pick up 10 pieces of plywood and carry them home; nobody is going to buy 3 gallons of paint and carry them home because one gallon of paint weighs 15 pounds. He stated that he agrees with Mr. Gordon – that it is important to tie it to who would possibly walk to their location, which he suggested will be the buildings behind them. He agreed with Mr. Labriola's suggestion of 125 residential units as the trigger and, as a secondary, when it gets to be 75% built up then they tie the sidewalks. He stated that there is no sense in having sidewalks where no one will walk on them. He asked who is going to walk on this sidewalk from the gas station to his place. He stated that today people are lazy. He stated that at his store in Rhinebeck when they have a sale, people will drive around their parking lot looking for an open spot. He stated that they try to get them to park in their empty lot north of their site, and people don't want to do it. He stated that the 125 is a good idea with the suggestion of 75% of the sidewalks in. He noted that it is an enormous expense to put in the sidewalk at this time when they have an enormous expense just to get the door open and the banks aren't that lenient today.

Mr. Karis stated that this site may not be Williams Lumber forever and it may be something very different in the future that people would walk to. He stated that he's thinking 25 years in the future.

Mr. Williams stated that the size of the building is too big/too small for other businesses and is perfect for them. He noted that it is not big enough for a big box store and it's too big for a small entrepreneur who wants to start up a business.

Ms. Bramson stated that if someone wanted to get from Taconic Homes to La Puerta Azul – that Williams may not be the destination – a complete sidewalk would be needed. Mr. Karis stated that the idea is for safe pedestrian connections through the Hamlet. Ms. Bramson agreed that people need to get from point A to point B with continuous sidewalks.

Mr. Gordon stated that the trigger has to be a certain amount of the rest of the properties being required to put in their sidewalks, because otherwise it's not going anywhere.

Mr. Labriola stated that the difficulty is that this is the test case – that it is awkward for the first application to which this applies. He stated that he would like to go to the Town Board with a clear recommendation. He asked if there needs to be a second trigger beyond the number of residential units. Mr. Williams stated that if there is not going to be a second trigger, then he suggested that it be 200 residential C.O.'s.

Mr. Gordon stated that the trigger would only affect Williams Lumber. Mr. Labriola stated that if Reardon Briggs were to sell out and a grocery store were to go in there, the Planning Board would ask for the same trigger during site plan review.

Discussion continued about how to set the triggers for construction of the sidewalk. Board suggested two and Mr. Williams agreed: 125 residential C.O.'s and 40% of frontage. Mr. Karis stated that there's got to be people and places for the people to walk. Mr. Labriola added, even if those places are not contiguous. Mr. Karis stated that there's going to be gaps in the network. Ms. Seaman stated that there will be trails and people will walk on the shoulder between sidewalks. Mr. Boudreau expressed concern about those gaps. Board members discussed this is long-term planning.

Mr. Labriola stated that he's ok with the two triggers: 125 residential C.O.'s within the hamlet district and 40% of the frontage in the hamlet. Board members confirmed that it is "and" and not "or." Mr. Gordon stated that he thinks it should be 50% road frontage. Mr. Labriola stated that to make this decision, then, the Board must know from boundary to boundary the exact road frontage of the Williams site in order to know how much is consumed by Williams. Mr. Labriola stated that the Planning Board can still have a conversation with the Town Board to discuss the direction we're heading in, but noted that the applicant needs to provide the Board with the exact data – from boundary to boundary within the hamlet district.

Mr. Gordon asked about the two plazas – one with La Puerta Azul and the one across the street – whether sidewalks will be put in there, too. Board members concurred that they are a big part of the denominator.

Mr. Nelson asked if this is a hamlet surrounded by a hamlet residential district. He noted that there are 2 hamlet districts in the Code and we want to be clear as to whether it's within the broader all hamlets district or just in what is defined as the hamlet, which is more central to the intersection. Mr. Karis stated that the hamlet residential district touches Route 44 as well and noted that it is in the H-WH (Hamlet-Washington Hollow)

District and the HR (Hamlet Residential) District. He stated that the Board is talking about the lineal feet of frontage on Route 44 of the Williams site, not on Route 82. Ms. Seaman suggested that this should specify the side of the street, only. Mr. Karis agreed – the south side of Route 44. Mr. Gordon agreed that the north side of Route 44 won't be developed in the same way because of the topography, steep slopes, and wetlands.

Mr. Nelson mentioned that the Board might want to discuss with the developer, which is interested in deferring this capital expenditure for what now appears to be something that may not be used for a long time, the possibility of the Town asking for security to make sure that the improvements are made when the trigger is reached. He noted that this will be an expense item for the owner and that the owner may not want to have this go on forever. So, he stated that a simplistic way to consider this is to pick a time. Secondly, Mr. Nelson stated that whether you pick an absolute time, or a trigger, or two triggers, that the suggestion to the Town Board is that the Town Board may call for the installation of the sidewalks. He explained that the Planning Board is trying at this time to guess ahead, and if there are a number of triggers in the formula it is uncertain whether you can guarantee that you will know where development will really be and the need for the sidewalks will really be. Therefore, he stated that if it were suggested to the Town Board that these triggers would lead them to be able to call for installation of the sidewalks and perhaps not mandate that the sidewalks be installed – that this is something that the Board may want to discuss with the developers.

Mr. Labriola noted that this could be open ended – 125 residential C.O.'s plus X% of road frontage OR this date – whichever happens first. Mr. Gordon suggested that if the developer were not required to submit a performance bond, then the Town would simply put in the sidewalks and bill the property owner on their taxes. Mr. Labriola suggested that the Town response would be to request the performance bond as security that the Town does not have to outlay the money and then collect it.

Mr. Setaro asked when the Town Board would be approached. Mr. Labriola stated that he and Mr. Nelson will reach out to Mr. Volkman and discuss next steps. He pointed out that there needs to be a discussion about whether the Planning Board has the authority to approve a plan with future conditions – deferred items. Mr. Boudreau stated that their goal is to have the site plan approved at the next meeting. Mr. Williams stated that he would be very concerned if the trigger were set 5 years from now, because the area has not been built out. Mr. Labriola stated that he understands Mr. Williams point but stated that it may create a situation where the performance bond that could go on for 5, 10, 15, or 20 years and putting a time limit eliminates that never ending performance bond. Mr. Williams asked if at the end of the time period the Town could then decide whether it wants to build the sidewalk. He stated that paying on that bond for that length of time would be onerous. Mr. Karis stated that he does not think it is an option because the Code requires sidewalks – that's talking about not implementing a required element. Mr. Labriola agreed that he does not think the Planning Board has the option to ignore a Code requirement. He, again, mentioned that an option is appealing to the ZBA for a variance, which would still have to be cycled back before the Planning Board for a recommendation.

Mr. Labriola stated that he thinks the only approach is to install the sidewalks now or determine how to defer it. Applicant expressed their understanding of the procedure suggested for deferring the installation and the only thing that's not in place is now to guarantee to the Town that they will build it without having to pay for the bond over time.

Mr. Gordon stated that the obligation would be attached to the property regardless of who owns it. Mr. Labriola stated that that's not the issue, because it will be part of site plan approval. Further, he stated that one of the ways you ensure that things get done is by putting a performance bond in place and, typically, with a very short period of time on them – 1 to 2 years. Mr. Gordon stated that this is different. Mr. Labriola concurred and stated that he's happy to have that conversation with the Town Board, but that his hunch is that the Town will not be comfortable with that.

Ms. Seaman agreed that it is the Town Board that has to be comfortable with a performance bond or some other instrument. She asked if there is any precedence on if you fail to perform, does the Town have to build it before they levy costs against the property owner or can they level costs through the taxing authority before construction of the required improvement. Mr. Nelson stated that if there's a bond, the municipality would make a call on the bond. He stated that the bonding company then comes forward, based on an agreement from the developer, and informs the developer that there is a call on the bond and that the developer needs to meet the requirement or the money will revert to the Town. He stated that he has seen bonds that are written to allow the money to be drawn and then the work to be done.

Ms. Seaman clarified that she is asking, when there is no bond, whether the Town can levy against the property owner before the work is done. Mr. Nelson stated that he has not seen that but noted that what Ms. Seaman is talking about is a contract between the Town and the property owner that goes in the property records and carries as an obligation on whoever owns it and provides that the Town could bring a claim for the costs to install, collected through lien on the property, and take the proceeds and do the work. Mr. Nelson stated that he and Joe have not had any conversations with any Town Board member about this question of security. He mentioned that another procedure would be to do a contract and record it and if it's legal, allow the Town to do the work and if the work is not done to sue for payment. Board members agreed that the next step is for Mr. Labriola and Mr. Nelson to talk with Mr. Volkman and then the Town Board.

Mr. Boudreau asked about their attendance at the Town Board workshop. Mr. Labriola agreed that someone from the applicant should be in attendance for the discussion with the Town Board.

### **Lighting**

Mr. Boudreau stated that the existing poles are 22' high and pointed out that the plan as submitted shows pole height of 15' along the right-of-way and the new lights – shoe box type with a shield. Mr. Karis stated that that is not what was talked about at the last



meeting – that it was decorative fixtures along the frontage and replacing the articulating with shoe boxes on the interior and changing the height from 22' to 20' to become more in compliance. Mr. Boudreau stated that he did not receive any e-mails on the types of fixtures. Mr. Karis stated that discussion was about 15' decorative fixture along the front to meet the Code. Mr. Boudreau stated that they went 15' with quality shoe box with shields on the back and that they are using the existing poles cut down to 15' and that they added additional poles. He stated that in the back, they changed out the light fixture to shoe box with higher wattage at 22'. He stated that it can be reduced to 20' with the addition of more poles. He stated that if the Board wants them at 20', they will comply.

Mr. Boudreau asked for clarification on what the Board is looking for on the front. Mr. Labriola stated that the Board had referred them to the lights installed at the credit union and at Herb Redl's plaza – hamlet friendly designs. Mr. Kruikshank pointed out that expense is a factor, that the decorative fixtures are quite expensive - 3 to 4 times more than what they have proposed. He stated that what they have proposed is a quality light fixture that meets the Code in height and foot candles and is the compromise that they are looking for along their huge frontage.

Mr. Labriola asked whether there's an alternate decorative fixture – that it does not need to be top of the line. Mr. Kruikshank stated that the one the Board proposed is a top to bottom fixture, whereas what they propose is a pole with a fixture that provides the needed foot candles.

Board members reviewed the maps to locate the light poles along the front. Ms. Seaman suggested that they don't need the decorative fixtures all along their frontage. She pointed out that the ones in front of the storage area would, hopefully, be behind some of the landscaping that will shield the storage area. She suggested that the decorative fixtures would attract customers to commercial area and would improve that area along Route 44 right now with a hamlet friendly business. She suggested that they install the decorative fixtures right in front of the store. Mr. Labriola agreed. Ms. Seaman stated that it would be a compromise and would reduce some of the expense. Mr. Boudreau asked for clarification of types of fixtures. Mr. Labriola pointed out that they are the first and can set the standard for the area and invited them to submit some options for the Board's consideration. Applicant, Mr. Setaro, and Mr. Karis discussed fixture options.

With regard to the light fixtures on the interior of the site, Mr. Karis referenced the Code that permits the Board to bring non-complying features more into compliance but not into full compliance – and that was changing the light edge from articulating to fixed and bring the height pole down to 20'. He stated that that might affect the photometrics.

Mr. Setaro asked for clarification on what has been agreed – that all the 22' poles are being cut to 20'. Ms. Bramson suggested that this was in the minutes from last time. Mr. Karis summarized the agreement:

- 6 lights in front of the building will be decorative pedestrian oriented lights at 15'
- 4 lights in front of the storage area along the road frontage will be shoe box on poles at 15'



- Rest of the lights on the interior of the site are going to be mounted at 20' and the fixtures will be changed to fixed heads

Mr. Labriola added that on the storage buildings, the wall mounted fixtures will also be 15' with shielding.

Mr. Karis asked if the applicant is clear on these details. Mr. Boudreau responded yes.

### **Signage**

Mr. Boudreau stated that they owe the Board the details on the sign. Ms. Dickerson stated that they must fill out a sign permit application, which is separate from the site plan review process.

Mr. Karis asked if they plan to use the existing masonry base and to do a building-mounted sign. He asked if the sign will be on the front of the building. Mr. Boudreau stated that the Code implies that the sign application is part of the site plan review. Ms. Dickerson stated that it is a separate application. Mr. Labriola concurred that they were never tied together like this before. He stated that it seems odd to have a prerequisite of a sign application to get site plan approval. Ms. Seaman agreed and stated that she thinks they can come in for the sign permit whenever they are ready. Mr. Labriola stated that the new Code is specific about including the sign permit with site plan.

Ms. Williams stated that they have been into the office and asked to apply for a sign permit and were told that he cannot apply for a sign permit until site plan approval has been granted. She pointed out that he has been told that twice and has also been told that the ZBA will not grant a variance for a sign because they have never done it since Zoning was initiated in 1974. She stated that she thinks it's a little shortsighted. She stated that they would have had a sign permit application with the site plan application but that he's been told that he cannot do that.

Mr. Labriola noted that the Code is very specific and that, perhaps, it is misstated. Ms. Seaman agreed. Mr. Labriola asked Mr. Nelson how to proceed. Board members reviewed the 98-78 R – "any signs to be established on the lot shall be part of the site plan submission and shall conform to the standards of 98-46."

Mr. Labriola proposed that on their plan they should show the location of the monument sign and show an envelop of where they are planning to put the wall sign. He stated that the Board does not need to have the details, the colors – that can happen with the sign application – but at least as part of the site plan review process the applicant has shown the Board its intent of where the signage is going to go. He noted that in this way the Board has met the intent of the Code.

Ms. Williams asked what 98-46 permits – she is under the impression that it was one or the other – monument or wall sign. She stated that it is 24 sq. ft. wall or 16 sq. ft. monument. Board members thought it was both. Mr. Gordon stated that the problem

with tall signs is that they intrude into the viewshed of the Taconic State Parkway, which is prohibited.

Mr. Williams stated that people will be doing 60 mph past the building and will not be able to read the sign if it conforms to the new Code. Mr. Gordon agreed. Mr. Williams stated that that is a real problem for any retailer. Mr. Gordon stated that the Taconic Parkway has been established as a Historic Greenway.

Board members noted 98-46 I (1) (a) = one establishment – one sign.

Ms. Seaman pointed out 98-46N, which permits the Planning Board to “consider approval of an additional sign of one of the types listed in 98-46 I(1)(a) and which is visible to a public street.” Therefore, she pointed out that the Planning Board has the power to grant an additional sign permit and the rationale would be the speed limit on the roadway in front of the site.

Ms. Williams asked about the permitted sizes of the signs. Mr. Labriola read from the Code: one monument sign no larger than 16 sq. ft. Mr. Karis read from the Code: one wall sign located on the principal façade, 1 sq. ft. for every 3 lineal feet of principal façade not to exceed 24 sq. ft. Therefore, the Code would permit two signs:

- 16 sq. ft. monument
- 24 sq. ft. building wall sign

### **Security Fence**

Mr. Boudreau stated that he received the e-mail. Mr. Boudreau stated that they are asking the Board to consider a chain link fence because of security, materials, and cost. He described a 8’ high black chain link fence mitigated by a raised berm in front and more landscaping. He stated that it is 31’ off the right-of-way, which is 20’ off the road. He stated that they will replace the unhealthy shrubs and pointed out the grade changes in the area. He mentioned, again, the priority of security for the lumber yard.

Mr. Karis noted that proximity of the police barracks to this site and the number of troopers passing by on Route 44 24 hours a day. Ms. Seaman stated that in terms of appearance she would rather see the money go into landscaping rather than into the fencing. She stated that when the landscaping matures, hopefully, that will be what is visible. She suggested that they save money on the fence and do a landscaping plan that hides it all, which will help create the hamlet image and feeling. Ms. Bramson also pointed out that it will hide more than the fence – it will also hide the asphalt. Mr. Karis asked how high the new berm will be. Mr. Boudreau stated that it varies in height and pointed it out on the map. Mr. Kruikshank pointed out that there is an elevation change from Route 44 to the property of about 4’. Mr. Karis asked whether the site is higher than the road. Mr. Kruikshank responded yes. Mr. Karis noted, therefore, that an 8’ fence looks like a 12’ fence.

Mr. Labriola agreed with Ms. Seaman’s suggestion of emphasizing the landscaping versus the fence. He stated that he would be OK with landscaping to shield the fence and

that they should make sure that there are enough evergreens so that there is year round shielding. Board members concurred. Mr. Gordon stated that it is a good compromise and he pointed out that the decorative fences require a lot of maintenance, which needs to be done.

Mr. Setaro recommended black for the fencing – Board members concurred.

Mr. Karis stated that he is leery of setting the design standard as chain link fence on the frontage. Board members discussed options. Mr. Karis asked if the applicant needs 8' fencing along the front. Mr. Boudreau responded no and asked if the Board would prefer 6'. Mr. Karis stated that with the increased landscaping a 6' fence would be better. Mr. Labriola stated that it would be 8' around the rest of the site. He also pointed out that there will be lights along the fence in the front.

Mr. Karis summarized the Board's discussion:

- 6' black vinyl coated chain link fence along the front with the berm and landscaping.

Mr. Setaro stated that all of their comments have been discussed.

Mr. Labriola noted DC Planning's comment letter dated 5/10/10. He reviewed the comments:

- Layout and excessive impervious surface – the County questions whether the amount of impervious surface is necessary and asked that the Board look at options for reducing it. Mr. Labriola stated that the Board has discussed and looked at this. DC mentioned the drive aisle between the two sites and questioned the amount of asphalt surface around the storage buildings. Mr. Labriola stated that the Board has talked about the asphalt and impervious surface on the site and that the applicant has demonstrated that they need to maneuver trucks and have room for customers. He noted that this project is increasing the use on the site and reducing the impervious surfaces. Mr. Karis also pointed out that there are improvements to the storm water management system. Board members concurred that the County's comments have been addressed.
- Display Area – Mr. Labriola noted that this is being removed and the County's comment has been addressed.
- Elevations – Mr. Labriola reported that the County commented that the storage buildings are devoid of architectural elements. He noted that they are storage buildings that will not be visible because of the overhangs. Further, he noted that the Board has worked hard to screen them as much as possible.
- Fence – Board members concurred that they have addressed the County's comment on the fencing.
- Lighting - Board members concurred that they have addressed the County's comment on the lighting.
- Landscaping – Mr. Labriola stated that the County is suggesting that additional street trees be placed in front of the existing building to provide a continuous treatment. Board members reviewed the landscaping plans along the front and

determined that they have addressed the County's concerns. They counted 11 from the curb cut to the eastern end of the property.

Mr. Labriola summarized that the Board and applicants have addressed all of the County's comments.

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

No member of the public spoke.

Mr. Labriola: **MOTION TO CLOSE THE PUBLIC HEARING; SECONDED BY R. SEAMAN**

**Discussion:** Mr. Karis noted that when the Public Hearing is closed, the Planning Board is then under a time limit to issue its decision. He mentioned that this Board does not know what will happen with the Town Board with regard to approving a site plan with a future condition (sidewalks) and asked if that would be an issue. Mr. Nelson stated that in site plans, as opposed to subdivisions, there is no potential for default approval but the better practice is to agree with the applicant that it might take little longer than what the Town law requires.

Mr. Labriola asked Mr. and Ms. Williams if they will agree that it may take a little more time. He explained that once the Planning Board closes the Public Hearing, Town law requires that the Board must make a decision within 62 days. He stated that because the situation with the sidewalks remains undecided, it could take the Planning Board longer than the 62 days to conclude the site plan review and make a decision. He stated that the goal is to continue to move this application forward. Ms. Seaman stated that otherwise the Board must leave the Public Hearing open by adjourning it. The applicant indicated that they are OK with the fact that it may take the Board a little longer than required to reach a decision.

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

Mr. Labriola enumerated the immediate next steps:

- Regarding sidewalks, Mr. Labriola and Mr. Nelson will contact the Town Board's attorney, start the discussion, determine when to meet with the Town Board, communicate that to the applicants so that they have an opportunity to participate. Mr. Gordon asked that as part of the discussion a decision be reached about the width of the sidewalks.
- Decision has been reached on fencing.
- Decision has been reached on how to deal with the sign – reference to 98-46N that authorizes the Planning Board to permit two signs on the property and rationale being the 55 mph zone and visibility from a public street. Mr. Nelson and Ms. Seaman discussed the distinction between a sign not being visible from the street as a function of it not facing a street or of other factors – such as speed

limit – that would impede visibility. Ms. Seaman stated that the relief can be granted in this instance because of the speed of that road. She stated, therefore, that a monument sign is needed at that site. Mr. Setaro also mentioned the setback as an impediment to visibility.

- Decision has been reached with lighting – the applicant will submit their suggestions for decorative lighting options – Mr. Setaro suggested that they send e-mails with photos of their options.

**9. MINUTES**

Mr. Labriola: **MOTION TO APPROVE THE MINUTES AS WRITTEN OF THE 4/13/10 PLANNING BOARD MEETING; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 6-0-0**

Meeting adjourned 9:15 p.m.

Minutes submitted by:  
Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the May 11, 2010, 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 8, 2010**

A regular meeting of the Pleasant Valley Planning Board took place on June 8, 2010, 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  
                              Peter Karis  
                              Henry Fischer  
                              Kay Bramson  
                              Rebecca Seaman

Members absent:     Michael Gordon

Also present:         Jim Nelson, Esq., Planning Board Attorney  
                              Pete Setaro, Planning Board Engineer

**Announcement:** Mr. Labriola announced a change to the agenda: the Beckwith appeal to the ZBA for an Interpretation is postponed to the July meeting. He also announced that Ms. Lynn Sticker, who has been an alternate member of the Planning Board, is moving out of Pleasant Valley and has, therefore, resigned from the Board. He expressed his and the other Board members' appreciation for her service to the Town and to the Board and stated that the Planning Board is looking for an alternate member on the Board.

### **1.     GIS (GEOGRAPHIC INFORMATION SYSTEMS) PRESENTATION**

Mr. Neil Curri, Senior GIS Resource Educator, GIS Lab, made a presentation on the current GIS technology and its uses for town planning. Mr. Labriola stated that this presentation counts toward the Board members' continuing education requirements.

Mr. Curri invited the Board members and others to call him for one-on-one mentoring on this technology. He also announced that he holds a special interest group that meets the 4<sup>th</sup> Wednesday of the every month and that those who are using GIS are welcome to come to share information and learn about the latest technology.

#### **Highlights:**

- Definition: any kind of technology used for geography.
- Geospatial Technology: Neil uses this term rather than GIS.
- 2 Wetlands Information Sources:
  1. National Wetlands Inventory – produced by the US Fish and Wildlife Service
  2. DEC Regulated Wetlands



- Accuracy of data: Is a reflection of the source of the data; must default to the lowest level of accuracy when looking at relationships between layers of information.
- Applications: site details such as
  - Drainage
  - Wetlands
  - Rare species
  - Access point
  - Features on adjacent properties
  - Alternative configurations for development on the site

Mr. Labriola mentioned that the first step in Subdivision or Site Plan is the Resource Analysis and Concept Plan and that steep slopes and buffers are critical information needed for that step. He noted that all of that will be subtracted out of the total acreage in order to calculate the usable acreage on the site, which will likely determine the number of lots that could be developed on any site. Mr. Labriola asked whether clarification on the accuracy of data from various sources is available. He asked for the level of accuracy from core sources.

Mr. Curri reported that the maps that Ms. Southworth creates list all the data sources on them. He stated that you can use the GIS connection to Dutchess County to look for the record for that particular data, which will tell you something about the data source and the level of accuracy.

Mr. Curri stated that, in general, the lowest common denominator for most of the data that County has and that he has at the GIS lab is about 50' horizontal accuracy. He stated that there are some data that are much more accurate than that. He mentioned that the County Planning Department has contracted for data as part of the planmetric survey that includes photography information, structures, edge of pavement for parking lots and roadways – all of which is very high resolution data and is quite accurate. However, he stated that other data, such as DEC wetlands, is at least 50' horizontal accuracy. He stated that this pertains, especially, to DEC regulated wetlands.

If the Planning Board uses GIS to verify whether a proposed plan is within the buffer, Mr. Curri stated that accuracy that is within 50' or even 100' is definitely a reason to make a site visit or ask the applicant to do a wetlands delineation. He stated that that data source is not terribly accurate; other data sources are in between; and the streams and water bodies information is in the middle of the road and is a little bit more accurate than the DEC wetlands but that he still would not trust it greater than 50' horizontal accuracy. He stated that a lot of the features are more accurate than that, but he cautioned that you must go with the lowest common denominator. He emphasized that the data continues to get better and better every year.

**2. WUERZ –SITE PLAN & PUBLIC HEARING**  
**Grid #6564-03-378420**  
**Location: 422 Masten Road**

Mr. and Mrs. Henry Wuerz were present. Mr. Wuerz explained that he wishes to construct a 10 stall horse barn and indoor exercise area. He stated that he is in an agricultural district and that he does not have an agricultural exemption as he does not meet the income requirements.

Mr. Nelson reported that this applicant has an exemption from SEQR.

Mr. Setaro reviewed Morris Associates' comment letter. He stated that he had not been aware that this applicant was not required to complete the Resource Analysis and Concept Plan phase of site plan. He emphasized that the documents submitted by the applicant do not meet the Code requirements (98-80) for site plan review and questions whether the map submitted is adequate.

Mr. Labriola asked about lighting – where it would be located and what the wattage will be. Also, he stated that the Planning Board needs to receive elevations of the building with materials and colors displayed.

Dr. Fischer asked if Mr. Wuerz will install a bathroom in the barn. Mr. Wuerz responded no.

Discussion about parking on the site: The applicant identifies 19 parking spots on the site, but the map only shows 10. Mr. Wuerz pointed out the parking areas on the map and explained that some of the parking is on gravel and some is on grass. Mr. Karis stated that it looks like parking is disorganized. Mr. Wuerz stated that there are many more parking spots than there are boarders. Mr. Labriola asked the applicant to tighten up the parking designation on the map. He explained that the exact parking spots must be indicated on the map, that grass parking does not count - only the gravel parking spots can be counted. Ms. Bramson pointed to some parking spots that are hard to visualize.

Mr. Karis asked about the location of the septic and whether people will be driving over it to access the barn. Mr. Wuerz explained where the septic is and confirmed that no one drives over it or parks on it.

Mr. Labriola asked where a vehicle with a horse trailer would be able to turn around on the property. Mr. Wuerz explained access and turn around on the property.

Mr. Setaro emphasized that the applicant needs to provide the information required by Code Section 98-80 and advised Mr. Wuerz to engage the services of a professional to provide a plan that meets the code. Mr. Setaro mentioned items that need to be addressed, such as how the earth will be moved, roof leaders, and drainage. Also, he pointed out that Mr. Wuerz must provide information on a manure management plan – how it will be handled.

