

**Philipstown Planning Board  
Meeting Minutes  
November 29, 2007**

The Philipstown Planning Board held its regular monthly meeting on Thursday, November 29, 2007 at the VFW Hall on Kemble Avenue in Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman, Anthony Merante.

Present: Anthony Merante  
George Cleantis  
Josephine Doherty  
Michael Gibbons  
Kerry Meehan  
Andrew Pidala  
Brian Bury, Tim Miller Associates  
Tim Miller, Planner  
Steve Gaba, Counsel  
Absent: Pat Sexton

**Minutes**

- October 18, 2007

Mr. Gibbons said that he had two corrections. He referred to page 7, the word “gated”, stated that he did not think the word was right, and asked Mr. Giachinta if he remembered what he said. Mr. Giachinta said “monitoring wells”. Mr. Gibbons said that the second correction was on page 11, (Lanza application), where Mr. Merante said, “he was a little surprised at the limited “blank” of the wetland, and thought it was quite more extensive”. Mr. Merante said that he thought it was “boundaries” of the wetlands. Both changes were noted.

Mr. Gibbons made a motion to adopt the minutes as amended. Mr. Pidala seconded the motion.

The vote was as follows:

Anthony Merante	-	In favor
George Cleantis	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala	-	In favor
Pat Sexton	-	Absent

**Public Hearing**

**Edward L. Ochsenschlager - Approval of a two-lot subdivision - 398 Route 301, Cold Spring: Submission of revised plans and wetland permit application (continuation)**

Mr. Watson said that this was approximately an eleven acre parcel that was originally purchased as separate parcels with a division at the pinch-point in the property. Mr. Watson said that the applicant merged the two pieces of property for tax purposes a number of years ago and has since determined that he would like to build another house and is seeking to re-establish that division

line, subdividing the almost twelve acres into a 5.5 acre parcel with the existing house and a 6.3 parcel for the new house, which is already improved with a barn. He said that they are intending to use an existing driveway off of Route 301, an existing loop up by the barn, improve an existing driveway and extend it to the side of the new house on the eastern part of the property. Mr. Watson said that they have submitted this month to the Board the wetlands application and a set of plans for the reconstruction of the bridge. He said that with those things in place, he thought they were ready to go.

Mr. Meehan asked if Bibbo had looked at the new plans.

Mr. Watson said that he did not get anything from him.

Mr. Miller said that there was a report from Bibbo that came today.

Ms. Doherty asked Mr. Watson if he was able to improve the sight distance at all.

Mr. Watson said that they can't do anything with the sight distance without knocking down walls and stuff like that.

Mr. Merante asked if there was any anticipation on the time frame for replacement of the bridge.

Mr. Watson said that they assume the replacement will be required by the Board and will be hand-in-hand with the construction of the house, and the Board's observations were correct - it needs to be redone.

Mr. Gibbons asked Mr. Watson to go over the reason why the applicant merged and is now splitting again. He asked if the merge was to be able to put in the road.

Mr. Watson said no. He referred to the plan, pointed to a location and said that he owned that piece originally. When the Hubbard Estate was beginning to divest themselves of the property, they sold Mr. Ochsenschlager this piece (pointed out). At the time, the road and bridge was there. He bought the piece of property, had two pieces of property, and was advised that if he merged them, he would save on his taxes. That precluded him from building a second house on the piece of property by the zoning law. Mr. Watson said that the applicant wants to put back the line and build on the one piece.

Mr. Gibbons asked if there were any conservation easements that come with the Hubbard Estate property.

Mr. Watson said no.

Mr. Merante asked Mr. Miller if he had the chance to read the comments from Bibbo.

Mr. Miller said yes - there were a dozen comments. Mr. Miller said that the copy he had shows that it was sent to the Board and he assumed Ann Gallagher received them and asked if she had.

Ann Gallagher stated that she had not received anything from Bibbo.

Mr. Miller said that there was an issue about numbering on the wetland plan. There's a comment related to an access easement - should be provided to show that there is legal access to Lot Two through the lands of Hubbard. Mr. Miller said that Note 7 talks about access to Parcel Two as being erroneously omitted. He said that he guessed they want to see a copy of the actual right of access to Lot Two through the Hubbard property.

Mr. Watson said that he would give Mr. Miller a copy of the deed. He said that the note goes on to say that it is in the original deed.

Mr. Miller said that they've questioned the septic system that is on Lot One. He said that they've got a proposed ssts area up there and he asked if that was an expansion area.

Mr. Watson said that if he recalled, with their earlier version of this map, they had reserved an easement for a septic on the lot and it was because they were afraid that they wouldn't have a replacement area for the septic system should the existing system fail. Obviously if they have a failure because this house is literally a flick from the creek, they are going to have to put it somewhere distant from the creek, so they originally thought the area on the lot that now shows as a proposed septic area would not be adequate, but they went up there, tested it and found sufficient soil. So they took the easement that the Board was concerned about off of the lot and substituted the one that's seen now. Mr. Watson said that regardless of whether the subdivision is approved or not, regardless of whether the alternate septic system is where they show it or over in the fields, they are going to have to cross the creek, and that would be the biggest problem.

Mr. Miller said that they are going to have to cross the creek...?

Mr. Watson said if they have to replace the septic system to the existing house.

Mr. Miller asked, to get up here (pointed to a location on the plan)?

Mr. Watson said to anywhere.

Mr. Miller said that Bibbo's comments were that the location looked impractical. He said that it is sixty, seventy feet above the elevation of the houses. Mr. Miller said that he assumed that's not a problem for pumping.

Mr. Watson said that he did not believe it was a problem for pumping. He said that anyplace on the northerly side of the creek is impractical for the house. Mr. Watson said that any house on the southerly side of the creek is not going to pass muster for the Health Department because

there's only a little tiny bit and it is very close.

Mr. Miller said that there is a system down there already.

Mr. Watson said right, there is a system already down there and hopefully it will survive for many years, but they did want to provide for an alternate location. He said that the big problem is getting across the creek.

Mr. Miller said that there was a comment about the grading associated with the proposed improvements to Lot Two and should be shown to ensure that work will not occur within the wetland buffer and will meet the required driveway grades. He said that he was not sure what the concern was there because it looked as though the proposed drive is actually following the contour for the most part.

Mr. Watson said that there is no work proposed within the wetland buffer except for the replacement of the bridge and that is on a separate set of plans.

Mr. Gibbons said that as you come up the drive toward the barn, there is a circular driveway. He said the lower portion of that driveway is actually in the wetlands buffer and he asked if they could close that roundabout off, so that the driveway does come up and takes the right hand access that it has.

Mr. Watson said that Mr. Gibbons was asking them to disturb the wetland buffer.

Mr. Gibbons said no, it is outside the buffer. He said that he was asking them to close off the disturbance that's inside the buffer.

Mr. Watson said, but not do anything - just put a log in front of it.

Mr. Gibbons said just block it up.

Mr. Watson said that he hadn't talked to Mr. Ochenschlager, but his suspicion is that he needs it to maneuver his horse trailers and other stuff. He said that the Board was up there, saw the activity that goes on with the animals that he keeps, and he was sure that it was circular for exactly that reason and that use is going to continue on his property, and they'd be reluctant to give it up for that reason.

Mr. Gibbons said o.k. He said that it is only serving the one house and he was trying to cut down on whatever activity.

Mr. Miller said that the other comment Bibbo had was that they were looking for drainage improvements, additional erosion controls shown on the plan, the existing use of the Lands of Hubbards is unknown, and the replacement of the bridge will limit the accessibility to the

property for both everyday use as well as emergency access. Mr. Miller said that he thought the question there was, when the bridge is being replaced and under construction, is there anybody that needs to gain access to the property that is served by the driveway right now?

Mr. Watson said that he didn't think that was a problem. He said that the Rocketts, who own the adjacent piece, often use the back road and he was sure that for the period of time that the bridge would be out of service, the Rocketts would allow him to go through, but did not know that for a fact.

Mr. Miller asked if that was the only access to the Rocketts.

Mr. Watson said no, they have their own driveway.

Mr. Miller asked how long a period of time the construction of the bridge would take.

Mr. Michael Carr said that he anticipated the construction time for the bridge to be between two and three weeks - removing the existing bridge, pouring new footings, etc.

Mr. Miller asked if in order to do that, they would first remove the existing bridge in its entirety.

Mr. Carr said yes.

Mr. Miller said that they (Bibbo) are looking for a zoning conformance chart, a construction sequence, which he thought he saw in the bridge plans. He asked if that was correct.

Mr. Watson said yes, there is one.

Mr. Miller said that they want the material associated with the dams to be specified and that was about it regarding the comments.

Mr. Meehan asked who was going to construct the bridge. He asked if they had a company yet.

Mr. Carr said no.

Mr. Meehan said that the Board would like to know that.

Mr. Carr said that once the plans are finalized and he updates the plans per Bibbo's comments, the owner can put out the bid. He said that he thought the owner would like to use a local contractor, but was not sure of that.

Mr. Merante asked Mr. Miller how many items were left that needed to be answered on the list from Bibbo.

Mr. Miller said that practically speaking, they are asking for grading for the improvements to Lot Two and drainage improvements and erosion controls to be shown. He said that they are asking for specifications/materials for the dam. Mr. Miller said that there are basically three items out of the list that probably need to be dealt with and he thought the grading and erosion controls are probably items that he was not sure if the Board wanted to include as conditions of its approval, rather than getting them done and taking a look at them, so that might be something the Board would want to see one more time. Mr. Miller said that the rest of them are pretty much housekeeping items.

Mr. Gibbons asked if the Board could get their own copy of Bibbo's comments, as this is going to CAC and it could be some time before it comes back.

Mr. Merante said sure. He asked if the public had any comment.

There was no comment from the public.

Mr. Merante said that the hearing would be continued.

Mr. Miller said that the Board could continue it or they could close it - it gives them sixty-two days to make a decision. He said that he did not see a reason why the matters couldn't be squared away in the next sixty-two days, but it was the Board's choice.

Mr. Merante said that those items that were left would be taken care of.

Mr. Miller said that if they were not taken care of, the Board has the option of denying the application or getting an extension.

Mr. Merante asked for a motion to close the public hearing, as there were no comments from the public.

Mr. Cleantis made a motion to close the public hearing. Mr. Pidala seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
George Cleantis	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala	-	In favor
Pat Sexton	-	Absent

**County Line Equities, LLC - Application for Site Plan - 1467 Route 9, Town of Philipstown: Revised materials/discussion**

Mr. Pidala recused himself and stated that the applicant was his cousin.

