

Philipstown Planning Board  
Meeting Minutes  
February 19, 2009

The Philipstown Planning Board held its regular monthly meeting on Thursday, February 19, 2009 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  
Kim Conner  
Josephine Doherty  
Michael Gibbons  
Kerry Meehan  
Andrew Pidala  
Pat Sexton  
Steve Gaba, Counsel  
Ron Gainer, Planner

Mr. Merante announced that the Board would be moving around some of the items on the agenda. He stated that the last item - Garrison Contracting , must go before the ZBA for a variance. Mr. Merante said that the Board had a memo from its attorney and read a portion of the memo aloud (copy on file at Town Hall).

Mr. Gaba said that he was a little confused with regard to the designation between the R-40 and B-2 district and that they would want to follow up on that to see if they need a special permit to extend the use across the zoning boundary line. He said that it is in the memo and the applicant can go to the ZBA and sort it out.

### **Public Hearing**

#### **Rodney Weber - Two-lot subdivision - East Mountain Road South/Horton Road, Cold Spring**

Mr. Gibbons asked if the Board could separate this application into two different lots and concentrate on one lot and then the other to avoid confusion. He said that the Board had general concerns with Lot Two and that the fire chief would like to comment on that too, but he had issues on Lot One in particular that he would like to address.

Mr. Merante referred to the letter from Badey & Watson dated February 5<sup>th</sup> (copy on file at Town Hall) and said that it starts out with Lot Two.

Mr. Gibbons said that with regard to the very last comment, the CAC is advising that the private road is not to be used for more than one residence, as greater traffic on the roadway will increase levels and pace of erosion and potentially have other environmental impacts on the traversed wet areas. Mr. Gibbons said that it is a recommendation from the CAC that the Planning Board has to take strongly. In addition, they have another application for soil mining that wants to commit

to this road for future buildup and development. He said that he thought the Board really needed to take under advisement what the CAC is telling them. Mr. Gibbons said that they need to have the housing twenty years down the road, coming in off of Route 9 - not off of Horton Road. He said that they are saying this roadway is suitable for the one house that Mr. Weber is trying to put in, but they should have some restriction on the plat so that when they're not there, and the next generation is trying to develop that, it is noted that it is a sensitive area and the traffic should come through Route 9.

Mr. Merante asked if Mr. Watson would like to address that.

Mr. Watson said that they've been through that and have had quite a long discussion on it a couple of months ago. He said that they're not in a position to restrict Mr. Lyons from what he might want to do with his property. It is his property. Mr. Watson said that they're simply trying to exercise the right that they have. He said that the Board asked if they would be willing to note that this lot would never be subdivided and they think that under the present circumstances there's no reason to do that. There is an application that could potentially see the road come through. Mr. Watson said that he thought that was years and years away and the situation may change. He said that they have no possibility of subdividing this property again for access on this road for a number of reasons. One, the deed from Mr. Lyons for the easement, which gives them the right to use the road, limits them to one house. Two, this (pointed out) is all wetlands and as a practical matter, they're not going to get a lot over here (pointed out). Mr. Watson said that there is another buildable area, which is here (pointed out), that would require the Board's approval of access, so the Board has that power to reject that. But if that roadway situation changes some day - if in fact, it were to become a public road or a road that looped through, they would not want to be precluded from subdividing at that time. He said that there are a lot of hoops that people have to jump through in order to do that, and it's not his client that would have to do that. In fact, he couldn't do that if he wanted to. So, they are really not in a position to offer not to re-subdivide the property. They take note of the thing in the letter - the no action required comment on that note was basically most of the other notes that you have to do something to the map. Obviously, they could put a note so there would be no further subdivision. Mr. Watson said that it is not his client's best interest and it is not necessary for this subdivision.

Mr. Gibbons asked if Mr. Watson would please request from his client that no further subdivision...he said that he realized and was not going to ask him directly.

Mr. Watson said that he'd like to answer that question, but he thought he put forth a reasonable argument that there would be no subdivision. He said that there's really no subdivision of this property permitted today. You can't have it. Mr. Watson said that the only possible way it could happen is if Horton Road were some day to be extended as a public road through to Route 9 and become a dedicated public road. He said that is the only way it can happen under today's rules and regulations. Mr. Watson said that if that were to happen, they don't want to preclude that possibility of being able to subdivide it.

Mr. Gibbons said to Mr. Watson that he understood what he was saying, but he was looking at the CAC report and they've advised the Planning Board that it should be taking some kind of action that that stretch of road not be developed in the future. So for this to say no action, he thought was a little misleading, in that no action is required.

Mr. Merante said that the only question he had with regard to this was, beside the Board's obligation, was what ability the Board had to restrict this thing. He said that he didn't know if Mr. Gibbons was asking in perpetuity. Mr. Merante said that he did not want to take either one's side, but was asking. He said that he thought Mr. Watson was saying that he didn't think subdivision was possible in this case and asked him if that was what he was saying.

Mr. Watson said correct.

Mr. Merante said he did not know what further action the Planning Board could take, as it says no action required.

Ms. Conner said that if, for example, Harold Lyons decided to give the applicant another easement, then he could go in and have access. She asked if that was correct.

Mr. Merante said he'd have to come back to the Board.

Mr. Watson said yes.

Mr. Merante said, so they would have additional review of the process.

Mr. Gibbons said that he'd like to defer to the Board's counsel/engineer.

Mr. Gainer said that as he read the CAC letter, he understood there was an ODA road proposal being offered to all access. He said that CAC is also acknowledging that the road should not be used to serve more than one residence. Mr. Gainer said that he thought it was clearly within the applicant's purview to put a note on the plan to acknowledge that any additional lot service from that road would require that the road be upgraded to Town standard and at that time, it would have to come back to the Planning Board to evaluate the environmental impact.

Mr. Watson said that they can't force that condition on the owner of the property. He said that a note to that effect regarding any further development of the parcel, he thought they could live with and would be appropriate, but to say that Mr. Lyons...they don't have the ability to make that representation for Mr. Lyons. Mr. Watson said that they simply don't have it.

Mr. Gibbons said that he would agree with that, but he would like to see it on this parcel. He said that was all he was asking.

Mr. Watson said that they would consider a note that the property would not be subdivided so long as this remains a private road.

Mr. Gainer said that again, that just permits the Board to have another bite at the apple, should there be another consideration or application for a re-subdivision.

Mr. Gibbons said that he'd like to see it on the plan. He said that the Board has been notified that this is a very environmentally sensitive area.

Mr. Merante asked the Board if there were any other questions/concerns on Lot One.

There were no questions/comments.

Mr. Watson said that there really have been no changes to the map other than little technical changes of this part of the property.

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Mr. Merante interrupted Mr. Watson and addressed Mr. Jones (applicant for Garrison Contracting). He told Mr. Jones that the Board moved the agenda item up to the front because of a memo the Board received from its attorney stating the application must go before the ZBA as it requires a variance. Mr. Merante said that the memo would be forthcoming.

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Mr. Watson said that the only significant changes on the plan were submitted in response to concerns raised by the CAC and the fire company with regard to the driveway and southerly lot. He said that they did change that driveway - they modified the end of the driveway so that there would be a little more room. Mr. Watson pointed out East Mountain Road, where the driveway comes in, makes the sharp turn of concern, and comes down to another place by the garage to service the house. He said that they've enlarged some of the areas at the southwestern part of the driveway to accommodate the vehicle movements. Mr. Watson said that the more important change is at the bend of the northeasterly end of the driveway. He said that the dotted hatched area was where the driveway is now and where they have proposed it on the previous plan. Mr. Watson said that they widened out the turn and made the radius larger. They specified that an area would be reclaimed and re-seeded, and added erosion control and drainage spoken about by the CAC. He said that the data they presented to the Board and its engineer show the movements of a fire truck going through there and that it would work.