Dr. Fischer returned to the topic of a bathroom for the customers. He pointed out that Mr. Wuerz is upgrading his facility and asked about providing a commercial bathroom. Mr. Wuerz stated that people coming to his facility for years have always used the

bathroom in his house and reiterated that they are not increasing the number of people who will be coming to the property. He stated that it has never been a problem. Dr. Fischer pointed out that it may not be a problem for Mr. & Mrs. Wuerz, but that the next owners of the property may not want the public using the bathroom in their house. Mr. Nelson will look into whether regulations require sanitary facilities.

Mr. Labriola read into the record (original on file) a letter from the Fire Advisory Board dated 6/2/10: maintain the driveway at 12' wide and cleared to a height of 12'. Mr. Wuerz estimated that his driveway is 15' wide. Mr. Karis asked about any overhanging trees in the area of the driveway.

Mr. Labriola noted that Morris Associates identified some fencing that is outside of Mr. Wuerz' property. Mr. Wuerz stated that all that fencing is being replaced – split rail and board fencing. Mr. Labriola stated that this must be added to the map.

Mr. Labriola enumerated the next steps:

- Open and adjourn the Public Hearing pending receipt of updated set of drawings
- Mr. Wuerz to contact Morris Associates for details that are required on the plan and to engage the services of an engineer or land surveyor

Mr. Wuerz stated that he has Board of Health approval.

Mr. Labriola: **MOTION TO OPEN PUBLIC HEARING; SECONDED R. SEAMAN; VOTE TAKEN AND ADJOURNED 6-0-0**

No member of the public spoke.

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

Mr. Labriola advised Mr. Wuerz that the drawings must depict what is on the property now and what is proposed, including fencing. Also, elevations – architectural rendering of the proposed barn with colors and materials – must be submitted to the Board.

Mr. Nelson stated that he will do further research regarding SEQR.

Mr. Setaro reiterated that Section 98-80 lists all the things that must be shown on the map and pointed out that Mr. Wuerz may request waivers in writing.

Mr. Wuerz will contact Mr. Setaro.

Mr. Fracchia asked about an opening in the fence adjacent to the Porco property and about the right-of-way. Mr. Wuerz explained that feature.

Ms. Dickerson noted the highway superintendent will provide comments on this project.

3. **MCLAUGHLIN – SITE PLAN & PUBLIC HEARING**  
**Grid#6463-03-306490**  
**Location: 693 Traver Road**

Ms. Dawn and Mr. Joseph McLaughlin were present. Ms. McLaughlin reported that they were granted a Special Use Permit by the ZBA to construct an accessory apartment in their existing house for her parents. She explained that they are expanding the existing family room to create a one bedroom apartment that will include a bathroom, a kitchen, and a separate entrance.

Mr. Setaro reviewed Morris Associates' comment letter:

- Signature block is required on the plans
- Exterior light fixture should be shown on the plans
- Title on the plan should be: McLaughlin Site Plan

Discussion about excavation on the site and the need for a retaining wall. Mr. Setaro asked if the extension of the driveway will be gravel. Ms. McLaughlin stated that it will be blacktopped.

Ms. McLaughlin stated that they have received an approval letter from the Department of Health with instructions about increasing the septic.

Discussion about parking. Ms. McLaughlin explained that they plan to create a flat space for their parents to park and that a little grading will be required. Mr. Labriola stated that the map needs to be updated to show that to scale.

Mr. Labriola asked about lot 43 to the North and encroachment on the property. Ms. McLaughlin stated that they have an easement. Mr. Nelson will review the document.

Ms. McLaughlin pointed out on the map where the exterior light fixture will be located on the building.

Mr. Labriola noted that this application does not need to be referred to Dutchess County Department of Planning.

Mr. Nelson confirmed that this project qualifies as a Type 2 action and will not require SEQR review.

Mr. Labriola read into the record a letter dated 6/2/10 (original on file) from the Fire Advisory Board: no position as there are no fire or safety issues.

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

Adjacent property owner, name inaudible, stated that the rear of the McLaughlin's property borders his property. He stated that he does not think there's a problem and he

asked to see the plan. He reviewed the plan and pointed out the hill on the site. He stated that it looks fine to him.

Mr. Labriola read into the record (original on file) a notarized letter from a neighbor, Mr. William Connors, who is in support of this project.

No other member of the public spoke.

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

Mr. Labriola: **MOTION THAT THIS APPLICATION IS A TYPE 2 ACTION UNDER SEQR AS THERE IS MINIMAL IMPACT ON THE PROPERTY AND ENVIRONMENT AND DOES NOT REQUIRE SEQR REVIEW; SECONDED BY K. BRAMSON; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola reviewed the Code and the PV Schedule of Fees in reference to recreation fees for this application. Mr. Nelson reviewed various sections of the Code in search of an exemption for these accessory dwellings and did not find any exemption. He mentioned 98-86C(4) – which explains how to calculate the recreation fee on the site on which there are existing units.

Ms. Seaman recalled that much discussion on the Comp Plan Committee centered on the fact that the recreation fee was not exempted for the accessory dwellings because these dwellings are not limited to family members once they are created. Mr. Labriola and Ms. Dickerson both commented that it is limited to family members. Mr. Labriola stated that 98-15 is very specific about the fact that the accessory dwelling goes away if it is no longer owner occupied. Ms. Dickerson pointed out that the Special Use Permit is granted for two years and may be renewed. Ms. Seaman stated that the owner must occupy one of the two residential units, but that there is nothing stated about who is in the other one. Ms. Bramson stated that they could rent out the other unit. Mr. Labriola agreed that it must be a family member. Mr. Nelson agreed and explained that this development is an accessory dwelling and that it must be owner occupied and the intent was to provide living units for relatives of families living in the Town. He stated that he does not see an exemption for the recreation fee for these accessory dwellings and that he will check with Attorney Volkman. Mr. Labriola stated that the Planning Board will send a resolution to the Town Board asking them to consider imposing a recreation fee for this additional residential unit and that the Town Board will make a determination about whether they will impose it or not based on what the Code requires. He noted that the Planning Board does not have the ability to waive the resolution to the Town Board regarding a recreation fee.

Ms. Laughlin asked how much the recreation fee is. Mr. Labriola explained that it is \$4,000 for the one additional unit.

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

**I move that the Planning Board grant site plan approval to McLaughlin Site Plan with regard to the application of Dawn and Joe McLaughlin in the form of the attached resolution dated 6/8/10 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 6/4/10**
- 3. Dutchess County Health Department approval for the SDS expansion**
- 4. Show the light fixture on the elevation**
- 5. Show the new parking area to scale**
- 6. The easement is to be reviewed and found to be acceptable by the Planning Board's attorney**

**SECONDED BY R. FRACCHIA**

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

**Mr. Labriola: MOTION TO REFER THIS TO THE TOWN BOARD FOR THE TOWN BOARD TO ASSESS A RECREATION FEE FOR THE INCREMENTAL NEW UNIT BASED ON THE CURRENT FEE SCHEDULE**

**SECONDED BY H. FISCHER**

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

Mr. Laughlin asked if he can start on the septic. Mr. Labriola explained that these conditions must be completed and then he will sign the map, which will allow Mr. McLaughlin to get a permit.

Mr. Labriola asked the applicant to provide the Zoning/Planning Office with a copy of their easement for review by the Planning Board's attorney.

**4. USA GAS, INC. – APPEAL #961**  
**Grid #6363-04-555243**  
**Location: 1415 Route 44**

Mr. Ray Van Voorhis, architect, and Mr. Avtar Singh, applicant, were present.

Mr. Van Voorhis reported that they want to put a freestanding sign in the front of the property along Route 44. He stated that there was a free standing sign in the past about 10 years ago. He stated that they applied 10 years ago with Lal and about 6-7 years ago with Mr. Singh when he did the canopy in the front.

Mr. Van Voorhis reported that Mr. Singh wants to put a freestanding sign in the same location as the previous sign. He stated that the standard Citgo sign is 8' x 4' = 32 sq. ft., and that the sign ordinance allows 16 sq. ft. He stated that they are applying for a variance for that size.



Mr. Van Voorhis stated that they researched other gas station signs in Pleasant Valley and had submitted examples of other such signs. He stated that they are all at least twice the size of the sign that they are proposing. Mr. Karis asked if all those signs met current zoning at the time. Mr. Labriola reported that he researched 4 previous sign applications:

- Mobil *On The Run* (near 4 Brothers): is 22 sq. ft. that met the Code
- Getty station in Town: pre-existing non-conforming sign
- Mobil station (by Miracle Ford): 43.4 sq. ft. and met the Code
- Sunoco (at Route 82 and 44): about 20.6 sq. ft. and met Code at the time

Discussion about Mystik sign – is an illegal sign.

Mr. Karis asked if there is precedent for granting variances for these large signs.

Mr. Singh stated that he has done a lot of work on his place – he has cleaned it up and has spent a lot of money to make it look nice. He stated that he has never gotten his money back because nobody knows that it's a gas station. He stated that even the delivery guys miss the station. He stated that he is always the lowest price in the community and no one knows his prices.

Mr. Labriola stated that the sign is very nice and matches the design that the Town is going towards. However, he stated that the sign regulations have been tightened up in the new Code. Mr. Van Voorhis stated that 16 sq. ft. is just too small for vehicles passing in that area. Mr. Labriola pointed out that this station is in a residential zoning district (HDR) that dictates the permitted size of the sign – smaller than if they were in a commercial district.

Discussion about the word count on the sign: Mr. Labriola asked whether the corporate logo for Citgo includes the triangle and the word Citgo or is it just the triangle. Mr. Singh stated that the corporate logo is the triangle and the word Citgo. Board members, therefore, stated that the triangle and the word Citgo would count as one word, which brings the total number of words (7) into compliance with the Code.

Mr. Van Voorhis asked how the coverage is calculated; Mr. Labriola explained the process.

Mr. Singh stated that no one can see the prices on a sign that is 16 sq. ft. – that the sign is just too small. Mr. Karis respectfully disagreed and noted that the speed limit is 40 mph in that area. He and Mr. Labriola concurred that the Town does not want a 32 sq. ft. sign in a residential area. Mr. Karis stated that he will not support the application for a sign that size.

Discussion about alternative designs that would fit the 16 sq. ft. size and be legible to the driving public. Mr. Labriola suggested putting the brand logo on the canopy and the prices on the monument sign. Mr. Singh stated that he was told he cannot do it. Ms. Seaman stated that the Code permits only one sign.

Mr. Singh reiterated that he has cleaned up the site. Mr. Karis complimented him on doing a nice job on his property but stated that that is not the issue with this application. He stated that the Planning Board is trying to work with him. Mr. Van Voorhis stated that this gas station has been in this residential zone for a long, long time and is a pre-existing condition.

Discussion about sections of the Code that pertain: 98-46H(3) – permanent signs within residential districts; 98-46I(1)(a) – one sign permitted; 98-46B – definition of a primary sign. Mr. Labriola suggested that Citgo could be considered to be the identification of the business – the primary sign – which could be put on the canopy or on the building and then the prices would be a secondary sign – a 16 sq. ft. monument sign as a secondary sign.

Board members and Mr. Nelson considered other sections of 98-46.

Mr. Labriola mentioned that the applicant could appeal to the ZBA for an Interpretation.

Mr. Labriola suggested that the Planning Board refer this application to Bruce Donegan, Zoning Enforcement Officer, for him to look at what the Planning Board is proposing, in which case if Bruce agreed then the applicant would not need a variance from the ZBA. He stated that the Board is asking Bruce to review 98-46H(3), 98-46I(1)(a), and 98-46B-Primary Sign.

Mr. Nelson stated that referring this application to the Zoning Administrator gives the applicant every fair chance to advance their commercial interests and he suggested that this is a very tight fit as far as the interpretation of the Code – very snug. Mr. Labriola stated that this is maintaining the new Code. Mr. Van Voorhis stated that they would like to try this approach. Mr. Nelson stated that the Town has reduced the capacity for signage in the Town and he stated he thinks there's a question as to whether this qualifies.

Mr. Labriola stated that the Planning Board is not referring this application to the ZBA at this time.

Mr. Labriola: **MOTION TO DOCUMENT THAT THE PLANNING BOARD HAS REVIEWED APPEAL #961 GAS USA INC. FOR AN AREA VARIANCE AND THAT THE PLANNING BOARD BELIEVES THAT THE APPLICANT NEEDS TO CONFER WITH THE ZONING ENFORCEMENT OFFICER ON AN ALTERNATE INTERPRETATION OF THE CODE REQUIREMENTS. THE PLANNING BOARD BELIEVES THAT IT MIGHT INDICATE THAT A VARIANCE IS NOT REQUIRED BECAUSE THEY CAN INSTALL A PRIMARY SIGN AND A SECONDARY SIGN. THE PLANNING BOARD ASKS THAT THE ZBA NOT MAKE ANY DETERMINATION UNTIL THE ZONING ENFORCEMENT OFFICER PROVIDES HIS INPUT ON THIS ALTERNATE APPROACH.**

**SECONDED H. FISCHER**

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

**5. WILLIAMS LUMBER – SITE PLAN**  
**Grid#6564-02-529886 & 6564-02-507860**  
**Location: 2424 Route 44**

Mr. Larry Boudreau, Chazen Companies, Mr. Scott Kruikshank, Kirchhoff-Consigli, Mr. Sandy and Ms. Kim Williams, applicants, were present.

Mr. Labriola reviewed the history of this review. He stated that the Board and the applicants had worked through all issues at the last meeting with the exception of sidewalks. He stated that a proposal on a deferred installation (of the sidewalks) with triggers had been discussed. He stated that he met with Mr. Nelson; he and Mr. Nelson spoke with Mr. Volkman; and, then, ultimately, the applicants, Mr. Karis and he met with the Town Board and presented this proposal. He reported that Mr. Boudreau presented an overview of the application – landscaping, lighting, reducing impervious surface – lots of improvements on the site. He stated that they discussed with the Town Board the process for deferring the sidewalks.

Mr. Labriola stated that at the end of all these discussions and meetings the proposed triggers will be:

- 125 residential C.O.'s issued in the hamlet - **AND**
- 40% of the frontage along Route 44 between Taconic Parkway and just past Route 82 developed (if virgin land) or redeveloped – about 5,000' of road frontage – of which Williams Lumber consumes 14%. Most of that frontage is already developed.

Mr. Labriola explained that when those two triggers are met, the Town Board then has the opportunity to require construction of the sidewalks. He also pointed out that the same triggers will be applied to any site plan approval of redevelopment or development of sites in that area.

Mr. Labriola stated that the sidewalk will be maintained by the property owner. The Certificate of Occupancy would be conditioned on the owner constructing the sidewalks within a one year period; failure to comply would result in loss of C.O.

Mr. Labriola stated that the applicants have agreed to this proposal and noted that Supervisor McNair is present at the meeting tonight. He stated that the Town Board supported this direction and recognized that this is a very unique situation in an emerging hamlet area.

Mr. Boudreau displayed the new site plan map and pointed out all the landscaping along Route 44. Mr. Kruikshank suggested having two plans in place – one that puts the sidewalk in the DOT right-of-way. Mr. Boudreau suggested that it is highly unlikely that the DOT would prevent the installation of the sidewalk in the R-O-W. Mr. Labriola

stated that the problem they were trying to solve was to get the DOT out of the mix. However, he and Board members agreed that it is more important to preserve the landscaping than to worry about some future DOT regulation. Ms. Seaman stated that she would rather leave the sidewalk in the DOT R-O-W. Mr. Setaro wondered about liability issues for the owner. Mr. Karis suggested that if NYS does any kind of major improvement on Route 44, they will incorporate sidewalks into their project.

Mr. Boudreau provided a copy of the alternate design for the master file.

Mr. Boudreau listed the outstanding items:

1. stamping the drawings
2. sidewalks
3. landscaping
4. lighting plan

Board members discussed the width of the sidewalks and settled on 6'. Mr. Labriola asked for construction details to be included in the site plan. However, Mr. Boudreau pointed out that DOT has standards and that those standards can change. Decision was to show the current detail with a note that says "or DOT detail in effect at the time of sidewalk construction."

Mr. Setaro asked if there will be a document that the applicant will sign with the Town regarding the future construction of the sidewalks.

Mr. Nelson stated that the Planning Board is not in a position to have contracts and to receive security and do enforcement, and such. Therefore, he noted that the Town Board is the appropriate body to contract with the owner and the Town. He asked for clarification of the area that will be affected by the triggers. Mr. Labriola stated that it is in the whole hamlet area, both sides of Route 44. Mr. Nelson stated that the question was whether the trigger includes units within the Mixed Commercial Zone. Mr. Karis stated that the hamlet consists of 3 zoning districts: Mixed Commercial, Hamlet Residential, and Hamlet-Washington Hollow.

Mr. Nelson stated that the lineal footage pertains to the south side of Route 44. Mr. Labriola concurred. Mr. Nelson stated that the area is from the west part of Taconic Homes to the far easterly border of Hamlet-Residential Zone – and that was for developed or re-developed sites from this time forward. Mr. Labriola stated that this will go into effect from the date that Williams Lumber receives conditional final approval.

Mr. Nelson stated that, with regard to DOT's specifications that will exist at the time, the applicant or the owner will make reasonable efforts to obtain DOT's approval to construct the sidewalks.

Mr. Nelson reported that Mr. Volkman will talk with Richard Cantor about this.

Mr. Nelson stated that the final thing discussed was security – the applicant was not enthusiastic regarding a bond or a letter of credit. He reported that, to ensure that the Town could have the benefit of the sidewalks without having to put up the money itself and then trying to collect from the developer, the Town could alternatively have an estimate of construction done in current dollars, that estimate would then be cost of living adjusted going forward to the date when the Town would call for the construction. He stated that if the developer did not complete construction within one year, the Town could obtain a judgment for the amount of money to do the work as well as the cost to collect it and then use that money to put in the sidewalk. He stated that then led into a discussion of what if the property is fully liened, so that there would not be any ability to collect. He stated that the question then arose whether the Town could have the ability to revoke the C.O. He stated that the research showed that the Planning Board could condition the approval upon the Building Inspector issuing a Certificate of Occupancy which, in turn, was conditioned upon compliance with the site plan.

With regard to there being a contract, Mr. Nelson stated that there was discussion about having this in the site plan notes as well as documents that appear in the chain of title and a contract between the Town and the owner.

Mr. Boudreau asked where the document would come from – whether it would come from the Town. Mr. Nelson stated that the general terms would be on the site plan and there would be reference to a recorded document, which would be something that Mr. Nelson would work with Mr. Cantor and Mr. Volkman.

Mr. Boudreau asked for what specific terms would be put on the site plan.

Mr. Labriola raised the question of conveyance from the sidewalk to the entrance of the building, which is on the western side. He asked how someone would get to the building from the sidewalk and suggested additional pavement stripes and/or signage. Board and applicant discussed how to address this – how to document this for future installation.

Mr. McNair asked if anyone has approached NYS about installing the sidewalks. Mr. Labriola responded yes, that NYS DOT has provided a letter that states that they are OK with what is being proposed. Mr. McNair asked if NYS has been informed on how this would fit in with their plan. Mr. Labriola stated that this is not the DOT's plan, but rather is the owner's plan to install in the Right-of-Way. Mr. McNair asked if anyone has talked with DOT about DOT putting in the sidewalk. Mr. Labriola responded no. Mr. Kruikshank stated that he spoke with DOT about Williams Lumber's plans but not about DOT's plans. Mr. Labriola explained that the Board did not want to condition this site plan on something that the DOT may or may never do. He stated that the Board is driving this at the Town level – sidewalks will be integrated into future developments and the DOT will be involved as required.

Mr. Boudreau and the Board discussed the lighting plan and reviewed photos of lighting fixtures. Mr. Labriola stated that the Board is trying to establish a standard for lighting in that area.

Mr. Boudreau spoke of the operator's maintenance agreement, which is being worked on.

Mr. Labriola asked about a second dumpster in the storage area – currently the only dumpster is behind the main building. Applicant pointed out the second dumpster on the plans.

Mr. Karis pointed out that the existing trees in the islands that are being removed will be redistributed throughout the site.

Mr. Labriola stated that the Board wants to see the sidewalk conveyance document before signing off on conditional approval. He expressed his hope that the conditional final approval can be granted at next month's meeting.

Mr. Labriola: **MOTION FOR NEGATIVE DECLARATION UNDER SEQR**

**I move that the Planning Board determine as set forth in the attached declaration dated 6/8/10 prepared by the Board's engineer that Williams Lumber and Home Center site plan is an unlisted action under SEQR 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 of this non-significance:**

- 1. proposal is for the redevelopment of an existing site with a reduction in the impervious cover**
- 2. water quality treatment measures will enhance storm water discharge from the storm water basin**
- 3. proposal is in conformance with Town Zoning Ordinance and the surrounding properties**
- 4. Dutchess County Department of Health has approved the use of the existing water and sewer facilities for the change in tenancy**
- 5. there is extensive landscaping designed into the plan**

**SECONDED BY R. SEAMAN**

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

Mr. Labriola stated that next month the Board will look at a final set of drawings, will review the language regarding the deferred sidewalk installation which can be a condition of final.

Ms. Williams stated that the property will be developed in two separate stages. She stated that the design center – kitchen, bath, windows, doors – could potentially be opened up sooner than the hardware store. She asked if they would be able to put onto their site plan that they could get a C.O. for the front portion of the design center separate from a C.O. for the hardware section. Mr. Labriola stated that that is a question for the



building inspector. Ms. Williams asked if that would be something that's part of the site plan. Mr. Labriola stated that it would be if they were staging construction based on phases, but that has not been part of this plan. Ms. Williams stated that construction will happen all at the same time, but that the design center could potentially get done more quickly than the hardware store and, therefore, could be opened in October. Mr. Labriola referred Ms. Williams to the Building Inspector.

**6. DALEY – SPECIAL USE PERMIT – APPEAL #959**

**Grid #6463-02-855874**

**Location: 49 Rossway Road**

Mr. Labriola reported that Mr. Daley has appealed to the ZBA for a Special Use Permit to create an accessory dwelling in the second floor of an existing garage for his granddaughter and her husband. He noted that this is something that is encouraged by the comprehensive plan. Ms. Bramson asked if this was originally an apartment or if it's new. Mr. Labriola stated that it seems like it's a garage with an upstairs that has been used for storage.

Mr. Labriola read into the record the response from Dutchess County Department of Planning: matter of local concern.

Mr. Karis pointed out that there will be questions of sewer and water. Mr. Labriola stated that this will come back to the Planning Board for a full site plan review if the ZBA grants the Special Use Permit.

Mr. Labriola read into the record a letter from the Fire Advisory Board dated 6/2/10: no position as there are no fire or safety issues and reserves the right to review any site plan submission if the Special Use Permit is granted.

Board members concurred with passing this along to the ZBA with a positive recommendation.

Mr. Labriola: **MOTION TO PASS THIS ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION. THE PLANNING BOARD SUPPORTS THIS REQUEST FOR A SPECIAL USE PERMIT AS THE BOARD BELIEVES THAT IT IS ENCOURAGED BY THE COMPREHENSIVE PLAN AND IS CONSISTENT WITH OTHER SIMILAR APPLICATIONS THAT THE PLANNING BOARD HAS REVIEWED IN THE PAST. THE PLANNING BOARD ASKS THAT, IF THE SPECIAL USE PERMIT IS APPROVED, THE APPLICANT IS DIRECTED TO COME BACK TO THE PLANNING BOARD FOR A FULL SITE PLAN REVIEW.**

**SECONDED R. SEAMAN**

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

**7. DALEY – AREA VARIANCE – APPEAL #960**

**Grid #6463-02-855874**

**Location: 49 Rossway Road**

Mr. Labriola reported that if the Special Use Permit is granted, Mr. Daley is also requesting an Area Variance to exceed the permitted 650 sq. ft. for accessory dwellings. Mr. Daley is planning 880 sq. ft.

Mr. Labriola stated that it is an existing building and an existing footprint. He stated that not having enough space is very different from have too much space; that the Planning Board could pass it to the ZBA with a negative recommendation because the applicant does not have to build out the entire upper floor. He pointed out that the applicant could build it out to the permitted 650 sq. ft. and, therefore, not require any variance.

Mr. Karis stated that the limit on the square footage is in place to control the amount of people who are permitted to live in the accessory dwellings. Ms. Seaman agreed with that statement.

Mr. Labriola stated that he does not think that allowing applicants to build out whatever space is available – for instance someone who has a 10,000 sq. ft. building with an upper floor to be used as an accessory dwelling - is in the spirit of what the Town was trying to accomplish.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION. THE PLANNING BOARD DOES NOT SUPPORT THIS REQUEST FOR A VARIANCE. THE SQUARE FOOTAGE THAT IS REQUESTED – THERE IS NO HARDSHIP THAT HAS NOT BEEN SELF-CREATED. THE APPLICANT COULD REDEVELOP THE UPPER FLOOR OF THAT GARAGE AND NOT CONSUME THE ENTIRE SQUARE FOOTAGE. THE PLANNING BOARD THINKS THAT THE APPLICANT HAS EVERY POSSIBLE WAY TO CONFORM TO THE PERMITTED 650 SQUARE FEET. IF, HOWEVER, THE ZBA GRANTS THE VARIANCE, THE PLANNING BOARD REQUIRES THAT THE APPLICANT RETURN TO THE PLANNING BOARD FOR FULL SITE PLAN REVIEW OF DETAILS SUCH AS BUILDING ELEVATIONS, PARKING, LIGHTING, WATER AND SEWAGE, FIRE ADVISORY BOARD REVIEW, LANDSCAPING, ETC.**

**SECONDED BY R. SEAMAN**

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

**9. MINUTES**

Mr. Labriola: **MOTION TO APPROVE THE MINUTES AS WRITTEN OF THE 5/11/10 PLANNING BOARD MEETING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 5-0-0**

**10. MISCELLANEOUS**

Dr. Fischer raised the question of maintenance of the landscaping on the Williams Lumber site. Mr. Labriola stated that the Planning Board did something similar on the Gasparro site where the Board asked for a Performance Bond in the amount of \$5000 which was referred to the Town Board. He explained that the applicant must post the bond and for one year after the issuance of their C.O. they have to keep the planting viable. He stated that if the landscaping fails, the Zoning Enforcement Officer could say that the owner is in non-compliance with their site plan 2 years, 5 years, 10 years down the road. He also recalled issues with Milestone Square – landscaping was one of the issues. He stated that the Planning Board was able to get them to do something based on the fact that they were not in compliance with their site plan.

Dr. Fischer stated that over the years he has noticed that landscaping, even on residential sites, is neglected after awhile. He stated that he knows it's an enforcement issue and that Pleasant Valley does not take landscaping as a priority. However, he stated that this is an important area and that he's concerned that some years in the future the landscaping will no longer screen the chain link fence in the front of the site. Dr. Fischer expressed his concern that the Town won't do anything to go after them if the landscaping fails. He asked if the applicants are planning any permanent irrigation. Mr. Karis responded that they are planting some native species that will tolerate the environment along Route 44 – that they are not planting any inappropriate vegetation or trees.