Mr. Watson described the location of the property. He said that it has been a gas station for at least fifty years and he thought for some time before that. Mr. Watson said that in his memory of it for some thirty-five years, it's housed a deli, a furniture stripper, a junk shop and he thought a second furniture stripper, but was not certain. He said that the building that was there was slightly smaller when it originated than the building shown on the plan now. Over the years it grew - it got taller, it got fatter, it got deeper and it was substantially bigger than what is seen on the plan today. The gas pumps were at the point of the triangle of the south end of the property. There was a wood barn in the back of the property - about a hundred feet long and about forty feet wide. A number of years ago, the State re-did the intersection, which took a little of the property away. They re-did the curbs and realigned the best they could based on the existing conditions. The previous owner, he thought generally went out of business and the property was dormant for a couple of years. Mr. Watson said that the building was pretty much of a mess. The site was pretty much of a mess. County Line Equities bought the property, was issued a permit to reconstruct the building, took most of it away, was issued a wetlands permit for the site work they were doing and at this point, they are looking to get site plan approval to get as much of it into conformity as possible. There's a parallel application for a number of zoning variances having to do with the size of the lot. By the time you apply the setbacks, there is a very small triangular parcel of property that's available to build on. Mr. Watson said that he would say it is impossible to build anything on there that conformed. Because of the size of the lot, it is impossible to get the facilities needed without going over the coverage and without going too close to the line. The proposed canopy is too close the line. Mr. Watson said that those applications are in and pending. There's a public hearing before the Zoning Board in January. The plan before the Board tonight switches the pumps from the front of the station to the back of the station, thus making in their view, the front of the station a more pleasant view, but more importantly, the traffic is going to be taken away from the intersection and put behind the property. Mr. Watson said that Mr. Giachinta met with D.O.T. and people on his staff have spoken with D.O.T. and they've designed a system that is acceptable to them. In fact, the permit was issued by D.O.T. this week. There are six pumps, twelve nozzles, on each side of each isle is a set of pumps and the pass-through lane to allow traffic to pass through the property. He said that they believe people traveling on Route 9 will come in, get their gas, go out of 403 and take advantage of the light intersection. People coming down 403 will turn in, get their gas and go out onto Route 9 and again, be able to time their exit with the light. Mr. Watson said that the plan in terms of the required parking, is there. There is one sign, which he believed they gave the Board a detail of. Basically, most of the property is paved. The operation will house a gas station/filling station and a convenience market with an area set aside for a welcome center for Philipstown (for brochures, trail guides, etc.).

Mr. Meehan asked Mr. Giachinta if the old gas tanks were taken out.

Mr. Giachinta said yes.

Mr. Meehan said that if anybody comes around the corner, through the light and wants to turn into the gas station, it is a very hazardous left-hand turn for people going north - especially if the

light is red and traffic backs up a bit.

Mr. Merante said that in the minutes, there was discussion about having a traffic analysis, and asked if that had been done.

Mr. Giachinta said that his permit was issued for his curb cuts. He said that he will be having a construction meeting shortly with the D.O.T. Mr. Giachinta referred to the plan, pointed to the lines and said that it was a painted island (which was the concern Mr. Meehan mentioned earlier). He said that they were going to approach the State to see if they could make it a left-hand turning lane.

Mr. Meehan said that would alleviate the problem.

Ms. Doherty asked if with regard to the tanks that were in the front, Mr. Giachinta had anything from the DEC or whatever State Agency took them out, that the soil is clean.

Mr. Giachinta said yes, and that everything was removed.

Ms. Doherty said, and there is no contamination.

Mr. Giachinta said monitoring wells, plus the neighboring wells were also tested at the same time for the DEC. He said that he had the information and will provide it to the Board.

Mr. Gibbons said that Bibbo is the one that suggested the traffic study and the only data the Board has available is the forty-five hundred cars a day on 403 and the fifteen thousand cars on Route 9. He said that they don't have anything really based on this, so he thought the Board should request that a traffic study be done. Mr. Gibbons said that he wanted to point out that the CAC is recommending that the Planning Board request a copy of the petroleum bulk storage application for its review. He said that the last time the applicant was there, he had asked for certain documentation for DEC permits, etc., and he noticed nothing had come in.

Mr. Giachinta said that he didn't need any permit.

Mr. Gibbons said that Mr. Giachinta had to have documentation that the tanks came out and stuff like that, and he was trying to make sure the Board has the public record.

Mr. Giachinta said that as Ms. Doherty had asked, from the previous owner.

Mr. Gibbons said that he wanted to make sure the Board had documentation in its packages.

Mr. Merante asked if the eighteen issues on the Bibbo report had been addressed. He asked how many had not been addressed.

Mr. Watson said that he was sure they addressed most of them.

Mr. Merante said that he'd like a listing of what had not been addressed to this point.

Mr. Gibbons said that number nine on the Bibbo list talked about impervious surface and asked how much coverage they had on this.

Mr. Watson said that he thought it was 85.4%.

Mr. Gibbons asked if that was going to be one of the variances they are going to need from the ZBA.

Mr. Watson said yes.

Mr. Miller asked if there were building permits for the improvements that had been made on the site.

Mr. Watson said that there is a building permit for the building. There is no building permit for the canopy.

Mr. Miller asked if that was not a structure that needed a building permit.

Mr. Watson said that it does.

Mr. Miller asked if there were any violations in place.

Mr. Watson said yes.

Mr. Miller said that he wanted to make sure that the Board and the public understood that this activity in his opinion and the Board's counsel's opinion is a change of use, and it is subject to site plan decision by the Planning Board because it is a change of use. He said that the change of use basically is the relocation of pumps from the front to the back and under the definition of change of use in Section 175-20 and Section 175-35 of the Code, it indicates that Planning Board action is required. Mr. Miller said that how a building permit was granted, he did not know - the Planning Board has no control over that and any comments the public might have regarding how a building permit was granted, would be taken up with the Town Board.

Mr. Giachinta said that the building permit was issued for the building. He said that he did not say it was issued for the canopy. Mr. Giachinta said that he went in and rehabilitated the building and that's when he asked for the building permit.

Mr. Miller said, and that appears to be under the limited view of prior pre-existing, non-conforming activities, a perfectly viable issuance of the building permit. But he would expect

there would be questions as to how other improvements are taking place on the sight without a building permit, and he wanted to make sure that the Planning Board and public understood that however that may have happened on the canopy, it is not in this Board's purview to do anything about it. It is in the Building Department's purview and that's a matter if the public has a question or issue, can take it up with the Building Department or the Town Board, because he expected there might be concerns about that.

Mr. Meehan said that it has been a gas station for how many years, and it is still a gas station. He asked how it could be a change of use and if it was just because they moved the gas pumps.

Mr. Miller said yes. He said that if you look at the definition of a change of use, Section 175-20, he thought it was pretty clear. Mr. Miller read the definition aloud. He said that there's parking changes that are taking place on this property.

Mr. Cleantis said that since there is a legal definition of a change of use and the fact that the building has been a gas station for fifty years, it does behoove the Board to use common sense and to not start throwing red flags all over the place because one has a legal definition, because you've still got the same essential use from the standpoint of a practical sense. He said so if you apply that kind of reasoning and that kind of sense, he thought that is the kind of fairness that brings them forward.

Mr. Miller said that the reason he brought this up is because the Planning Board's primary duty is to administer the zoning code. It is about the law. It is about administering the law. He said that fairness is a nice thing and is terrific when it works out, but there's a law that's been drafted, and the Board's responsibility is to uphold that and that is why he is reading the legal definition. Mr. Miller said that the Board must make its determination based on compliance with the laws - fairness aside. He said that he thought some people might feel that the property's been substantially improved, it was an eye soar for many years, it's an old use and is now going to be continued with improvements, etc., but the reason it is before the Board is because of the legal definitions that are within the code. Mr. Miller said that again the reason he is reading this is because he wants to make sure they all understand what their duty and obligation is.

Mr. Cleantis said the Board's duty and interpretations as well.

Mr. Miller said that the second item is that the altered use is a use subject to approval of a site plan when it was not required for the proceeding use. That is true. A change in any feature of existing site development that is subject to approval under a site plan when the change is substantive resulting in expansion or an increase in site development or intensity of use such as a change in draining patterns, increased area covered by parking, loading or paving, increased traffic generation, modified access in traffic patterns and changes in the location of site improvements including landscaping, signs and lighting and any change in use or site development that would modify the Statement of Use, the site plan, the architectural plans or any prior conditions. So under that definition, this does meet that criteria. Mr. Miller said that it is

properly in front of the Planning Board in his opinion and any building permits that have been granted or anything else that relates to improvements on the site is not a matter that this Board really has any say over. That's a Building Department matter. Mr. Miller said that the Philipstown Town Board is getting ready to enact storm water management laws and he expected they'd been enacted in the next forty-five days. It's on the agenda tonight to review the proposed draft laws. Mr. Miller said that he did not believe this action would be approved with building permits in that time frame. Under that proposed code, if you do not have a building permit, you are subject to the law, which requires a submission of a storm water pollution prevention plan. He said that is something he would recommend be included in the application and submitted some time before the public hearing closes. A landscape plan should be submitted that shows landscape improvements and lighting. As Bibbo and the Board had suggested, a traffic study should be prepared that looks at the a.m., p.m. and Saturday peak hours for the subject property and includes movements at all access points and at the Route 403/Route 9 intersection. Mr. Miller said that he thought the traffic study should probably look at whether or not it does make any sense for there to be restrictions on any turning movements at any of the locations of access after given its proximity to the intersection of Route 403 and Route 9. He said that at the end of the day, the D.O.T. grants permits and they dictate what takes place on the State highway, but this does involve a SEQRA review, the Board will be Lead Agency on this action, and the D.O.T. will take those matters into consideration in their permitting. Mr. Miller said that he would recommend that the Board immediately draft a letter to the D.O.T. stating that this is under their review and request that they not issue any final work permit until such time as the Board has completed its review and a traffic study. He said that it would be a lot easier for the D.O.T. to work with the Town prior to having written any work permits, than after they've issued a work permit. Mr. Miller said that he thought the northbound lane should be reviewed for a potential left-turning lane and he would recommend that a Phase I site assessment be prepared and submitted if it hasn't already been done. Mr. Miller said that these are standard reports that are done when property is being transferred - they're done according to an ASTM standard. An ASTM report should reveal the entire history of tanks, tank registration, tank pulls, remediation, any consent orders where monitoring is required, etc., and that should be in the record for this application. Any existing work permits from the D.O.T. should be provided to the Planning Board. Mr. Miller said that they don't know if variances are going to be granted or not for this application, so if they're not in the way that they've been requested, the site plan could change, and he would keep the public hearing open until such time as those variances are granted and the Board knows, that this, in fact, is the plan that will be acted upon. Mr. Miller said that finally, he believed the Board should declare its intent tonight to be Lead Agency pursuant to SEQRA, conduct a Coordinated Review and circulate the long form EAF to the D.O.T., the DEC, the County Health and Planning Departments and the Zoning Board to conduct a Coordinated SEQRA Review because there are other agencies and other actions that will be required for this application. He said that they want to make sure that when a decision is made, that it is upheld and not subject to a mistake.