Ms. Doherty asked if the fire department was satisfied with the curb now.

Mr. Watson said that they believe so. He said that Mr. Weber has spoken with Mr. Hyatt and they also lowered the grade of the road a little through the steepest spot.

Mr. Merante asked what the grade is now.

Mr. Watson said that he believed it was fourteen percent, but would have to check. He said that they think they've addressed it. Mr. Watson said that they've given a set of plans to the fire company. He said that Mr. Hyatt was present tonight and they've asked him for a letter stating

they're satisfied. Mr. Watson said that there simply wasn't enough time to get the letter in, but maybe he'll speak to the matter. They've addressed the drainage, some of the erosion control issues, and the turning radius with regard to the driveway.

Mr. Merante asked if the Board had any comment.

There was no comment.

Mr. Merante asked if the public had any questions.

Mr. Chmar said that this is an example where an applicant went to the Building Inspector presumably, and received a building permit. He said that he thought there were steep slopes involved and that it should have been reviewed by the CAC. It didn't happen until after the work had been accomplished. Mr. Chmar said that he was curious as to whether the Town now has a process so that any building application that comes in gets reviewed by the appropriate authorities. He said that they have another applicant in there tonight obviously who's coming in after the fact. Mr. Chmar said that the process appears to have broken down. He said that he was curious as to whether it's now in place because they've received assurances from the Town Board that it is.

Mr. Gainer said that there are discussions in Town Hall between the various departments to attempt to address that matter. The process is evolving, but the expectation is that they won't continue to see these. Mr. Gainer said that there's been a break down at the Building Department level.

Mr. Merante said that initially when Stantec came on board and they discussed with Ron Gainer about how they were going to do this, that was the initial thing they wanted to do - install him in the Town Hall on a specific day of the week, that applicants will come in and anything that's beyond a simple building permit would be reviewed and directed by him to Planning, Zoning, etc. Mr. Merante said that as Mr. Chmar had pointed out, it has fallen down and they've had meetings recently to try to remedy the problem. Mr. Merante said that they're working on rectifying the problem.

Mr. Chmar said that's encouraging. He said that in fact, the applicants would be better served if the proper reviews happen up front as opposed to after the fact.

Mr. Merante said that a number of members on the Board have said that. He said that if this had come for review from the very beginning, a lot of the objections the Board had raised would have been taken care of up front.

Mr. Chmar said that he would ask that the Board communicate if there is concern about the process not occurring and register those concerns with the Town Board. He said that in this case the CAC should have reviewed the plan before the driveway went in. Mr. Chmar said that it obviously didn't happen and it's unfortunate for the applicants that they're now having to come

back and do it.

Mr. Gainer said that the again, the Planning Board identified that as soon as it saw the application.

Mr. Hyatt said that he did want it noted that he went over the plans for the driveway with Mr. Weber. He said that the dimensions and turning radius was built for their specifications, for their truck. The length and turning radius was engineered that way, so he potentially didn't see any problems with that.

Mr. Merante said that the Board had a letter from Mr. Hyatt dated December 15<sup>th</sup>. He said that what Mr. Hyatt was talking about was based on revised plans. Mr. Merante asked Mr. Hyatt if he would get a letter in so that the Board could put it on file.

Mr. Hyatt said that the real letter he wrote was in reference to the way the current driveway is. He said with the new plans, he didn't foresee any problems whatsoever.

Mr. Merante asked him again to get something on paper.

Mr. Gainer said that the applicant will be filing a revised EAF, which is not yet in hand, so he did not propose the Board take any further action other than closing the public hearing.

Mr .Merante asked if they had the enclosed technical concerns and the DEC wetlands permit.

Mr. Watson said that he did not believe it required DEC. He said that it requires Town (inaudible).

Mr. Gainer said o.k. and he would notify them. He said that he did not propose the Board take any action on SEQRA because they're going to wait on the revised EAF.

Ms. Doherty made a motion to close the public hearing. Mr. Gibbons seconded the motion. The public hearing was closed. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

### **Regular Meeting**

**Garrison Contracting - Site Plan Approval - Route 9 and Diamond Hill Road, Garrison:  
Site Walk**

Mr. Merante asked Mr. Jones if he and his attorney wanted to respond to the memo from the Board's attorney.

Mr. David Torrey, representing Mr. Jones introduced himself. He said that after the last month's meeting, he called Mr. Gaba the following day and asked to speak to him concerning some of the issues he raised. Mr. Torrey said that he did not get a phone call back until approximately 4:30 this afternoon, when he informed him of at least one of the issues that was raised in the letter with regard to the parking. Mr. Torrey said that he also noticed that the letter raises issues with respect to now an R-40 zoning issue. He said that he would like to inform the Board about the tortured history of this property over the last three years. Mr. Torrey said that Mr. Jones purchased the property in 1999 and used it as a commercial enterprise since that time. In 2006, he started receiving violations from the Town stating that he was operating a business in a residential district and he received violation after violation. Mr. Torrey said that when he consulted his attorney, his attorney said it was ridiculous. He said that he had a non-conforming use letter dated 1961, stating that it had been operated as a commercial establishment since the 1930's, he had a certificate of occupancy that clearly stated that it's in a B-2, the New York State Department of Equalization Assessment property card record that says that it's B-2, and there was no mention whatsoever of any residential use on this property. Mr. Torrey said that curiously in 2007, the Town decided to re-draw its zoning map and of all the parcels in the Town of Philipstown, and his client's parcel somehow found its way from one side of the B zone into the residential side of the B zone. Mr. Torrey said that he's at a loss to explain how that happened. Then in 2008, the Town for the first time he could determine in history, went to the New York Supreme Court and took out a temporary restraining order against his client to stop him from conducting his business on his property and the submitted affidavit stated that his property was zoned 80% residential and 20% business. He said that he did not see any reference to that in Mr. Gaba's letter - he's now saying it's R-40.

Mr. Merante said that the reference of the Board's referring to ZBA for a variance deals with...assumes it's in the B-2 district, because that was what that paragraph was dealing with. He said that's the basis upon which they referred it to the ZBA.

Mr. Torrey said when they went before the Supreme Court and Judge O'Rourke, he wasn't Mr. Jones' attorney at the time - it was handled by Larry Moffi. He said that he understood there was some kind of a consensus reached that it was in a B zone and all you needed to do was file a site plan and everything would be o.k., but in the interim the temporary restraining order would be in place and his client would be out of business during that interval.

Mr. Merante said that he understood the history - he didn't know all the history, but the Planning Board is dealing with it as though Mr. Jones submitted a site plan. He said that the history to the Board is almost irrelevant because they're dealing with it as a B-2 district and whatever the problems were between violations of zoning, etc., he did not think were germane to the discussion of site plan review and the fact that it has to go to the ZBA.

Mr. Torrey said it had to go to the ZBA because of the parking lot.

Mr. Merante said because of a setback of at least forty feet from a straight line of Route 9 in a B-2 district.