Mr. Labriola stated that the Performance Bond gets them through the first year. Mr. Karis pointed out that that constitutes 2 growing seasons. He stated that from seeing the other Williams Lumber site, he expects that they will take care of their front. He stated that if the property were to change hands, perhaps it would be a different story.

Mr. Karis noted that the Planning Board should ask Larry Boudreau to do a landscape estimate to be included in the conditional approval. Mr. Labriola concurred and asked Ms. Dickerson to request this of Mr. Boudreau.

Meeting adjourned 9:45 p.m.

Minutes submitted by:  
Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the June 8, 2010, 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 13, 2010**

A regular meeting of the Pleasant Valley Planning Board took place on July 13, 2010, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:38 p.m.

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

Also present:           Jim Nelson, Esq., Planning Board Attorney  
                              Pete Setaro, Planning Board Engineer  
                              Bruce Donegan, Zoning Administrator

**1.     DALEY’S GARDEN CENTER & BULK SUPPLY – SIGN PERMIT**

Chris Daley was present and stated that they are applying for a sign permit for an existing sign. He stated that they just changed the name on the sign that was already there.

Mr. Labriola asked if they increased the footprint of the sign. Mr. Daley responded no – that it is the exact same size as the one that was originally there.

Mr. Labriola stated that if there is no change in the size of the sign, new owners are allowed to change signs when the businesses change. Mr. Donegan stated that the previous business had a sign with no permit.

Ms. Seaman recalled that the previous owner – PV Garden Center – did apply for a sign permit. Mr. Labriola confirmed in his records that a sign permit was granted on 9/13/05 to the PV Garden Center.

Mr. Labriola thanked Mr. Daley for coming in and stated that the Town should refund him his application fee because he does not need to come for an approved sign permit since he has replaced an existing approved sign with another sign that’s the same size. He apologized for the inconvenience of making him come to the Board this evening.

Board members complimented Mr. Daley on his sign – it is a beautiful sign.

**2.     SWANSON – OUT ON A LIMB – RESOURCE ANALYSIS & CONCEPT PLAN REVIEW**

Rob Fracchia recused himself from this application.

Matt Swanson was present. He reported that he received an Amended Special Use Permit for a building – approximately 5,000 sq. ft. One-half to three quarters of the building will be used for his own business – storage and office. He stated that he hopes to rent the remainder of the building to a similarly sized business – no retail space. Mr. Labriola asked if it would be something like an electrician or a plumber. Mr. Swanson stated that it would be a contractor type – and that he's been trying to get in touch with the ambulance company. He stated that it will be very low key – not a lot of traffic – more storage than anything else.

Mr. Swanson stated that the building sits parallel with Route 44, landscaping in front. He submitted a landscape plan and elevations of the building.

Parking: Mr. Swanson stated that the secretary and customers will park along the side of the building. He stated that he will keep his equipment around to the back of the building in an effort to hide it as much as possible. He stated that he would like to only black top the entrance and the handicapped parking space.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that at this point his review was only of the Resource Analysis and Concept Plan and offered some comments towards the next set of plans. He stated that they will have to show the stormwater management plans, lighting plan, landscaping plan, DOT approval, DOH approval, and DC Planning review.

Lighting: Mr. Swanson asked what the Board would like to see for lighting on the outside. He stated that he was thinking of lighting up the middle cupola for ambiance. He stated that he plans on low voltage lighting for the sidewalk area and landscaped area. He explained that the security lighting will be in the back and that they will have gates and full security system with motion lights and cameras.

Mr. Labriola asked if there is any plan to put lighting in the parking area – whether all lighting would be on the building. Mr. Swanson stated that the lighting will be on the building and that he does not intend to put in any pylons. Mr. Setaro stated that he does not need any pylons. Mr. Swanson stated that there will be motion lights in the back corner. Further, he stated that if he does do any lighting in the back, they will shine away from Route 44 and be on sensors and would go off within minutes of coming on. Mr. Setaro advised Mr. Swanson to show the fixtures and the wattage on the lighting plan.

Ingress/Egress/DOT: Mr. Karis recalled previous conversation with the applicant about a shared entrance with the adjacent property. Mr. Swanson stated that they have the option on an easement. He stated that the building has moved forward on the site, but otherwise is in the same place. Mr. Labriola recalled some discussion about a common curb cut. Mr. Karis pointed out the proximity between the adjacent residential drive and the entrance to this commercial site. Discussion continued about location of ingress and egress and how close together the curb cuts are. Mr. Swanson stated that it is tight to get all his requirements onto the site – the well and septic.

Mr. Swanson pointed out the parking on the side for the secretary and any customers who come to the office to pay their bills.

Mr. Gordon asked if he has received DOT approval. Mr. Swanson stated that he cannot do anything with the DOT yet. Mr. Setaro advised him that for site plan approval he must get a letter from the NYSDOT giving conceptual approval stating that they will allow access there. Mr. Labriola stated that the concern with the adjacent driveway is stacking and curb cuts.

Mr. Setaro pointed out a potential problem with the radius of the cut that goes in front of someone else's property. He stated that they will probably want the entire radius to be within the frontage of Mr. Swanson's property. Therefore, Mr. Setaro suggested that the building may have to slide. Mr. Labriola stated that the response from the DOT will be factored into the next review of the site.

Parking: Mr. Labriola discussed the number and location of handicapped parking spaces given that there will be two businesses on the site on opposite sides of the building. He suggested that there may be a need for a handicapped parking space on both sides of the building to provide access to both businesses. Mr. Swanson stated that they did have it configured that way, but pointed out that there will be a sidewalk along the entire front of the building which would provide handicapped access to both businesses. Mr. Karis stated that, technically, based on the calculations, he only needs one handicapped parking space for the building. Mr. Labriola concurred that the second space would not be needed.

Traffic pattern internal to the site: Mr. Karis asked if the drive in front of the building is two way. Mr. Swanson stated that it would be more convenient to be able to bring his trucks and equipment into the site and go around the building to exit – that it is more cumbersome to attempt to turn them around in the back instead of proceeding all the way around the building. Mr. Karis pointed out that, for the second business on the site, the driveway on the front of the building is an ingress and egress because the rear of the building is gated and fenced. Mr. Swanson agreed. Therefore, Mr. Karis stated that it needs to be 24' wide, as opposed to a circular one-way flow.

Mr. Labriola asked if the plan is to have the gates locked during the day or just to lock things down at night. Mr. Swanson stated that it's to be locked down at night, but that they will take suggestions on this. He did point out that he would rather not have non-employees have access to the back of his building when his garage doors and loading docks are open. He also pointed out that the Fire Department may want access all the way around the building. Mr. Labriola agreed that the FAB must weigh in. Ms. Seaman pointed out potential problems with people coming into the site and trying to immediately turn left. She stated that it's a bottleneck – it's not a good plan. Mr. Setaro noticed that it will be difficult for Mr. Swanson's trucks to exit the site. Mr. Karis suggested locating a turnaround in the back. Mr. Swanson considered that option.



FAB: Discussion continued. Board asked Mr. Swanson to provide rough sketches of alternative traffic patterns for the FAB's consideration at its meeting on 8/4/10.

Mr. Labriola pointed out that the proposed well on the northwestern portion of the lot is located where there is currently a salt storage facility. Mr. Swanson agreed that the salt storage facility has been there for a little over a year. Mr. Labriola stated that the Board will need to understand the impact of that salt storage on any proposed well or septic. Mr. Swanson stated that there's a tarp underneath. Mr. Labriola noted he also needs to identify the location of all adjacent property owners' wells and septic systems are located and the separations.

Mr. Swanson submitted elevations of the proposed building. Board members liked the colors. Mr. Swanson stated that the lower half of the building will be veneer stone and the walkways will be in a regular pattern.

Mr. Labriola: **MOTION TO GRANT RESOURCE ANALYSIS AND CONCEPT PLAN APPROVAL**

**I move that the Planning Board grant acceptance of the Resource Analysis and Concept Design for the Swanson Out On a Limb site plan in the form of the attached resolution dated 7/13/10 and prepared by the Board's engineer and now before the Board subject to the following conditions:**

- 1. Morris Associates letter dated 7/9/10**
- 2. Alternate driveway options that are pursued**

**SECONDED BY R. SEAMAN**

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

Next Steps:

- Swanson to talk with the DOT about the curb cuts and get conceptual approval from them
- Swanson to provide rough sketches of driveway options for internal traffic flow for the FAB's review at its 8/4/10 meeting

3. **USA GAS, INC. – APPEAL #961**  
**Grid #6363-04-555243**  
**Location: 1415 Route 44**

Mr. Ray VanVoorhis, architect, for the application.

This application was before the Planning Board last month for a recommendation to the ZBA at which time the Planning Board recommended that the applicant speak with the Zoning Administrator about alternate approaches for this signage that would not require a variance. Mr. Labriola stated that in discussion with the Zoning Administrator it was determined that the alternative approach was not a proper interpretation of the Code.

Mr. Labriola noted that the proposed sign is 32 sq. ft. and the Code permits 16 sq. ft. Mr. VanVoorhis concurred. Mr. Labriola suggested removing the Citgo brand logo and reducing the size of the prices in order to meet the 16 sq. ft. limitation. Mr. VanVoorhis stated that the owner has directed him to say that the smallest he can consider is the 4' x 8' which he feels is small for a monument sign. Also, 4' x 4' is the smallest Citgo logo sign that they do. So, they would either have the Citgo sign or the price sign that would not be adequate for the applicant.

Mr. Gordon stated that this is an in-town location and is not a highway and the speed limit is 40 mph.

Ms. Seaman suggested that there is a way to combine the logo and the price in such a way that the prices jump out and the logo be recessive behind the prices. She suggested that someone who is creative with signs could do it very well. She stated that it accomplishes both purposes without needing a variance. Mr. VanVoorhis stated that the applicant has directed him to pursue the variance.

Ms. Bramson stated that she never stops at that gas station because she does not know what brand it is or what the prices are. Further, she noted that the traffic was flowing by the station at 47 mph, even though the speed limit is 40 mph in the area. She stated that she can sympathize with the owner because people don't know what the brand is and what the price is. She suspects that the owner is losing business, therefore. She stated that she thinks a gas station must put its prices up.

Board and applicant discussed other signs in the area. Mr. Labriola noted that they all conform to the Code that was in place at the time. He stated that this new Code has tightened up sizes of signs.

Mr. Labriola stated that he sympathizes with the problem the applicant is dealing with, but the Code is specific and the Town wanted to reduce the sizes of signs. He stated that he thinks the applicant has alternatives.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION BECAUSE THERE IS NO COMPELLING REASON TO GRANT A SIGN VARIANCE FOR TWICE THE ALLOWED SIZE OF SIGNAGE IN THIS RESIDENTIAL DISTRICT.**

**SECONDED BY M. GORDON**

**VOTE TAKEN AND APPROVED 4-3-0**

**4. APPEAL #962 – PALUMBO – AREA VARIANCE**  
**Grid #6564-03-121392**  
**Location: 30 Tinkertown Road**

Ms. Vickie Palumbo, the applicant's daughter, and Mr. Randall Schad were present. Mr. Schad stated that the shed was installed in 2001 without a building permit. He noted that

Joe Palumbo, who has since passed away, did not get a building permit for this shed. He stated that Mrs. Palumbo sent in her assessment and was truthful about what is on the property at which time the issue of the shed came up. He stated that Mr. Palumbo was quite ill at the time, that he broke his hip and was diagnosed with Lou Garrig's disease. He stated that the shed was located in that spot because of the black top and he had access to it as a handicapped person.

Mr. Labriola asked how high the fence is between the properties. Mr. Schad estimated that the fence is 6' – 7' tall. Mr. Fracchia stated that it hides the shed.

Mr. Schad stated that the shed is movable but that Mrs. Palumbo is on limited income. Mr. Schad stated that the shed is on skids on a gravel bed and is not permanently attached to the ground. Mr. Karis stated that it is still considered a permanent structure by the Code.

Mr. Labriola stated that he and several of the Board members drove by the property and noted a fairly tall fence that backs up to the shed and visually shields it from the adjacent property owner. He stated that he did not see anything that could create any problems for an adjacent property owner. Mr. Fracchia stated that it blends into the background.

Mr. Gordon asked if there is any input from adjacent property owners. Mr. Labriola explained that that will happen as part of the ZBA's review and approval process via a Public Hearing and official notification of the adjacent property owners.

Mr. Labriola read into the record a letter from the Fire Advisory Board stating that they take no position with regard to this application.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION AS THE PLANNING BOARD FEELS THAT IT DOES NOT CREATE ANY VISUAL IMPACTS TO ADJACENT PROPERTY OWNERS BECAUSE OF THE PRIVACY FENCE THAT EXISTS BETWEEN THE BACK OF THE SHED AND THE ADJACENT PROPERTY OWNER'S HOME. FURTHER, THE PLANNING BOARD TAKES NOTE THAT THERE HAVE BEEN NO COMMENTS ABOUT THE SHED FROM ADJACENT PROPERTY OWNERS SINCE 2001.**

**SECONDED BY R. SEAMAN**

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

**5. APPEAL #963 – ROSS – AREA VARIANCE**  
**Grid #6463-02-780912**  
**Location: 17 Rossway Road**

Mr. Steve Ross was present and reported that they are putting a bedroom addition on the west side of their house – 14' x 20'. He noted that the required setback is 30' and the

addition will be only 15' from the property line. Therefore, he is requesting a 15' variance.

Mr. Labriola and Ms. Bramson both drove by the site and agreed that it was not visible from the road. Ms. Bramson stated that she looked from what she thought would be the neighbor's property and noted that it is not visible from there or from the road.

Mr. Karis noted that there is also an existing shed. Mr. Ross agreed. Mr. Karis stated that the addition will be between the shed and the house. Mr. Labriola noted, therefore, that there's already something close to the property line.

Mr. Ross submitted photo of the existing house. He pointed out that the property rises up and that there is a bit of a retaining wall between his property and the neighbor's. Ms. Bramson noted that there are a lot of trees.

Dr. Fischer observed that the adjacent lot is vacant. Mr. Labriola stated that it looks like someone has been clearing on that parcel. Mr. Ross stated that it has been approved for a residential house, but there is no building on it yet.

Mr. Labriola read into the record a letter from the FAB stating that they take no position on this appeal.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION. THE REASONS FOR THIS RECOMMENDATION ARE:**

- 1. THERE IS ALREADY ANOTHER BUILDING ON THE PROPERTY – A SHED – THAT WILL BE BETWEEN THE ADJACENT PROPERTY AND THE PROPOSED ADDITION**
- 2. THE LAND RISES UP TO THE ADJACENT PROPERTY AND THE PROPOSED ADDITION WILL BE AT A LOWER GRADE THAN THE ADJACENT PROPERTY WHICH WILL MAKE IT LESS VISIBLE**

**SECONDED BY K. BRAMSON**

**Discussion:** Board member asked if this is just a bedroom and whether there are any kitchen facilities. Mr. Ross stated that there are no kitchen facilities and it is just a bedroom. Mr. Labriola suggested that it should be confirmed that the septic can handle the addition of a third bedroom. Mr. Fracchia stated that Mr. Ross is already approved for a 3 bedroom house and that all he is doing is expanding one of those bedrooms. Mr. Ross confirmed that they are not increasing the number of bedrooms. Mr. Fracchia and Mr. Ross both stated that he is approved for a 4 bedroom house in terms of septic.

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

- 6. BECKWITH – INTERPRETATION – APPEAL #954  
Grid #6363-04-549149**

**Location: 1380 Route 44 – Beckwith Court**

Richard Cantor, attorney for the applicant, and David and Mark Beckwith were present. Mr. Cantor reported that Bruce Donegan, Zoning Administrator, made a determination last December that the Beckwith property continues to have a status of a legal, non-conforming use for a mobile home park. He noted that the terminology has changed in the new PV Code regarding manufactured housing.

Mr. Cantor pointed out that the issue before the ZBA is not the issue of whether this is or is not a non-conforming use. Rather, he stated that the issue before the ZBA is what procedural requirements apply for replacing mobile homes. He stated that at one time there were as many as 6; at the present time there is one. He stated that they believe they have a continuing right to replace a total up to the pre-existing 6. He stated that the Beckwith's have offered to compromise at the number 4.

Mr. Cantor stated that Mr. Donegan correctly concluded that this was a continuing non-conforming use, but incorrectly concluded that this requires site plan and Special Permit approval. He stated that he thinks this is primarily a legal issue and not primarily a planning issue. He stated that they are proposing to replace units, that they are not proposing to enlarge units or expand the use. He stated that they have cited the cases that support their position.

Mr. Labriola asked for clarification of Mr. Cantor's statement that they do not intend to expand the footprint. Mr. Cantor stated that he did not say anything about footprints, that rather, he had said that they do not intend to expand the use. Mr. Labriola stated that he had heard reference to expanding the size. Mr. Cantor stated that he did not discuss the individual units – that he thinks they have the right – that the provisions for expansion of a non-conforming use are not applicable because he does not believe that replacing units is, in a legal sense, an expansion of a use. Even if it were under the current Code, he stated that there is a provision for the Zoning Administrator or the Building Inspector to give an expansion permit. He stated that the only reason required to get a Special Use Permit under the current Code is if the Building Official or Zoning Official found that there were intensity of usages that required that further review.

Therefore, Mr. Cantor stated that they say, in the alternative, that they have the right to replace units by a simple building permit followed by an ordinary Certificate of Occupancy – the way you would for any one family dwelling. He stated that the current mobile home that is on the site is a replacement that was put there a short time ago with the simple procedure of a building permit and a Certificate of Occupancy.

Mr. Cantor stated that the issue before the Zoning Board is what procedures and what provision apply to this request to replace mobile units or manufactured homes.

Mr. Labriola questioned the size – when you talk about the replacement of units would they be double-wide or single-wide. Mr. Cantor stated that they have not selected them at the moment but that they think they could have as much as 6 double-wides. He stated that he does not think that the individual size of the individual unit is an expansion or

enlargement issue. He stated that the cases, in his opinion, are clear that an increase in volume, if the nature of the use is the same, is not in the language of zoning an expansion – even though obviously a double-wide is bigger than a single wide. He stated that, in the language of zoning, that this would not be an expansion.

Mr. Cantor stated that they would be delighted to sit down with some representatives of the Planning Board and Zoning Board to come to some negotiated agreement as to the footprint of the units. He stated that they are willing to compromise on the number 4. He stated that, within the limits of reasonableness, they are willing to compromise on where they go, what kind of screening they have. In the nature of mobile homes and manufactured house, it will be modest housing; but they are prepared to make this modest housing as attractive and unobtrusive as reasonableness will allow.

Mr. David Beckwith stated that it will be a lot nicer looking than what was there.

Mr. Cantor stated that he's had extensive conversations with Mr. Nelson, but at the moment it does not appear that there seems to be a basis for coming to come resolution. He stated that if they could come to agreement with the Planning and Zoning Boards that there would be 4 units of some agreed size at some agreed arrangement with some agreed screening and landscaping and appropriate sanitary facilities – the whole 9 yards of what's needed – they would be happy to sit down and try to work this out. He stated that they are not looking to be contentious, litigious, or otherwise troublesome. He stated that they do not believe, however, that they are required to meet the procedures Mr. Donegan stated that they are required to meet. Further, he stated that they also do not believe that they are required to meet the requirements that would apply if they were seeking a new manufactured home park. The very essence of the fact that they are a non-conforming use takes them out of those requirements.

Mr. Labriola invited Mr. Nelson to report on an analysis, research, some alternatives that were pursued and then the Board can have the discussion on where to go from here. He stated that he's happy that the applicants are willing to come to the table and negotiate, because that's what the planning process is about – negotiating and compromising – and the Planning Board is willing to be equal partners with the applicants in that effort. He stated that the Board wants to set the right parameters on the process that everyone can agree to and then that would allow everyone to come up with a set of reasonable next steps.

Mr. Nelson handed out a packet of documents submitted in relation to this appeal for an Interpretation including:

- The application that came in on Mr. Cantor's letterhead
- A copy of Bruce Donegan's decision
- The original letter from Mr. Cantor and a subsequent letter in May that lays out Mr. Beckwith's position

Mr. Nelson recapped Mr. Donegan's document that lays out the 50% expansion of what he believed were the 4 prior mobile homes – taking the square footage of the mobile



homes, which had been 3131 sq. ft. up to 4695 ½ sq. ft. He explained that Mr. Donegan had said that the applicant can have 4695 ½ sq. ft. of mobile or manufactured homes on the site or 6 whichever was less. He mentioned the 1568 sq. ft. double-wide that Mr. Cantor referred to as having been put in within the last couple of years would, of course, be subtracted from the total – that it would come to a net number of 3128 ½ sq. ft. still available for mobile home footage.

Mr. Nelson stated that Mr. Donegan's letter also said that site plan and, under the old Code, Special Use Permit applications would be required. He stated that the Beckwith position is that they can put up 6 units based solely on a building permit.

Mr. Nelson stated that the reason this appeal for an Interpretation is before the Planning Board is because the Code Section 98-96B says that the Planning Board must give advisory opinions to the ZBA on applications. He stated that this is an application for an Interpretation and it is also an appeal from Mr. Donegan's decision. He stated that the new Code prohibits manufactured homes outside of manufactured home parks and that manufactured home parks are not allowed today in the HDR zone where the Beckwith property is located. He stated that Code Section 98-55 says that non-conforming uses may continue. He stated that the applicant's position is that they had a mobile home park and, therefore, that use may continue.

Mr. Labriola opened the discussion to questions from the Planning Board members.

Mr. Gordon stated that Mr. Cantor referred to the fact that at one point in time there were 6 mobile homes on that property. Mr. Gordon stated that his recollection going back to about 26 years ago was that there were 4. He stated that several years ago the plateau where the mobile homes were located was extended by bringing a considerable amount of fill, which increased the size of the mobile home pad. He asked at what point in time there were 6 mobile homes on the property and wondered if there were a record of assessments in the Town for that.

Mr. David Beckwith stated that he does not remember the exact year but it would have been before 1970 that it was 4. He stated that when his parents bought the property there were 7 units on it. He stated that over time they decided that it would be a lot easier for everyone, by attrition, to allow every other unit to be removed in order to provide more space. He stated that they did go down to 4 units on the property some time in the late 1960's. He stated that it was quite awhile ago.

Mr. David Beckwith stated that, with regard to extending the pad for the mobile homes, there have not been any changes made to the size or shape of that. Mr. Gordon claimed that they filled in approximately 30 ft. of that area. Mr. Beckwith stated that they did not fill in; but that when NYS redid Route 44 and the drainage along their property, the State put in a large culvert pipe and then filled that in and leveled it off at an elevation of 4'-5' lower. Mr. Labriola asked if that area is between the access road in front of the mobile homes on Route 44. Mr. Beckwith responded no – that he's talking about all the way

from Route 44 back to the creek on the Village side of the property. He estimated that Route 44 was redone some time in the 1980's.

Mr. David Beckwith stated that, recently, they started to clean up the edge of that, so that it may have looked like they put in some fill, but they only moved around the dirt that was there.

Mr. Gordon stated that he disagrees. He asked whether the 6 units were on the property prior to 1970. Mr. David Beckwith responded yes; Mr. Mark Beckwith stated that he remembers the units being there.

Mr. Labriola asked about the total acreage. Mr. David Beckwith responded that it's just shy of 5 acres. Mr. Labriola asked how much of the total parcel has been dedicated to a mobile home park. Mr. Beckwith stated that he does not know the exact numbers off hand but that he suspects it has been figured out and is on one of their site plans somewhere. He stated that basically it is the Pleasant Valley end of it.

Mr. Labriola stated that a document was found in the assessor's office that shows a triangular shaped piece of the property that is about 0.7 of an acre. He stated that the Beckwith's have been taxed based on that 0.7 acre as a mobile home park, which sets the limit of the boundaries of where mobile homes can or cannot be placed. Mr. Cantor stated that that document has no such import as to where homes can or cannot go nor does it reflect what is being taxed. He stated that there is an assessment for land and total assessment for the property and there is no separate official or reliable delineation of the thought process of the assessors from year to year. He stated that whether that triangle accurately reflected what some assessor saw, whenever that sketch was done, or not is not known. He stated that it does not have the legal import of deciding where on the property mobile homes can be built.

Ms. Seaman stated that she respectfully disagrees. She stated that trying to decide whether or not there is a legal non-conforming use the Planning Board has to have some basis on which to decide what was the non-conforming use. She stated that right now it's not clear. She noted that there's one trailer on the property at this time, which shows that the non-conforming use is one trailer and does not show the Board that the non-conforming use is 6 trailers. Therefore, she stated that the Town has to look back in the records to see what the non-conforming use was, so that the Board can determine what was in existence. She stated that, with all due respect, when Mr. Labriola brings this up, some of the Board's assessment can be based on this document.

Mr. Cantor stated that they disagree – that it is not before the Planning Board or the ZBA as to whether there is a non-conforming use. Mr. Labriola stated that he does not think that there is an argument about whether they have a pre-existing non-conforming use. He stated that the Board is trying to determine the scope of that pre-existing non-conforming use. He explained that if we can set the boundary of the non-conforming use, then that would give the applicant the parameters to use to calculate the size of the property on which mobile homes can be located taking into account the necessary setbacks. He stated

that accounting for the front, rear, and side setbacks will indicate that there are only so many structures you can fit in that envelope. He stated that whether the answer is 2, 3, 4, or more mobile homes – depending on whether they double wide or single wide.

Mr. Labriola stated that the Planning Board's responsibility is not to give Mr. Beckwith and Mr. Cantor an answer of the number; rather it is the Board's job to help them with the process: here's the building envelope, you take the setbacks and provide the Board with a variety of planning options. He stated that that is the applicant's responsibility and that the Planning Board is not supposed to engineer the site plan for the applicant. He stated that if the applicant and the Board can agree that 0.7 acre is the building envelope for the non-conforming use, the Code is specific about the required setbacks, and that should give the applicant the opportunity to determine how much stuff can fit and to provide the Board with provide a couple of alternatives. He stated that that becomes the first step in a compromise discussion between the ZBA, the Planning Board, and the applicants because then we would be looking at something.

Mr. Labriola pointed out that everyone sitting at the Planning Board table right now has a different picture in their mind of what is going to happen there. He stated that when you've got 7 different views, you never move forward. However, he stated that if the applicant were to put something in front of the Board that says what they are proposing – a certain number of units that meet the setbacks, that provides adequate parking for residents and guests – that starts to give the Board a sense of where you are heading and the ability to determine if this is a workable plan.

Mr. Cantor stated that they are not prepared to agree that the 0.7 acre is the limitation of the non-conforming use. He stated that they are happy to look at that as part of the dialogue. Mr. Labriola stated that this is a discussion right not now, that the Board has to give an advisory recommendation to the ZBA. He stated that the Board will talk about this as an approach and, if the Board is comfortable with that approach, then that is the input this Board will give to the ZBA. He noted that ultimately the ZBA is responsible for the finding of facts, understanding the applicant's position and the Planning Board's input. He stated that the ZBA will make the decision on the Appeal for an Interpretation.