Ms. Doherty said that she had one other thing she wondered if he would just go over for the benefit of everybody present tonight and that is that this is essentially a pre-existing, non-

conforming lot that exists. The gas station has existed for many years. She asked if Mr. Miller would go over how that right remains - that the owner still has the right to use it even though it would never get site plan approval today.

Mr. Miller said that it would if it were a non-conforming lot. And that's what makes it non-conforming. It's in a B-2 zoning district. Mr. Miller said that in a B-2 zoning district, a lot needs to be forty thousand square feet minimum size. This lot is about .6 acres, so under no condition would it conform. Generally, the criteria for granting approvals on a non-conforming lot is that if you conform to all aspects of zoning, you are allowed the permitted use and in this case, he's not sure it's entirely known what prior bulk conditions existed on the site because there is a Certificate of Occupancy that was issued in 1981 that's in the Building Department files and it does indicate this use was there prior to zoning, but he did not believe there is enough dimensional information on that Certificate of Occupancy to say, "this is what the pre-existing, non-conforming setback was for the various structures on the property, etc.", so the applicant is in front of the Zoning Board in order to legally be able to proceed with bulk variances where setbacks from side yards, etc., may in fact comply.

Mr. Merante asked if Mr. Miller would provide the Board a list of the items.

Mr. Miller said that he has a memo.

Mr. Merante asked if the Board had any other comments.

There were no comments.

Mr. Merante asked the public if there were any comments.

Ms. Barbara Feldt of Garrison stated that she was looking forward to the gas station. She said that it was a gas station, it looks nice and it's going to be a gas station. But when you have all the laws and regulations...it just seems that these are very basic things, like a variance. You don't build a ten-story building and then ask questions. She said that it is the chicken before the egg. Ms. Feldt said that she heard there was a stop work order on this, but she sees people every day working. Ms. Feldt said her thing is, why was this stop work order allowed to have happened and shouldn't the Town say maybe you don't know, but there are laws here and I think you should do the laws first, and then build.

Mr. Merante asked if there was a stop work order.

Mr. Watson said yes, there is a stop work order.

Mr. Merante said that he would refer that to the Building Department/Code Enforcement Officer.

Mike Finnegan of Garrison said that he had some factual questions. He said that the gas station

use so far as he knew was discontinued six or seven years ago and asked if that was the Board's understanding.

Several Board members and Mr. Watson said that it had been a while.

Mr. Watson said that he did not think it was ever an intention to permanently discontinue that use.

Mr. Finnegan said but it has been discontinued for a period in excess of two years.

Mr. Watson said that he did not think there was ever an intention to permanently discontinue that use because of part of the two year requirement.

Mr. Finnegan said that the applicant mentioned there would be twelve nozzles. He asked how many nozzles there were previously.

Several Board members said eight or ten.

Mr. Finnegan asked what the size of the petroleum tanks were that are going to be located on that.

Mr. Giachinta said that there are three six thousand gallon tanks and one four thousand gallon diesel.

Mr. Finnegan asked what the size of the tanks were that were there previously.

The applicant said that he did not know.

Mr. Finnegan asked if somebody else removed them.

The applicant said yes.

Mr. Finnegan said that the applicant didn't have any of that stuff.

Mr. Watson said that they believed that information is in the report, which they will submit. He said that they don't know it off the top of their heads.

Mr. Finnegan asked if the amount of the lot that's now going to be covered with impervious materials has increased.

Mr. Watson said it's increased - yes.

Mr. Finnegan asked if he had any idea (did not finish sentence).

Mr. Watson said probably fifteen percent, but he did not know absolutely. He said that there is a part of the back of the property which was driven on and compacted was from a technical, engineering point of view, was probably impervious. The building coverage is increased by two hundred square feet from what was there before. Mr. Watson said that he would say the impervious went from probably seventy plus to eighty five percent.

Mr. Finnegan said that the applicant is proposing curb cuts on both Route 9 and Route 9D.

Mr. Watson said Route 9 and Route 403. He referred to the plan and explained that a curb cut is there and is being slightly relocated. Mr. Watson pointed to two curb cuts and said one is being closed. He pointed to another curb cut and said that it is being re-built, so the net....they have five, and when they're finished, they'll have three. So they're going from five ways in to three.

Mr. Finnegan said that he thought there was a requirement that where they have frontage on two roads that the preference under the code is to have access on only one and that would be the least traveled of the two.

Mr. Watson said that he would have to check. He said that he was not familiar with that if it's there.

Mr. Finnegan said that he thought the code provides that where there's been a discontinuance of use for more than two years, it's no longer considered under the law a non-conforming use, which kind of begins the clock all over again. He said that he would ask the attorney that question.

Mr. Gaba said that they have a provision on that as far as that goes - whether it requires intent to abandon or not, is the issue and nobody's raised abandonment as an issue as far as this property goes before. He said that if that is what Mr. Finnegan would like the Board to look into, certainly it would do that.

Mr. Finnegan said that he thought it was worth looking into. He said that he used to live in that area and it was certainly, to his knowledge, abandoned. There was tape over everything. Mr. Finnegan said that he thought for any number of reasons that the application from the perspective of the Planning Board ought to be denied. He said that he would start by saying that he thought it changed the essential character of the neighborhood. Mr. Finnegan said sure, there was a gas station there once before, but it was a much smaller gas station and didn't have the big neon lights and it was more consistent with what Garrison is. He said that the area has become more of a residential area than it had been when it was first built. There were farms there years ago and now there are houses. Mr. Finnegan said that when you start talking about widening the road to put in a left-hand turning lane, etc., with zebra lines and paint, etc., it begins to change the essential character of that stretch of Garrison, which in the end, is what his biggest concern about all of this is. Mr. Finnegan said that he was also concerned about the applicant's proximity to a D.E.C. mapped stream and some wetlands across the way. He's concerned about its proximity to

parkland and the Appalachian Trail - it is right at the trail head. Changing that from what used to be sort of a country store, small gas station kind of a place to one of the mega stores is really essentially changing the nature of that very part of Garrison and the park system and the trail network. Mr. Finnegan said that he would ask the Planning Board to take all of those things into consideration. He said that he thought the recommendation made earlier to hold this open until after the ZBA considers the various applications and makes its determination, makes all the sense in the world.

Lisa (last name inaudible) of Garrison said that she brought a few visuals for the Board. She said that she's been in the unique situation over the last year of watching the progress of this development out of the windows of her house. She owns the property that is the only adjoining property with the development that County Line Equities is working on. She said that she woke up one Saturday morning and her fence was being knocked down and a few weeks later, a building went up. She said that she was assured by Mr. Giachinta and others that it was perfectly legal, safe and good. In January of last year, she wrote a letter to the Planning Board, Town Board and Zoning Board and received back an answer from Mr. Merante. She read the letter dated January 25, 2007 aloud. She said that it was recommended that she watch the newspapers and keep in touch with Mr. Monroe, which she has done since that time. In all of that time, they've also watched continual progress on this site and they've asked a lot of questions about why this progress has continued to happen and why this progress can't be stopped. She said that they should have not proceeded with this project. It is not in keeping with the character of what Philipstown should be and it is not in keeping with the Town Plan and the Comprehensive Plan. She read aloud several sections of the Comprehensive Plan. She said that she thought this project was a good example of where the balance is being compromised. She said that she thought there are four other gas stations in this area that are all much more in keeping with the character and scale of this Town. She said that she thought what Mr. Giachinta and County Line Equities are building are much more in line with the gas station on Route 9 in Fishkill. This, to her, looks a lot like the Hess Station. There's a lot more traffic on that section of Route 9 because they're by Route 84 and she doesn't know why, without that kind of traffic, you would need to support that many pumps/pumping stations. They are talking about twelve nozzles - twelve cars there at the same time. In conversations with the developer, she's been told that they feel there's probably going to be a lot of business in the convenient store and she thought that was true. She said that she did not have any objections to the store or the fact that there will be a gas station there. She has an objection to the fact that the canopy is seventy by fifty-eight feet. For safety and fire suppression, there should be a canopy over the pumps, but she thinks it is the job of the Planning Board to help guide the development of this piece of property to scale that canopy and the number of pumps back. With the number of staff they are talking about having in this facility, that they will not be able to man that many pumps. The application before the Board states that they will have three staff. She said that she would think you'd have one person in the store, and probably two people at the pumps. They said they planned to have this be a full service station and asked how two people were going to man those pumps from 5 a.m. until 11 p.m.. The application that's been put forth says that during the busiest hour of the day, there will be 197 customers expected. If those people are all pulling in and out, that means that among