Mr. Torrey said that property has had a parking lot on it and has been operating a parking lot for the last seventy years. He said that interestingly enough, right across the street, is a restaurant with a parking lot right on the side of it. Mr. Torrey said that he didn't understand why an existing parking lot cannot continue to be used as a parking lot. He said that if the Board would like to approve the plan without the modifications for the additional spaces, and let him use the existing parking lot as he has for the last many years, why doesn't the Board do that, and then they will refer the other matters to whatever appropriate approvals are necessary. But in the meantime, his client is undergoing severe economic harm at the hands of the Town. Mr. Torrey said that he would like the Planning Board to stop the economic harm that is happening to his client.

Mr. Gaba said that last month, Mr. Torrey came in with a set of plans that said "re-grade area as shown and provide gravel parking area". He said that it shows twelve proposed customer spaces and he informed the Board he was going to do some blasting as he recalled.

Mr. Torrey said excavating - not blast.

Mr. Gaba said that any way you slice it, you're putting a new area in for parking. He said that if they want to take the plans back and remove the new parking, which is the only reason he's being sent to the ZBA, that's his prerogative. Mr. Gaba said that if he didn't want to do that, go to the ZBA.

Mr. Torrey asked if they removed the parking tonight they could get approval tonight.

Mr. Gaba said no. He said to re-submit plans, the Board will consider it, there'll be a public hearing, and they'll go through SEQRA.

Mr. Torrey asked why it was still be referred to in an R-40 district.

Mr. Gaba said that he received Stantec's memos, which indicated that some of the property might be R-40 - it's listed as B-2 and R-40.

Mr. Torrey said that they're confused as to how this property is zoned. He said that it seems to change every time they speak to the Town.

Mr. Gainer said that the adjoining areas of the Town beyond the applicant's parcel are actually R-80 and not R-40, but they're in residential zoning.

Mr. Gaba said that they need a variance for the B-2 plan. He said that if he wants to get the variance, get it. If he doesn't, change the plans. Mr. Gaba said that the R-40 was just noted "if" because it's not shown on their plans - "if" there is an R-40 component to this, they're going to

need additional variances. If there isn't, he doesn't.

Mr. Merante said that the Board is going to move on. He said that they are sending it to the ZBA right now. That's the determination they're making - that based on the B-2 and the advice of their counsel, forty foot from street line requires a variance from the ZBA and they're dealing with a B-2 portion of the site.

Mr. Torrey said a hundred percent B-2.

Mr. Merante said that they are not even dealing with whether it's sixty, seventy, eighty or a hundred percent. He said that they're dealing with a piece that's B-2. Mr. Merante said that as Mr. Gaba said, whatever's R-40 at this moment is irrelevant.

Mr. Torrey said that he hoped the Town is going to be able to justify the treatment of the property directly across the street. He thanked the Board.

### **Public Hearing**

#### **Philipstown Square - Site Plan Approval - Route 9, Cold Spring**

Mr. Paggi stated that they have taken into consideration comments from the CAC, the Planning Board, and the public received at the last meeting, and made certain plan revisions. He said that generally, they feel they have or will easily address all of the concerns. The most significant change that they'll see on the plan is the result of the joint site meeting that was conducted with the D.O.T., the Planning Board Chairman, the Town Engineer, and the applicant to discuss the proposed access to the site. As a result of that meeting, it was agreed that the existing twenty-four foot wide access would be widened to thirty-six feet and the intentions of that widening is to allow wider turning movements for larger trucks and emergency vehicles, basically so that those trucks could enter the site unimpeded while traffic could continue to exit the site. The potential for multiple access was discussed. Mr. Paggi said that it is their opinion that it is not a safe situation and sight distance issues would occur with multiple access points. So the larger point of access, though not a standard....the previous access was actually the standard DOT access for the site and was determined to be acceptable for all parties involved including the DOT. Mr. Paggi said that the other element they discussed was the access to the adjacent property to the north over the northerly property line. It remained the position of the applicant that opening that access - the vehicular traffic to the front of the site, would result in an unsafe condition. He said that they believe it will be used as a shortcut for traffic not necessarily used to patronize the site, but basically to try to find a quicker, more convenient access out of the filling station, which is not a designed factor for this site, and also having additional traffic in the area of the parking and backing lanes in front of the site, they believe would present another unsafe condition. Mr. Paggi said that they do recognize that it is beneficial to keep traffic off of Route 9 where possible, so it was agreed that the rear access to the site would remain open. He said that they recognize that would involve going around the site to access the service station, however, that seemed to be a method of accomplishing the desire of the public and the Board to maintain

access between the sites and to maintain a safe condition where they expect the majority of the traffic to occur in front of the buildings.

Mr. Merante said that they don't show that on the plan.

Mr. Paggi said they don't, but will. He said it was an oversight and that they're actually planning on leaving a twenty-four foot wide access, which would basically be traveling right through the rear of the site. Mr. Paggi said that it's actually curbed now. It was previously opened.

Mr. Meehan asked what was back on the other property.

Mr. Paggi said that it is open.

Mr. Meehan said that there is a car wash there too.

Mr. Paggi stated that the other actual benefit to having access there is that it is where the tankage is for the filling station and when the tractor trailers come in to unload, they would actually block that connection. He said that hopefully it was not difficult for the Board to see that folks backing up and pulling into these sites have a conflicting movement with traffic.

Mr. Merante said that he didn't know until they took the site visit that on the gasoline station side on the other side of the curb, that there are three filling spots and he could see where a tanker would be there and it would be a real problem. He said that he took a difference of opinion with the applicant about people coming from the gas station, using the entrance/exit even as a new or wider one than was before because the entire area was open. Mr. Merante said that he found that much less likely to happen now especially when they have two, semi-restricted entrances at the gas station. He said that he thought people were more likely to go out at the gas station because it would be far more complicated to come through the gas station as a shortcut. Mr. Merante said that was just his opinion based on years of coming in and out of both places.

Mr. Paggi said that the only time it will be a shortcut is if there's people stacked there to get out on Route 9. He said that's when you don't want somebody who's annoyed drive on through with a highway speed and hit somebody who's pulling out of a parking space, which is exactly the situation they want to avoid.

Ms. Doherty said that she would still rather see that curbing access in the front rather than in the back. She said that when you're going to have one person patronizing both the gas station and the square, you certainly don't want them to have to go back onto Route 9 to go from one to the other. Ms. Doherty said that she thought it would be much easier to keep a lane open in the front.

Mr. Paggi said that there's no question it would be easier, but they believe it would be less safe.

Mr. Gibbons said that Mr. Paggi continually refers to “the existing connection between the project site and the adjacent property to the north would be cause to protect the project site from traffic congestion that has historically resulted from this connection”. Mr. Gibbons asked if they had a traffic study that indicates where they historically had a congestion problem traversing from the gas station to the deli or any other store in there, or it was his personal opinion that they’re creating a safety hazard.

Mr. Paggi said that first of all, his opinions don’t mean anything. He said that he’s an engineer and doesn’t have the right to have opinions.

Mr. Gibbons said that he had this written down several times.

Mr. Paggi said that’s right and it comes from information from the applicant. He said that the applicant is opposed to having any connection between the two and the reason he undertook this project and had planned to do that was because he was experiencing heavy truck traffic and they expressed that at the public hearing at the last meeting. Mr. Paggi said that this is documenting the discussion that was conducted at the public hearing where there was reportedly truck parking in there, basically blocking access to the balance of the stores. He asked, “do I have proof or knowledge of that?...no”. Mr. Paggi said that it is not his personal opinion, but is based on the applicant’s experience and that’s why they chose to do this.

Mr. Gibbons said that he would differ with his client’s opinion and thought they have created a real safety hazard. He said that the idea that it is dark in color, somebody is going to drive over that thing. Mr. Gibbons said that they don’t have any lights on it.