Mr. Labriola stated that the Planning Board thinks this is a fair approach based on a document in the Town records that will give the applicants very concrete direction on the size of the envelope and specific setbacks. He stated that an engineer would be able to fairly quickly determine how many single-wides, or double-wides, or combinations of the two can fit on there. Mr. Labriola stated that the Board is not asking the applicants to agree or disagree. Rather the Board is giving them the opportunity and the courtesy of stating where the Board is heading so that when this Appeal gets to the ZBA the applicants may be in the position to research the document that shows the 0.7 acre envelope. He noted that that document also shows 7 trailers, which corresponds with the Mr. Beckwith's statement of what was there in the past. Mr. Labriola stated, therefore, that this document appears to agree with the applicant's position and serves the Board's purpose of establishing a basis for discussion.

Dr. Fischer asked for clarification of what the Town's document shows. Mr. Labriola explained that there are 7 spots, but review of all of the pages shows notations of trailers being added and removed with model numbers. He stated that it's a little hard to interpret but it does show that there were more than 4 trailers there at one time.

Mr. Labriola stated that he and Mr. Nelson have discussed this several times and have considered the alternatives like 98-57C Expansion of a Non-Conforming Use – which starts to get into discussions where there are few facts to substantiate any position. Rather, he stated that this document with the 0.7 acre triangle seems to be a good basis for this Board's recommendation to the ZBA.

Mr. Labriola asked the Board members for their thoughts on this approach or some alternatives. Mr. Gordon asked whether this expansion of a non-conforming use would negate any current approval from the Board of Health regarding septic and the 100' buffer setbacks. Mr. Labriola responded that if the ZBA agrees with the Planning Board's approach, this project would come back to the Planning Board for full site plan review. He stated that under SEQR, the Planning Board would make sure that the Board of Health grants approval, that there is appropriate septic for the number of bedrooms, that adequate water quality and quantity are on site. Further, he pointed out that there is a wetland on the site, and the applicant would have to submit an application for a Permit for Regulated Activities In a Wetland. He stated that SEQR enables the Planning Board to ensure that the site plan does deal with things like landscaping, the design, and parking.

Mr. Gordon noted that the applicant has a lot of hurdles besides this Appeal to the ZBA. He stated his opinion that there are a number of limits on that site with today's requirements.

Mr. Cantor stated that the zoning issues are not relevant to the Department of Health. He stated that this project must satisfy the Health Department as to water and waste water. He stated that the project must satisfy all other non-zoning requirements. He stated that the fact that this is a non-conforming use does not exempt the applicant from the regulatory power of other government under other laws. He stated that they are not saying that the applicant can ignore the issue of waste water or the issue of drinking water. He stated that they understand that the applicant is subject to those requirements no matter what agreement or legal conclusion comes out of these discussions. He stated that the Planning Board should have comfort on that issue.

Mr. Cantor stated that some months ago, Mark prepared a concept site plan showing 4 units. He stated that he submitted that to Mr. Nelson. He stated that that was their attempt to begin a reasonable discussion of what this might look like with their view – on a concept level only – of appropriate siting and screening and location. He stated that if that drawing is sufficient to whet the Board's interest in continuing the discussions, they would be happy to have the Planning Board join with the applicants in asking the ZBA to postpone this Appeal for a month or so and continue a discussion about how to best locate units.

Mr. Labriola stated that any time this Board can look at a drawing is a good thing. However, without having had the opportunity for the Board's engineer to look at the concept plan, Mr. Labriola stated that he cannot tell if it meets the necessary setbacks. He stated that the basic premise is a good starting point but it is not yet possible for the Board to determine whether it is possible to fit 4 units with the necessary setbacks. Mr. Cantor stated that they don't agree that what Mr. Labriola refers to as the necessary dimensional requirements apply because they are a non-conforming use. He stated that rather than look at from the regulatory point of view of whether those dimensional requirements apply, they would be happy to look at it with the Planning and Zoning Boards, and Mr. Setaro, in terms of does this make sense.

Mr. Labriola stated that he's happy to have that discussion but if their basic premise is that they are not going to talk about any setbacks, that is going to be a really slow paced discussion because it is terribly important that there are the necessary distances between these trailers. He stated this Board thinks there are sections of the Code that clearly state what those design parameters are. He stated that if the applicant's position is that they are not going to pay attention to that, then that does not seem to indicate willingness to compromise or negotiate. Rather, he stated that it seems like a demand, which is not a good way to initiate a conversation with the Town.

Mr. Cantor stated that he is not demanding – he stated that he is here to discuss. He stated that he did not say or mean to say that they are not willing to discuss that fact. He stated that it is their position that the current Bulk Requirements of the Code are not mandatory to this matter. He stated that in terms of moving forward with this discussion, it is fine to examine those Bulk Requirements to see how the applicant can relate to them. He stated that the end product is to come up with a concept that everybody might be willing to say is safe, is reasonably attractive given the nature of the housing they are talking about, that is sited as reasonably as possible to be as least intrusive to what's next to it and what passes in front of it. He stated that they would be happy to look at the triangle – that is different from agreeing that that's a legal limitation – and they would be happy to look at the Bulk Requirements of the current Code. He stated that that is different from acknowledging that that is a mandatory requirement.

Mr. Cantor stated that they would like to come with a plan that the Board can say, all things considered, that's not bad. Further, that the ZBA can also say that's not bad. He stated that, then, perhaps he and Mr. Nelson can figure out the procedures of how to accomplish that. He stated that first comes the substance of whether you and your colleagues and the ZBA are agreeable to come up with something that, under the attendant circumstances and with the attendant question, that's not a bad solution.

Mr. Labriola clarified that he thinks this is a starting point. He stated that while Mr. Cantor may not agree with the premise that the Board has as a moving forward approach, he stated that he thinks Mr. Cantor understands the Board's position. He stated that he would be happy to participate in subsequent discussions looking at the Town document that depicts the 0.7 triangle and perhaps some other documents that would suggest some



other alternatives that might be looked at that attend to some of the points regarding setbacks, whether Mr. Cantor agrees that they are mandatory or not. Mr. Labriola stated that it is a factor that the Planning Board will have to address sooner rather than later. He stated that it would be good to have a punch list of issues to be addressed and this would start to get the process to the point where the Planning Board can make its recommendation to the ZBA.

Mr. Labriola asked the Board members if they are OK with this approach of looking at alternatives. Mr. Gordon asked if that is within the realm of the Planning Board's purview. He stated that the Planning Board's charge is to provide a recommendation to the ZBA that states this Board's approval or disapproval. Mr. Labriola noted that the applicants have not made an application yet – that this is on the ZBA's agenda for an Interpretation of the Zoning Administrator's decision. He stated that he would view this discussion similar to other applicants who have come before the Planning Board for discussion before any application was ever submitted. He stated that he thinks this is a general planning discussion on a conceptual idea that the applicant has. He stated that the Planning Board can provide some input and that they may end up getting to a compromised position that may not need to go to the ZBA – maybe the applicant won't challenge the Zoning Administrator's decision because there is an agreed upon process for moving forward.

Mr. Labriola stated that he is willing to make that investment of time, but that he does not anticipate a huge investment on the Board's part other than looking at another set of conceptual drawings. Mr. Gordon asked, again, whether the Planning Board has the procedural ability to do that. Mr. Nelson stated that the Planning Board can consider plans. He stated that he believes the Board would need an application submitted to the Zoning Administrator for review.

Mr. Cantor stated before you can consider an application, you have to have an application. However, he stated that you don't need an application to consider a planning discussion. Mr. Nelson tended to agree and stated that some communication will need to be made to the ZBA to request them to put the Appeal for an Interpretation on hold while the Planning Board continues to discuss a concept. He stated that if the concept were one that looked feasible to this Board and also to the Zoning Administrator, then possibly the Appeal for an Interpretation would be withdrawn and replaced with an application to the Planning Board.

Mr. Labriola concurred that there is an application before the Town but not before the Planning Board, but it is an application that requires this Board to act. He stated that this planning work will allow this Board to act on the basis of facts as opposed to emotion or conjecture. Mr. Gordon stated that his concern is that this Board do procedurally the proper things in the proper order. Mr. Labriola agreed that it is a good point and noted that the Planning Board has had discussions with applicants on a number of previous projects. Mr. Gordon pointed out that those situations were not generated by an Appeal to the ZBA. Mr. Labriola agreed. Mr. Gordon stated, therefore, that the procedures might be different.



Mr. Cantor stated that, if the Board is amenable to doing this and the applicant is amenable to doing this, as a matter of courtesy with the ZBA, the process would be for some combination of the applicant, Mr. Labriola, Mr. Nelson to communicate with the chair of the ZBA to propose this course of action and ask to adjourn the Appeal for an Interpretation for some time to allow this process to play out. He noted that they cannot ignore the zoning issues. Mr. Cantor stated that all it takes for the Planning Board to have the authority to do this is the willingness to do it. He noted that the applicant is willing to be part of it and recommended this courtesy communication with the ZBA. Mr. Labriola stated that this will probably be a workable approach and that the ZBA will also be amenable.

Ms. Seaman agreed and stated that she thinks it's a good approach because there is a lot of legal interpretation involved. She stated that what is being discussed is the fact that Zoning Administrator Donegan has given one interpretation with which the applicant disagrees. She noted that may sound easy, but it is not. She stated that it regards a number of cases and whether or not this is non-conforming and that there are a lot of legal issues. She stated that if there is something that can be worked out in the meantime, it would be beneficial.

Mr. Gordon stated that he's for that but asked, again, whether this Board can do that within its authority. Mr. Nelson stated that this Board can, within the context of this Appeal for Interpretation, discuss things. He stated that eventually, though, if all agreed that it looked like this were heading in right direction, they would have to make an application to the Planning Board. He stated that Mr. Donegan needs to be part of these discussions. He stated that it may evolve that the Appeal to the ZBA would be withdrawn and an application submitted to the Planning Board.

Mr. Cantor also suggested the possibility that the application to the ZBA would be changed to facilitate whatever could be worked out. Mr. Labriola suggested that it will be possible to come to a compromise that everyone can live with, especially as it sounds like everyone is ready to come to the table. He suggested that the applicants come back to the Planning Board soon with a couple of alternative designs and rationales for them, which will generate the discussion of next steps with regard to the ZBA and/or Planning procedures. He suggested that this Board and the applicants get to an agreed upon compromise design or a couple of alternatives and then determine where to go from there.

Mr. Cantor stated that, if the Board members agree with Mr. Labriola's comments, he would hope that Mr. Beckwith and Mr. Setaro would review the plan and that Mr. Setaro would offer comments on current Code, current Bulk Requirements, history, whatever pieces of input that Mr. Setaro would like to offer. Mr. Cantor suggested that, in this way, the discussion would benefit from the engineering comments.

Mr. Labriola suggested that before this comes back before the Planning Board, he would like to have a meeting between Mr. Donegan, Mr. Setaro, Mr. Nelson, himself, and Mr.

Dunn so arrive at a like mind. He stated that he would like to make this an inclusive process.

Dr. Fischer asked specifically what portion of the site is being considered for the units – is it the triangular area. Mr. Setaro stated that it is that general area. Dr. Fischer asked what that general area measures. Mr. Setaro stated that he does not know. Mr. Labriola stated that the applicant needs to look at that 0.7 acre and determine whether that is the starting point. He stated that from this Board's perspective that is the starting point for the discussion. He stated that that is the rationale for this interim review to ensure that some base planning assumptions on the applicant's part are not grossly out of line with the Board's position. Dr. Fischer asked if they may vary from that 0.7 acre. Mr. Labriola stated that it is too soon to tell and that we need to let the applicants go do some work and come back to the Board with some proposals.

Mr. Setaro stated that the one thing he has been unclear on is setbacks because technically manufactured homes are not on their own individual lot. He stated that he understands about the front yard setback from Route 44 and the side yard setback to the nearest home, but the ones in between he does not know how setbacks apply. He noted, however, that there are fire codes that will dictate distances; but he stated that he does not know how zoning applies. Mr. Labriola stated that they need to look at the fire code separations and how much stacking is happening visually. Ms. Seaman pointed out that the Code does have guidelines for manufactured home parks.

Board members agreed on this approach. Mr. Cantor asked what the next Planning Board meeting date and submission deadline is. Ms. Dickerson reported that the next Planning Board is on 8/10/10 and submission deadline is 7/26/10; and the Planning Board meets on 9/14/10 and submission deadline for that meeting is 8/30/10. Mr. Beckwith stated that he would like to try for the August meeting. Mr. Labriola stated that the Board wants to see design alternatives that propose options and explain rationales for planning assumptions on the building envelope and identify setbacks, parking. Mr. Labriola stated that the applicant needs to work with Mr. Setaro and then there must be an interim call before the Board meeting between Mr. Dunn, Mr. Donegan, Mr. Nelson, Mr. Setaro, himself, the applicant, and Mr. Cantor.

Mr. Cantor asked to be placed on the 8/10/10 Planning Board agenda with the understanding that there is a 7/26/10 submission deadline. He stated that, if in the next week or so it appears that between Mr. Setaro and Mr. Beckwith they will not be able to make that deadline, he will communicate with information. Ms. Dickerson inquired whether the applicant is asking to be removed from the 7/22/10 ZBA meeting agenda. Mr. Cantor responded yes. Mr. Labriola stated that there will be a call to the ZBA chair to inform him of what transpired this evening.

Mr. Nelson handed Mr. Cantor a copy of the Town document that shows the triangular 0.7 acre portion of the site.

## **7. WUERZ –SITE PLAN**

**Grid #6564-03-378420**

**Location: 422 Masten Road**

Henry and Lorelle Wuerz, applicants, and Brian Houston, engineer for the applicants, were present.

Mr. Labriola stated that this was on the agenda at last month's Planning Board for a preliminary discussion. He noted that the Board provided specific information to the applicant on what needs to be on the site plan, pointed to specific sections of the Code that detail site plan requirements, and this is now a continuation of review of a proposed 10,000 sq. ft. barn. Mr. Labriola asked the applicant to update the Board on any changes to the plan.

Mr. Houston noted that he is coming in on the middle of this process. He stated that on the Wuerz property there is an existing house and various barns. He stated that at this time they board 10 horses. He stated that they are proposing to construct a barn with an attached indoor riding area. He stated that the barn is 48' x 72' and the indoor riding area is 150' x 72'. He stated that they have proposed a new gravel driveway accessing off of their existing driveway and continuing into the back side of the barn, where there is a proposed parking area. He pointed out the proposed manure dumpster that would handle the waste from the barn. He stated that they have shown a grading plan that will work for this site.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that this updated plan, drawn to scale, is a good starting point. He pointed out that the plan does not include any bathrooms but that they plan to tie the old well into the new barn for water supply. He stated that the applicant should contact the Health Department to see if there are any specific requirements they may have for that connection.

Manure Management Plan: Mr. Setaro stated that they must put some notes on the map regarding the manure removal plan – how often it will be disposed of and whether the dumpster is covered. Mr. Wuerz stated that it is covered and is removed once per month.

Highway Comments: Mr. Setaro referenced a letter from the Highway Superintendent with comments. A copy was provided to Mr. Houston. Mr. Setaro stated that the letter references some existing manure piles that are along the edge of the right-of-way between the existing barn and road. Mr. Wuerz stated that that is no longer being used. Mr. Setaro stated that that must be shown on the plan – that it is being taken out and the area will be seeded.

Elevations: Mr. Setaro stated that elevation drawings are required. Mr. Wuerz submitted elevations to the Board members. Mr. Labriola asked about the materials and colors. Mr. Wuerz stated that it is metal – 26 gauge steel. He stated that it is a Morton building, the colors are red and black, and submitted a color sheet identifying the colors. He stated that the roof and trim are black. Mr. Karis stated that he has had experience with Morton buildings and that they are very nice.

Drainage: Mr. Setaro discussed drainage from the roof and asked about the plan for the roof leaders and noted that they should not run off onto the Taconic Parkway property. Mr. Wuerz stated that there is a lot of water runoff from the Taconic – there is a culvert that comes off the Taconic property onto his property. Mr. Houston stated that the Taconic is way above and sends a lot of water onto the Wuerz property. He pointed out a swale and where it directs the water. Mr. Setaro stated that there must not be any excess water run off onto an adjoining property – he suggested the possibility of tying the roof leaders into an underground infiltration chamber with an overflow. Mr. Houston stated that they will address this. Mr. Karis asked whether the runoff will be directed to the general area on the plan where the riding ring will be removed. Mr. Wuerz stated that it will be removed. Mr. Karis suggested that that would be the spot where runoff detention could be located, whether it's surface or subsurface. Mr. Wuerz pointed out the direction in which runoff naturally happens. Mr. Karis explained the direction the roof runoff will go.

Lighting & Parking: Mr. Setaro mentioned lighting and handicapped parking. Mr. Houston stated that the lights on the plan are 70 watts and will be mounted just below the peak of the roof against the side of the building.

Grading: Mr. Setaro asked about grading at the back. Mr. Houston stated that the backside will have foundation because of the amount of cut in the area. He stated that Mr. Wuerz had an excavator do some deep tests and they encountered rock 9' down but it is all dig-able shale so there will be no blasting.

Mr. Setaro asked if the Board is interested in any additional landscaping.

Mr. Labriola asked for comments from Board members.

Parking: Ms. Bramson asked about parking on the site. Mr. Houston stated that there are two spots in the garage, there are 2 next to the garage. Ms. Bramson asked if they are the Wuerz' personal parking spaces. Mr. Houston stated that Mr. & Mrs. Wuerz park in the carport. He stated that they are proposed three more parking spots along the side, which is currently used as parking but is grass. He stated that it will be gravel in that area.

Ingress/Egress: Mr. Labriola mentioned the letter from the Highway Superintendent's engineer – Greg Bolner – that refers to a 300' sight distance. He stated that that sight distance analysis must be shown on the map. Further, he noted that the letter refers to the driveway as commercial and is recommended to be a minimum of 24' with a paved apron to a minimum of 20' from the edge of the road. Mr. Labriola stated that he understands their point of view but noted that this is a country lane and a 24' wide cut seems excessive. He stated that they need to be able to get 2 vehicles through the entrance at the same time – that the width of the driveway needs to accommodate a truck with a trailer going in either direction so that they can pass each other without creating stacking on either side of the driveway.

Mrs. Wuerz stated that she thought the issue was access for a fire truck and that the fire department said that they were fine. Mr. Labriola stated that there are two issues – one is that emergency vehicles can get in and out of the site. He stated that the other issue is that this is a commercial enterprise and they need to be able to have cars and trucks going in and out of the site at the same time. Mrs. Wuerz stated that in 40 years they have never had two vehicles coming into and out of the property at the same time.

Mr. Karis suggested that the Planning Board has worked on other projects that have a shared driveway where a small pull off area has been created to allow cars to pass each other safely. Mr. Wuerz stated that they already have that on their property. Mr. Labriola asked where that is on the drawing. Mr. Wuerz stated that it is not shown on the drawing. Mr. Labriola reminded Mr. Wuerz that the Planning Board has clearly told him at the last Planning Board meeting that it must be on the drawing. He stated that if they have a pull off they must show it. Mr. Wuerz stated that it is not a pull off. Mr. Labriola stated that, in that case, don't claim it's a pull off. Mr. Houston stated that there is no pull off, per se. Mr. Labriola stated, again, that it must be shown on the drawing and reminded the applicants not to declare that they have something on site when it's not shown on the map. Mr. Wuerz stated that cars and trucks pull to one side to allow other cars to go by. Mr. Labriola asked if that area is paved and plowed in the winter time. Mr. Wuerz responded yes. Mr. Labriola stated that they must show it on the drawing. Mr. Houston stated that they will show it.

Mr. Karis agreed that a 24' wide access to the site is unnecessary, but also stated that there will be instances that cars will have to be passing each other going the opposite way. Board members concurred and Ms. Seaman suggested making the entrance wide enough that people can pass each other so that they are not stacked up on the road plus a pull off on the property.

Mr. Karis noted that the Highway engineer also commented on the paved apron out to the Town Road. He noted that the Planning Board has required, on other projects, paved aprons into the site to allow for easy maintenance of that entrance onto a Town road. He stated that it is appropriate that there is a paved apron into the site – asphalt for 20' into the site and then it would go to gravel.

Mr. Setaro advised the applicant and/or Mr. Houston to contact the Highway Superintendent to talk about the Highway engineer's comments, especially about the 24' wide entrance.

Fence & Dumpster: Mr. Labriola stated that the Board needs to details of the proposed fence around the dumpster – is it chain link. Mr. Houston stated that it will be 6' high wood fence – stockade. Mr. Labriola asked if there will be a gate on it. Mr. Houston stated that there will not be a gate – that the backside will be screened.

Mr. Karis asked if that is a standard dumpster. Mr. Houston stated that it will be metal. Ms. Seaman stated that they are the big dumpster. She suggested reorienting the

dumpster to facilitate access by the truck that will pull it out and drop in another one. She noted that they take away the full one and bring in an empty.

Internal Traffic Pattern: Mr. Labriola asked the applicant to explain where the loading and turn around would be on the site – how other vehicles would pass when some one is unloading a horse. Mr. Wuerz explained on the map how people come into the site and back into an area to load or unload a horse. He pointed out that hay wagons do the same maneuver. Also, he noted that when moving horses, one brings the horse to the trailer rather than the trailer to the horse.

Commercial Bathroom: Mr. Labriola raised the question again about a commercial bathroom. He noted that it is a commercial enterprise and that there are more than 8 parking spaces. He stated that the current practice is the people use the restroom in the Wuerz's home and that this may work for them, but when they go to sell the property they may not want strangers in their home. He wondered if there needs to be a bathroom in this proposed 10,000 sq. ft. riding facility.

Mr. Wuerz stated that if they were to sell the property, that question of a bathroom in the barn becomes an issue for the buyer and is not an issue for him nor is it a zoning issue. Mr. Labriola stated that he disagrees because the Board must look at health and safety on every application. He noted that this is a sizeable commercial enterprise – unlike a dry cleaner where customers come and go in very short time frame. He stated that if there are riding lessons going on, potentially parents will drop kids off and then sit there for some time and people will need to use restrooms. He stated that he thinks that the use that is being proposed will involve people who will show up and stay there for awhile.

Mr. Karis asked whether other such operations have restrooms. Ms. Seaman stated that some do and some don't – that some of the older ones do not, some of the newer ones certainly would.

Mr. Karis stated that from a planning perspective it seems inappropriate to have patrons on the site using private bathrooms facilities.

Ms. Seaman asked if there are any legal requirements to provide public restroom. Mr. Nelson stated that the rules are that we are not supposed to unreasonably restrict agricultural operations. However, he noted that if the Board believes that there is a public health concern, then the Board may act. He noted that Ag and Markets puts out guidelines for review of local laws affecting commercial horse boarding operations. He stated that they anticipate that the provision of sanitary services in the structure is something that a Planning Board can deal with but not "unreasonably restricted."

Mrs. Wuerz explained the physical set up – that the bathroom is 6' from the front door. She stated that the people don't access the rest of her house.

Ms. Seaman stated that she does not think there is a health and safety issue when a bathroom is available. She suggested that the site plan could recite that a restroom must



be available to the patrons of the establishment. Therefore, she noted that as long as the Wuerz own the property and make the restroom in their house available, then it's OK. If someone were to buy the property and operate as a commercial establishment and did not want people in their house, then they would be in violation of the approved site plan and they would have to build a restroom.

Mr. Labriola stated that he concurs with this approach and suggested that there be a note on the map that states that bathroom facilities will be provided in the private residence. He stated that any buyer would be aware that they would have to let people into their home to use the bathroom.

Mr. Nelson offered wording: that bathroom facilities are to be provided in the private residence on the site until such time an amended site plan is approved to provide separate bathroom facilities. Board members agreed with this approach.

Landscaping: Mr. Labriola addressed the question of additional landscaping and noted that Ms. Southworth's aerial photos show that the property has a lot of trees on it and is well screened. He stated that he does not think there's a need for additional landscaping unless the applicants want to put some plants around the front. Board members concurred.

Next Steps: Mr. Labriola enumerated next steps:

- The applicant to advertise for a Public Hearing at next month's Planning Board and notify the adjacent property owners
- Updated set of drawings with all of the details discussed at this meeting

With regard to managing water runoff from the roof, Mr. Setaro suggested a dry well for ½ of the roof and something for the other ½.

Sign: Mr. Houston stated that the sign on the property already exists – 2' x 3' and not illuminated. Mr. Labriola stated that a sign application would need to be submitted. (Mr. Nelson later in the meeting pointed out that the Code exempts agricultural operations from the permit and approval requirements.)

**8. WILLIAMS LUMBER – SITE PLAN**  
**Grid#6564-02-529886 & 6564-02-507860**  
**Location: 2424 Route 44**

Mr. Larry Boudreau, Chazen Engineering, Mr. Scott Cruikshank, Kirchhoff-Consigli, Mr. Sandy and Ms. Kim Williams, and Attorney Richard Cantor were present.

Mr. Boudreau stated that they have submitted a revised site plan based on several discussions. He noted that he received the Morris Associates comment letter today. He stated that they have submitted a lighting plan. With regard to sidewalks, he stated that he will put whatever text is agreed upon on the final drawings. He stated that over the past month efforts have been made to agree upon that final text, Mr. Cantor will address tonight.

With regard to the lighting plan, Mr. Boudreau stated that they have put in a cut off light and provided photometrics for it. He stated that he will indicate on the final drawings which lights will be extended throughout the night for security.

With regard to the stormwater pollution prevention plan, he stated that they need to include the operator maintenance agreement. He stated that Mr. Cantor will address this.

Mr. Boudreau explained that they wish to shift the location of the entrance. Mr. Labriola cautioned that based on the variance they received, any changes to that structure cannot change the footprint.

Mr. Karis asked about the 6 lights in the front of the building – whether they are mounted at 14'. Mr. Boudreau confirmed that they are. Mr. Karis pointed out that the table on the drawings says they are mounted at 6'. Mr. Boudreau stated that the table will be corrected.

Sidewalks: Mr. Cantor reviewed the history of the discussions regarding sidewalks and noted that the conclusion was to establish a trigger in the future at which time the sidewalks will have to be constructed. He noted that the applicant agrees with this approach and with the details of the trigger. Further, he stated that the proposed location of the sidewalk is in the DOT right-of-way, which he stated is OK with the applicant but comes with a complication.