those three staff every one of those people is serving more than one person a minute. So she didn't know whether there were some staffing issues, but she found that there were many things in the application that's been put forth that she thought were fairly questionable. For example, the application states that there will be zero tons per cubic yards of material removed from the site. Yet all of the contents of that hole disappeared and an entire boulder that was taller than her - and not just one, has disappeared in the last year. With regard to the application asking if vegetation would be removed by this project, the answer provided was no. She said that she remembered last September, there was an old oak tree on that piece of property and on a day that she was home sick, the tree was cut down. She said that the tree can be seen in the photos she provided. From the satellite photograph provided, the Board could see that the amount of vegetation that was there is not the amount they said was being replaced - there was more vegetation there. The other thing she found odd about the application was that it states the anticipated water usage of the site will be zero gallons a day. She said that she was wondering if you're making coffee and you've got bathrooms, how they are going to get by with zero gallons of water a day and it makes her wonder how many other things are incomplete or inaccurate. She said that there is a loop hole in the law that allowed the building permit for them to start this without site plan approval. When they were here a month ago, on October 18<sup>th</sup>, she believed Mr. Gibbons asked why it was that this project has been going on for the last year and this is the first time the Planning Board has seen the site plan application. The member of County Line Equities who answered that question said, "my feeling is that I don't need to be here. There was a difference of opinion, so I decided to come. Honestly, I've been working down there for a year. I got my building permit, so I just moved along because I feel that I'm rebuilding a gas station that was there. It's not really a new site plan. It's not a change - it's a gas station". Her question for the Board is, how is this not a new site plan? She said that she appreciates the fact that the Board said it is a new use because she believes that it is. The canopy that they put up covers more than four thousand square feet and could easily be a much smaller canopy even with that number of pumps. She asked how this is affective for our Planning and Zoning Boards to not be able to more effectively work with the Code Enforcement Officer. She said that you go in a circle trying to get any kind of answer, trying to figure out how any of this has happened, and it is not in the best interest of this Town to be able to uphold the Comprehensive Plan that they've approved if they continue to allow the process to go in this way. She was told that the Zoning and Planning Boards are not allowed to take into account the fact that County Line Equities broke the law by continuing to build without the variances and site plan approval, and that the Planning Board has to ignore that as it considers whether it should approve this plan. She said that she'd like the Board to consider something else as well. She said that she'd like the Board to ignore how much work has been done when it considers denying this plan. She would like the Zoning Board to deny, considering how much work has been done, when it thinks about whether the variances should be granted. The Board can't let this company and development get away with doing what they've done. It can't let this set the precedent of building first, asking permission later. If anyone pays attention to an argument that says we've spent a lot of money, it looks really great, it's going to cost us a lot of pull it down, we would have to change the plan, etc., ignore those arguments because that doesn't matter. If the Board cannot consider the fact that the law was broken, it can't consider what the consequences are for the developer to deny the

plan. She said that she thought the Board's job and their job as citizens is to continue to work to help Philipstown to remain within its character. It's the reason that many people move here and stay here and as the previous speaker said, it would really change the character of that corner to let that canopy stay. The country road, the meadow across the way and the Appalachian Trail and the people who come here is what makes this an exciting place and makes that corner really great. She said that she thinks it's great that they're talking about green technologies and putting in biodeisel and organic coffee - those are all things that are in keeping in character with the Town. She said that she thought it would be very important that the Board also keep in character with the Town by scaling the project back and asking for smaller variances.

Donald MacDonald of Cold Spring said that though there has been an existing gas station use at this property and certainly the applicant has the right to renovate, rebuild that use at the level it was, it is his opinion the Town's Planning and Zoning Board's would have discretion as to the expansion and enlargement of that gas station use. The old gas station had ten nozzles as well as an existing building and associated parking. The new station has a new building as large as the old, at least as much associated parking as the old and what is most disturbing to him, a huge new roof structure over six pump islands with a total of twelve nozzles. Clearly there are more pumps now than before, which in his opinion, is an expansion of the use and the very large roof structure addition again, in his opinion, damages the character of the existing neighborhood. The neighborhood surrounding the gas station site is not commercial in nature. To the north is a single-family residence. To the west, a large marsh and Annsville Creek, all being part of the Hudson Highlands State Park System. To the east, across Route 9, the Appalachian Trail on protected lands connecting with the Fahnestock State Park. Mr. MacDonald said that in his opinion the former gas station while worn, decrepit, and not much to look at, did not negatively affect the neighborhood nearly as much as the new expanded gas station and he believes for the most part, this is due to the presence and size of the pump island roof or canopy. The people who build gas stations always say that aside from the convenience the roof affords the customers, the roof holds the fire sprinkler system as well as protecting the island pump station's credit card mechanisms from rain. As to convenience, he won't argue that point. In a rainstorm, the roof is a nice thing to have, but as to needing the roof for the sprinklers and to protect the credit card mechanisms, he submits to the Board the newly renovated Exxon Mobil Service Station in Westchester on the corner of Pound Ridge and Long Ridge Roads in Bedford, New York. This service station has existed for decades. It is bordered by residential areas and the environmentally sensitive Mianis River - a source of Greenwich, Connecticut's drinking water. In the past year, all the old in-ground field tanks were removed, the soils were mediated and new in-ground tanks were installed with new pump irons. But no roof was installed above the pumps due to the character of the existing neighborhood and the sprinklers exist above the pumps - actually closer to the cars than if on a roof and the pump stations with their credit card mechanisms are there as well and work just fine. Most importantly, this station is not impacting the neighborhood any more than it ever has and is always busy, and no one complaining there is no roof. The new gas station construction in front of this Board is as big a pump island roof operation as the Hess Station on Route 9 in Fishkill. Mr. MacDonald said that he submits to the Planning Board a station that large - as large as the one serving an interstate highway, is out of

character with this gas station site in Garrison. In his opinion, since the pump island roof structure exists only for the convenience of the customer, when that convenience is balanced against the detrimental affect it has on the existing neighborhood, the roof should not be allowed to exist. Or, if allowed, then in a structure who's size is significantly smaller than the one constructed.

Mr. Hank Osborne of Garrison said that he was excited about this new project. It looks like there's going to be a lot of hoops that have to get jumped through and will probably going to take some time. He said that he's excited that a gas station is going to kind of fit, to him, with what Garrison and his family and his friends are into in the environmental legacy of trying to make the world a better place. This is going to be the fourth - if it works, gas station in New York State that sells biodiesel. The canopy, which may be too big....to his mind, big is great, because tomorrow morning he's meeting with a company that's going to look at putting solar panels on it to see if they can use solar energy to power the station, which will also be groundbreaking. Mr. Osborne said that to him, that's a lot of what Garrison is about - environmentalism. He said that if you look at the drawing, you can see south, the way it's positioned is perfect for solar and the canopy is a perfect location for solar panels. Mr. Osborne said that his brother hiked the entire Appalachian Trail and stores like this are awesome - to be right on that trail and have bathrooms and parking for hikers is going to be a big asset. He said that his parents lived near the old one and it looked terrible to him. Mr. Osborn said that this is what his town is about and it's going to be a nice place.

Mr. Meehan asked what size solar panels.

Mr. Osborn said that he did not know much about it. He said that he has a solar expert coming. Mr. Osborn said that he thought they wanted to make them as big as possible, so the bigger the canopy is, the better because that's where they'll mount them.

Mr. Cleantis said so, as a neighbor and resident of the area, Mr. Osborne is in favor of the larger canopy.

Mr. Osborne said only from that point of view and to him, he's not really going to be able to tell and if it's more likely he's going to be dry getting his gas, then that's good. He asked if scaling down the canopy would really make that much of difference to his life or anyone's life.

A gentleman from the public (unidentified) said that the applicant has every right and it's great having a gas station that's going to be opened later, but he thought as usual, it's always the fact that the permits come after the fact. He said that's always been the case.

Mr. Giachinta said that they've talked about the character of Garrison. He said that this is the first intersection when you come into Philipstown. He pointed to the old pictures and stated that this is what was seen. Mr. Giachinta presented the plans of the new site and said that when you talk about the character of Garrison and Philipstown, this is what you have now. He said that the

building was designed like Graymoor with the stone and with the large roofs. Mr. Giachinta said yes, they put a large canopy and twelve gas pumps back there and the reason was planning. That was the reason they put twelve filling stations and six pumps because if he had four pumps there...it's going to be a busy gas station. He said that it was when he was a kid, and it was when he was a teenager. Mr. Giachinta said that they did a study. They needed six pumps, and that's why they did it. Mr. Giachinta said that with regard to the canopy, it is for fire suppression and to keep people dry. But it is also an environmental concern and to keep the water off of the concrete pad if there's ever a spill and it's raining out. He said he understood the public's concern about how he did what he did. Mr. Giachinta said that he thought it was, and he said it the first time he was there, a technical wording problem. He said that he could have gotten an attorney and cost the Town money, but he decided not to. Mr. Giachinta said that he decided to come to the Board and present his plan, which he thought was an excellent plan.

Mr. Cleantis made a motion to adjourn the public hearing. Ms. Doherty seconded the motion.

The vote was as follows:	Anthony Merante	-	In favor
	George Cleantis	-	In favor
	Josephine Doherty	-	In favor
	Michael Gibbons	-	In favor
	Kerry Meehan	-	In favor
	Andrew Pidala	-	Recused
	Pat Sexton	-	Absent

Mr. Pidala joined the table again.

**Louis Lanza - Approval of a three-lot subdivision - Nelson Lane, Town of Philipstown:  
Revised materials/discussion**

Mr. Watson said that he applicant is seeking approval of a three-lot subdivision to create a five acre lot with the existing house that he's presently rebuilding - a 5.4 two-acre parcel to the north and a 25 acre parcel to the south. The developable portion of the property is on the western third of the property. They are proposing to utilize the existing driveway and an older driveway into the property to where there used to be a barn to take advantage of the existing grading and not disturb any more land than necessary for the construction of a road. The road will be about 400 feet long to a cul-de-sac, off of which will come two driveways - one to the north, to the house shown on the plan, and one to the southeast to a second house that will be built at some point in the future. There's a wetland that they've shown on the property to the northwest corner of the site. Mr. Watson said that earlier plans had this house and septic system much further to the north. Concerns were raised by Mr. Endler, the neighbor. Mr. Watson said that they made two or three site visits and have relocated and pulled the house further from the property. They've tested new areas for septic systems and found them suitable and pulled those further away from the property. As an accommodation to Mr. Endler, they've established a no-cut zone, which is about seventy-five feet wide along his property line to assure that he will have the benefit of the existing vegetation to act as a screen between the property. There were several concerns raised by Bibbo Associates. Mr. Watson said that he thought they've answered most of them in this

plan and the supplementary sheet that shows more detail with regard to erosion control, grading, and that sort of stuff. Mr. Watson said that the lots meet with bulk requirements.

Mr. Pidala asked if coming down the driveway they had a catch basin. He said that it shows a pipe going back across the driveway and stops halfway down.

Mr. Watson said that it is an existing pipe. He said that the water drains into that wetland area now.

Mr. Cleantis asked if the private road/dirt road was fourteen percent.

Mr. Watson said it's maximum and that's why he's grading, because the existing road is a little steeper than that.

Mr. Gibbons asked what that steepness was. He asked if the dotted line was indicating the existing.

Mr. Watson said that was correct.

Mr. Gibbons asked if that was the area that would have to be cut down the most.

Mr. Watson said that's correct.

Mr. Gibbons said that is where he's actually concerned about. He asked where it was and what other cuts were going to have to be made.

Mr. Watson said that it indicates about six to seven feet of cut. He said that he'd have to put a scale on it to know exactly. Mr. Watson pointed to the plan and said that it was right in this area.