Mr. Paggi said that can be addressed.

Mr. Gibbons said that they can color it on either side, but he really thought they needed an opening there.

Mr. Paggi said that he didn’t follow Mr. Gibbon’s thought.

Mr. Gibbons said that he did not think fire apparatus had a safe way of getting in and out of there without having to go the back of the building.

Mr. Paggi said that he thought DOT would strongly disagree with Mr. Gibbons.

Mr. Merante asked Mr. Gainer if he remembered when they spoke with the DOT, they had given any indication/their opinion about opening that.

Mr. Gainer said that he did not think DOT had any concerns about any inner connections between the parcels - either in the front or the rear.

Mr. Paggi said that if they go over there and measure it and it’s twenty-four foot wide, that’s

their standard design for this type of facility. He said that they said that.

Mr. Merante said yes, and if Mr. Paggi remembered, he said to them that standard is fine, but there are exceptions to standard.

Mr. Paggi said yes, he did and the applicant is willing to work with the Board on that.

Mr. Merante said that their standard was twenty-four feet off of Route 9. So their standard now is thirty-six feet.

Mr. Paggi said that's not standard.

Mr. Merante said that he was saying that facetiously. He said that the Board felt that the twelve feet would solve the major concern that the Board has with the prime entrance.

Mr. Paggi said that he thought the Board needed to confer with its technical consultants relative to what's safe and what's not safe, because what they're talking about is a perception and what they have to base it on is studies and what's common engineering practice. Mr. Paggi said that he's telling the Board that right up Route 9 a little bit further, there is a fifty-five mile an hour road up there and these are the types of entrances they have. He said that with the areas where you have wide open frontages, that's where you notoriously have issues.

Mr. Gibbons said that they are also not serving traffic that they will be generating out of this location.

Mr. Paggi said probably two or three times as much.

Ms. Sexton said that's a bit different. She asked why they couldn't make it smaller. Ms. Sexton said that they're putting a twenty-four foot entrance in the back and asked why they didn't just make the entrance wide enough in the front for just a car, so they don't have the problem of tractor trailers trying to squeeze through.

Mr. Paggi said that it was considered and the real concern is vehicles coming through with other people trying to back out or walk across.

Mr. Hyatt said his only concern with the one entrance is that currently that plaza is protected with a dry hydrant that's located at the bottom of East Mountain Road South.

Mr. Merante asked how far away from the site it was.

Mr. Hyatt said maybe a thousand feet. He said that he didn't know if it was that much. Mr. Hyatt said that if the northern end of the building is on fire with the current entrance the way it is, once he lays the line across, any other apparatus he has coming in will not be able to access that parking lot to get off Route 9. He said that his biggest problem is that he will not be able to

get a ladder truck into that building with that curbage across between the gas station and the plaza. He said that once that five inch line is across, you're not driving over that - it's physically impossible to do and he needs to get a ladder truck close enough to that building. If that entrance is blocked, it's going to cause a major problem for ventilation, fire suppression and possibly rescue. Mr. Hyatt said that they don't have a ladder truck - they use one from the Town of Fishkill, which is forty-five feet long.

Mr. Paggi said that they've got that truck.

Mr. Hyatt said that he hadn't seen the plans yet.

Mr. Paggi said that they've got some turning radiuses coming in and he can't understand why they would lay a five inch line across the entrance and why they wouldn't come into the property. He said that there would be absolutely no reason why they'd go further down Route 9 with their line and block the entrance.

Mr. Hyatt said once the apparatus gets into that parking lot, it's going to lay a five inch line in to supply water. He said that they don't have hydrants. Mr. Hyatt said that he hadn't seen the plans yet, but he had a concern with only once entrance.

Mr. Merante asked if the public had any comment.

Mr. Gainer said that the Board's goal tonight was to see if it could resolve the issue of what was preferred for access. He said that they've all seen the memorandum that was prepared. In the discussions with the DOT, the applicant to date has committed to proving the wider entrance and also providing one other connection to the rear of the plaza. Mr. Gainer said that it's really a matter of the Board to provide guidance as to what it sees as appropriate - either accept the offer that's currently being made by the applicant or define what enhancements the Board seeks appropriate. Mr. Gainer said that at the site walk, they didn't appreciate the concerns raised to not open at least to some degree, access between the parcels in the front. It could be limited, they could use berms to minimize any ability to move through there at any rate of speed. He said that hopefully the Board could at least move that issue along in its discussions tonight.

Mr. Merante asked if this needed any referrals to anyone else besides the ZBA on the sign.

Mr. Gainer said not to his knowledge.

Mr. Merante said that the Board would not be able to close the hearing.

Mr. Paggi asked why the Board would not be able to close the hearing.

Mr. Gainer asked if they could treat the sign as a separate matter.

Mr. Gaba said that he would not recommend doing that. He said that the only reason to keep it

open is in case there is a change to the plans. Mr. Gaba said that it's unlikely that the sign's going to be a change to the plans, but it's not going to make a difference anyway when the applicant comes back - it will be one shot and then will get closed, unless there is some major upheaval in the plans.

Mr. Merante said that he would like to get the feeling of the Board on the cross-entrance. He said that the Board has the applicant agreeing to the wider entrance/exit on Route 9.

Ms. Sexton said that she didn't why they couldn't have a small opening in the front.

Mr. Gibbons said that he definitely wanted it in the front.

Mr. Meehan said that it seems logical in the front, but he thought the back was more practical. He said that it would eliminate some safety hazards. Mr. Meehan said that you could have a truck in there, you've got people traversing the property, and he thought it was going to be chaotic.

Mr. Pidala said that he'd rather see it in the back, because if you open the front up, a lot of people are not going to use the main entrance. They're going to pull into the gas station to go to the deli and use it as a short cut.

Mr. Meehan asked if maybe they could make it a one-way.

Mr. Paggi asked how you would enforce that.

Ms. Doherty said that she definitely thought it should be in the front. She said that they could use a speed bump if they're worried about people speeding back and forth. Ms. Doherty said that she wanted to point out that not too far south of that property is the Philipstown Fruit Market. It's one business and they have two curb cuts there - an entrance and an exit.

Mr. Pidala said because they don't have the distance. He said that you have to park on the angle - they don't have the room to park.

Mr. Merante said that the gas station beyond this place has two - entrance and exit also. Mr. Merante said that he concurred with that and thought they need an opening in front. He said that there are ways to control it.

Ms. Conner said that she agreed with the front.

Mr. Gibbons said that seeing that they had a general consensus, he'd just back off.

Ms. Montgomery said that maybe it would be a good idea to put the applicant in touch with the RVA Planning Engineering Firm that was hired by Putnam County to do a study of that area - the North Highlands. She said that when they sat down with them and looked at their plans for

the future of that area, they had some strong recommendations about that barrier. Ms. Montgomery said that it would be good to just get another expert opinion from someone who's got no experience with Route 9 - not an opinion of what should be there and didn't know what was there before.

Mr. Merante asked Ms. Montgomery if she would make that information available to Mr. Gainer.

Mr. Chmar asked if outdoor lighting had been reviewed thoroughly.

Several Board members said yes, it had.

Mr. Merante said that the applicant would go to the ZBA.

Mr. Merante referred to a letter from Mr. Klotzle, Wetlands Inspector regarding issues he raised and asked if Mr. Gainer had seen it.

Mr. Gainer said yes he did, as did the applicant.