For discussion's sake, based on a 5 year estimate of when the trigger would be effected, Mr. Cantor stated that under the site plan the applicant is obligated to build the sidewalk in the DOT right-of-way and whoever runs DOT at that time may say no. He stated that they believe they will get an approval from the DOT today, but that that approval would lapse long before the trigger runs out. He stated that the applicant cannot be in the position of being obligated to the Town to do something that requires a third party's approval without knowing for a fact that they can get that third party's approval. He stated that they will make a good faith effort – best effort – strenuous effort – but they cannot control what some DOT administrator will do in the future. He stated that this brings up the question how the Board proposes to handle the hypothetical that, notwithstanding Williams' best efforts, the Town's best efforts – if all good efforts fail and they cannot get DOT approval – how does that get handled.

Mr. Labriola stated that the Board would be happy to hear any suggestions. Mr. Cantor stated that, logically, it seems that there are two choices – move it somewhere else on the property or get rid of it. He stated that if it is moved somewhere else on the property, the sensible place would be outside the right-of-way. He stated that he is told that to do that would be to wipe out all or some substantial portion of screening that is important to the Board and to the applicant.

Mr. Labriola stated that this would cost the applicant exponentially more because they would have to remove and replace landscaping – demolition, construction, and landscaping.

Ms. Seaman stated that if the trigger has been pulled it will mean that the Town is trying to establish a sidewalk all along this area as part of the Town plan. She stated that if the DOT is objecting to it, this will create problems not just for this applicant but on many other sites. She suggested that the easy way to deal with it is to put language in that says subject to if and when DOT approves it. She suggested some legal language to address this eventuality. She stated that there will be very valuable landscaping established for a number of years and the last thing they will want to do is to remove it. She offered legal language that says the sidewalk is subject to the approval of the DOT and shall be put in if and when that approval is obtained. She stated that the Town does not want to lose the right to put the sidewalk in, but the Town will be working to put all the sidewalks in. She stated that, in this way, the applicant may get a pass for a few years.

Mr. Cantor stated that the concept is ok with the applicant if it is ok with the Planning Board.

Dr. Fischer asked if all of the sidewalks will be in the right-of-way. Ms. Seaman stated that she does not know all of the other site plans. Mr. Karis reviewed the triggers: 40% of the frontage on the south side of Route 44 and 125 residential C.O.'s. Ms. Seaman stated that there will be other places in that area where the sidewalk will have to go in the DOT right-of-way.

Mr. Nelson stated that the issues that approach present – this is a deferral of a site plan requirement. He stated that if it turns out that the sidewalk will not be constructed, then that is a waiver or a variance from the plan. He stated that he does not think the Planning Board is authorized to grant variances; rather that is something that must come from the ZBA.

Mr. Nelson stated that the second question that approach raises is that this approval is based on a contract between the Town Board and the applicant – but not the Planning Board. He stated that were this to be changed, then we need to be thinking about whether they need to go to the ZBA and how it sits with the Town Board which is the party to the contract.

Ms. Seaman asked whether this is a waiver or is it a continuation of the deferral. If the occasion occurred that the DOT denied construction of the sidewalk, and that under the terms of the contract they would have to have the approval of the DOT, she asked whether it is a waiver at that time or continuation of the deferral. Mr. Nelson stated that he would assume it would be a deferral – that no one has ever said that they don't have to install the sidewalks.

Mr. Labriola suggested that there could be language that would authorize the Town Board to defer the requirement for a year or two years, which would then require the

applicant to make another good faith attempt. He stated that he's trying to avoid a situation where the applicant gives up after trying to get approval one time and there being nothing forcing the owner of record to try again. He suggested that such language would give the Town Board, who is really in charge of this situation, the authorization to grant a deferral from this build out for a year or two. He stated that there needs to be some trigger that occurs that forces the owner of record to keep trying to get the DOT approval. Further, he agreed with Ms. Seaman's point that there will be a whole bunch of properties that this will affect. He also suggested that the Town Board, in that instance, would be interested in making the case to the DOT that these sidewalks are an integral part of the hamlet and part of the comprehensive plan. Discussion continued on Town Board's role.

Mr. Labriola noted that this was not part of the previous discussion with the Town Board or the agreement reached with that Board. He stated that the Planning Board cannot negotiate for the Town Board. Mr. Cantor stated that this approach is ok with the applicant if acceptable to the Town Board. Mr. Labriola stated that this must go back before the Town Board for their consideration and sign off – this is a next step. Mr. Labriola stated that he and Mr. Nelson will have a discussion with Attorney Scott Volkman and then get this onto a Town Board agenda.

Mr. Cantor raised another issue with regard to the sidewalks. He discussed the remedy available to the Town in the event the owner of record violates the site plan obligation. He noted that the Town has a series of remedies – to cite them for a violation, to go to court to assess fines or penalties, to go to the Supreme Court for adjunctive relief to force them to do it, to impose a money judgment of building it, and the Town spending the money it collects to build it – all of these are fine. However, he stated that there is also a nuclear weapon in the resolution, which he states is excessive, that is to revoke a Certificate of Occupancy. He stated that that is not a power that Towns generally have over a violation of a site plan and is overkill. He stated that in speaking with Mr. Nelson he volunteered that the applicant would agree, now, that the Town would have the right to obtain "specific performance," which is an injunction under which the applicant agrees, now, not to argue later. He stated that he was told that there was an earlier discussion about some security, bonding, or letter of credit. He stated that they are prepared to say that when the trigger is pulled the applicant is obligated to provide whatever form of monetary security the Board designates to secure their obligation to do it within the one year period. He stated that they are asking that the Board remove the remedy of losing the Certificate of Occupancy.

Mr. Labriola stated that the discussion of the performance bond was for it, specifically, to be submitted when the site plan gets approved and, therefore, could go on for years and years and never need to be exercised – and that costs money. He stated that this is an interesting alternative that requires the security to be deposited when the trigger is pulled, which provides the Town a remedy and seems like a reasonable suggestion.

Mr. Nelson stated that if a bond is not going to be posted in the beginning the question becomes what the Town is trying to achieve. He stated that the thinking was that the

Town was trying to ensure that the sidewalks would be installed without having to have extensive litigation, and the easiest way to deal with that is with a bond. He stated that if you defer the posting of the bond, you still have the same problem, which led to the C.O. discussion – how do we know that the owner of record will actually come up with the bond. He summarized that he does not know what assurance there is that the Town will get the security.

Ms. Seaman stated that she agrees with Mr. Nelson and that the reason for the contract is to avoid the imposition of a financial burden on the applicant to secure the long-term building of the sidewalks. However, she stated that the nuclear remedy is there because the next owners might decline to post the bond, then the Town is faced with potential extensive litigation.

Mr. Cantor stated that the nuclear option does not avoid the litigation – the Town revokes the C.O. and they continue operating, the Town will have to go into court to shut them down. Ms. Seaman asked, therefore, if the Town is still faced with litigation, why the Town wouldn't want to have the nuclear remedy. Mr. Cantor stated that he knows why the applicant would not want that remedy – he enumerated the issues including potential future lenders balking. He also mentioned the possibility of placing a lien on the property and enforceable through the tax bill. He stated that there are options that give the Town reasonable security short of this drastic remedy.

Mr. Nelson stated that one of the concerns with liens on mortgaged up property – on what can you collect the judgment. He reiterated that this is a contract primarily between the Town and the applicant, with the advice and conditions of the Planning Board. He stated that he has not discussed with Mr. Volkman whether this remedy is excessive. He suggested that this question about revocation of the C.O. should also be part of the discussion between Mr. Labriola and Mr. Volkman.

Mr. Labriola concurred that there are two issues for discussion with Mr. Volkman and, ultimately, with the Town Board:

1. sidewalks in the DOT right-of-way
2. revocation of the C.O.

Mr. Labriola stated that the reason we're going through this is in an effort to invent a creative option to defer some initial expenses for the applicant. He stated that perhaps we are overcomplicating things by trying too hard. He stated that he's willing to pursue this to see if it is possible to come to an agreement with the applicant and the Town Board.

Mr. Hart, member of the Town Board, suggested that this would be a condition of site plan approval – a contract to build. If 5 years down the road, he stated that if NYS decides not to honor the easements, there's a bigger problem than just that. He stated that he thinks that if the DOT were to disallow the installation of the sidewalks then it should go back to the Planning Board for a site plan update.

Mr. Labriola stated that there are two issues. One is the DOT disallowing the installation. Problem two is the DOT permitting the construction and the property owner not doing the construction. Mr. Hart suggested that there would be language to be able to automatically enforce that. Mr. Labriola concurred and explained that that is the additional problem – the Town's position is to pull the C.O. and the applicant thinks that is excessive. Mr. Hart stated that if everybody agrees to the thresholds, there is language that can be put in that adheres to the Town's Master Plan.

Mr. McNair, Town Supervisor, noted that if language is added, the applicant must agree to it. Mr. Labriola stated that the Town Board, who ultimately signs this contract with the applicant, must be comfortable. He stated that the Planning Board cannot speak on the Town Board's behalf – the Town Board must tell the Planning Board that the language is ok and that they will support this approach.

Mr. Hart stated that once the draft version of the resolution is submitted then this can move forward. Mr. Labriola stated that it is the draft version that is being contested by the applicant's attorney. Mr. Nelson stated that the resolution in front of the Planning Board requires a contract with the Town Board and reviewed the discussions that have ensured this evening and the fact that the Planning Board may not make promises for the Town Board. Mr. Hart stated that the Town has a mechanism in place right now regarding snow removal – if people don't remove the snow, the Town will remove it and then it will be charged against the taxes. He suggested that there could be some type of mechanism that would address this potential situation.

Mr. Labriola stated that there no longer is agreement on the remedy (pulling the C.O.) that was proposed and previously agreed to. Therefore, he stated that the Planning Board needs to have the conversation with the Town Board about some alternate remedy. It has to cycle back to the Town Board because it is different from what was discussed and agreed to with the Town Board. He stated that this Board is not going to speak on the Town Board's behalf.

Mr. Labriola laid out the next steps:

- He and Mr. Nelson will speak with Mr. Volkman
- Mr. Volkman will put this on the Town Board's agenda
- Town Board will discuss the changes and alternatives
- Town Board will declare the approach to put into the resolution and construction agreement
- Return to the Planning Board with that proposed resolution

Ms. Williams asked that this proceed quickly and expressed her dismay that they only received this agreement today. She noted that they met 8 weeks ago trying to write this verbiage trying to get this done. Mr. Labriola stated that the notion about pulling the C.O. is not something that appeared in a document today. He stated that the fact that they received it today does not change the fact that they had already agreed to that point. He stated that the new news is that they are no longer agreeing to it and that is the new problem. Ms. Williams stated that she agrees with that. Mr. Labriola stated that it should



have been a non-issue this evening because it has already been shopped to the Town Board and we agreed – it is the applicant who is now not agreeing. He stated that this is new news that surfaced on a phone call to him at noon today. Ms. Williams reiterated that they did not see this document until today. Mr. Labriola asked if there is anything in that document that is a surprise to Ms. Williams. Ms. Williams responded no. Mr. Labriola noted that everyone agreed on the content of the document weeks ago.

Mr. Cantor stated that Ms. Williams' concern is that this gets resolved. Mr. Labriola stated that he thought that was what we were doing. He asked someone to take the lead on scheduling the call to discuss next steps. Mr. Nelson volunteered.

Mr. Williams stated that he does not remember reference to pulling the C.O. as a remedy. He stated that Mr. Cantor raised the point in their conversations about lenders being very concerned about such a remedy. Mr. Cruikshank stated that there's been a change based on some new information.

Mr. Labriola stated that he wants to make sure that people understand that no new conditions were introduced in this document – that this was something that was agreed to.

Mr. Labriola summarized that discussions must happen between the parties in order for this to go before the Town Board and, then, subsequently come back to the Planning Board, which may not happen at the next meeting. He noted that we are two weeks away from the submission date (7/26/10) for the next Planning Board meeting (8/10/10). He also pointed out that this is now vacation time.

Mr. McNair suggested that he can poll the Town Board to schedule a special meeting to address these issues. He asked Mr. Labriola to let him know when everyone is ready to meet with the Town Board.

Mr. Williams stated that it was not their intention to upset the chairman of the Planning Board. Mr. Labriola stated that he believes the Planning Board has been working with them in a very expedited fashion and making every effort to defer upfront construction costs. Another option is to build the sidewalks now and all of this becomes a moot point. Mr. Williams stated that this Planning Board is the best Planning Board they have ever worked with. Mr. Labriola stated that we have a moving forward process now. Mr. Nelson will schedule a call with Mr. Volkman, himself, Mr. Cantor, Ms. Williams, and Mr. Nelson.

Mr. Labriola pointed out that on the revised site plan he still does not see how people will walk from the sidewalk to the store. Mr. Boudreau stated that they will find another approach. Mr. Labriola stated that there will need to be striping and signage that says pedestrian crossing.

Mr. Williams requested again that they not be last on the Planning Board's agenda. Mr. Labriola stated that that is also a matter of what the agenda looks like. He explained that

he typically save things that we know are going to take a long time to the end so that everybody else does not have to sit through that.

**9. ROSSWAY – SUBDIVISION- EXTENSION OF PRELIMINARY APPROVAL**

Mr. Labriola noted for the record that there is a letter dated 6/23/10 from Mr. Geoff Ringler requesting another 90-day extension. Mr. Ringler's letter states that they are working to finalize the retaining wall, septic, and drainage designs and that they expect to have these updated in time for the Planning Board's August meeting.

Mr. Labriola: **MOTION TO EXTEND THE PRELIMINARY AGREEMENT (original on file) TO EXPIRE ON 8/6/10**

**SECONDED BY H. FISCHER**

**Discussion:** Mr. Labriola clarified that there is no limit on the number of extensions that can be granted for preliminary approvals. He stated that there is a limit of extensions that can be granted for final approvals. He stated that preliminary approvals can only expire if there has been a drastic change in the scope of the project. He stated that NYS is specific that you cannot pull somebody's preliminary approval just because time has elapsed. Ms. Dickerson stated that it was Mr. Takacs who informed her that this would be the final extension of preliminary approval. Mr. Labriola stated that this Board will continue to grant this applicant 90-day extensions of their preliminary approval.

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

**10. NEW CODE REVISIONS/AMENDMENTS - DISCUSSION**

Mr. Labriola stated that the Board is not going to design the changes to the Code, but will identify the sections of the Code that this Board thinks need to be changed and put a priority on them. He stated that the Planning Office has put together a list, Ms. Seaman has put together a list, Mr. Karis has put together a list, and he has put together a list.

Mr. Labriola's list:

- **98-80** – add a public information session – to be worded that it is at the Planning Board's discretion prior to SEQR determination for site plans and subdivisions. He noted that currently the Public Hearing comes after SEQR and that this Board has talked about putting the Public Hearing ahead of the SEQR determination. **SECOND PRIORITY**
- **98-31F** – distances between trees in a hamlet – current is 30' which works well in downtown Pleasant Valley but in other areas of the Town it seems too close. Mr. Gordon stated that it would also depend on the type of tree. **THIRD PRIORITY**
- **98-36** – manufactured homes - need to establish setback standards when they are not on individual lots – setbacks that may be greater than the Fire Code requirement. **SECOND PRIORITY**

- **98-47** – architectural standards for non-residential – unclear whether these are guidelines or requirements and are very specific about foundations and siding and soffit sizes – seems to be very rigid and beyond what the Board would want. **SECOND PRIORITY**
- **98-57** – expansion of non-conforming use – too vague and has already caused problems on a number of applications. **FIRST PRIORITY**
- **98-71B(3)(e)** – typo – Ms. Dickerson stated that this has already been fixed.
- **98-80R** – site plan applications now include signs – should be removed – sign permit applications are separate from site plan review. **SECOND PRIORITY**
- **82-11G(6)** – preliminary approval – current language says that 2 six-month extensions but is open ended – needs clarification that you can get as many extensions of your preliminary approval as you want. Mr. Nelson stated that Mr. Labriola was correct that courts say that you cannot cut off the preliminary approval, but there is provision whereby you cannot just go on forever. He stated that there is some case law that permits a Board to terminate a preliminary approval if the applicant has not made any diligent effort to pursue their application, but that the applicant must be given a hearing. Mr. Labriola asked if the language should be tightened up so that the Board never has the ability to rescind. **SECOND PRIORITY**
- **98-15** – reducing the requirements of site plan for accessory apartments. Mr. Gordon suggested that there can be other situations on a property that need to be addressed – to bring a property into compliance. Mr. Labriola stated that accessory apartment applications tend to be fairly simple but the process is not simple. He wondered if there is a way to simplify the process since the Board is going to be seeing more of these applications. Ms. Dickerson pointed out that it is limited to 6 per year. Mr. Gordon stated that he would not want to give up the opportunity to upgrade issues on a property. Mr. Labriola stated that it would be exclusive to accessory apartments and asked the Board members for their thoughts. Dr. Fischer and Ms. Bramson agreed with Mr. Gordon. No change, therefore, suggested by the Planning Board.
- **98-15** – tighten up language that accessory apartments are for family use only – not to be rented to non-family. Ms. Seaman pointed out that there is no legal language in the Code that only permits the rental to family but there is language that permits only 2 people and one bedroom. **FIRST PRIORITY**
- **AREA AND BULK REQUIREMENTS TABLE** – the Average Density is only written as if it is for a subdivision, but if there is a site such as Great Springs where they are adding apartments, it is not written clearly to describe the average number of units you can have per acre. **FIRST PRIORITY**

Mr. Karis' list:

- **STREAMLINED AMENDED SITE PLAN REVIEW AND APPROVAL PROCESS** – depends on what they are amending – waivers are a mechanism that can do this
- **WETLAND PERMIT APPLICATION REVIEW PROCESS** – need language that requires these applications to follow the site plan review process

- this has been the Planning Board’s process although it is not written down anywhere, which includes Public Hearings. **FIRST PRIORITY**
- **APPLICANTS ARE REQUIRED TO PROVIDE DATA/DOCUMENTS AS DESCRIBED IN THE CODE** – Town is only required to describe the process but not to provide the data or documents. **FIRST PRIORITY**
- **98-31C** – specify that hamlet sidewalk material is concrete and not asphalt. **SECOND PRIORITY**
- **CHAPTER 74 – STORMWATER MANAGEMENT** – this was omitted from the new Code and there is a process currently happening to reinstate that into the new Code.

Ms. Seaman’s list:

- **CHAPTER 53- WETLANDS** – language is obscure on whether the Planning Board has the final say or the DEC does. Language needs to clarify so that this Planning Board can have final say when it wants to. There could be wetland areas that are very important to this Town that the DEC does not care about. Ms. Seaman explained that applicants must get a DEC permit, in any case. The problem arises when the applicants think that the DEC permit overrides the Pleasant Valley wetlands law, which is because the language in Chapter 53 is vague. Mr. Nelson stated that the Board needs to look at penalty enforcement provisions, also. Mr. Gordon asked whether the DEC should know what each of the Towns’ laws provides. Board members agreed that the DEC does not care. **FIRST PRIORITY**

Mr. Hart asked how you want to circulate those changes back to the Board. Mr. Labriola stated that Ms. Dickerson will document these with the priorities distribute to the Town Board. Mr. Hart stated that the Planning Board will vote on these changes and forward to the Town Board. Ms. Dickerson pointed out that these are not changes but is just a list of what needs to be addressed; the Board has not discussed how to revise these items.

Ms. Seaman stated that the question now is how to effect these amendments/changes. She stated that she has spoken with Rick Wilhelm about getting a group together to suggest changes to the language. She stated that depending on what the Town Board wants – how the Town Board wants to proceed – who they want to participate in drafting the changes. She stated that the Town Board can reconvene the recodification committee or some other option. Mr. Hart suggested that some of the items could be clarified by understanding the recodification committee’s intent.

Mr. Labriola stated that there is probably a lot of input from a lot of different places – Planning Office, Planning Board, perhaps the ZBA. He stated that the Town Board look at all those lists and identify the priorities that require attention now; these are the items that require subsequent discussion either with the Comp Plan committee or members of the Planning and Zoning Boards and the Planning Office to take the next step. He suggested that it is not time for people to move forward on anything until the Town Board reviews the integrated list. Mr. Hart suggested convening a group comprised of Comp Plan committee and Planning and Zoning Boards.

Ms. Dickerson stated that she will draw it all together from this evening's discussion and from the Planning and Zoning office's previously submitted recommended changes.

#### **11. MISCELLANEOUS**

Rossway: Mr. Nelson asked if Rossway formally requested a waiver of the installation of infrastructure. He stated that Rossway wanted to defer putting in the common driveway and the retaining wall and some other things. Mr. Labriola stated that the letter from Mr. Stenger has been received that says that there have been discussions about when the driveway will be constructed and proposes that this issue be dealt with by placing a note on the plat that no building permits be issued for any lot in any subdivision until such time that the driveway is completed. Further, Mr. Stenger's letter states that his client does not wish to complete the driveway as a condition of filing the subdivision plat – that condition would unnecessarily front end the expense of this project.

Mr. Labriola stated that that is not going to happen. Mr. Setaro pointed out that he told Mr. Ringler whoever buys the first lot would have to install the entire common driveway. Mr. Labriola added that on the site there are an extensive retaining wall, stormwater management, and the common parking area at the bottom. He stated that the common driveway is integral to the design of making the site work. Mr. Labriola stated that the applicant has not formally requested this, that there was letter that said this is what they would like to do.

Mr. Nelson stated that this is a shared driveway. He stated that if you are going for a subdivision, the Code says that they must complete the infrastructure improvement or provide a bond to complete it before the subdivision plat gets signed. He stated that someone with a shared driveway does not get an easier deal than someone with a subdivision. Mr. Nelson stated that the answer to Rossway's request is no.

Wuerz: Dr. Fischer asked if anyone has looked into whether a commercial establishment needs to have a bathroom facility outside of the private house. Mr. Nelson stated that they looked into it and could not find any regulations. He stated that Attorney Audrey Scott spoke with the Department of Health who said that they have no rules, but she did find that in requiring sanitary services on horse facilities we will not unreasonably burden the applicant.

Mr. Setaro stated that the only other place to check would be the NYS Building Code whether a certain sized building, depending on what it is, would require a bathroom.

**Peter Karis**: Mr. Karis announced that tonight is his last Planning Board meeting as a member of the board. He stated that he has started his own design firm here in Town. He stated that he needs to give himself every opportunity to take on work and that he needs to resign. He stated that this day has come sooner than he thought. He stated that it has been his distinct honor and privilege to serve the past 7 years with all Board members and Mr. Nelson and Mr. Setaro. He stated that he feels very proud when he drives through Town and sees some of the projects that this Board has been involved with

and look really nice. He stated that this Board has forged some new ground and made good planning policy for the Town and culminating with this new Zoning Code that we are all trying to work with. He stated that he will miss everyone and hopes to see everyone again really soon, probably from the other side of the table. He stated that working with the Board has made him a better design professional and a better person and that he is proud of the work that he has done with the other Board members.

Mr. Labriola expressed the feelings of the Board and best wishes and gratitude of the Board. He stated that Mr. Karis brought something very unique to the Planning Board – his ability to take a plan and turn it into a three dimensional model and come up with alternatives. He stated that Mr. Karis gave this Board instant credibility. He stated that it has been a pleasure having Mr. Karis on this Board and that he will be very hard to replace. Board member all agreed with these sentiments and wished Mr. Karis the very best with his new business.

**New Board Members:** Mr. Labriola announced that we need to advertise for a Planning Board member and an alternate.

**Rebecca Seaman:** Mr. Labriola announced that Ms. Seaman has now agreed to step in as the Vice Chair of the Board.

Meeting adjourned 10:25 p.m.

Minutes submitted by:  
Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the July 13, 2010, 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 10, 2010**

A regular meeting of the Pleasant Valley Planning Board took place on August 10, 2010, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:38 p.m.

Members present:     Joe Labriola, Chairman  
                              Rob Fracchia  
                              Henry Fischer  
                              Kay Bramson  
                              Michael Gordon

Member absent:       Rebecca Seaman

Also present:          Jim Nelson, Esq., Planning Board Attorney  
                              Pete Setaro, Planning Board Engineer

**1.     SYCAMORE SQUARE – RESOURCE ANALYSIS AND CONCEPT PLAN**  
**Grid #6564-02-733977**

**Location: 2510 Route 44, Salt Point, NY – Washington Hollow**

Mr. Labriola pointed out that this application is on the agenda as La Puerta Azul but is actually Sycamore Square Amended Site Plan. He asked that Mr. Volino make that change on the documents.

Mr. Fred Volino was present and stated that La Puerta Azul restaurant, a tenant in Sycamore Square, desires to increase their footprint – to increase by 3400 sq. ft. by taking over two adjacent tenancies that are or will be vacant to be used as a catering facility that will be incidental to the main business, which is the restaurant. He stated that they are looking for 140 seats in the catering facility, that there will be two bathrooms, and some storage space.

Mr. Labriola asked if there will be any expansion to the kitchen to accommodate this increase. Mr. Volino responded no, that it was originally designed to be a training kitchen and, as such, is way over capacity for the seating capacity of the restaurant.

Mr. Volino explained that the sign on the building would carry down the front, the stucco on the front as well as the column treatment. He stated that what they are doing to the outside is minor. He stated that they have three columns, that they would put the same treatment on as the existing restaurant and, then, changing some windows to match the windows and a new door. He stated that that would be the extent of the modifications to the outside of the building.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that there are some minor updates on the EAF. He repeated Mr. Labriola's comment that the title needs to change to Sycamore Square Amended Site Plan.

Mr. Setaro asked if the Board wants to see elevations of the changes to the façade of the building. Mr. Labriola responded yes – so that the site plan will reflect what it eventually will look like.

Mr. Setaro stated that he assumes Mr. Volino must contact the DC Health Department. Mr. Volino agreed that eventually he will. Mr. Setaro stated that Mr. Volino provided water usage calculations that show that their usage is under capacity. He asked if they will need a bigger grease trap. Mr. Volino stated that they will need the Health Department's approval before all is complete.

Mr. Setaro raised the issue of sidewalks. He reviewed the plans submitted by Mr. Volino and the sidewalk system as displayed on those plans – the sidewalks come into the site, run along the front of the building, and then exit the site. Mr. Gordon stated that when the triggers happen that have been talked about with Williams Lumber it will affect all of the property owners in that hamlet district. Mr. Labriola stated that the amended site plan must be locked on sidewalks, where they will be, the construction, lighting, etc. – everything must be done before the site plan is approved. He noted that sidewalks cannot be deferred until some point in the future.

Mr. Labriola noted that Mr. Volino's conceptual plan represents an internal sidewalk system and the question is whether they should be along Route 44. He stated that he has spoken with Mr. Volino about this and that he personally likes the internal design and that the Board needs to understand whether the grades work. He stated that it's a fairly steep grade from Route 44 up to the parking area. Mr. Volino displayed for the Board a topographic map of the property and explained how the sidewalks would work and that grades would not be an issue. Mr. Volino stated that there is a 15' Central Hudson easement for the light poles between the property line and the curb and that the rest is NYS.

Mr. Volino mentioned that he does not think that walking along the road would be a good idea – not safe. He stated that he was hoping to bring the foot traffic into the plaza and not away from it. Mr. Labriola stated that with the grades it might require retaining walls and was thinking about the expense of putting the sidewalks along the road as opposed to conveying the traffic along the store fronts and then back out to Route 44. He stated that the Board needs to give Mr. Volino specific direction today for the next steps.