Mr. Gibbons asked if they were going to need retaining walls.

Mr. Watson said that it is shown on the plan.

Mr. Gibbons said that on Lot Two, it appears that there's going to be quite a bit of fill brought in to make it up to a three percent grade.

Mr. Watson said yes - about five feet.

Mr. Gibbons asked about how long of a stretch.

Mr. Watson said that it gradually goes from zero to five feet over - about a hundred. He said that they have a retaining wall to contain the fill on the down hill side.

Mr. Pidala asked if the pipe that goes across was already existing.

Mr. Watson said yes.

Mr. Pidala said that when all the water goes down the driveway and into the catch basin, the catch basin will slide down a little bit. He asked if there was going to be a lot of water going through there and if there should be a little retention pond on the other side.

Mr. Watson said that he did not know the answer to that, and will have to get the answer, but they did have a discussion about that yesterday. He said that they don't believe that they're creating that much, but will have to check.

Mr. Meehan asked if they were going to use salt on the road or any of those roads in the winter time.

Mr. Watson said that he thought it was impractical to say that they would never spread sand on that hill.

Mr. Meehan asked, and no salt?

Mr. Watson said that he did not know.

Mr. Meehan said that the Board is going to start asking that question a lot as soon as the new laws are in affect.

Mr. Miller said that with a fourteen percent grade, of course they're going to use salt. He said that he has lived on a dirt road with a fourteen percent grade and there are times that if you don't use salt, you don't get up it. Mr. Miller said that leads him to suggest that this road should be paved.

Mr. Meehan said that he agreed.

Mr. Miller said that it is going to continue to drain down hill into the catch basin and all the sediment is going to end up in the wetland. There should be some type of basin at the end of that, that takes the sediments before it's discharged into the wetland. He said that typically, when you've had four hundred linear feet of road with a fourteen percent grade, the Board's required it to be paved. Mr. Miller said that they hold up better. He said that he thought in the long run everybody will be happy in five years that the road is paved.

Mr. Merante said that sort of answered the questions he had about number ten from Bibbo with regard to how increased runoff would be handled. He said that their response was "it modified the plans to direct storm water runoff to the wetlands on Lot One". Mr. Merante asked if that was permissible. He said with the point that Mr. Miller had made, they're going to have four

hundred feet by ten or twelve feet wide of impermeable surface.

Mr. Watson said that certainly if you pave it, it will change the characteristics. He said that water goes down hill and gets to those areas.

Mr. Merante asked if taking into consideration the contamination with runoff, it is permitted to go into the wetlands or had to be in a retention pond prior to that.

Mr. Watson said that there's probably going to have to be a storm water pollution prevention plan because of the new law. Today the regulations don't cover it in this particular instance.

Mr. Miller said that based on the EAF, there's going to be two acres of land that would be affected by this project, and under the proposed storm water law, if you are disturbing between one and five acres, you have to address storm water quality and storm water quantity, so it appears as though this project is kind of falling in that place where it would be best to get a storm water plan.

Mr. Merante asked if the Board had any further comment.

There was no comment.

Mr. Merante asked if the public had any comment.

Mr. John Haines of Garrison asked where the draining was.

Mr. Watson pointed it out to Mr. Haines.

Mr. Haines referred to a location on the map, stated that it carries water from one point to another, and asked what the applicant was going to do with it.

Mr. Miller explained that there is a proposed (inaudible) in the catch basin at the front of the cmp, and a proposed manhole there and then the pipe goes under the road and outlets onto the land with no further provision.

Mr. Haines asked if it catches all the water coming down the driveways.

Mr. Watson said yes.

Mr. Haines asked if it then goes into the wetland.

Mr. Miller said that is the proposal right now.

Mr. Haines asked if they put a lot of salt on there, there was a way to control the amount of salt

going into the wetlands.

Mr. Miller said that they've asked that it be addressed and there are two ways of addressing it. He said that there's salt and dirt that comes off of a washed out road. Mr. Miller said that the Town Board is getting ready to enact a storm water law that would require a project of this nature to have some kind of basin at the outlet of that pipe that would hold the salt and allow it to infiltrate or in some other fashion, settle out before it goes into the wetland.

Mr. Haines said, so it has to be a pretty good size catch basin.

Mr. Miller said that it has to be sized according to the area that it's serving.

Mr. Haines said that it is a spectacular wetland. He said that his main question is what is supposed to happen with the trees that are on the slope and in the wetlands area.

Mr. Miller said that on the lower side of the private road, it looks like there's a need to place fill and cut probably forty feet to the north.

Mr. Haines asked if he was talking about a particular section (pointed out on plan).

Mr. Miller said that he's talking about the private road.

Mr. Watson pointed to an area on the plan and stated that the black line was a necessary disturbance to build this plan.

Mr. Haines said o.k., so the trees will come out within that line - that's not on the outside.

Mr. Watson said that he couldn't tell him that in five years from now, they'll decide to cut down the tree, but as far as the plan is concerned, the black line shows what's necessary. He said that one thing he failed to point out to the Board was an agreement reached between Mr. Endler and Mr. Lanza and that was that there's actually a building envelope for the house. The building will stay where it's positioned.

Mr. Endler of Garrison stated that the southerly property line and northerly property line of Mr. Lanza's property are one in the same. He said that as Mr. Watson had already stated, his Lot Two abuts their property. Mr. Endler said that when they first saw the plat that was laid out, they had concerns, and many of those concerns had been addressed by Mr. Lanza. Mr. Endler thought he demonstrated that he wants to be a good neighbor. He said he was not going to object and they of course, would love to have the property remain the way it is now, but Mr. Lanza's entitled to the consideration of a development and he thought what he's done has been very responsible.

Mr. Miller said that he thought they needed to get a storm water plan for this project and he

thought it made sense to adjourn the public hearing until the Board has that. He said that there was a memo today from Bibbo with a couple of minor comments that should also be addressed.

Ms. Doherty asked if the Board had received a memo from the CAC yet.

Mr. Miller said that they promised that, so he would expect that would be forthcoming also. He said that he provided Mr. Watson with a copy of the draft storm water law, so he knows what would be required. Mr. Miller asked if it would be their intention to follow the recommendation to pave the road and said that he thought the applicant should get some guidance from the Planning Board on that. He said that it is up to the Board.

Mr. Merante asked the Board for comment.

Mr. Cleantis asked if Nelson Lane was paved.

Mr. Merante said no, it is not.

Mr. Pidala said that he would pave it as it was a steep driveway.

Mr. Meehan said that at least the one road next to the wetland should be paved.

Mr. Gibbons asked what the length was.

Mr. Miller said that it's about 250 feet that has a fourteen percent grade and it is adjacent to the wetland. He said that his experience, having lived on dirt roads since 1989, is that they wash out. Mr. Miller said that his experience is also that every year or two years, he gave Harold Lyons a lot of money to bring in dirt and that dirt went somewhere. He said that it went to places where he couldn't get it and usually it went places down hill where it was wet, because water carried it there. So that's what's going to happen on a fourteen percent grade dirt road.

Mr. Gibbons said then he wouldn't object to it.

Mr. Doherty agreed.

Mr. Gibbons said that he'd like to do a site visit on the property.

Mr. Merante asked if the Board wanted to do a site visit on the previous application also.

The Board agreed to have a site visit on both properties on Sunday, December 16<sup>th</sup> at 9:30 a.m. and would meet at the Lanza property first.

Ms. Doherty made a motion that the application be adjourned. Mr. Cleantis seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
George Cleantis	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala	-	In favor
Pat Sexton	-	Absent

**County Line Equities, LLC - Application for Site Plan - 1467 Route 9, Cold Spring:  
Discussion**

Mr. Pidala recused himself from the application. He left the table.

Mr. Merante said that the Board would like to declare its intention to be Lead Agency for an Unlisted Action, to carry on a Coordinated Review and circulate the EAF to involved and interested agencies including but not limited to the Zoning Board, the Town Board, the County Health Department, County Planning, New York State DOT and New York State DEC.

Mr. Meehan made the motion as stated above. Mr. Cleantis seconded it. The vote was as follows:

Anthony Merante	-	In favor
George Cleantis	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala	-	Recused
Pat Sexton	-	Absent

Ms. Doherty said that there was another thing that Mr. Miller mentioned during the public hearing for Giachinta, which was that the Board should send a letter to the D.O.T. now, asking them to not take any action until this review has proceeded locally.

Ms. Doherty made a motion that the Board authorize the Chairman to sign the above-stated letter. Mr. Cleantis seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
George Cleantis	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala	-	Recused
Pat Sexton	-	Absent

Mr. Pidala joined the table again.

**Proposed Local Law - Stormwater Management and Proposed Local Law - Stormwater Management - Prohibit Illicit Discharges, Activities and Connections to Separate Storm Sew System: Referral(s) from Town Board**

Mr. Miller said that these are basically laws that flowed out of the USEPA and they're requirements to go into the State of New York, into all the states under the Clean Water Act to continue to upgrade and enhance storm water regulations. He said that these are considered Phase II regulations and basically it requires at the local level for any subdivision application, site plan application or special permits, that a storm water pollution prevention plan be submitted with the application and be reviewed locally. Mr. Miller said that there are basically three levels to it. One is if a piece of property has less than an acre of disturbance, it relates primarily to construction, management, sequencing, erosion control. If there's between one to five acres, there's storm water management requirements that come into place. If it's greater than five acres, there's other requirements that come into place. The Town has to have a storm water management officer, there has to be a review of these by qualified parties, and they have to be part of the application that the Planning Board will be reviewing from here on out. The Town has to enact these by January of 2008. Mr. Miller said that the law was basically derived from a model law developed by the EPA and provided to the Town by the D.E.C. and it's just been modified somewhat to be specific to Philipstown and basically has definitions, applicability, what properties would be exempt, what's required for storm water pollution prevention plans, it's got performance and design criteria for storm water management and erosion and sediment control plan, and requirements for maintenance inspection and repair of storm water facilities. He said that he believed there's also very minor amendments to the subdivision and site plan laws to make reference to this requirement. So Chapter 175 and Chapter 112 of the Code are also modified to make reference to this specific requirement.

Mr. Miller said that the second part of it is the storm water management law to prohibit illicit discharges in connection to the municipal storm sewer system and that basically says don't put bad stuff into the Town's storm water system and that would include sewage and other sources of pollutants, etc., and the Town doesn't have a very extensive storm water system. It's mainly in Town roads, but nonetheless, this is a required law that the Town must adopt and enforce. He said that it sets forth what a discharge is, what's regulated, what it applies to and it is pretty straight forward.