Mr. Paggi said that they have no issues, no problem responding to any of them. He said that they think they're relatively standard responses. Mr. Paggi said that he raised questions about the Health Department, and obviously, the Health Department wouldn't have approved the system designs - it's not even in the purview of the Planning Board to review those designs. It's really their jurisdiction. Mr. Paggi said that he raises issues about potential dry cleaners and obviously, there are all sorts of regulations that would prevent any discharge of those systems. He said that they will address all of those in writing for the Board's records, but he did not see any issue there.

Mr. Gainer said that he did speak to Mr. Klotzle this afternoon and he does acknowledge for the most part that a lot of this exists to make sure he finds some information that really won't affect the design anyway because the project's essentially on the ground. He said that he expressed to him that the greatest concern that he understood from this was that it was relative to potential wetlands Mr. Gainer said that he expressed a need for the applicant to commit to no disturbance beyond the limits of the existing pavement in the rear. And also the provision of screening to prevent any unauthorized access that would mitigate concerns that they would have over the (inaudible). Mr. Gainer said that Mr. Klotzle understood that and thought that would be appropriate if those matters could be evidenced on the plan. He said that he still would be contacting the Health Department, which he has every right to do.

Mr. Paggi said as a point of clarification, disturbance beyond the existing paved area would be limited to plantings.

Mr. Gainer said exactly.

Mr. Paggi asked if the Board had the opportunity to take a look at some of the photographs they

sent in, because there were some concerns that were brought up from the public about some mounds that they said were dumped, but it was really just some soil stock piles that vegetated.

Ms. Doherty asked what Mr. Paggi was referring to.

Mr. Paggi said that there were photographs submitted. He referred to the plan and said that probably the most important thing is that this area (pointed out) is heavily vegetated right now. Mr. Paggi said that they don't want to be touching anything there because it's well established. He said that if there's any screening that would happen, it would probably happen along the rear of the parking area, which would probably be the most affective screening. Mr. Paggi said that right now, the area is natural with some mature deciduous trees and a lot of low shrubs. He said that it was actually his hope that they would be able to move forward to the next meeting and ask the Board to direct its consultant to prepare a Resolution of Approval for the Board's consideration, but with the stipulation...it sounds like the Board is directing them to decide whether they agree to put in an extra access. Mr. Paggi said so if they decided not to put the access in, they will deny the project.

Mr. Gibbons said that they're indicating that the existing roof runoff in the paved parking area is going to be discharged into Clove Creek. He said that they've acknowledged that Clove Creek is a Class A stream, but they've also indicated that it's not been identified as a protected body of water.

Mr. Paggi said that was incorrect and that Mr. Gibbons was taking it out of context. He said not as protected as a 303D listed stream, which is a specific stream that has designated standards for pollutant discharges.

Mr. Gibbons said that he was absolutely correct, but it has been designated in the Comprehensive Plan as a very vital body of water. He said that at the last meeting, they discussed using the filters and asked if that device was going to be used in this application.

Mr. Gainer said that they have a number of issues with the EAF materials and the Part 3 statements that were made by the applicant and the applicant's engineer understands there's need for some revisions to those commitments. He said that they've just not resolved the corrected statements that will be re-submitted. Mr. Gainer said that there's a corrected Part 3 statement that will be forthcoming once he is satisfied.

Mr. Scanga said that the whole situation they're in wasn't caused by them. He said that they put an entrance in that they got a DOT permit for, they're willing to compromise, spend more money to help make the Board feel it's a safer entrance, which in fact, he thought was the way DOT issued the permit the first time. Mr. Scanga said that they're also willing to give them twenty-four foot lanes in the back. He said that he was not willing to give them in the front. If any patrons using either property - his or the gas station, and want to goback and forth, it will be wide open for them to access both properties through the back. Mr. Scanga said that's what they're willing to do. He said that they'll give them twenty-four feet in the back, they're opening

up the entrance and he thought that was more of a compromise at this point than they really even need to be talking about. Mr. Scanga said that they were given a valid building permit and proceeded the way they were supposed to, installed everything according to permits and now they're willing to take the Board's considerations, but (did not finish sentence).

Mr. Merante said that the curbing between the properties...the problem was on the original plan. He said that Mr. Scanga said they did all the things that were required of them, but he can't picture that it was a requirement of him, rather than a personal preference - that he didn't want to mingle with the other commercial lot. Mr. Merante asked if that was correct.

Mr. Scanga said correct.

A gentleman (unidentified) asked if when the applicant first submitted the building plan for the parking lot, they proceeded to submit it to the Board.

Several Board members said no.

Mr. Merante said that it is a bone of contention. He said that the Board maintained all along that it should have come to the Board for site plan review. Mr. Merante said they went to the Building Department and got what the Board maintained was a legal building permit. Through pressure from the Planning Board, it was finally submitted to the Planning Board for review. The project was eighty percent done. Mr. Merante said that they're not contending with anything that's gone before - they've got Board of Health approval, a lot of approvals, a lot of work done, and the Board understands that. Mr. Merante said that they've got a lot of investment in this property. He said that their concern right now is safety. They all have a lot of experience with Route 9 and that's why they're pushing this issue. Mr. Merante said that it was not submitted to the Board in the beginning and would have been taken care of a long time ago had it been.

Mr. Hyatt asked if with regard to the curbing, from the Fire Department's standpoint, the owner would be willing to cut out a twelve foot section of the curbing and put a gate in there that would only be accessible by the Fire Department for emergency access or if it would be considered an eyesore.

Mr. Merante said that's what the Planning Board's been looking for - not just the Fire Company.

Ms. Doherty agreed and said, give them a twelve foot access - cut the curb twelve feet in the front and leave it.

Mr. Scanga said in response to the Fire Department having access, if they have a twenty-four foot access at the back of the property rather than the front of the property, you still have more than one way to get in and out of this piece of property. He said that it shouldn't hinder any apparatus that you need to get in there.

Mr. Hyatt said that again, he hasn't seen the plans as of yet.

Mr. Merante said that Mr. Hyatt should see the plans and should also walk the property - front and back.

Mr. Scanga said that they did submit plans to the Fire Department, received comments back from the Fire Department, and complied with all the comments they made - otherwise, they wouldn't have gotten the building permit.

Mr. Merante said that he was told, but hadn't seen anything in writing that the plans were initially submitted to the Fire Marshall and he submitted a two-page report, none of which the Board received. He said that the only thing he got was from the current Chief, Joe Hyatt, dated December 15, 2008.

Mr. Hyatt said that from the Fire Department's standpoint, they have not seen any plans whatsoever for this. He said that the Fire Marshall may have, but they had not.

Mr. Gainer said that he thought the public hearing should be continued and the Board could move on to its next item. He said that in the interim, he was still going to work with the applicant's engineer to resolve the environmental issues they had talked about.

#### **Maria & Johan Jung - Petition for change of zoning: Discussion**

Mr. Merante said that the Board looked at the Jung property. He read the last paragraph of Mr. Gainer's statement to the Planning Board - "It is the opinion of those present that in the absence of a specific development proposal that could illustrate that such concerns could reasonably be mitigated, the re-zone request simply being based upon the adjacent use as being in the B-2 zone did not have merit." Mr. Merante said that the key is the sight distance.

Ms. Doherty said the sight distance to the north is almost non-existent.

Mr. Merante agreed and said less than a hundred feet.

Ms. Doherty said that any use there that would increase the amount of traffic, they'd just be waiting to hear the screeching of brakes.

Mr. Merante said that originally, in his recollection, this came to the Planning Board as a referral from the Town Board. He asked the Board for comment.