Dr. Fischer stated that the Board does not know what it would be like to put a sidewalk along the road. Mr. Setaro reviewed the grade changes in the area. Mr. Volino stated that putting the sidewalk along the roadway is doable but is not his preference. Dr. Fischer stated that to him a sidewalk is for public use – bikes and other types of uses. Mr. Labriola pointed out that the Board seems to be going in the other direction on the Williams application. Mr. Gordon stated his preference for an internal sidewalk system along the store frontages closer to the businesses. He stated that a sidewalk should be adjacent to and as close as possible to the business that it fronts. He stated that to create a hamlet feeling, closer to the businesses is the way to go with the sidewalks. He stated

that in the winter you are going to lose some of the sidewalk with snow plowing. Mr. Volino pointed out where they plow the snow on the site.

Ms. Bramson stated that she's thinking about how it will look when all the businesses are there. She stated that for a hamlet she prefers the sidewalk along the roadway, rather than zigzagging all over the place. Mr. Gordon asked if it makes sense to have a sidewalk that is 40' – 50' away from the businesses. Dr. Fischer stated that it does if you are not going into the shopping center, and it doesn't if you are going into the shopping center.

Mr. Gordon stated that he would vote for an internal sidewalk system – just the way it is drawn on Mr. Volino's plan. Ms. Bramson stated that she would choose to have the sidewalk along the road. Dr. Fischer stated that he would want to know if it is feasible to put it along the road – arching the front of the property. Mr. Volino stated that it can be done and will be a little steep at one end. Dr. Fischer stated that he would want to know how it will look and would want to avoid steep inclines. He stated that there would have to be some kind of a walkway to get into the site. Mr. Labriola agreed that there would need to be something connecting the sidewalk into the site.

Mr. Fracchia asked about a connection between Mr. Volino's other property across Route 44 for overflow parking. Mr. Labriola stated that we do not want overflow parking across Route 44 for anything in this plaza. He stated that if that is part of this design, then that is a very different discussion. Mr. Setaro stated that there would have to be a formal cross walk. Mr. Labriola stated that the NYS DOT would have to approve that. Mr. Volino stated that there would have to be a stop light there for that to happen. Mr. Setaro agreed.

Mr. Labriola asked what Mr. Fracchia's preference would be. Mr. Fracchia stated that he would like to see what it would look like along Route 44. Mr. Labriola stated that it would be in the NYS DOT's right-of-way. Mr. Volino concurred that it is not his property and would require DOT permit and their approval.

Mr. Labriola stated that the Planning Board would need a conceptual letter from NYS DOT that says that they don't anticipate any problems.

Mr. Gordon asked what Mr. Labriola thinks. Mr. Labriola responded that he's OK with what is represented in Mr. Volino's current design, but also thinks that some valid points have been made and the Board will go with the majority rule. Therefore, he stated that Mr. Volino should provide the Board with a design to show what it would entail to get a sidewalk from the DOT right-of-way along the top of the parking. Also, he stated that they will have to somehow convey foot traffic from the main sidewalk to the internal sidewalks, which can be done with striping on either end of the site and signage.

Mr. Setaro asked if the same triggers would apply to this project as apply to Williams Lumber. Mr. Labriola responded yes – 40% of the road frontage on the south side of Route 44 developed or redeveloped and 125 residential C.O.'s. He explained that this is an emerging hamlet and there would be a deferral on the construction requirement.

Mr. Labriola asked what the road frontage is along the site. Mr. Volino stated that it is about 900’.

Mr. Setaro stated that Mr. Volino must get the conceptual letter from the NYS DOT saying that they will need to obtain a permit when the time comes and that there will have to be a sidewalk maintenance agreement that will fall back upon the Town.

Mr. Labriola asked about the additional door. Mr. Volino explained that there are two doors now because it is two separate spaces, which will be combined into one door with a vestibule.

Mr. Labriola stated that parking isn’t going to change and asked where the handicapped parking is currently located. Mr. Volino pointed out the handicapped spaces and the curb cuts.

Mr. Setaro recalled that at one point La Puerta Azul was before the Planning Board with an application for outside seating. He stated that if they are still thinking of that, then they should include it in this application. Mr. Volino stated that he will review that with the restaurant. Mr. Labriola asked for confirmation that the outdoor seating would be used as an eating area, not just a place for people to have a drink and wait for a table. Board members and Mr. Setaro concurred that it is an outdoor eating area. Mr. Labriola stated, therefore, that those additional seats must then be factored into the parking calculations.

Ms. Bramson pointed out that the outdoor seating would obstruct any sidewalk in that area. Mr. Labriola agreed.

Mr. Labriola recounted the history on the site – that it received a variance for the parking on the site. He stated that, now, even though there’s a significant increase in the number of seats, there has been a significant decrease in the amount of parking required based on the new Code. Therefore, he noted that Sycamore Square now has a variance that grants them surplus parking and that they actually need less of a variance. Mr. Setaro stated that this must be shown on the plan.

Mr. Volino noted that the Board wants front elevations that show changes to the front of the building. Mr. Labriola stated that the next set of plans should show the revised sidewalk and asked Ms. Dickerson to refer the next set of plans to DC Department of Planning.

Mr. Volino asked whether the Code dictates the required size of the sidewalks. Board members stated that it is a range. Mr. Labriola stated that this Board told Williams Lumber 6’ wide.

Mr. Setaro stated that Mr. Volino needs to use the plan that was approved for Sycamore Square and show the amendments and changes on it. Mr. Volino stated, therefore, that

the Board is not interested in all the details that are normally required. Mr. Setaro stated that they are not doing any more lighting or drainage – everything is already on the site. He stated that they might have to upgrade the grease trap. Mr. Volino stated that they probably won't have to upgrade because there is already two 4,000 gallon grease traps. Mr. Setaro stated that an amended site plan and an elevation drawing will suffice. Mr. Labriola concurred – lighting exists and is not changing, the landscaping exists.

Mr. Setaro stated that Mr. Volino needs to reference the tracking of the previous approvals.

Mr. Labriola: **MOTION TO ACCEPT THE RESOURCE ANALYSIS AND CONCEPT DESIGN (original on file) WITH THE FOLLOWING CONDITIONS:**

- 1. Morris Associates letter dated 8/6/10**
- 2. Move the sidewalk into the NYS DOT and Central Hudson right-of-ways**

**SECONDED BY H. FISCHER**

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

Mr. Volino asked what the procedure is going forward.

Next Steps: Mr. Labriola stated

- Updated plan for Sept. Planning Board meeting
- After Sept. meeting, the Planning Board will circulate for lead agency to all involved agencies and authorize Mr. Volino to advertise for a Public Hearing at the next meeting and notify adjacent property owners
- Get feedback from DC Planning and the FAB by October Planning Board meeting
- DOT concept letter
- Board of Health letter

Mr. Volino asked if a Public Hearing will be required and stated that the new Code provides for the Planning Board to waive the Public Hearing. Mr. Nelson stated that there is a provision for waiver of the Public Hearing and the question is whether this is a situation where the Board's practice is to waive the hearing, or not. Secondly, he stated that mailed notice to adjacent property owners is required.

Mr. Labriola stated that the Board should move forward with the Public Hearing because of the significant change with the public sidewalk. He stated that it would be good to get feedback from the public on the plans for the sidewalk. Board members agreed.

**2. WUERZ – SITE PLAN & PUBLIC HEARING**

**Grid #6564-03-378420**

**Location: 422 Masten Road**

Henry and Lorelle Wuerz, applicants, were present. Mr. Brian Houston, surveyor for the applicants, was also present.

Mr. Houston reported that they have submitted the agricultural data statement. He stated that there are no proposed bathroom facilities in the new barn. He stated that they added the note to the map that as it exists now, the applicants provide the bathroom facility in the existing house and that an amended site plan will be required if they decide to add a bathroom to the barn in the future.

Mr. Houston reported on conversations regarding tying into the well. Mr. Setaro stated that he also talked with Jim Napoli about drainage, roof leaders, and tying into the well. He stated that there won't be any approval required from the Health Department for the tie in.

Mr. Houston stated that they showed the details on the manure dumpster.

With regards to the Clark Patterson Lee letter, Mr. Houston stated that they added the sight distance to the map and it exceeds what the Code calls for. He stated that he talked with Greg Bolner about the 24' wide driveway access and that he had expected that Mr. Bolner would write a letter to the Board. He stated that the Highway superintendent said that if the Board is comfortable with the existing entrance then he would not need to grant an approval for the entrance because it exists. He stated that the Highway superintendent said that if the applicants modify the entrance, then he would have to enforce the full commercial 24' entrance. He recalled that this Board discussed this issue at the last meeting and thought that this was a little extreme. He stated that they are not expanding the use as it currently exists and that they are asking for it to remain the same.

Mr. Gordon stated that it's fine as it now exists. Dr. Fischer stated that he would defer this to engineering. Mr. Labriola stated that a 24' curb cut on a country lane seems to be a little excessive. He suggested that the compromise position on this might be to leave the entrance as is and add the two proposed pull offs on the site. However, he stated that the Board will need a letter from Greg Bolner that says this is OK. Board members concurred.

Dr. Fischer asked about the 20" Maple tree that is to be removed – whether that is because of sight distance. Mr. Houston agreed that it is a big tree and it does hinder sight distance and that it would be better without the tree. Mr. Wuerz stated that it would be a nice tree to leave in place. Mr. Gordon stated that he would vote to preserve the tree. Mr. Setaro stated that no one likes to cut down a mature tree but noted that the Board is approving a site plan for some increased use on the site and wondered about liability resulting from that tree impeding sight distance. Mr. Labriola stated that this would be the Highway superintendent's call to decide whether that tree must be removed to achieve the required sight distance. He stated that the Board would like to receive something in writing from Greg Bolner saying yes or no on preserving that tree. Mr. Houston stated that if you are 12' back from the pavement you have more than the required site distance. However, as you move forward then the tree comes into play. Mr. Labriola stated that Mr. Bolner has to make that call. Dr. Fischer stated that it would be nice to preserve the tree.



Mr. Houston stated that they added a note to the map about removing the manure pile in back of the old barn and seeding and mulching.

Mr. Houston stated that they added the owner's certification note.

Mr. Houston pointed out the handicapped parking spot, which will be paved.

Mr. Houston stated that they added the note that there will be no blasting for excavation, that the lighting details have been added. He stated that the area of the existing riding rink is already grass and does not need to be seeded and mulched – that there's nothing to do there.

Mr. Setaro stated that he researched the NYS Building Code and that the barn does not require a bathroom.

Mr. Houston submitted a new site plan with a proposed storm water system displayed. He explained the system to capture all the water coming off the roof, running the leaders into an infiltration system under the ground to direct the water back into the ground. He stated that if there were an extreme storm there is a provision for an overflow.

Mr. Houston discussed the original storm water management design that included a swale to bring the overflow into the low area – it sits down 3.5' from the edge of the ground. He stated that the perk test showed the water stabilized at 6 minutes. He stated that this would be more cost effective for the applicants and that they would provide a culvert under the road that will drain into another area. Mr. Setaro stated that that is the applicant's call as long as the water stays on their property. He discussed options and associated costs. Mr. Labriola stated that there must be some sort of storm water management plan that shows some of the calculations for 100 year storms to make sure that the basin will be able to handle all of the flood conditions. He noted that the map shows a bowl that goes over the driveway to the barn. Mr. Wuerz stated that the water never has. Mr. Labriola stated that there must not be an overflow over the driveway – it's a bad planning practice to have a driveway in a potential flood area.

Mr. Labriola stated that the next steps are:

1. confirmation from Greg Bolner regarding the driveway and the tree
2. storm water management plan that the Board is comfortable with and that is cost effective for the applicants and that works

Mr. Setaro stated that Rich and Shawn must document the conversation they had with the County Health Department.

Mr. Setaro stated that the SEQR process is not required because this is in an agricultural district. Mr. Labriola agreed and stated that it can proceed to conditional final next month.

Mr. Labriola: **MOTION TO OPEN THE PUBLIC HEARING; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 5-0-0**

No one spoke.

Mr. Labriola: **MOTION TO CLOSE THE PUBLIC HEARING; SECONDED BY R. FRACCHIA; VOTE TAKEN AND APPROVED 5-0-0**

3. **WILLIAMS LUMBER – SITE PLAN**  
**Grid#6564-02-529886 & 6564-02-507860**  
**Location: 2424 Route 44**

Mr. Larry Boudreau of Chazen Companies, Mr. Scott Cruikshank of Kirchhoff-Consigli, Mr. Sandy Williams, Ms. Kim Williams, applicants, and Mr. Richard Cantor, attorney for the applicant were present.

Mr. Labriola stated that he had hoped that Ms. Seaman would be at this meeting to report on the Town Board's workshop meeting that she attended, but she is not present this evening. He stated that the Williams Lumber sidewalk plan was reviewed with the Town Board at that workshop and that there were some decisions made that need to be discussed. Ms. Williams stated that she and Mr. Cruikshank attended that Town Board workshop.

Mr. Richard Cantor, attorney for the applicant, was present. He stated that at the July Planning Board meeting the discussion was of Plan A (sidewalks in the right-of-way) and a Plan B if the sidewalk in the right-of-way did not happen. Mr. Cantor stated that he did not attend the Town Board workshop meeting, either. However, he stated that he was told that there arose a conversation at that Town Board workshop that life would be simpler if they went to Plan B – forget about the right-of-way, forget about all the triggers, forget about all the agreements that would have to be needed to implement that, and go straight to Plan B. He stated that it is his understanding that that seemed to be the clear opinion of the Town Board members.

Mr. Cantor stated that Mr. Boudreau designed a Plan B and put it on the plans that were submitted for this meeting. Mr. Boudreau described Plan B, which was submitted on the landscape plan sheet. He explained that Plan A puts the sidewalks in the DOT right-of-way. He explained that the thought was to run the sidewalk on the existing pavement. He explained the layout and pointed out the ramps. He pointed out the parking spaces that they will lose and noted that they were over the required number of spaces – they had 115 spaces and are required to have 107. He stated that they will lose a total of 6, so they will still be compliant.

Mr. Labriola asked about preserving the trees and landscaping. Mr. Boudreau pointed out the landscaping that will be preserved – that the sidewalk will be right behind it.

Mr. Labriola stated that the Town Board is not in favor of Plan A – that it is a complicated Plan. Further, he explained that Plan B eliminates the DOT from the

equation which was a big sticking point and that the Town Board was reluctant to put a 3<sup>rd</sup> party in the middle of getting something done down the road. He stated that he had suggested Plan B as a back up position, and that it now appears that Plan B has become Plan A.

Discussion ensued regarding options for sidewalk configurations, traffic flow, pedestrian access and flow, and the Comp Plan Committee's intention in the creation of hamlets as pedestrian-friendly. Decision reached to proceed with Plan B.

Mr. Labriola asked about lighting along the sidewalk – the utility lights and the decorative lights – whether they will be on all night long. Mr. Boudreau explained the lighting – which ones will be on all night. Mr. Labriola mentioned that a public sidewalk should be lit in the evening for public safety. Mr. Cantor asked if he meant all night long. Mr. Boudreau stated that they will accommodate this. Dr. Fischer asked if the security gates will be behind the walkway. Mr. Boudreau responded yes. He stated that the lighting plan will not change because the foot candles are based on them being on. He stated that what will change are the symbols that indicate that they go off when the store closes. Mr. Labriola asked whether the decorative lighting will remain. Mr. Boudreau responded yes.

Mr. Setaro stated that signage for handicapped ramps will be required.

Ms. Bramson asked whether the front lights will be on all the time or whether it will be the sidewalk lights that will be on all the time. Mr. Labriola stated that the sidewalk lighting is more important.

Mr. Setaro raised the question of phased construction. Mr. Cruikshank explained that Phase 1 would be the front part of the existing building with the parking, that Phase 2 would be the back part of the existing building, and that Phase 3 would be the new storage building. He explained that the time frame for all three phases is only 4 months total. He stated that these phases are required so that they can get separate Building Permits and temporary C.O.'s.

Mr. Labriola reported on the conversation that he had with Bruce Donegan and Roger Lee. He stated that separate Building Permits will be issued for each of the 3 phases; upon completion of Phase 1 there will be a temporary C.O. granted; completion of Phase 2 a temporary C.O.; and when Phase 3 is done a C.O. for the site will be granted. Mr. Labriola stated that Mr. Lee was especially concerned with shoppers' safety after Phase 1 is complete but construction would continue on Phase 2 and 3. Mr. Cruikshank stated that all construction on Phase 3 would be behind a fence and will be entirely separate. He stated that there is no heavy construction involved in Phase 2, that it is mostly concrete work. Also, Mr. Boudreau pointed out how trucks and construction vehicles will access Phase 2 without going through the Phase 1 area.

Dr. Fischer raised the suggestion of a Plan C for sidewalks. Extensive discussion ensued among Board members, the applicants, the engineers, and attorneys. Mr. Labriola

reported that, for the record, Plan C was a proposal to run the sidewalk on the Williams site but on the other side of the landscaping, which creates problems with parking in the front. He stated that this is problematic for a store that requires parking in the front. He stated that Plan C could be engineered but would be a more expensive option that would entail a loss of parking in front of the store but also net amount of parking. He stated that Plan B, the internal sidewalk system, does require pedestrians to do a number of traffic lane crosses, which would require striping and signage.

Mr. Labriola polled the Board members on the sidewalk options. Dr. Fischer stated that he likes Plan C but if it would negatively affect business then he will withdraw the suggestion and that he can live with Plan B. Mr. Fracchia stated that he would rather see something like Plan C, but can live with Plan B. Mr. Gordon prefers Plan A and stated that it's going to be a long time before anyone uses these sidewalks. Ms. Bramson stated that she understands from a business standpoint why they want the parking and that she has a feeling that everyone will be sorry because whatever is decided on this property will affect all other properties in the area with regard to future sidewalks in the area.

Mr. Labriola asked if the applicant is thinking of installing the sidewalk now. Mr. Cantor responded yes, that it is part of the implementation of the approval.

Mr. Labriola stated that he agrees with Ms. Bramson that this will be a decision, if we go with Plan B, that some other Planning Board will regret. But, he said, that given the current situation, he can live with Plan B even though it is not ideal.

Mr. Gordon pointed out that at some time in the future, this will not always be Williams Lumber, that it will be subdivided, and there's greater density provided now because of the hamlet designation. He stated that in the future the sidewalks will all be reconfigured anyway.

Mr. Labriola summarized the Board's consensus that Plan B is the choice. Board discussed how to proceed to final approval – whether it is possible to complete this tonight. Mr. Setaro stated that Chazen will update the plans which will be subject to approval by Morris Associates. He suggested that the plans could be circulated via e-mail to the Planning Board members. Board decided that that is not necessary.

Mr. Cantor stated that he spoke with Mr. Nelson regarding an easement for an internal sidewalk. He stated that this internal sidewalk is a “for now” sidewalk – that this is not always going to be Williams Lumber and this is not always going to be this site plan. Therefore, he stated that we need to figure out some way of making sure that the internal sidewalk is for real – that for real it is open to public access and is lit. He stated that the applicant needs to avoid a situation which is an easement wiggling through the property that is unrelated to the configuration of the property other than this specific site plan so that in a year or 20 years we haven't jammed up the utility of this property. Mr. Labriola agreed that this is an excellent point and pointed out that Plan C would convey pedestrians along the road frontage and does not affect anything done internally on the site.

Mr. Cantor stated that there are several ways to make the sidewalk real:

1. by the strengths of the requirements of the site plan, which are directly enforceable by the Town
2. create a document that can be called an easement or a license that would make it clear that this sidewalk, that is a condition of this approval, is a sidewalk tied to this site plan and at such point in time, if ever, when another use and another site plan happens, that this requirement may go away and be substituted with whatever is then deemed the law at that time.

Mr. Labriola stated that the easement needs to be written in a way that allows public access and flexibility to move the sidewalk. Mr. Cantor agreed that language needs to be devised to allow for future flexibility.

Mr. Nelson stated that roads and sidewalks in cities and towns are dedicated by something that goes through the chain of title, which is how it becomes known that people have rights. He stated that the concern may be for what happens if the sidewalk outlives its usefulness. He stated that the standard answer would be that roads and sidewalks can be abandoned by a city or a town if and when the needs change. Mr. Nelson posed the question of whether the Town Board would be interested in having some time limit.

Mr. Cantor stated that he's not looking for a time limit but is looking for the flexibility that prevents the possibility that somebody would say that you can't change it because we have a permanent easement. He stated that the applicant cannot give a document that is a permanent easement – it can be clear and recordable but it must have an escape valve if this site plan disappears because this sidewalk is crafted on this site plan.

Mr. Labriola asked if there can be some language in the easement that would allow the sidewalks to be amended along with amendments to the site plan. Mr. Nelson read proposed language in the draft easement: "submission of an access easement covering a sidewalk that shall be enforced by the Town of Pleasant Valley in a form acceptable to the Town attorney." Mr. Cantor stated that if the concept is OK with the Board then he has no problem with that language. Mr. Labriola stated that he's OK with that language but pointed out that it is the Town Board and the Town Board's attorney who must accept that concept and that language. He stated that those types of agreements are between the Town and the property owner. Board members stated that they are comfortable with the language that Mr. Nelson read.

Mr. Cantor offered the following wording based on Dr. Fischer's suggestion: there is an easement of some dimension (5' or 6') on the property at the location shown on this site plan or such other location as from time to time may be approved by the Planning Board.

Mr. Labriola stated that conceptually everyone is in agreement and that the language will be decided upon outside of this meeting by Mr. Cantor, Mr. Nelson, and Mr. Volkman.

Mr. Labriola asked Mr. Nelson for a list of the easements, agreements, performance bonds, guarantees so that there are no surprises because all of that will be part of the final resolution. Mr. Nelson submitted to the Board members and the applicants a draft final resolution that includes the list.

Mr. Gordon asked about the necessity of including the landscaping bond. Mr. Labriola stated that it usually is included to ensure that the plantings survive the full planting season.

Mr. Labriola offered some additions/clarifications to the draft resolution:

1. add a “whereas” clause to reaffirm the SEQR determination on this alternate design
2. modify item on page 2, number 3 d: “pedestrian crossing signage and striping”

Mr. Labriola: **MOTION TO GRANT CONDITIONAL SITE PLAN APPROVAL (original on file).** Mr. Labriola read into the record the resolution to grant site plan.

**SECONDED BY M. GORDON**

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

Mr. Labriola noted that this was an interesting application and that ultimately what will happen at that site will be a huge improvement. He expressed his appreciation to the applicants for investing in the community, for their patience and for their collaboration. The Board collectively agreed and wished them good luck.

**4. TACONIC HOMES - SITE PLAN**  
**Grid#6564-02-529760**  
**Location: Route 44**

Mr. Nat Parish, Mr. Ralph Mastromonico, and Dr. Brook Crossan were present.

Mr. Labriola noted that the applicant has been doing a lot of work answering questions that came out of the FEIS and a number of studies and asked that the applicant update the Board on this project.

Mr. Parish relayed Joe Kirchhoff’s regards and his regret that he cannot attend this evening’s Planning Board meeting. Mr. Parish stated that he is accompanied by Dr. Crossan who worked on a lot of the wildlife studies, and Mr. Mastromonico, site engineer.

Mr. Parish stated that the FEIS was conditionally approved in June 2009 based on the completion of additional surveys. He stated that they have been finishing all of the surveys and have not been back to this Board until they were complete. He stated that they provided a report to the Planning Board in January 2010 regarding the Indiana Bat, the Bog Turtle and the New England Cotton Tail. He stated that survey on the Cotton Tail was completed with no further comments. He stated that they found several habitat locations of the Indiana Bat – potential use habitat. Also, they found several low quality



small Bog Turtle habitats. He stated that the question remains whether there are any Bog Turtle on the site.

Mr. Parish stated that also in January 2010 there was a request to update the wetlands area, which they have done with surveys and have submitted a map that re-delineated the wetlands with respect to all of the criteria but not with respect to DEC review.

Mr. Parish stated that they also submitted another hydrological analysis that looked at how the hydrology affected the wetlands and to make sure that the flow would not change the character of the wetlands. He stated that as a result of that analysis, they made some minor changes to the utility in order to keep the flow in balance with what it was before.

Mr. Parish stated that all of these studies were submitted to the Board in January 2010 and the Board asked that the applicant do additional studies and reviews. One of the requests was to have the Upstate DEC come to the site and decide whether any of the wetlands on the site merited a designation as a DEC wetland. He stated that this site was not previously on the DEC wetland map and they did not feel the need to involve them further. But he stated that they did follow through and invite the DEC to the site. He stated that they walked the site and determined that there is one area – one of the wetlands that when added to a piece of wetland on the Mort property exceeded the 12.4 acres. He stated that there was enough of a connection between the two that under the DEC definition was “eligible.” He stated that it does not mean that it is on their map yet, but it means that it is eligible. He stated that they did not contest this and that they will abide by it.

Mr. Parish reported on their consultation with the DEC regarding what mitigation and/or changes the DEC would want with respect to the impact on the wetlands that they now consider to be eligible. He stated Mr. Mastromonico worked with the DEC staff to make certain changes in the mitigation – no changes in the site plan – but within the buffer areas to make certain changes that would affect the DEC wetlands. He stated that the agreed on changes were, instead of having a surface water quality basin, the water would go into drainage pipes that would be installed below the property – underground water quality basins. He stated that the DEC also asked for certain changes and additional plantings and a little re-grading in a couple of places. He stated that these changes are shown on the map that was submitted to the Board. He stated that the DEC issued a letter that was also submitted to the Board that states that the wetlands are eligible but will not be put on the map because the applicant has agreed to a mitigation plan that fully protects the wetlands. He stated that as long as the applicant does not change the mitigation plan, then they have no further need for permits or DEC approval. He stated that this takes care of the DEC wetlands issue.

Mr. Parish stated that they were also requested to perform additional presence/absence survey on a number of dates with regard to the potential Bog Turtle habitat on the site. He stated that they did this survey on 4 different dates to discover whether there really are

any Bog Turtles on the site. He stated that none were found and that these surveys were performed by a licensed Bog Turtle specialist – licensed by NYS.

Mr. Parish stated that they were also asked to do additional wildlife fauna surveys – amphibian and reptile surveys. He stated that they did 3 additional dates and have included in the report all of the species that were found that were not mentioned in prior surveys. He stated that no species were found that are on either the NYS or Federal threatened or endangered lists. He stated that it is simply a recording of the species that are on the site, but none of them represented an adverse impact – none of them is established as either threatened or endangered.

With regard to the Indiana Bat roost habitat, Mr. Parish stated that they looked again more carefully at several areas – they were now carefully mapped and the map has been submitted that shows the locations. He stated that the habitat are scattered and in low numbers but nevertheless they are potential habitat.