Mr. Merante asked why this was in two parts and why wasn't the second one included in the storm water management laws.

Mr. Miller said that this applies to everybody. It applies to a homeowner. He said that if you've got a failing septic system, it applies to you. Whereas the storm water management law applies to people who are making application for land development activities - subdivisions, site plans and special permits.

Mr. Meehan said that if he was reading it correctly, a lot of the stuff was optional in there as to whether it is going to be part of the law or not.

Mr. Miller asked which page he was on.

Mr. Meehan said page 8 of 13.

Mr. Miller said that he thought with what the Board was given, the italics had been eliminated. He said that it was not what he gave Ed Doyle - those italics have been taken out.

Mr. Merante referred to the section under definitions/agricultural activity and asked if that was part of the boiler plate legislation or because Putnam County opted into (did not finish sentence).

Mr. Miller said that it was part of the model legislation.

Mr. Merante asked if there would be a Resolution on each one.

Mr. Miller said that if there are no comments, sending a letter to the Town Board indicating the Planning Board has reviewed it and have no further recommendations would be the Board's actions.

Mr. Gibbons referred to page 13. He said under the penalties, it appeared that they're talking \$350.00 for people that are in violation. Mr. Gibbons said that the second fine is an additional \$350.00 and a third one brings you up to \$1000.00. He said that he thought that needed to be looked at to convince people that the Town is serious about it.

Mr. Gaba said that those numbers are in there because it is a civil violation. He said that you can't charge more than those amounts - the penal law sets the amount you can be fined for a civil violation. Mr. Gaba said that if it is not a serious violation, you would receive a notice of violation and could be tried in justice court and those amounts would be charged against you and if it was a serious violation, he suspected the Town would bring an action for an injunction and prevent the problem. Mr. Gaba said that this is mostly for storm water prevention plan and following up on that when you do your construction.

Mr. Meehan asked if the penalties were in addition to the remediation of the problem.

Mr. Gaba said yes, absolutely.

Mr. Gibbons asked Mr. Gaba if he would explain page 10, item D - the maintenance agreements.

Mr. Miller said for storm water management facility on a piece of subdivided land, a basin, whatever, that required ongoing maintenance, sediment removal, etc., that maintenance agreement is applicable to whoever owns the land, so if you owned it and sold it to someone else, they would also be responsible for the long term maintenance of that facility.

Mr. Meehan said that means a little bit of a change in their site plan, when they ask people for

maintenance agreements on a private road.

Mr. Gaba said that it says in the law an awful lot that the Town shall determine the amount of the bond when there's a violation, etc., and he suspects that most of the time it is going to be the Planning Board who determines the amount of bond to be set. He said that it might be the Town Board that wants to do it, but he suspects not. Mr. Gaba said that he would suspect it is the Town Board who is going to determine when there's a violation and whether or not to prosecute it. He said that it would just be nice if when they adopted it maybe there was either an informal letter or some conversation in the record to make it clear what they mean when they say "the Town shall do this".

Mr. Meehan asked who would be doing the on-site inspections and issuing the violations and if it was going to be the Code Enforcement Officer.

Mr. Merante said that it is up to the Town Board. He said that there is going to be a storm water management officer designated by the municipality.

Mr. Miller said that he would expect that if the Planning Board is the agency that is re-doing an application when it comes to completion or maintenance bonds, that the Planning Board will be the one making those recommendations. The bonds will be placed with the Town Board and the Planning Board's advisors will provide guidance as to what would be the proper amount like they do now for landscape or completion bonds and things of that nature.

Ms. Doherty made a motion to send a letter to the Town Board saying that the Planning Board has reviewed and recommend adoption of the proposed laws. Mr. Meehan seconded the motion.

The vote was as follows:

Anthony Merante	-	In favor
George Cleantis	-	In favor
Josephine Doherty	-	In favor
George Cleantis	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala	-	In favor
Pat Sexton	-	Absent

**East Mountain Holdings, LLC - Minor Subdivision - Hustis Road, Cold Spring: Request for ninety-day extension**

Mr. Ron Wegner said that he was looking for an extension of his subdivision approval. He said that he is working on Health Department approval and review of the Health Department is proving to be lengthy with the first review taking three months.

Mr. Miller distributed a Resolution to the Board and read it aloud.

Mr. Cleantis made a motion to adopt the Resolution (copy attached). Mr. Gibbons seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
George Cleantis	-	In favor
Josephine Doherty	-	In favor
George Cleantis	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala	-	In favor
Pat Sexton	-	Absent

**MHCP Realty LLC (trucking garage) - 3504 Route 9, Cold Spring: Request for re-adoption of Resolution PPB#22-06**

Mr. Pidala recused himself from the next two applications. He left the table.

Mr. Miller said that they've talked about this earlier this week and he's talked to Mr. Watson and the applicant. He said that these are site plans that were approved about a year ago. Mr. Miller said that there really had been no changes in circumstances on the sites and there have been no changes in the world around the sites that would suggest that the Board not take action on these, however, the Town is in the middle of adopting storm water management laws and he did not think the building permits were going to be issued for either of these prior to those laws being adopted. The laws have to be adopted by January 8<sup>th</sup>. Mr. Miller said that he thought they'd be adopted in December. He said that both site plans would be subject to the new local law and without a building permit, they would have to come back to the Planning Board with the storm water pollution prevention plan under any circumstance. He said that his suggestion is to request the applicant to file a request for the re-adoption with a submission of a storm water pollution prevention plan in conformance with the anticipated code and then upon review of that, hold a public hearing on the matter.

Mr. Merante said for both of the items.

Mr. Miller said for both of them. He said that one of them is a disturbance that is just under the threshold of one acre, so you just need a pretty straight up erosion control plan and a construction management plan and so forth. Mr. Miller said that the self-storage, however, is above the one-acre threshold. When the Planning Board reviewed it, it did require a storm water management plan, but it's not in the form and fully consistent with the requirements of this proposed law.

Mr. Watson said that there is a storm water pollution prevention plan for that.

Mr. Miller asked if it conformed to the proposed law.

Mr. Watson said that it conforms with the current law. He said that if the Board adopted it tonight, it would be fine. Mr. Watson said that it conforms with the State law.

Mr. Miller said that he did not see a reason to be hasty.

Mr. Watson said that if the Board re-adopts tonight, it complies. It's a State law and they've got a storm water pollution prevention plan done.

Mr. Merante asked if he meant for both.

Mr. Watson said no - he was talking about the self-storage.

Mr. Miller said that Mr. Watson was asking the Planning Board to pre-empt something that is taking place in the Town that represents federal law, state law, federal policy, state policy and he did not think it was a good idea, but the Planning Board could respond to his request.

Mr. Watson said that, in fact, the storm water pollution prevention plan in conformance with the law today exists.

Mr. Gaba asked which one had the SWIP.

Mr. Watson said the self-storage.

Mr. Gaba said that the self-storage expired July of 07 and apparently it's the Board's position that it can retroactively grant the year extension.

Mr. Miller said that it has from the date of expiration in the past.

Mr. Gaba said so they would have six months after this. So one more month, submit the SWIP that they've got and the Board will review them both at the same time.

Mr. Watson said there's the public hearing.

Mr. Merante said that at the moment, they don't anticipate having a meeting next month.

Mr. Miller said that he said earlier they were.

Mr. Merante said that right now, it looks like nothing is going to be...unless the Board follows his or Mr. Watson's line of thinking on this one. He said that right now, they have nothing to do next month.

Mr. Watson said that he was not making the argument with the other one. He said that they won't have a building permit or stuff ready and they have to do it. That's fine. Mr. Watson said that they already did this once. He said that it takes a year to get through these departments. It takes more than a year. Mr. Watson said that the storm water pollution prevention plan is fully done for submission to the State and if they adopt it, they adopt it and they're done with it.

Mr. Merante asked how the Board felt.

Mr. Giachinta said that he started his DOT permit before he started the Planning Board, or around the same time. That was around a year ago. He said that he just received his DOT permit last week for the storage units. Mr. Giachinta said that he still hasn't received one for his trucking garage and that's the reason he can't get a building permit.

Mr. Gaba said that they're coming in six months after it expired and asking the Board to give a retroactive extension. If you hold it open, you take a look at the SWIP, you review it, see if it complies with what the local law says and if it does, they're pretty much home free and they should get their extension assuming no circumstances change. But without the SWIP before the Board with the law coming up, with this having expired, he thought it was asking an awful lot.

Mr. Gibbons said that he would have to refer to the counsel.

Mr. Meehan asked if it was difficult to get the SWIP in front of the Board.

Mr. Watson said that he could go home and get it.

Mr. Merante said that if necessary, the Planning Board would meet on December 20<sup>th</sup>, but there's a good chance the Town Board may adopt the new SWIP even before that. It becomes a moot point then.

Mr. Gibbons asked if the Town Board would have to have a public hearing on the new law as well.

Mr. Meehan said that he would think it would.

Mr. Brower said that they'll be meeting December 12<sup>th</sup>.

Mr. Meehan said that he didn't know what the change would be if there are any changes between before and after the law goes into affect.

Mr. Miller said that the new law's very detailed and there are very clear specifications as to what should be provided in a SWIP and it's not as simple as in the case of this project. He said that he thought they had some tanks and some vortex filters. But the SWIP actually also has requirements for construction sequencing, staging of construction materials...it's a twenty-five page law. Mr. Miller said that Mr. Watson said that he prepared a law that complies with the laws as it presently stands.

Mr. Watson said that they prepared a SWIP.

Mr. Miller said yeah, they've got the tanks and the calculations, but if it's not what this new law would require.

Mr. Cleantis asked Mr. Watson if he had everything he needed to go under the law as it exists now. He asked, if the Board grants that extension the way he suggested, when the law changes, would he have to conform to the new law.

Mr. Watson said no.

Mr. Merante said unless he got in beforehand.

Mr. Cleantis said, but if he didn't get the permit beforehand, then he would have to. He asked what the chances were of getting a building permit before that.

Mr. Watson said that they're done. They just got finished.

Mr. Cleantis said so they have everything.

Mr. Watson said that they have everything.

Mr. Giachinta said that they're waiting for the DOT permit.

Mr. Merante said that they said they have the DOT permit for one, but not the other.

Mr. Watson said that they've got everything they need for the self-storage. Everything. Storm water pollution prevention plan.

Mr. Cleantis said that applies with the law as it exists today.

Mr. Watson said that's correct. It has to be submitted to the State.