Ms. Sexton said that the sight distance is very short. She said that she was not adverse to the applicant having particularly an office, but the Board doesn't know exactly what's going to go in there. Ms. Sexton said that this applicant says it's an office. She said that she asked about a limited B-2 and it doesn't change the sight distance.

Mr. Merante said that in paragraph three, it says, "there is limited potential for parking on this site in areas which are not steeply sloped". He said that once you get to the flat part of the

driveway, you're actually right in front of the building, and there might be two spaces.

Mr. Gibbons said that as far as an in-home business, he didn't have a problem with that. He said that his problem is that he'd requested from the applicant a letter from DOT in regards to the sight lines, they haven't seen that and without that he couldn't be in favor of this.

Mr. Meehan said that he wouldn't indicate what kind of business he was going to have there. He said that his son was going to have some sort of a contracting office, but wouldn't say how much traffic was going to be generated.

Mr. Merante said that it is almost a moot point because if it's changed to B-2 he can have anything there today or next year.

Mr. Meehan said that he was saying he had no plans.

Mr. Merante said that if he sold it tomorrow, the next guy coming in to a B-2, could do whatever he wanted.

Mr. Pidala said that he agreed with regard to there being no sight distance.

Mr. Gainer said for clarification purposes, this matter did reach the Planning Board by referral from the Town Board and is before the Planning Board for comment. He said that there's no need for a public hearing and no need for SEQRA action.

Ms. Doherty made a motion that the Board authorize the Chairman to sign a letter to the Town Board stating the Planning Board's feelings.

Mr. Merante said denying the petition for change of zoning.

Ms. Doherty said that the Board does not think it's appropriate.

Mr. Meehan seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

**Mary Ellen Finger - Application for five-lot subdivision - Horsemen's Trail Road, Cold Spring: Revised materials**

Mr. Watson said that they had submitted revised materials. He said that the presentation drawing is the same drawing, so he would just point to the differences. Mr. Watson said that a number of

changes were made in the road in its profile, in the drainage. The drainage basin was moved. They updated an easement through the front lot for the farm lot, so there would be less disturbance and so they could continue to use the drive. Mr. Watson said that they've done new calculations for the drainage and he believed they were submitted to Mr. Gainer's office. There was concern about the length of the driveway and they pulled all the stuff down as far as they could. Mr. Watson said that they've put some retaining walls in there. He said that there's a particular tree that Dr. Finger wants protected and they're taking care of that. Mr. Watson said that they think they've minimized the potential disturbance on that to the greatest practical extent. He said that there really hasn't been any change in the farm lot other than the driveway that he mentioned. Mr. Watson referred to the plan, pointed to the lots and said that they've been adjusted - very minor adjustments to accommodate the extra room that's needed for the easement. He said that they think they've polished it up pretty good and they know there's still a couple of technical issues.

Mr. Gainer said that the Board had received a technical memo from his office. They tried to summarize the status. The Board has seen the project for a long time and the Highway Superintendent's been out. Mr. Gainer said that there have been revisions to the plan to incorporate the shortened access for Lot Five at the request of the Board. He said that they still don't have the calculations, but he understood they were forthcoming. Mr. Gainer said that in the Board's view and as summarized in the memorandum, the public hearing was closed some time ago, so they might be in a position to consider a SEQRA Declaration and consider action. He said that he just granted preliminary subdivision approval. Mr. Gainer said that a few things that would be typical conditions of a preliminary approval. One would be just receipt of the (inaudible) approval for the designs on the lots. Mr. Gainer said that there was discussion at the public hearing to seek to have a conservation easement placed on the rear of Lot Three - the large lot that goes all the way to the west and abuts the steep slopes and vegetated areas. He said that there was an understanding or desire to see a conservation easement on the plan. Mr. Gainer said that if it's still the position of the Board, that would obviously be a condition. He said that there were some other technical issues to be resolved and they can be resolved conveniently. Mr. Gainer said that they did draft a SEQRA Resolution for the Board's consideration if it's prepared to act tonight.

Mr. Gibbons asked what the reason was for the conservation easement.

Mr. Gainer said it was to minimize disturbance to the steep slope area as well as the day-to-day (inaudible). He said that the applicant will still have use of the property - they are not proposing no use of that.

Mr. Gibbons asked if the applicant was already maxed throughout the property as far as development goes.

Mr. Gainer said that they could still put sheds or do clearing on the property.

Mr. Watson said that Mr. Gainer called him this afternoon to remind him of that discussion. He

said that he thought it first came up when he made the site visit. Mr. Watson said that he did recall and since had spoken to Dr. Finger about it. He said that she is willing to consider a conservation easement on the rear part of the property. It's very steep and rocky, but it is something that she uses. Mr. Watson said that they're talking about protecting the slope from future development and he thought she was willing to consider that provided that she doesn't totally lose use of the property, particularly for the agricultural purposes to which that lot will be dedicated for the foreseeable future. He said that he thought between the consultants and Dr. Finger, they could work out something that's going to accomplish the Board's goal of protecting the steep slopes and her goal of keeping some of the value of the property for her.

Mr. Gaba asked if they were talking about a deed restriction or just a note on the plan.

Mr. Watson said that since they're talking about a conservation easement, it has to be received by somebody and he believed Mr. Merante and he had a conservation and he said it probably wouldn't be appropriate for them to have it, but it could be the Town that received that. He said that the Town would probably have to be the recipient of it.

Mr. Merante asked if that was dependent on the Town's willingness to accept it.

Mr. Watson said that the Town has to accept it - yes.

Mr. Merante asked if the Town had done this in the past.

Mr. Watson said that he did not have any knowledge of the Town ever having (did not finish sentence). He said that the deed restriction has the same effect except that it is only enforceable when standing by the owners of the parent parcel.

Mr. Gaba said that he thought the next door neighbors might be able to as well.

Mr. Watson said that he did not know what basis it would be because there wouldn't be any grant of interest in that property for them on a deed restriction.

Mr. Gaba said that he thought you could make an adjoining property owner...you could allow them to enforce it. He said that he'd have to look that up.

Mr. Watson said that he supposed there was a way to do it. He said that he supposed you could make them a grantee somehow. Mr. Watson said that it would be a lot easier if the Town just held the easement, which is what you would typically see. The Town of Cortlandt holds easements all the time.

Mr. Montgomery said that she thought the issue was raised initially because of its proximity to Lake Valhalla.

Mr. Merante said when the Board was looking at it, that didn't enter into the discussion. He said

that they saw that it was so steep.

Ms. Montgomery said she thought because of the proposed development in the North Highlands on a piece of property that's an important vital piece of the Open Space Index and to protect that, was why they suggested the easement.

Mr. Gainer asked Ms. Montgomery if that would then indicate that the Town Board would be interested in accepting the easement.

Ms. Montgomery said that she did not think she could speak for the Town Board this evening, but she would be interested and she could find out. She said that it was certainly something they could discuss.

Mr. Chmar said that it is a perfect opportunity for the Town to accept the easement. He said that the only enforcement or requirement...and really what you're protecting is future development on it so that any applicant that came before the Town in the future and asked to build a house on that slope, the Code Enforcement Officer would have the easement sitting there and would realize you can't - the Town won't allow you to do it. Mr. Chmar said that there are plenty of towns to do it. This Town doesn't have any examples where it's accepted easements, but there are towns all over the states/nations that accept the easements if it's in the best interest in the Town.

Mr. Merante asked if it could be worked out between the attorneys.

Mr. Gaba said if that's the way they want to go.