Mr. Parish stated that they have completed all of the surveys that were included in NCES comment letters and the Planning Board requested.

Mr. Parish stated that they just received the last comment letter dated 8/9/10 from NCES and that Dr. Crossan discussed it with NCES. After careful review it appears that they can supply a couple of more tables and text to supplement what they have already submitted, NCES will consider the record complete.

Mr. Labriola expressed the Board's appreciation for all the work that the applicants have done since the last time they were before the Board. He stated that in preparation for this meeting he reviewed the 2/4/10 letter from NCES, which was in response to Parish's January submission. He stated that there were 23 items listed in that letter – items that fit into 3 categories:

1. no longer an issue
2. site plan consideration
3. gating issue for the FEIS

Mr. Labriola stated that the Board would like a letter from NCES documenting whether all gating issues have been addressed.

Mr. Labriola stated that the next step is to accept the FEIS as complete. Mr. Parish corrected that statement – the FEIS was accepted as conditionally complete on June 9, 2009 – the condition was that these additional surveys would be done prior to a Findings Statement.

Mr. Parish asked that they be authorized to start – working with Mr. Nelson and Mr. Setaro – to prepare a draft of the facts of the Findings Statement to itemize the history of this application.

Mr. Setaro suggested that a document be created as a supplement to the FEIS that lists in one place all of the studies and reports and conclusions that have been done. Mr. Labriola agreed that this would package all of those up into one appendix document that lists all the documents the Board is using to help them make this Findings Statement. Mr. Parish agreed.

Next Steps:

1. Reconcile NCES letters dated 2/4/10 and 8/10/10: Mr. Labriola stated that it appears that the most recent submission has addressed the issues that were raised earlier in the year. He stated that reconciling the NCES letters dated 2/4/10 and 8/10/10 should determine whether everything has been addressed or if there is something that was missed.
2. Start drafting the Findings Statement.

**5. ROSSWAY SUBDIVISION – SITE PLAN & EXTENSION OF PRELIMINARY APPROVAL**

**Grid#6563-03-176033**

**Location: Rossway road**

Mr. Geoff Ringler, applicant, and Mr. Pete Cantline, Spectra Engineering, were present.

Mr. Ringler stated that they are applying for another 90-day extension of their preliminary approval. He stated that they have also submitted their final plans.

Mr. Labriola asked what updates have been made to the plan since they received their preliminary approval.

Mr. Ringler stated that there have been no design changes to the plan, there has been some drainage work along Rossway Road. He stated that they have brought the design forward regarding the drainage along Rossway Road, the drainage along the proposed common driveway, the design of the retaining walls that are required along the driveway. He stated that they have designed the grading and septic for the lots. He stated that they have addressed the comments in Morris Associates' letter and Greg Bolner's letter.

Mr. Ringler stated that there are no changes to the layout – there are 3 lots – and that they have brought the engineering forward.

Mr. Setaro reviewed Morris Associates comment letter. He agreed that the applicant has provided a lot more engineering details and have made their submission to the Health Department but haven't heard from them yet. He stated that easement agreements, common driveway maintenance agreements are required. Mr. Nelson stated that all of the agreements that he received from the applicant's attorney are in proper form. Mr. Setaro asked if the common driveway maintenance agreement had metes and bounds. Mr. Nelson responded no.

Mr. Ringler stated that they have provided the language for the conservation easement – the terminology for the 100’ buffer along Rossway Road. Mr. Setaro asked if those will be restricted in the deeds for each of those lots. Mr. Ringler responded yes.

Mr. Setaro stated that the applicants will need to meet with the Highway Superintendent, Butch Gardner, and the Town engineer, Greg Bolner. He stated that the drainage calculations look OK.

Mr. Setaro asked whether there is supposed to be an easement with the owner of the pond that they are going to be tying into. Mr. Ringler stated that there are two easements and that the property owners have provided a letter that they are OK with the concept. He stated that Mr. Nelson has reviewed the two documents – one is a temporary grading easement that is needed for the vertical curve for the bottom of the driveway and the other is a permanent drainage easement that goes along Rossway Road, across their driveway, and over to their pond. Mr. Nelson stated that he’s working with the applicant’s attorney on these documents.

Common Driveway: Mr. Setaro stated that it is common practice to require that a common driveway be constructed, minus the asphalt, prior to the Chairman signing off on the map. He explained that the reason for this practice in Pleasant Valley and some other Towns is that there is the possibility that the buyer of the first lot would end up being responsible to put in the driveway improvements. Therefore, he stated it is common practice that the driveways must be built before the Chairman signs the map.

Mr. Ringler stated that his concern in the current economy is that he does not want to build this right away and asked how much time he has to complete the improvements before he would lose the final approval or any rights for subdivision. Mr. Labriola stated 12 months. He stated that he wants to give the Town the protection they are looking for and also give him some time to complete the improvements.

Mr. Nelson stated that the applicant’s attorney proposed to incorporate some restrictions in the chain of title as to what can be done until certain improvements have been made. He stated that the Code speaks to either completing or bonding. Further, he stated that in subdivisions which are going to have public roads, he does not know if there has ever been a discussion or allowance of the deferral of either the work or the bonding. He stated that in a situation with a common driveway or private roads you end up having someone on that kind of application being treated conceivably in a more lenient way than someone who is making a standard subdivision application where the Town will take over the road. He stated that he appreciates Mr. Ringler’s predicament and reported that he and Mr. Labriola did talk about the fact that at this point the Board may continue to extend the preliminary approvals and suggested that the Planning Board would probably not want these extensions to go on forever. He stated that Mr. Labriola may talk with the Town Board about considering some change so that preliminaries could be sunsetted at some point in time.

Mr. Nelson stated that if the applicant takes his final approval then the 12 month clock starts. Mr. Labriola stated that this is true unless Mr. Ringler posts a performance bond that could go on.

Mr. Nelson stated that the Planning Board does not have the capacity to take, itself, an improvement bond – that comes from the Town Board. He stated that if they want to do a bond it will have to involve approval by the Town Board under Section 280A – Private Roads of Town Law.

Mr. Gordon stated that the bond will be very expensive because the applicant is not putting any kind of reasonable date for completion. He asked Mr. Nelson whether the applicant could just go away for a couple of years – after the Board is satisfied with everything on this application and it is recorded – and then come back and resubmit his application. Mr. Nelson stated yes, and that this would save a fair amount of engineering but the applicant would still be out there with a lapsed approval and with the hope that it would, again, be approved. He stated that it would be cheaper for the applicant.

Mr. Setaro stated that preliminary approval does not lapse as long as the applicant is making some effort to move the project forward. He stated that this has come up in several other towns. Mr. Nelson stated that the question is how many additional times the applicant can receive an extension on his preliminary approval.

Mr. Labriola stated that in the past when the Town has accepted performance bonds it has typically been because there is a weather implication – can't put in the driveway because it is the winter time.

Discussion continued on how to proceed vis-à-vis performance bond or change the Board's practice regarding common driveways or continue to grant extensions on the preliminary approval.

All agreed the way to proceed is to grant the extension on their preliminary approval now, which will allow the applicant to continue with the engineering details that Morris Associates commented upon and to hear back from the Department of Health. Mr. Labriola stated that in the November time frame the applicant will come back before the Board, at which time the decision can be made about final approval.

Mr. Labriola asked Mr. Ringler and Mr. Nelson to compile the list of documents that will need to be done. He stated that besides the normal driveway maintenance agreements, there is a storm water maintenance agreement and easements and performance guarantees and maintenance guarantees. He noted that the storm water management system extends beyond the property so there must be some maintenance and access agreements. Also, he noted some temporary construction access agreements. Mr. Nelson agreed that he will work with the applicant and his attorney to generate a list of all agreements that will be required.

Mr. Labriola: **MOTION TO GRANT EXTENSION OF PRELIMINARY APPROVAL (original on file) – extension to 11/5/10**

**SECONDED BY H. FISCHER**

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

Mr. Labriola asked Ms. Dickerson to provide the most recent plans to Mr. Bolner for his review.

**6. MINUTES**

Mr. Labriola: **MOTION TO ACCEPT THE 6/8/10 MINUTES AS CORRECTED; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 5-0-0**

Mr. Labriola: **MOTION TO ACCEPT THE 7/13/10 MINUTES AS CORRECTED; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 5-0-0**

**7. MISCELLANEOUS**

Replacement Planning Board Members: Mr. Labriola stated that 5 people have indicated interest and that he has spoken with 4 of them. He stated that 2 of the people he's spoken with have withdrawn. He stated that Paula Vincitore has expressed an interest and that he thinks she would be excellent – Board members agreed.

Planning Consultant: Mr. Labriola reported on conversations that he has had with Mr. Karis, Ms. Seaman, Mr. Setaro, and with Mr. Nelson about the concept of hiring a planning consultant for certain kinds of applications – either subdivisions or site plans. He specifically suggested that such a consultant be involved at the conceptual plan phase and potentially at site plan final approval phase. He stated that this would not be an engineering consultant, but would be someone who would look at the Code and the design and offer some other design alternatives.

Dr. Fischer stated that this Planning Board used to have workshops between the Planning Board meetings. He stated that it would be helpful to talk with the applicants without public input. Mr. Labriola stated that the workshops are public meetings but the public would not be invited to participate.

Board members agreed with hiring a planning consultant. Mr. Labriola stated that the Board would be very judicious in utilizing this consultant. Mr. Setaro suggested that Mr. Labriola should meet with the person who works with their office – he is a certified planner and works with several towns and has been a valuable tool for them. Mr. Labriola clarified that the applicants would pay for this consultant and it would come out of escrow. Mr. Labriola stated that he will put together a job description.

Mr. Gordon asked if the Planning Board needs to get permission to do this. Mr. Nelson stated that the Planning Board can retain its own consultants subject to whatever appropriation is made for them by the Town Board.



Dr. Fischer again suggested the possibility of adding a Planning Board workshop meeting during the month – so that the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of the month would be reserved for Planning Board.

Storm Water Management Chapter in the New Code: Mr. Labriola noted that Chapter 74 – Storm Water Management was mistakenly omitted from the new Code. He stated that he went through the law and had no comments about the Section, itself, but that he had some comments about the process of making that Section work.

Board Member asked if the Town has adopted a resolution to incorporate Chapter 74 into the new Code. Ms. Dickerson stated that the Town Board is waiting to hear from the Planning Board – that the Town Board was unable to act on this at their last meeting because they had not heard from the Planning Board.

Mr. Nelson concurred that it is being referred to the Planning Board for this Board's input and recommendation regarding re-adoption of the Storm Water Management Law.

Mr. Labriola reported that what he saw in the Code that pleased him was performance guarantees, maintenance guarantees, and easement language. He stated that before the Town was asked to assume that responsibility but they were not willing to do so; but it is now included in the Code, which is good. He stated that everything else in the Code was familiar with what was there before.

Mr. Labriola: **MOTION TO PASS ALONG TO THE TOWN BOARD THAT THE PLANNING BOARD IS OK WITH THE LAW AS WRITTEN AND WOULD LIKE THE TOWN BOARD TO ENSURE THAT THE TOWN'S STORM WATER MANAGEMENT CONSULTANT HAS REVIEWED AND PROVIDED NECESSARY UPDATES TO THE PREVIOUSLY ENACTED LAW.**

**SECONDED BY H. FISCHER**

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

Planning Board Secretary: Mr. Labriola announced that Ms. Dickerson has an opportunity to do something else. He expressed the Board's appreciation for her service to the Board since 2004. He stated that she was the first person in the job who understood the process and really added value. He stated that the applicants will miss her – that she took people who knew nothing and guided them through the process. He stated that she answered their questions and showed a real interest in learning what the Planning Board does, which made his life infinitely easier. He stated that he will personally miss her and that she will be hard to replace – that she did a wonderful job. Board members agreed. Mr. Setaro agreed.

Ms. Dickerson thanked Mr. Labriola for his kind comments. Mr. Labriola stated that she has made a difference and added value.

Ms. Dickerson stated that there is the possibility that this Board may see her – that she's going to work for Brooks & Brooks Land Surveyors in Highland, NY as project manager. She stated that Patti Brooks tells her that they do not have clients in Dutchess County, but that you never know. She stated that if that happens she will be on the other side of the table. Board members offered their congratulations. She announced that her last day with the Town will be Fri. 9/3/10 and invited everyone to announce the job to people who have the skills and experience.

Sidewalks: Board discussed again the issue of sidewalks at Sycamore Square. Decision was reached to continue with the plan as discussed this evening.

Meeting adjourned 10:45 p.m.

Minutes submitted by:  
Helen D. Dickerson  
Secretary

The foregoing represents unofficial minutes of the August 10, 2010, 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 14, 2010**

A regular meeting of the Pleasant Valley Planning Board took place on September 14, 2010, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:38 p.m.

Present: Chairman Joe Labriola; Boardmembers Rob Fracchia, Henry Fischer, Kay Bramson, Rebecca Seaman; Planning Board Attorney Jim Nelson, Esq.; Planning Board Engineer Pete Setaro; Secretary Laurie Fricchione. Boardmember Michael Gordon was absent.

Before the meeting started, Chairman Labriola stated that the previous Saturday was September 11 and wished to observe a moment of silence in memory of all the victims, police and fire responders and armed forces members who perished or were injured in the attacks.

**1.     ZBA APPEAL #964 – PIERCE SPECIAL USE PERMIT**  
**Grid #6565-02-646639**  
**Location: 11-13 Clinton Corners Road**

In the absence of the applicants, the above project was discussed. Proposed is a special use permit for an addition to a pre-existing non-conforming structure. Boardmember Seaman stated that this is a historic home on Route 82 and Clinton Corners Road. She also stated that in general the reason why applications come before the Planning Board when they are non-conforming and there's a change being made is because it's an opportunity for the Board to look at whether or not an applicant can be brought up to code and making sure the changes don't bring them further away from the code. This is a two-family home and they are proposing a small addition to the side that does not seem to change the character. Chairman Labriola stated that the proposed addition does not change the line of the building and is not making it more non-conforming so he does not have any difficulty with it. Boardmember Seaman stated that based on the aerials, there will not be any impact on the neighbors. Chairman Labriola asked Attorney Nelson if there was any reason this application would have to come back to the Planning Board if the Zoning Board of Appeals granted the Special Use Permit and wanted to make sure the Planning Board was on solid ground. If so, Chairman Labriola would like the motion to make a recommendation to the ZBA to reflect the wording that the applicant did not have to come back to the Planning Board for site plan approval. Attorney Nelson stated that the Planning Board had the authority to waive specific submissions in site plan, but he can't say that he's ever seen anything that says the Planning Board can waive a requirement that it comes back for site plan, but if the Planning Board is satisfied that there are not going to be any septic or water issues, it sounds like an acceptable thing to do. Chairman Labriola also wanted it in the motion that the applicants were not physically present at the meeting and the Planning Board is making the assumption that no bedrooms are being added, so the ZBA should understand if the applicants wish to add bedrooms which would impact the well and septic calculations, then they should be coming back to the Planning Board for review and approval.

As such, Boardmember Seaman made a motion to positively recommend this application to the ZBA based on the following conditions:

1. That it does not change the character of the neighborhood;
2. That it is not a major impact and the addition itself is not non-conforming, but the new code places the historic building in a non-conforming position;
3. The ZBA should consider if the septic is sufficient because there is no indication as to whether or not a bedroom or bedrooms will be added and the applicant did not appear before the Board to answer those questions.

The motion was seconded by Chairman Labriola and passed 5-0 in favor.

**2. ZBA APPEAL #965 – MORIN AREA VARIANCE**  
**Grid #6464-04-917084**  
**Location: 2048 Route 44**

Dr. Morin, the applicant as well as her attorney, Edwin Gable, Esq. appeared before the Board on behalf of this project. Proposed is a veterinarian's office in a Rural Residential Zone which, according to Section 98-52 B(1), requires 10 acres. The parcel is 0.5 acres, thereby requiring a 9.5 acre area variance. Dr. Morin spoke and explained that her practice is for small animals only and primarily for surgeries. She does not take emergencies as there is a 24-hour emergency animal hospital approximately 5 miles away that is equipped as Dr. Morin is not. The only time medical care is provided is when an animal comes in, needs a surgery and needs to receive vaccinations to be brought up to date in order to receive surgical care. The only time animals would spend the night is to recover from surgeries. There will be no boarding or grooming. There will be 1 doctor and 3 employees. A typical day involves 10-12 patients. The hours will be Monday through Friday, 8:00 a.m. to 5:00 p.m. and until 12 noon on Saturdays. Dr. Morin also stated that the appointments will be such that they are staggered ½ hour apart so as not to create a situation where the parking is difficult. Chairman Labriola stated that because the site is the size it is, he is concerned with the adequacy of parking if there are already 3 or 4 cars there and then you have patients needing to park. Chairman Labriola asked Dr. Morin if she has an agreement with the adjoining neighbor to allow her patients to park in his lot. Dr. Morin responded the entrance will be a common driveway on the east side of the building. Boardmember Seaman suggested to Dr. Morin that she secure an agreement with the adjoining neighbor before she appears before the ZBA to aid them in their decision. Boardmember Seaman also stated that if the ZBA grants the area variance, Dr. Morin would have to come back to the Planning Board for Site Plan Approval. Chairman Labriola stated that paving the driveway would be a great improvement to the visual aesthetics of the site but stated his concern that there is a stream running behind the property and wanted Dr. Morin to be mindful of any possible negative environmental impacts to creating an impervious surface so close to the stream as far as stormwater management is concerned. He also is concerned about the threshold of creating impervious surface as far as the coverage is related to the site. One possible solution to creating impervious surfaces is installing pervious pavers for the parking lot and only creating the handicapped spot as an impervious surface. It was suggested that Dr. Morin contact the Department of Transportation before the ZBA meeting that says there is a conceptual agreement indicating they (re)approve the curb cut. Chairman Labriola asked where the well and septic was so that the applicant is informed of its location and if expansion is necessary, there is the appropriate amount of space. Dr. Morin stated she knows where the well is, but not the septic.

Boardmember Seaman introduced a motion which was seconded by Chairman Labriola to positively recommend to the ZBA that the applicant be granted the requested area variance based on the fact that it would not be an adverse impact in the neighborhood, that it would be a retrofit of a building in an area which was already commercial and that the use also should be able to be accommodated in the building, noting a recommendation that the ZBA look at the parking and engineering and the need for an easement to allow for ingress and egress to the site. Motion passed 5-0 in favor.

**3. ZBA APPEAL #966 – MORIN SPECIAL USE PERMIT**  
**Grid#6464-04-917084**  
**Location: 2048 Route 44**

Boardmember Seaman introduced a motion which was seconded by Boardmember Bramson to positively recommend to the ZBA that the applicant be granted the requested special use permit based on the same reasons stated above for the area variance and also that this project is a special use permit use that is contemplated by the code as a veterinary clinic. Chairman Labriola wished to add if the ZBA grants the special use permit it is mandatory that this application come back for a full site plan review where well, septic, parking, lighting, landscaping, etc. will be looked at. Motion passed 5-0 in favor.

**OLD BUSINESS**

**4. WUERZ – SITE PLAN**  
**Grid #6564-03-378420**  
**Location: 422 Masten Road**

Brian Houston, the applicant's surveyor, appeared before the Board on behalf of the Wuerz's, who were also present. This project was on the agenda for continued review of the construction of a riding stable on a piece of property that is zoned agricultural. The engineering review letter revealed a few minor comments regarding the water service requiring a double check valve when it is tied into the barn which will be notated on the drawings. Secondly, an existing tree at the entryway to the property should be removed so as to improve sight distance. The applicant agreed to remove it. This will also be notated on the drawings. With respect to the stormwater management, Rennia Engineering is proposing an infiltrator system that will detain the runoff overflow around the front of the property that is in a very low spot with good soils which is acceptable. A motion to grant site plan approval was introduced by Chairman Labriola in the form of the resolution dated September 14, 2010 prepared by the Board's engineer and now before the Board subject to the following conditions:

1. Morris Associates letter dated September 10, 2010;
2. Payment of all fees

Motion was seconded by Boardmember Seaman; and passed 5-0 in favor.

**5. TACONIC HOMES - SITE PLAN**  
**Grid#6564-02-529760**  
**Location: Route 44**

This item was on the agenda for a discussion. Nat Parrish of Parrish & Weiner appeared before the Board on behalf of the applicant. Mr. Parrish stated at the last meeting a compilation of all the studies, surveys and reports were submitted since the approval of the FEIS in June, 2009. The compilation also included an NCES report and revisions of the June report in accordance with those comments. A review memo dated September 13, 2010 from Mack Associates was sent to interested and involved parties and formalized discussions held with NCES based on the August 30, 2010 review memo. The clarifications did not change the conclusions as expressed in the above memo, but show clarifications and support their conclusions. Chairman Labriola stated that due to the late hour this report was sent to the Planning Board, there was not enough time for it to be distributed or had an opportunity to react to it. He stated that this information will be distributed to all parties concerned and will be placed on the October, 2010 Planning Board agenda for review and/or possible action. Once NCES informs the Planning Board of its satisfaction of the latest submission and the submission of April 2010, then they will issue a letter indicating the project can move forward.

**MINUTES**

Mr. Labriola made a motion to accept the August 10, 2010 minutes as written which was seconded by Boardmember Bramson and passed 5-0 in favor.

**Discussion**

Chairman Labriola stated that he visited with the Town Board last Wednesday. He had three things he wanted to talk to them about. The first one was the escrow process. He stated that depending on the type of application, we get escrow and as the escrow monies are drawn down, the account gets replenished when it gets to a certain threshold amount. If it gets to \$0.00, the Town Attorney and Town Engineer are asked to stop working on that application. One of the conditions of all final approval is payment of all fees. The area where it gets a little difficult is after the map is signed. There still are inspection fees that get generated typically by either Peter or Greg Bolner. In the case of a subdivision with a road that gets dedicated to the Town, someone needs to go out there and look at the as-built to make sure it is ok. Certain site plans we look to Peter to go out to and look at. The current escrow process does not account for those fees. There is a section in the code that discussed inspection fees. The thought process is that as we start moving forward and approve applications, each one of them needs to have an estimated cost of inspection fees to be collected from the applicant to cover the fees. The second thing he spoke to the Town Board about was Planning Consultants. If expert consulting services are required for a particular project, it is within the Planning Board's purview to do so if it is determined to be necessary and does not need any other Board's permission. The Town Board was concerned that it would be another layer of fees in addition to the fees they are already paying to do business in this Town. The third thing talked about was sidewalks in the Hamlet District. The way the Code reads is that sidewalks are not a suggestion, they are mandatory.



The Planning Board does not have the authority to ignore or waive or set aside. Applicants can choose three avenues as far as this subject is concerned: (a) keep doing what we're doing; (b) get a variance; (c) get the Code changed. The sidewalk issue sparked much discussion: sidewalks to nowhere; what problems are being solved. Chairman Labriola stated that it's a long term strategy envisioned for the Hamlet; they need to be walkable. The Town Board will assess alternatives on how to approach sidewalks in the future.

There was another item Chairman Labriola spoke about which was the Beckwith project. Mr. Beckwith was in front of the Board a few months ago and it was left off at Mr. Beckwith coming up with a conceptual plan for 4 trailers on a property that is 7/10 acre in size. This is a pre-existing, non-conforming mobile home park which is zoned High Density Residential. There also are zoning regulations for mobile home parks. The guidelines for HDR are far more restrictive but the applicant will try to conform to the setbacks of mobile home parks since he proposes the installation of mobile homes. Mr. Beckwith was also requested to come up with an alternate plan showing how all the structures proposed will be within the setbacks. Hopefully in October, they will come back to the Planning Board to review it so they can receive input before they go to the ZBA. Also, the Fire Advisory Board will be in on the review.

Meeting adjourned 8:05 p.m.

Minutes submitted by:  
Laurie Fricchione  
Secretary

The foregoing represents unofficial minutes of the September 14, 2010, 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 12, 2010**

A regular meeting of the Pleasant Valley Planning Board took place on October 12, 2010, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:38 p.m.

Present: Chairman Joe Labriola; Boardmembers Rob Fracchia, Henry Fischer, Kay Bramson, Rebecca Seaman, Michael Gordon; Planning Board Attorney Janis Gomez-Anderson, Esq.; Planning Board Engineer Pete Setaro; Secretary Laurie Fricchione.

**NEW BUSINESS**

**ST. PAUL'S CHURCH – DISCUSSION**

**Grid: #6463-01-132682**

**Location: 806 Traver Road**

Fred Glynn appeared before the Board on behalf of the Church. Proposed is the installation of an outdoor columbarium for the interment of ash cremains. The height of the wall is proposed to be 5 or 6 feet and approximately 2 to 3 feet thick. The wall will be built locally which is designed to meet specifications; the company creates the niches which arrive in modular units and are inserted into the void space in the wall. The modular inserts will all be constructed at the same time. Future space will also be accounted for in terms of constructing the foundation for the columbarium to be filled at a later date as the columbarium gets filled in with the niches. An alternative to having a longer, one sided wall would be to have a shorter, but double sided wall which will be discussed in further detail as this project evolves and site drawings are submitted for review. Mr. Glynn stated that the church is looking at space for somewhere between 60 and 75 niches. Once an architect does the drawing depicting the scale of the wall, it will be done so as to strike a balance between the amount of wall and the amount of niches encased within. There will be a bench and enough space for a wheelchair. Boardmember Seaman stated that this application falls within Code §98-57A which states that a legal non-conforming use may be permitted to expand its operations with a no-fee expansion permit issued by the Code Enforcement Officer. Mr. Glynn must request such a letter if the ZEO feels that this particular application meets the above mentioned code requirements. Then, a site plan must be submitted depicting the proposed columbarium placement as it relates to the existing structures, a lighting and landscaping plan which shows parking and handicapped parking layout and changes relating to sidewalks and pathways. As far as fees are concerned, the applicant will need to set up an escrow account for the fees stemming from the Town Counsel and Engineer in reviewing it.

**ZBA APPEALS**

**APPEAL #967 - MORIN SPECIAL USE PERMIT**

**Grid: #6564-02-733977**

**Location: 2510 Route 44, Washington Hollow**

This project was on the agenda for a Special Use Permit for a Veterinary Clinic in an HWH Zone. Dr. Louise Ann Morin appeared before the Board on her own behalf. At last month's Planning Board meeting, Dr. Morin's project (which was proposed for a different location) was discussed extensively as far as hours of operation, employees, parking spaces, etc. The only thing that will change with this application is the physical site which now is at the above address

and on the same side as Puerta Azul. The motion to positively recommend to the ZBA that the Special Use Permit be granted was introduced by Boardmember Seaman, seconded by Boardmember Bramson and passed 6-0 in favor. Chairman Labriola made a motion to amend the motion to indicate that the applicant did not have to come back to the Planning Board for amended site plan if the SUP was granted, which was seconded by Boardmember Bramson and passed 6-0 in favor. Dr. Morin was informed that if she planned to put up a sign other than added to the general one at the entrance of the Plaza, she would need to pull a sign permit for any sign either on her storefront or in the window.