Mr. Cleantis said, but as it exists today, they comply, and if the Board were to give him the approval for that today...as long as they got all the permits in place, he would be exempt (so to speak) from having to...the Board has always dealt with what is - not what ifs.

Mr. Miller said that he needs a building permit.

Mr. Cleantis said, but he said he's got the building permit.

Mr. Miller said that he did not think Mr. Merante has signed the site plan.

Mr. Cleantis said that he asked before if they could get the building permit before the new law is put in.

Mr. Watson said no.

Mr. Cleantis said so if they cannot get the building permit before the new law's put into place, isn't he going to have to go through that whole process anyway.

Mr. Watson said yes.

Mr. Cleantis asked if this was a moot discussion.

Mr. Watson said if the Board were to re-adopt, they are in a position to submit for Mr. Merante's signature, submit the bonds and get a building permit by the 12<sup>th</sup>.

Mr. Cleantis said that is what he was asking. He said that they could get the building permit before the new law goes into affect.

Mr. Watson said yes, it's possible.

Mr. Cleantis said that he thought it was self-explanatory. They've got the law that exists now, he's complied with the law that exists now, the Board gives him the permission to go ahead, re-adopt and it's in his ball park.

Mr. Merante asked if he wanted to make that motion.

Mr. Cleantis said yes he would make a motion that the Board (did not finish sentence).

Ms. Doherty asked if the Board actually had the storm water plan.

Mr. Cleantis asked if the Board had it.

Ms. Doherty said no. She said that is the whole point. Ms. Doherty said to Mr. Watson to go get it. She said that the Board would be there for a while. Ms. Doherty said that she did not really see how else the Board could accommodate them time-wise as far as advertising for other meetings, etc.

Mr. Watson said that he would go get it, except that he had another client present.

Ms. Doherty said that she did not really see how the Board could do it in the time-frame otherwise.

Mr. Watson said that it wasn't required when the Board approved it. It is not required today.

Ms. Doherty said that's right, but as the Board is being told by its advisors, if it didn't expire, that would be a different story. But the fact that they are asking the Board to re-approve it, the Board has to look at what laws will be in existence at that particular time and if the Board waits until next month, they're going to have another law to deal with.

Mr. Watson said right, that's why he is concerned.

Ms. Doherty said that the Board has to see that storm water plan.

Mr. Cleantis said that he thought that was fair.

Mr. Meehan agreed.

Mr. Giachinta asked if that opens up the whole project again.

Mr. Gibbons asked if the public hearing depended on whether the Board wanted to have one or not.

Mr. Miller said that it's optional for site plans.

Mr. Gibbons said right. So they've already discussed this at length via the public commenting and nothing is really changing other than the documentation of it, so personally, he didn't see the need for the public hearing.

Mr. Watson said that he did not think you had to have a public hearing.

Mr. Gibbons said that he thought the Board should take its advisor's advice, and move forward with the new aspect of it, but didn't necessarily have to have a public hearing on this.

Mr. Cleantis asked Mr. Watson what was preventing him from going to get the form.

Mr. Watson said that he had another client.

Mr. Miller said that it is not as simple as that. He asked if the Board was going to read it, study it and make comments on it tonight.

Mr. Gaba said that when an applicant comes in timely as opposed to six months after its expired, to examine their presentation as to why the facts and circumstances on which the Board granted it to begin with, haven't changed, even then you don't have to give it to him. Mr. Gaba said that if the Board thinks there are circumstances that are different enough that it wants more input from the public, then maybe you have a public hearing.

Mr. Miller said that the conditions of the self-storage require that engineering issues be addressed and a letter from Bibbo be secure indicating that they have been satisfied. He asked Mr. Watson if he had that letter.

Mr. Watson said yes.

Mr. Miller said that he thought there was sort of a policy issue here. There is a law that's going to be enacted imminently. They're kind of caught up unfortunately. Mr. Miller asked if the Board wanted to rush this thing. He said that he thought the right thing to do was to do it right.

Mr. Merante said, so they are leaning toward not granting this.

Mr. Gibbons said that he would have to agree with that.

Mr. Meehan said that he would have to go along with the Board's advisors.

Mr. Cleantis said that he was in favor of granting it.

Ms. Doherty said that she would go along with what Mr. Gaba said.

Mr. Merante said he would too.

Ms. Doherty asked, if there are really no changes, the Board would consider not having a public hearing.

Mr. Gibbons made a motion that the Board not approve this on the advice of its advisors and a strong recommendation that the Board does not have a legal hearing.

Mr. Meehan asked what the Board's advisors thought.

Mr. Gaba said that he thought they said the Board should get the SWIP if it's satisfied with these representations and its own knowledge as to there being no changes in the fact of circumstances, have that looked over, see if it substantially complies with the local law, the local law is in place next month, so be it - they have to go through that, and if it isn't, then perhaps the Board will find it is close enough and the Board can approve it without a public hearing.

Mr. Meehan said that he agreed.

Mr. Merante asked if he was seconding the motion.

Mr. Meehan yes, the Planning Board should not look like it's trying to play favorites.

The vote was as follows:

Anthony Merante	-	In favor
George Cleantis	-	Opposed
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala	-	Recused

Mr. Pidala joined the table again.

**Randi's View (Padilla) - 2-lot subdivision - 1478 Route 9D, Garrison: New submission**

Mr. Watson said that this is a 10.6 acre parcel on 9D, just north of the bridge over Indian Brook Road and has frontage on Indian Brook Road. There is a house under construction and garage with guest quarters over it completed. They would like to divide the property into two to create a new lot on Indian Brook Road and have the driveway to a proposed house in the rear lot. Mr. Watson said the septic area is identified, the proposed dwell is identified. Lot One is 6.8 acres and Lot Two is 3.8 acres. He said that he had given the Board the driveway profile. They are proposing a route which minimizes the cut and fill. It is a long driveway and sections of it are at fourteen percent. Mr. Watson said that the route they chose, which does have more fill at one spot at the beginning, they are handling with a retaining wall. The other option that they had that they investigated took what appeared to be a more gentle route, but ended up having to have much steeper grades and it was quite a bit longer. So they tried to minimize the length of the driveway. It's about 600 feet long.

Mr. Merante asked if when it enters Indian Brook Road, they were going to need approval from the Highway Superintendent.

Mr. Watson said yes.

Mr. Merante asked how far away the proposed septic area was from the house.

Mr. Watson said six hundred feet.

Mr. Gibbons asked if either of the houses were under construction yet.

Mr. Watson pointed to the plan and stated that this house is.

Mr. Gibbons asked if it already had its driveway permit.

Mr. Watson said yes.

Mr. Merante asked a question (inaudible).

Mr. Watson said that it is included in there - it's just not labeled. He said that it does require an expansion area. They'll have to include that.

Mr. Merante said that he was looking at an area not quite half way back up toward the house where the narrow neck of the property...that wouldn't be...(did not finish sentence).

Mr. Watson said that the only place you can put a septic system is in white (on plan). He said that it is a little small.

Mr. Meehan asked why the applicant would want to place the house up there, rather than some other more desirable spots with a lesser driveway and more accessibility to the septic system.

Mr. Gibbons asked what kind of piping they were going to get from the septic field without more disturbance.

Mr. Watson said that they could put the piping in the driveway until they get down here (pointed out) and then they'd have a relatively short run across there, which is a relatively gentle land except for a very short period of class two slopes.

Mr. Gibbons asked if the applicant would answer Mr. Meehan's question - why way up there?

Mr. Meehan asked why go through a six hundred foot driveway when you have other building spots there and are closer to the expansion system?

Mr. Pidala asked what they would do with all the water and if he had drainage.

Mr. Watson said yes.

Mr. Cleantis asked what Mr. Watson's response was to Mr. Merante's question regarding bringing the septic up to the other white area - a little higher.

Mr. Watson said that they'd take a look at it.

Ms. Doherty said that there was a note on there that read, "portion of Parcel B to become part of Parcel A". She asked Mr. Watson to explain that.

Mr. Watson said that they did a lot line adjustment because the driveway encroached. That's done and it just didn't get erased.

Ms. Doherty asked if that was done recently.

Mr. Watson said yes.

Ms. Doherty asked if there was any reason they did that then rather than wait until Mr. Watson came to the Board and did it all at once.

Mr. Watson said that they wanted to eliminate the encroachment.

Mr. Gibbons said that the Board cannot deny the applicant's use of his property - granted. So

he'll be coming over the class two slopes. He asked if there was something that said that Board had to grant him permission to go over two class two sections of steep slopes.

Mr. Miller said that U.S. Constitution.

Mr. Gibbons said that he guessed that was a lawyer question.

Mr. Gaba said that if the two lots comply with all the applicable subdivision regulations and zoning, and the Planning Board does not have a prohibition on crossing slopes like that or the individual lots, then yes, he complies with the code.

Mr. Miller said that he can't go straight up the hill. If he did, he'd just cross it once. Mr. Miller said that he's doing what he needs to do to get to the buildable area and that requires a switchback in essence and thought this was going to be the trend as land becomes valuable and less available. He said that you start seeing these extraordinary measures being taken to get to buildable lots.

Mr. Cleantis said notwithstanding the recommendation to look at moving the septic up to the other white area, why can't he bring the driveway down through the white area?

Mr. Watson said that they tried that and you're going through more white, but you're also going through twenty or thirty feet of additional vertical, so it's a diminishing return.

Mr. Meehan asked if it was a cul-de-sac by the one building going over the class two slopes.

Mr. Watson said that he didn't understand the question.

Mr. Meehan said that way, you wouldn't have any possible runoff into Indian Brook and you could still get there. He said in that way, you're only disturbing class two once - not twice.

Mr. Watson said that he'd discuss it with his client, but he thought it had to do with wanting this (pointed out) to be private.

Mr. Meehan asked what the building was and if it was a residence.

Mr. Watson said that it's guest quarters.

Mr. Meehan said so really it wouldn't bother anybody except for one of the guests in there - assuming the guests aren't going to be there permanently.

Mr. Merante asked if there was anything required because it's contiguous to the aqueduct.

Mr. Miller said that he didn't think so. He said that if there's blasting within a certain distance to

the aqueduct, he thought they regulated that activity. Mr. Miller referred to the driveway on Lot Two, and said that it wasn't an actual grading plan Mr. Watson was showing on the drawing. He asked if that was correct. Mr. Miller said that it's not been graded out.

Mr. Watson said that he guessed it's not.

Mr. Miller said that you've got ten foot cuts there - he didn't see how it could be graded out. He asked where the fill was going.