Mr. Merante asked if that was the census of the Board. He asked which way...the conservation easement of the parcel.

Ms. Doherty said she thought the easier way, yes.

Mr. Gibbons said as long as the applicant is willing.

Mr. Merante said that she has indicated that.

Mr. Meehan said however they want to protect that property.

Mr. Gibbons said it would be his understanding that it's just so that a barn or garage doesn't go back there...or another building.

Ms. Doherty made a motion that the Board adopt the Neg Dec on this application. Mr. Meehan seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor

Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

Mr. Gaba said that he would have a written Resolution. He said that if the Board wanted to do it early and then have a Resolution later for adoption, that's fine, but he really didn't think the Board would save that much time.

Mr. Merante said the Board will wait until it gets the written Resolution.

**Garrison Station Plaza Inc. - Site Plan Approval - 7 Garrison Landing, Garrison: New submission**

Mr. Watson said that they have a site plan for the Garrison Station Plaza application to convert the former Guinan's store into an existing residence in the building and office space, rather than the pub/deli use that was there until not too long ago. He said that very little will change physically - improvements to the access in front of the building to get down to the bottom, the parking is rented parking from Garrison Landing Associations, and there basically is no septic system. Mr. Watson said that there probably never has been and there's no room to put a septic system in, so they've applied for a small package treatment plan to be put in place of that. He said that application is underway. Mr. Watson said that the property is at the end of the Landing Road. With regard to its particular uses and with regard to the building, he will introduce Jeff Wilkinson, the architect on the project. Mr. Watson said that they're hopeful that at the end of this discussion, the Board would schedule a public hearing for next month.

Mr. Wilkinson said that the building, which is approximately a hundred year old structure, is a wood-framed building. The layout is actually a close to five bedroom (inaudible), then the tavern with a kitchen, a dining area and a small gathering area. He said that their proposal is to make the main floor a professional office - basically a reception area and a large open floor plan. The ground floor below will be a similar setup where there will be an open floor plan/special office space. Mr. Wilkinson said that the main improvements will be removing the existing exterior stucco and they'll be redoing all the doors and windows using a (inaudible) of windows with (inaudible) siding. He presented a plan with the proposed color scheme for the second floor. Mr. Wilkinson said that the second floor will be a two-bedroom apartment with a balcony area. In terms of exterior lighting, they will be (inaudible) store front piece, being metro north is right there and the landing is fairly well-lit. He said that they see no need for additional lighting. Mr. Wilkinson said that there's really no change to the footprint on the building. It will be completely newly sided and a fair amount of the structure will have to be re-built, so in terms of architecturally, he calls it basically a building permit application and all the fire (inaudible) will be put in place.

Mr. Merante said their reason for being there is change of use.

Mr. Wilkinson said that the change of use is going from bar/tavern use at this one level - the

former use, and they're downsizing from a five bedroom to a two-bedroom.

Mr. Gaba asked if they were changing the footprint of the building at all.

Mr. Wilkinson said no change to the footprint of the building.

Mr. Gaba asked, how about the height of the building?

Mr. Wilkinson said no change in the height. The existing roof structure is staying the same.

Mr. Gaba asked if the balcony was a change to the roof structure.

Mr. Wilkinson said that the balcony is an addition, but it's (inaudible) the existing structure.

Mr. Merante said that right now it's a porch.

Mr. Wilkinson said it was used, but there were many safety issues.

Mr. Gaba said, but they're not really adding anything.

Mr. Gainer said that there are no exterior changes and the balcony is being placed over the former roof.

Mr. Pidala asked what they were doing for parking.

Mr. Wilkinson said that there are a number of spaces required and the number that (inaudible).

Mr. Pidala asked about a sign and fence.

Mr. Watson said that they can. He said that they don't know if they did or not.

Mr. Meehan asked if they had to rent the parking spaces.

Mr. Watson said that it is a funny situation. He said that this property is owned by Garrison Station Plaza Inc. Mr. Watson said much of the rest of the property is owned by Garrison Landing Association. He said that the stock of it is owned by Garrison Landing Association. Mr. Watson said that it is a very tightly held piece of property - it's not a hundred percent, but he thought seventy-five percent, he was told. The parking area is owned by the Association and the Association rents it to the nephew. Mr. Watson said that the parking is along the edge where it is now (pointed it out on plan). He said that they could put up signs for handicapped if that's what the Board wants.

Ms. Conner said that she's been down there a lot and it didn't seem to her that there were fifteen spaces. She asked if they were narrower.

Mr. Merante asked if they were spaces that lead from the closest one to the site going down toward the Depot Theater.

Mr. Watson said it's just over the number of spaces that were (inaudible).

Ms. Conner said that when someone would park there when it was Guinan's, there were maybe five or six spaces that were designated for Guinan's and then the other spaces seemed to be designated for other buildings on the landing. She said that she was trying to figure out who loses a space or if the fifteen were actually all designated for Guinan's in the first place and she asked if it didn't matter because it's the Association.

Mr. Watson said who's got a designated fifteen from the landlord. He said that he couldn't stand there and say that somebody doesn't come down to visit one of the houses across the street or when somebody going to the theater doesn't get there first and park in it, because they all know that happens.

Mr. Gibbons said that if he could shake his finger at the person who's coming up with this, he couldn't shake it vigorously enough. He's not upset that they're losing the tavern, but he thought there had been a short-sidedness as to what this building has meant, can be and continue to be. Mr. Gibbons said that he did not know what they could do to convince the applicant that this would make a great little deli still, and serve the community the way it has for years. He said that said, he'd go for the apartment. Mr. Gibbons said that he believed they have a restriction on the size of an apartment and he believed they are over-utilizing that space.

Mr. Wilkinson said that the existing apartment is being downsized. He said that the applicant did due diligence in terms of seeking request...they got several proposals.

Mr. Gibbons asked if the owner was a non-for-profit organization or a for-profit organization.

Mr. Wilkinson said that it is a for-profit organization.

Mr. Watson said that he believed the reference to the limitation of a size of an apartment has to do with accessory apartments, which they fairly recently enacted. He said that this is not an accessory apartment. It is a single dwelling unit that's allowed among the uses in this district. Mr. Watson said that they have lots of examples. He said that an accessory apartment is attached to the main dwelling unit. Mr. Watson said this is the main dwelling unit in the property, so they are not subject to that limitation.

Mr. Gaba said that the only issue from his point of view was that they are structurally altering a non-conforming structure, but it looks to him, based on what they've said tonight - like they're not increasing degree of non-conforming. He said that if anything, they're making it more conforming. So unless something unusual crops up, he did not see any need to have this referred. Mr. Gaba asked if the Board was the only involved agency on this.

Mr. Gainer said that the Department of Health will be involved and there's a required referral to Putnam County Planning.

Ms. Conner asked if the septic issue and the proximity to the river require (did not finish sentence).

Mr. Watson said that their investigations led them to conclude that there really never was a septic system.

Ms. Conner said but you have to have one now.

Mr. Watson said they have a situation that has to be corrected. He said that an office use will have less flow than a tavern, restaurant or deli use that was going on there. Mr. Watson said that the apartment use statistically, since the bedroom count is going down, is a theoretically less use. But they are putting in the package treatment plan, which essentially is a sewage treatment plan like is in the village. Mr. Watson said that it absolutely will go into the river, but it will be treated.

Mr. Merante asked if that is what they call a tertiary if the water will (did not finish sentence).

Mr. Watson said that he didn't want to say that, but would think that's what it is. He said that he would check.