### **OLD BUSINESS**

#### **SWANSON – OUT ON A LIMB – SITE PLAN**

**Grid #6463-01-296827**

**Location: 1777 Route 44**

This item was on the agenda for continued site plan review for the construction of a new 4,992 sq. ft. building on undeveloped parcel. Boardmember Fracchia recused himself from this particular application. Matt Swanson appeared before the Board on his own behalf. Among some of the changes, no vehicle can drive around the whole building and employee parking is in the rear of the proposed site in the northwest corner. Some proposed plantings will be removed in the immediate area of the employee parking section and Mr. Swanson is discussing possibilities of various tree species along the front of the property that are hearty enough to withstand winter road salt conditions. Also, a drainage swale runs parallel to the property that needs to remain unobstructed of vegetation. The Health Department will review the plans as far as the septic capacity and usage is concerned. Mr. Setaro stated it should not be a very large system as it should be taken into consideration the number of employees present during the day. Chairman Labriola asked about an easement for ingress and egress for the oil tank in use to support the existing building. The owner of the building next door has an open, pole style structure which is on Mr. Swanson's property and the oil tank cannot be serviced without that structure being taken down; hence the easement which needs to be forwarded to the Town Attorney for his review. The salt storage area has been removed and Chairman Labriola was concerned with the placement of the salt and any possible effects as it relates to the proposed placement of the well. Mr. Setaro stated that the Board of Health might want to determine the degree of involvement as far as water quality testing is concerned and suggested to Mr. Swanson that he might want to do it just for his own information and to allay any concerns he might have. Chairman Labriola asked Mr. Swanson how he was planning to light the back of the building as he thought about employee parking. Mr. Swanson responded that typically the business is open only during daylight hours, but if the Town wanted him to, some lights could be put up. There are planned to be motion sensors on the spotlights. Mr. Swanson mentioned that he did not want light spilling onto rear neighbors' properties unnecessarily. Mr. Swanson brought up the possibility of having an electric gate installed in the future. It was suggested that he could put the gate on the drawings with a notation that it might be installed in the future so he would not have to come back for amended site plan for its installation after site plan approval has been granted. The resolution for the Declaration of Lead Agency for purposes of SEQRA was introduced by Boardmember Seaman, seconded by Chairman Labriola and passed 5-0 in favor, 1 abstention. Drawings and EAF packets will be distributed to both the Health Department as well

as DOT. This project will also be referred to Dutchess County Department of Planning & Development under 239m review. Mr. Swanson was told he could commence the process of the public hearing mailings. Also, this project has been placed on the FAB agenda for 11/10.

**TACONIC HOMES - SITE PLAN**  
**Grid#6564-02-529760**  
**Location: Route 44**

This project was on the agenda for continuation of site plan review, discuss NCES final comment letter regarding environmental issues/concerns and identify next steps. Nat Parrish of Parrish & Weiner appeared before the Board on behalf of his client, Taconic Homes. The engineering review letter reveals that the four outstanding issues from prior review letters have now been addressed and are satisfied or will be satisfied as the site plan process goes forward. Chairman Labriola stated that the next step for the applicant is adopting the Findings Statement. The timeline for that would be on the 18<sup>th</sup> or 19<sup>th</sup> of October to arrange for a meeting with the Town Attorney, Engineer and the applicant to review one draft that has been prepared. If a second draft can be submitted in time for the November meeting, the Planning Board can provide questions, comments or concerns they might have. Depending on where the review winds up, the Planning Board can conditionally adopt the Findings Statement with changes agreed to at the meeting, or a special meeting can be held to continue to move the application along. At this point, no one knows which direction will be taken until after such time the second draft is submitted and reviewed.

**MINUTES**

The motion to accept the minutes of the September 14, 2010 Planning Board minutes as amended was introduced by Chairman Labriola, seconded by Boardmember Seaman and passed 6-0 in favor.

**DISCUSSION**

Chairman Labriola stated that the Town Board met with the top candidates for the Planning Board vacancies for which he provided recommendation. The Town Board was going to make the appointments and contact the new Planning Board members; one permanent and one alternate. Also, the use of a Planning consultant was discussed with the Town Board. Chairman Labriola put together criteria that would be used. The thought process was that it would be for site plan, subdivisions, regulated activities in protected wetlands, anything that its in or adjacent to a hamlet, the Taconic State Parkway; lands that are between, adjacent to lands that are permanent protected; historic sites or projects that are complex in nature; any development activity that might have a negative environmental impact. The use of a planning consultant will be judiciously applied according to the specifics of an application. A planning consultant will not be used for lot line adjustments, accessory apartments, "simple" subdivisions and site plans, sign permits and other projects that fit into that category. The next step would be to develop an RFP to go out to get planning consultants to submit their information so the Planning Board can make their selection. Mr. Setaro added that especially in large projects, planning consultants are beneficial to applicants because input is available at the outset, giving direction to applicants as

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far as future submissions are concerned, as opposed to making multiple submissions in order to strike a balance between compliance with town regulations and the direction the applicant wants to go in.

The motion to close the meeting was introduced by Chairman Labriola, seconded by Boardmember Fischer and passed 6-0 in favor.

Meeting adjourned 8:10 p.m.

Minutes submitted by:  
Laurie Fricchione  
Secretary

The foregoing represents unofficial minutes of the October 12, 2010, 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 9, 2010**

A regular meeting of the Pleasant Valley Planning Board took place on November 9, 2010, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:38 p.m.

Present: Chairman Joe Labriola; Boardmembers Rob Fracchia, Henry Fischer, Kay Bramson, Rebecca Seaman, Paula Vincitore; Planning Board Attorney James Nelson, Esq.; Planning Board Engineer Pete Setaro; Secretary Laurie Fricchione. Boardmember Michael Gordon was absent and excused.

Chairman Labriola welcomed the newest Planning Boardmember, Paula Vincitore.

**NEW BUSINESS**

**STONERIDGE FARM SITE PLAN (STRAIN) – RESOURCE ANALYSIS & CONCEPT PLAN REVIEW**

**Grid #6463-04-558211**

**Location: 3-80 Great Pyre Way**

This item was on the agenda for review to allow an equestrian use in an RA Zone. Engineer Eric Gardell appeared before the Board as well as Mr. Strain. A little bit of history revealed that since 1972, there has been a horse barn on the property for use in horse training. Mr. Strain went through a period when there were no horses on the property and stated that his variance was null and void due to the lapse of activity. He now has a tenant who wishes to have horse boarding, training and conduct occasional horse shows and stated that he would like to have his variance restored. Chairman Labriola stated that it is not a variance; it is an allowed use within the zone with site plan approval. Boardmember Seaman stated that Mr. Strain does not need a variance; under the new code, as a riding establishment there are certain requirements that need to be met, but it is not a variance. The agricultural use in the site plan process is a little more limited, so the Planning Board needs to make sure that public safety, health and welfare are protected. Site plan review and approval is necessary due to the period of inactivity. There are no plans to construct or demolish anything. Chairman Labriola stated that the existing buildings appear to be quite large and questioned Mr. Strain what the anticipated scale of this operation was. Mr. Strain responded on certain days, there might be as many as 10 or 15 horses on the premises as there presently is a horse barn with 26 stalls. The indoor rink is proposed to be used for training, western riding and cattle roping. The new tenant also proposes to conduct shows on the weekends. There will be approximately 20 to 50 people attending these shows and Chairman Labriola stated he wanted to make sure there was adequate parking to be able to handle not just passenger vehicle traffic, but also commercial vehicles and horse transport trailers. Mr. Gardell stated that there is a very large area of open field for parking and another area for overflow parking. Boardmember Seaman asked what the frequency of the horse shows were. The response was occasional. They would be year-round. Mr. Strain stated that in years past, the former owner, Mrs. Parker, conducted shows and there never appeared to be a problem as far as parking capacity. There is a men's and ladies' restroom located in the barn, and if necessary, portable sanitary facilities will be brought in if necessary when shows are held. Presently, there are no paved handicapped parking spots; which would be necessary for this business. There are approximately 20 lights existing on the various buildings and one pole light. Although this is an agricultural type of use, this property does not have an agricultural exemption because it does not meet certain of the criterion. As far as changes to the plans are concerned, Mr. Setaro suggested



a signature block be inserted for the owner's certification. Chairman Labriola suggested that the temporary parking parameters be identified on the plans indicating how many vehicles could be accommodated. He also requested Mr. Setaro find out if this type of use in this zone requires handicapped parking accommodations just because it is a business.

**WUERZ AMENDED SITE PLAN**

**Grid #6564-03-378420**

**Location: 422 Masten Road**

This item was on the agenda for amended site plan review for the construction of a previously approved horse barn although the plat has not yet been signed by the Chairman. The property is in an agricultural district which is zoned RR. Mr. Wuerz appeared before the Board on his own behalf. Boardmember Vincitore wished to recuse herself. Proposed is the down-sizing of the previously approved shed to be 36' x 48' and there will be no riding arena. The existing 24' x 48' building will be coming down to be replaced with the 36' x 48' (a difference of 576 square feet). Mr. Wuerz stated that he spoke to Brian Houseman, the engineer/architect, who will be amending the drawing to reflect the addition of rain gutter leaders on the building and run it down to the low spot previously reviewed and approved for. The parking lot will also be made a little smaller. Mr. Wuerz asked about handicapped parking. Mr. Setaro said he would look into it. Chairman Labriola stated that he would reach out to the Town Board to indicate a refund of Mr. Wuerz's application fee. The next steps in this process would be for the applicant to submit north, south, east and west elevations and types and colors of materials used for this proposed structure. Also, the area and bulk requirements table needs to be amended to reflect the correct building footprint square footage.

**ZBA APPEALS - #968 JOHN & LEISA OLES**

**Grid # 6363-01-414892**

**Location: 96 Elm Lane (Hickory Hills Estates)**

This item was on the agenda for a side yard variance for an existing hot tub in MHP Zone. Mr. and Mrs. Oles appeared before the Board on their behalf. Previously there was on a pool on their property, which has since been removed and a hot-tub has been installed; requiring a 7'6" side setback variance. The motion to positively recommend to the ZBA to grant the requested variance based upon the reasoning that the hot-tub replaced a pool, which is now smaller than the footprint of the pool, it's on a concrete slab, an electrical inspection was performed and the hot-tub is fenced providing screening from neighbors was introduced by Boardmember Seaman, seconded by Chairman Labriola and passed 6-0 in favor, 1 absent.

**PUBLIC HEARING:**

**SWANSON – OUT ON A LIMB – SITE PLAN**

**Grid #6463-01-296827**

**Location: 1777 Route 44**

This item was on the agenda for continued site plan review for construction of new 4,992 sq. ft. building on an undeveloped parcel as well as for a public hearing for purposes of SEQRA. Boardmember Fracchia recused himself. Matt Swanson appeared before the Board on his own behalf. Some landscaping changes have been made providing additional screening for some of the adjacent property owners. There will be temporary storage of bulk materials such as mulch and veneer logs. Boardmember Seaman suggested it be specified on the plan the proposed area

for the specific materials that will be stored. Soil analysis revealed nothing of an adverse environmental impact on this property. Chairman Labriola has requested to Mr. Swanson to provide the easement agreements he previously spoke to in past meetings regarding access for his neighbor to service the oil tank servicing an abutting property. Most of the comments raised in the engineering review letter have been dealt with to the Town Engineer's satisfaction. The FAB has signed off stating that it recommends approval of the site plan as submitted; the Dutchess County Department of Planning has likewise signed off on it, stating the Planning Board should rely on its own studies and facts of the case with due consideration. Boardmember Seaman introduced a motion to open the public hearing which was seconded by Boardmember Fischer and passed 4-0 in favor, 1 absent, 1 refusal. In the audience, John Moline who resides at the corner of Lakeshore and Route 44, asked what it was he would be looking at from his front yard. He viewed the elevations of the proposed building and stated it was a nice looking building. William Baker, who resides across the street, stated he fully supported this application. Boardmember Seaman made a motion to close the public hearing, which was seconded by Boardmember Fischer and passed 4-0 in favor, 1 abstention, 1 absent. The resolution for the Notice of Determination of Non-Significance for purposes of SEQRA was introduced by Boardmember Seaman, seconded by Boardmember Fischer and passed 4-0 in favor, 1 abstention, 1 refusal with two added conditions, along with the four conditions that are on presently indicated on the resolution: #5: the applicant has provided the Board with results of soil studies indicating no negative environmental contamination from prior use and #6: Extensive landscaping and country design mitigate any adverse scenic impact. The resolution granting Conditional Site Plan Approval with three conditions in addition to the existing two conditions was introduced by Boardmember Seaman, seconded by Boardmember Bramson and passed 4-0 in favor, 1 abstention, 1 refusal. Chairman Labriola wished to add three additional conditions as follows: #3: a landscaping performance bond estimate will be prepared and approved by the Planning Board engineer; #4: a copy of the access easement will be reviewed and approved by the Planning Board Engineer and attorney; #5: DCDOH approval for well and septic. Chairman Labriola commended Mr. Swanson for his application in terms of creating a site that people are going to drive by that will be visually pleasing from what exists now.

**TACONIC HOMES - SITE PLAN**

**Grid # 6564-02-529760**

**Location: Route 44**

This item was on the agenda for a review of the draft findings statement and was represented by Nat Parrish of Parrish & Weiner, the applicant's engineering consulting firm. Boardmember Vincitore recused herself from this application. Attorney Nelson gave a little history regarding this project. He stated that the Findings Statement, which was prepared in the event the Planning Board was going to vote, is the Planning Board's document; the culmination of which is the finding that all potential adverse environmental impacts have been mitigated to the greatest extent practicable. The Town Engineer has submitted an additional comment letter. Items #3, 5, and 8 on the attorney's review memorandum are matters within the Planning Board's discretion. The other items contained in the memo have to do with the technical format. Attorney Nelson suggested the Planning Board listen to Mr. Parrish's explanation and position on Items #3, 5, and 8 as they relate to the FEIS. If Mr. Parrish's responses are acceptable to the Planning Board, then perhaps a vote to accept the Findings Statement could be taken; if not, the vote could be deferred. Mr. Setaro stated that most of his comments are basic edits. He added some things to

the list of approvals for the project; nothing of any substance. None of the Boardmembers had any questions or concerns regarding the substance of the Findings Statement. Chairman Labriola had some minor comments to make as follows: on page 15 of the draft findings statement, the water quality testing results discovered some potential contaminants and he asked Mr. Parrish to discuss some particular mitigation measures that the water treatment plant will have in place; on page 21, delete the words "adverse impacts" from the sentence "Wildlife losses during construction are not expected to be significant adverse impacts." On page 38, on b(iii), "The proposed project does not exceed *any*, not *ay*, of the dimensional regulations of the R-0 district." On page 39, there is reference to the Comprehensive Plan. Chairman Labriola asked if the language was according to the new or old Plan. Mr. Parrish responded that it follows the Comprehensive Plan adopted on December 2009 as well as the Comprehensive Plan of 1995. On page 48, section viii, "Governmental Mitigation Measures", there is no lighting district, so it needs to be stricken from the document. On page 56 section e, it discusses an increase in vehicular traffic although studies indicate that there will not be deterioration in levels of service at study intersections. There should be some language which includes the addition of a turn lane as a mitigation measure. Attorney Nelson went through his review memorandum point by point. Points 1 and 2 are agreeable with Mr. Parrish. In Point #3, incorporating DEIS's by reference; Attorney Nelson stated if you want to read a document in its totality, all the materials it refers to within that document must be contained in it. Mr. Parrish contends that in an effort to save paper, incorporation by references are made. Chairman Labriola stated that even though you have to go to another document, it's easy to connect the dots and find the information you need. On Item #4, rather than stating "No additional mitigation was found to be needed", it was suggested that it states "Based upon the above, the Planning Board finds that any potential impacts to groundwater resources will be mitigated to the greatest extent practicable." In Item #5, Attorney Nelson stated that Mr. Parrish has followed the headings used in the DEIS with a few minor exceptions. The question is whether the Planning Board wants his to follow the regulations or track the DEIS. In this instance the substance is more important than the form. As far as wildlife impacts are concerned, it was suggested that they cannot be totally avoided. In Item #6, Mr. Parrish is agreeable to it. In Item #7, Section 17 of the DEIS should read "Irreversible and irretrievable commitments of environmental resources that would be associated with the proposed action should it be implemented"; the word "manpower", according to the review memo, should not fall under this section, unless it was included in the DEIS. In Item #8, the schoolchildren issue is discussed in pages 48 to 51 of the Findings Statement. Item #9 is just a matter of renumbering and Item #10 is for Attorney's Nelson to be reminded with whom the Findings Statement need to be filed. The Planning Board then took a few moments to read the resolution to accept the Findings Statement. Chairman Labriola stated there should be a statement indicating the fact that the Dutchess County Department of Planning has their fingerprints all over this in terms of alternate designs, the community layout and guided this project down the right path. He suggested inserting the phrase "including the Dutchess County Department of Planning" right after "...substantive public and agency comments..." in the 9<sup>th</sup> "WHEREAS" of the statement. The only other comment Chairman Labriola had was to add a number 3 after the "NOW, THEREFORE, BE IT RESOLVED" indicating the Planning Board receipt of the engineering review letter dated November 9, 2010. Mr. Setaro suggested in the second "WHEREAS" from the bottom on page 2 NYSDEC, not NYSEC as shown. Mr. Parrish suggested in comment #1 of the "NOW, THEREFORE, BE IT RESOLVED" paragraph, it says "The Planning Board Engineer is to incorporate all comments contained in the Morris Associates

letter dated November 8, 2010.” Attorney Nelson stated that Comment #2 under the same clause is to state “The Planning Board Engineer is to incorporate comments 1, 2, 4, 6, 9, and 10 contained in the VanDeWater review memorandum. (Then Item No. 3 as indicated). The resolution regarding the adoption and issuance of SEQRA Findings Statement for the Taconic Homes Site Plan as modified which will be incorporated into the record was introduced by Chairman Labriola, seconded by Boardmember Seaman and passed 5-0 in favor, 1 abstention, 1 absent.

### **MINUTES**

The motion to accept the minutes of the October 12, 2010 Planning Board minutes as written was introduced by Chairman Labriola, seconded by Boardmember Seaman and passed 5-0 in favor, 1 absent, 1 abstention.

The motion to close the meeting was introduced by Chairman Labriola, seconded by Boardmember Fischer and passed 6-0 in favor.

Meeting adjourned 8:10 p.m.

Minutes submitted by:  
Laurie Fricchione  
Secretary

The foregoing represents unofficial minutes of the November 9, 2010, 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 14, 2010**

A regular meeting of the Pleasant Valley Planning Board took place on December 14, 2010, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:38 p.m.

Present: Chairman Joe Labriola; Boardmembers Rob Fracchia, Henry Fischer, Kay Bramson, Rebecca Seaman, Paula Vincitore, Michael Gordon; Planning Board Attorney James Nelson, Esq.; Planning Board Engineer Pete Setaro; Secretary Laurie Fricchione.

#### **PUBLIC HEARING:**

#### **STONERIDGE FARM SITE PLAN (STRAIN) – SITE PLAN REVIEW**

**Grid #6463-04-558211**

**Location: 3-80 Great Pyre Way**

This item was on the agenda for a public hearing regarding the proposed site plan. Engineer Eric Gardell appeared before the Board as well as Mr. Strain. Boardmember Seaman asked Mr. Gardell for an update of the project. Mr. Gardell responded that the parking areas have been delineated on the drawings. Boardmember Seaman stated that she wanted to make sure the parking is not within a wetland area nor have any possible negative impact on a wetland. The site has not been flagged for wetlands as Mr. Gardell stated there have never been any areas covered in water and in fact the whole area had been taken down and all that remains is shale. Chairman Labriola stated that the important part of this application is to understand where the wetlands are and the buffers because if there is encroachment, the Planning Board should be aware of it so as to avoid any problems down the line. He did not ask that the wetlands be flagged; rather have the wetlands represented on the drawings, which could be achieved on GIS mapping. Mr. Setaro stated he went on the DEC website and saw a floodplain on the property as well as a wetland which seems to follow the stream through the property and suggested it be shown on the drawings. There was an issue regarding the presence of a fence on Con Ed's property, an adjoining neighbor and the lack of a written agreement between them and Mr. Strain. Apparently a verbal agreement was made approximately 20 years ago indicating Mr. Strain could install a fence on Con Ed's property and in return, Con Ed would have access to its property for maintenance purposes of their equipment. Mr. Nelson stated that a note should be placed on the site drawings stating the presence of the fence is indicative of no claim of ownership. Mr. Setaro asked about the well and septic to make sure it is in proper working order. Mr. Gardell responded that he will have a coliform test performed by the DCBOH. As far as the handicapped parking regulations are concerned, there was nothing indicating the necessity for this specific use, but Chairman Labriola stated that one space should be installed due to the fact that this is a public commercial enterprise. Boardmember Seaman made a motion to open the public hearing which was seconded by Boardmember Fischer and passed 7-0 in favor. In the audience, Brian Rawls stated that he looks forward to the proposed use being approved and he as well as the other neighbors do not have any objections. A motion to adjourn the public hearing until the January 11, 2011 was introduced by Boardmember Seaman, seconded by Boardmember Gordon and passed



7-0 in favor. The purpose of the adjournment is to ensure all that was discussed to be performed and memorialized on the drawings needs to be done so that SEQRA could be determined.

**OLD BUSINESS**

**ROSSWAY PROPERTIES SUBDIVISION**

**Grid #6563-03-176033**

**Location: Rossway Road**

This item was on the agenda for an extension of Preliminary Approval. Jeff Ringler, the applicant, was not present, nor was his engineer. Chairman Labriola stated that he wished the applicant and/or his engineer was present to discuss a timeline within which to move this project forward being that the applicant had in the past applied for and received 5 extensions and this current extension request was #6. Chairman Labriola asked Mr. Nelson if it were okay to defer this item to the January 11, 2011 agenda so that a discussion could be held with the applicant. Mr. Nelson stated that it would be okay to do so. Chairman Labriola stated that there were many items on the engineering review punch list that needed to be addressed, including but not limited to submission, review and acceptance of easement agreements, clarification of drawings and outside agency requirements, namely from the Dutchess County Board of Health regarding the wells and septic systems. Chairman Labriola stated he has not seen any progress since the last extension and feels that the prior roadblocks which necessitated the extensions are now gone. Mr. Nelson suggested that it would be best for the Planning Board to discuss the rules that apply for preliminary approvals and their extensions and their non-extensions in Attorney-Client Session. Boardmember Seaman made a motion to adjourn to January 11, 2011 to discuss this project so that the applicant and his engineer can answer the collective questions of the Board and decide on the extension request, which was seconded by Boardmember Vincitore and passed 7-0 in favor.

**WUERZ AMENDED SITE PLAN**

**Grid #6564-03-378420**

**Location: 422 Masten Road**

This item was on the agenda for amended site plan. Mr. Wuerz appeared before the Board on behalf of himself. The engineering review letter revealed all of the comments as being addressed to their satisfaction, only the Owner's Consent Box needs to be executed on the Final Amended Site Plan before it is presented to the Chairman of the Planning Board for his signature. The motion for the re-affirmation of this project being classified as a Type II action as a farm operation for purposes of SEQRA was introduced by Boardmember Seaman, seconded by Boardmember Fracchia and passed 7-0 in favor. Mr. Wuerz questioned the necessity for a handicapped parking spot and was informed, just as in the Stoneridge Farms Site Plan, because it is a commercial business, at least one spot is required. The resolution for the granting of Amended Site Plan Approval was introduced by Boardmember Seaman, seconded by Boardmember Gordon and passed 7-0 in favor.



**NEW BUSINESS**

**WILLIAMS LUMBER - RESUBDIVISION**

**Grid #6564-02-529886 & 6564-02-507860**

**Location: 2424 Route 44**

This item was on the agenda for re-subdivision review. Boardmember Vincitore recused herself from this application. Kim Williams, the owner, and Richard Cantor, Esq. appeared before the Board. The property was two parcels which were combined to make one parcel as part of the ZBA proceedings and the earlier Site Plan review. The Town Attorney offered his opinion about the form of approval called resubdivision. Nothing physical is changing the property assuming the resubdivision is approved. Mr. Cantor stated that he hoped, due to the above, that the public hearing could be scheduled for the next Planning Board meeting and the Negative Declaration could be re-affirmed, based on the previously approved site plan, grant preliminary and final approval. Pertinent to the necessity for the conceptual review meeting in the zoning regulations, Boardmember Seaman introduced a motion to waive that requirement, which was seconded by Chairman Labriola and passed 6-0 in favor, 1 abstention. Mr. Setaro stated this was a fairly straightforward application and his minor comments include submitting a list of waivers requested pursuant to preliminary and final subdivision requirements. The metes and bounds description on the deed needs to be filed, which was already recorded because the applicant stated they did not realize they needed resubdivision approval. The motion granting sketch plan approval was introduced by Boardmember Seaman, seconded by Boardmember Bramson and passed 6-0 in favor, 1 abstention. The applicant was authorized to advertise for a public hearing to be held on January 11, 2011.

**SIGNS**

**USA GAS, INC.**

**Grid # 6363-04-555243**

**Location: 1415 Route 44**

This item was on the agenda for sign permit approval. Avtar Singh, the owner as well as Ray Van Vorhees, the architect, appeared before the Board. This application, on October 28, 2010, received an area variance under Appeal #961. No boardmembers had any concerns regarding the drawings as submitted and Boardmember Seaman thanked the applicant for working with them in light of the fact that the sign code can be perceived as restrictive to some. Chairman Labriola stated if approval is granted this evening for these signs, the applicant is allowed to swap these signs out with the same sized signs, but if for some reason the company wants it to be internally lit as opposed to externally lit, the applicant has to come back for a new application. The resolution granting the approval was introduced by Boardmember Seaman, seconded by Boardmember Fischer and passed 7-0 in favor.

Boardmember wished to go on record to thank Joe for his incredible service to the town and setting a standard that will be hard to meet and that there would be a dinner sometime

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in January. Chairman Labriola stated it was a pleasure serving on the Board (for about 16 years).

The motion to go into Executive Session to discuss a potential contract and attorney/client discussion was introduced by Boardmember Seaman, seconded by Boardmember Bramson and passed 7-0 in favor.

The motion to close Executive Session was introduced by Boardmember Seaman, seconded by Chairman Labriola and passed 7-0 in favor.

**MINUTES**

The motion to accept the minutes of the November 9, 2010 Planning Board minutes as written was introduced by Chairman Labriola, seconded by Boardmember Seaman and passed 6-0 in favor, 1 abstention.

The motion to close the meeting was introduced by Chairman Labriola, seconded by Boardmember Seaman and passed 7-0 in favor.

Meeting adjourned 8:55 p.m.

Minutes submitted by:  
Laurie Fricchione  
Secretary

The foregoing represents unofficial minutes of the December 14, 2010 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