Mr. Watson said they graded the tens and not the twos.

Mr. Miller said that the Board needs a good grading plan.

Mr. Watson said that it is graded out - he was sorry.

Mr. Miller asked, it is? He said that he's got a ten foot cut there. Mr. Miller asked if he was keeping the cut within a ten foot width. He said you come in and have a ten foot cut for two hundred feet.

Mr. Watson said yes, there is a problem - he sees it. But the grades are there.

Mr. Miller said that he saw he had grades going across the road, but didn't see how it was happening.

Mr. Watson said yes, they have to be fixed.

Mr. Miller said that he thought some of the graphic standards of the drawing needs to be dealt with, such as that. He said that Bibbo prepared a memo today and have some comments. Mr. Miller said that they need a bulk zoning table, existing and proposed tree lines, zoning squares, and buildable areas on the lot that comply with that requirement of the code. He said that he thought they were going to need an SPPP because this is not going to be approved by the time that law is in affect. Mr. Miller said that they don't meet the threshold, but he thought some type of management of storm water at the base of the Lot Two driveway before you get to Indian Brook Road is going to have to be dealt with. It is a dirt road. Mr. Miller asked if there was a storm water system in Indian Brook Road.

Mr. Watson said that he doubted it.

Mr. Miller said that he thought they had a little bit of work to do before this can be considered for public hearing.

Mr. Gibbons asked where this was in relation to the water pole.

Mr. Watson pointed it out on the plan.

Mr. Gibbons said that it was pretty narrow and steep in through there. He asked if they flagged the driveway yet.

Mr. Watson said no.

Mr. Gibbons asked if there was a possibility that he could do that so the Board can take a drive by and see where he plans to cut in.

Mr. Watson said yes. He said that he would call Mr. Gibbons.

Mr. Merante said that Counsel had reminded him that the Board should make a motion declaring itself Lead Agency and the application has to go to the County because they are within five hundred feet of a county road.

Mr. Gibbons made the above motion. Mr. Pidala seconded the motion was seconded. The vote was as follows:

Anthony Merante	-	In favor
George Cleantis	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala	-	In favor
Pat Sexton	-	Absent

**Vamco Realty - Site Plan Application - 3090 Route 9, Cold Spring: Submission of Site Plan and Statement of Use**

Mr. Gemmola stated that they were in front of the Board at the end of September and the Board requested they have the wetlands flagged. He said that they did that and had a survey done by Badey & Watson, who had done it a long time ago and updated it. Mr. Gemmola said that they have topo information which they submitted. The wetland was shown and they addressed the comment the Board had. Mr. Gemmola said that they eliminated four spaces up front and added landscaping. They changed the Statement of Use. He said that they also did the fencing and changed it to a beige vinyl at the rear of the fence at the south part of the property. Mr. Gemmola said that the owner had re-paved the existing driveway that was there for many years prior to this and they cut it back considerably and have shown that on the plan and what's being removed and they're trying to bring it further away from Clove Creek and buffer. He said that they relocated some storage at the north, which is smaller than what they had because they found that the wetland buffer actually came in at the north part of the property. Mr. Gemmola said the building is kind of a white paint over an existing block. There's some partial siding which was also painted white. They are proposing to do the center portion as the addition, which is the space presently between the north and south building and do a buff-colored textured block. He said that they'd have a relatively flat roof with drains. Mr. Gemmola said that they've added quite a

bit of landscaping. He said that if it would be helpful, they could try to add some amount of planters to what's existing and try to soften up what's there. Mr. Gemmola said that the building is actually recessed back to be within the one hundred foot setback from the center line. He said that he was hoping they could schedule a public hearing.

Ms. Doherty asked what the largest size truck he anticipated would be.

Mr. Gemmola said usually rack body trucks - they carry duct work. There's really no tractor trailers. Box trucks would deliver supplies.

Ms. Doherty said, so the turning radius wouldn't be an issue.

Mr. Gemmola said no, it isn't now. He said that it really hasn't been a problem.

Mr. Pidala said that two weeks ago, he drove by and there was a tractor trailer in there. He said that as long as they know on the plan that he cannot have them in there.

Mr. Gibbons asked if they would do repair work or it was going to be a normal delivery deal.

Mr. Gemmola said for what.

Mr. Gibbons said that Mr. Pidala stated that he saw a tractor trailer truck with equipment.

Mr. Pidala said commercial rooftop ac units were on it.

Mr. Gibbons asked if they could have been for renovations on the building.

Mr. Gemmola said that usually that type of stuff is delivered directly to the site.

Mr. Pidala said as long as it's noted on the plan...if the use changes, (did not finish sentence).

Mr. Miller asked Mr. Gemmola to just show how a tractor trailer could turn, as the Board did not want them backing out onto Route 9.

Ms. Doherty said that a six foot high beige fence...the Board has a section in the Code that states "fences and walls used for landscaping and screening shall be used of natural materials, citrus wood, stone or brick or otherwise effectively landscaped".

Mr. Gemmola said that at one point they had a stockade fence and he believed the Planning Board had requested something to be beige. He said that they could certainly do a stockade fence.

Mr. Gibbons said that the plan had showed a chain-linked fence with weaving vinyl slats and he

said that he did not want that whatsoever. He said that then he recommended they consider a vinyl fence, and that's how it became beige. Mr. Gibbons said that he was just looking to get rid of the chain-link and was certainly open to a stockade fence.

Mr. Gemmola said that he was going back maybe six or seven years ago when it was an autobody shop and they got an approval for it and he believed at that time, they had a stockade fence.

Ms. Doherty said that this law was adopted in 2002.

Mr. Meehan asked Mr. Miller if the applicant needed a storm water management plan, as he has a lot of roofing. He asked where all the water from the roof going to go.

Mr. Miller said that this site plan is adding just the connection between the two buildings, so it probably would fall under the criteria for less than an acre, which really is erosion control. He said that his suggestion is that in the low point of the site, which is probably in the southeastern corner, something be put in there where some of the blacktop is being taken out that would treat storm water before it goes into Clove Creek. He said that he would think at a minimum a sedimentation basin in that area to handle the runoff from the parking lot would be a smart thing to do. He said that the rooftop water is going to be pretty clean, so routing that into the woods before it gets into the creek, it doesn't need to go into that sediment basin. It would actually operate more effectively without the rooftop water in it. Mr. Miller said that he thought he needed to put together a wetland permit application.

Mr. Gemmola said that they did.

Mr. Bury said that they talked about that. They don't have that on file.

Mr. Gemmola said that he would get the Board more copies.

Mr. Miller asked if Mr. Gemmola submitted an EAF.

Mr. Gemmola said yes, it was with that.

Mr. Miller said that he had a short EAF and the Board does not use the short EAF.

Mr. Gemmola presented what he thought was the long form to Mr. Miller and said that they submitted it with the Planning Board application originally.

Mr. Miller asked if the long form was up-to-date.

Mr. Gemmola said yes.

Mr. Miller said that there is a wetland application that needs to be referred to the CAC. The

applicant has indicated he's got a long EAF. If he gets it in, he did not see a reason not to move this to a public hearing in January.

The Board agreed.

A motion was made to hold a public hearing on this application in January. Mr. Cleantis seconded the motion. The vote was as follows:

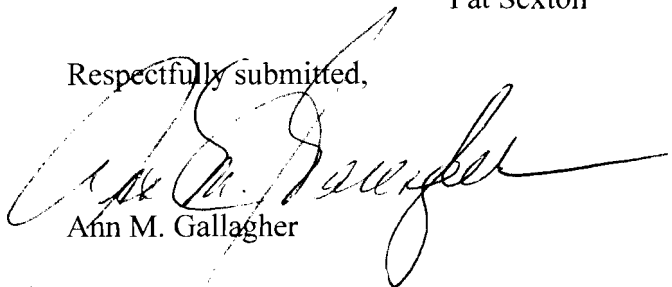
Anthony Merante	-	In favor
George Cleantis	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala	-	In favor
Pat Sexton	-	Absent

**Adjourn**

Mr. Cleantis made a motion to adjourn the meeting. Mr. Gibbons seconded the motion. The meeting ended at 10:30 p.m. The vote was as follows:

Anthony Merante	-	In favor
George Cleantis	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala	-	In favor
Pat Sexton	-	Absent

Respectfully submitted,



Ann M. Gallagher

Note: These minutes were prepared were prepared for the Philipstown Planning Board and are subject to review, comment, emendation and approval thereupon.

Date approved: \_\_\_\_\_

**PHILIPSTOWN PLANNING BOARD**

**TOWN OF PHILIPSTOWN, NEW YORK**

**RESOLUTION PPB. # 15-07** (East Mountain Holdings) Minor Subdivision, ODA Subdivision, 3 residential lots at property located on Hustis Road; Tax Map 16.19, Block 1, Lot 27.1, Town of Philipstown, New York.

**WHEREAS**, East Mountain Holdings, LLC, ("applicant") owns 7.83 acres of undeveloped land in an R-40 district; and,

**WHEREAS**, the applicant submitted an application requesting approval of a minor subdivision to divide the parcel into three lots and create a new ODA road. As shown on the proposed plat, Lot 1 would be 1.47 acres, Lot 2 would be 2.92 acres and Lot 3 would be 3.43 acres. All lots conform to the requirements for ODA lots as defined in §112-65-H of the Philipstown Zoning Code; and,

**WHEREAS**, the application was granted conditional final subdivision approval on April 19, 2007, a copy of which is attached hereto; and,

**WHEREAS**, the conditional final subdivision approval is valid for a period of one hundred eighty (180) days per section 112-15.A. Of the Town of Phillipstown Subdivision Regulations, therefore expiring on November 19, 2007; and,

**WHEREAS**, the applicant has requested a 90-day extension by letter dated November 19, 2007 from Ronald Wegner of Cronin Engineering, PE, PC; and,

**WHEREAS**, the Planning Board may authorize up to two such 90-day extensions per section 112-47.5(5) of the Town of Phillipstown Subdivision Regulations; and,

**NOW, THEREFORE, BE IT RESOLVED**, that:

1) the Planning Board hereby extends final subdivision approval for a period of 90 days from the expiration date of November 17, 2007 to February 17, 2008.

Adopted at a meeting of the Phillipstown Planning Board on November 29, 2007.

**PHILIPSTOWN PLANNING BOARD**

  
Anthony Merante, Chairman

C: Tom Monroe, Code Enforcement Officer  
Bill Mazucca, Town Supervisor  
David Klotzle, Wetlands Inspector