Ms. Conner asked if there were water district issues at all.

Mr. Merante said that the Landing has its own water. He said that work has been going on and the building is gutted. Mr. Merante asked if they got a building permit.

Mr. Wilkinson said that basically they applied for a building permit and were referred to the Planning Board. He said that work has stopped since...quite a few months.

Mr. Merante said it was a long time ago.

Mr. Pidala made a motion to set a public hearing for next month. Mr. Gibbons seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

Mr. Merante said that he thought they should also schedule a site visit. He said that it would have to be noticed in the paper.

Mr. Gaba said that the Board should type this an Unlisted Action and declare itself Lead Agency - an Uncoordinated Review.

Ms. Doherty made a motion that the Board declare itself Lead Agency and declare this as an Unlisted Action. Mr. Gibbons seconded the motion. The vote was follows

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

## Minutes

January 22, 2009

Ms. Sexton stated that on page 8, paragraph 4, line 4, it should really read, "...plaza. There was an entrance on the south side that allowed cars to turn in, but now when people have to turn into the plaza when a pepsi-cola truck is making a delivery, it's a disaster. She said that it was unsafe and maybe the Board could talk with DOT". Line 8 - It should say "if someone is coming out south, there's no way a box truck can turn in there safely". On page 12, line 11, it said, "he said that they've discussed an elevator, but they felt the amount of business did not warrant one". Line 12 - It said, "Mrs. Sexton said if they build further since all the space was insulated" She said that she was questioning what they were going to do with offices and the way it reads didn't make sense. On page 19, paragraph 10, line 2 - Mrs. Sexton asked a question "the reasons why the project is exempt from meeting a handicapped access requirements according to current building laws and state and federal accessibility laws" and the only reason she knows is because she wrote it down. In paragraph 12, line 1, "the striped zone should be on the drivers side ...just remove the word "right".

Ms. Doherty said that she had one correction - Page 8, bottom of page, "Ms. Doherty said that she thought what they're doing looks very attractive, it's going to be a big improvement, but really would like to see *something else done* at the entrance".

Ms. Doherty made a motion to adopt the minutes as amended. The motion was seconded.

The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor
Pat Sexton	-	In favor

## **Old Business**

### **-Bardes application**

Mr. Merante said that after the Lyons site visit, Ms. Doherty, Mr. Gainer and he looked at the Bardes property. He said that he had submitted a letter, which he did not have at this time. Mr. Merante asked if the Board wanted to wait until April to make sure that the (did not finish sentence).

Mr. Gainer said that the applicant had requested release of the landscaping bond and he thought the request came in December or January.

Mr. Bardes said that he had been trying to do it for like a year and a half.

Mr. Gainer said that the Planning Board was notified by the Building Inspector of the request and he thought they had a thaw out in January, and they met Mr. Bardes. He said that there was significant snow cover on the ground and very little could actually be ascertained as to what existed. Mr. Gainer said that Mr. Bardes offered to provide photographs, which he did do. He said that there were some changes made to landscaping, but they didn't consider them to be significant, however, he wanted to make sure that the Board would give him guidance as to how to process the matter, since he personally could not verify by personal inspection that the landscaping is in place and healthy. So they had a few Board members at the Lyons site visit stop in at the site, and it was expressed to him at the time that the Planning Board should really wait to at least assure that the landscaping was healthy and in place and then the Board would consider action. Mr. Gainer said that he would presume that would mean April and they notified Mr. Bardes of that.

Mr. Merante said that he sort of felt that the Board wanted to see the plantings, but in thinking about this, if the Planning Board sends back its recommendation to the Town Board, it won't be until the March meeting that they approve it. He said that he did not know if he wanted to wait one more month. Mr. Merante said that is what they decided at the site, because he and Ms. Doherty were the only two there. Mr. Merante asked if the Board wanted to discuss the issue as to whether to do it now or wait another month.

Mr. Bardes said that the plantings were put in, but they have proposed (inaudible) that show the plantings.

Mr. Merante said that they're from last year.

Mr. Bardes said that they're from 2006. He said that they survive the winter. So the plantings are in. Mr. Bardes said if the plantings do not survive, it wouldn't be the Planning Board's thing - it would be the Code Enforcement officer. He said that all he is asking for is his money back that he laid out to say he would put the plantings in and he did. Mr. Bardes said that if the plantings do not survive, that's not the Planning Board's responsibility.

Mr. Merante said that the Resolution usually indicates that the plantings are to be maintained in a

vigorous...(did not finish sentence).

Mr. Bardes said that he is also a landscaper. He said that he's asking for his money back because in these economic times, it's hard.

Mr. Merante asked the Board for comment.

Mr. Gibbons asked what type of finance they were talking.

Mr. Merante said about \$10,000.00.

Mr. Gibbons asked if there were plantings like evergreens that the Board can give him eighty percent of his money back and wait to see if the dogwood's (did not finish sentence).

Ms. Conner said that she drives by there everyday and would tell the Board that this past summer, it was beautiful. She said that the applicant did a beautiful job.

Mr. Bardes said that he did over and above what was called for.

Ms. Conner said that there were some really spectacular black-eyed susans.

Mr. Pidala said that the landscaping looked nice. He planted trees on the left hand side as you come in and they're all done.

Mr. Bardes said plus there's three hundred bulbs in that area. He said that he planted way more than what was required.

Mr. Meehan said he would say give it back to the applicant.

Mr. Gibbons asked what building it was.

Mr. Bardes explained where it was.

Mr. Gibbons said that everything there was coming along well. He said that he had no problem with it.

Mr. Gibbons made a motion that the applicant be given his money back. Mr. Pidala seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Kerry Meehan	-	In favor
Andrew Pidala-		In favor

Pat Sexton - In favor

Mr. Merante said that the Planning Board would send a recommendation to the Town Board to return the funds.

**Miscellaneous**

**-Proposed Zoning**

Ms. Doherty said that she would like to know where the Board was with its recommendation regarding the proposed zoning and asked if they were going to send their recommendations to Joel or not.

Mr. Merante said that they had recommendations from three folks - Ms. Doherty, Mr. Gibbons and Ms. Conner. He said that they can do it two ways - send it individually or as a package, to Joel. Mr. Merante said that if the rest of the Board gives him something, they can send it directly to Joel. He asked Ms. Montgomery if she had an idea when they were going to reschedule the meeting that was cancelled.

Ms. Montgomery said that they have a workshop on Wednesday, the 25<sup>th</sup>.

Mr. Merante asked if it was with Joel.

Ms. Montgomery said not with Joel. She said it's a workshop at the Rec Center.

Mr. Merante asked if the Planning Board could submit them to her, the Town Board or Joel.

Ms. Doherty said that in the email sent to her by Joel, she had the sense that he wanted to know that the rest of the Board agreed with their individual comments.

Ms. Conner said that she didn't send her comments to him, she sent them to Mr. Merante, but she could send them to him.

Mr. Gibbons said that he sent it to the Town Board a long time ago.

Mr. Merante asked that the comments be sent to Joel.

Mr. Gainer said that he sent his comments just to the Board back in November.

**Adjourn**

Mr. Gibbons made a motion to adjourn the meeting. Mr. Meehan seconded the motion. The vote was as follows:

		Anthony Merante	-
		In favor	
Kim Conner	-	In favor	
Josephine Doherty	-	In favor	
Michael Gibbons	-	In favor	

Kerry Meehan - In favor  
Andrew Pidala- In favor  
Pat Sexton - In favor

Respectfully submitted,

Ann M. Gallagher

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

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