

**Philipstown Planning Board
Meeting Minutes
September 20, 2007**

The Philipstown Planning Board held its regular monthly meeting on Thursday, September 16, 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 Michael Gibbons Kerry Meehan Andrew Pidala Pat Sexton Steve Gaba, Counsel Tim Miller, Planner Brian Bury, Tim Miller Associates
Absent:	Josephine Doherty

Public Hearing

Edward L. Ochsenschlager - Approval of a two-lot subdivision - 398 Route 301, Cold Spring: Submission of subdivision plat, sight distance analysis/discussion

Mr. Watson stated that they were seeking to re-establish the original division line between what Mr. Ochsenschlager originally owned and the westerly parcel, which he bought some years later. The easterly parcel is an existing dwelling with a septic area that alleviated a potential for a septic easement they had thought they would need, but they are not seeking that. Mr. Watson said that they met with the Planning Board and inspected the westerly lot. During the meeting, the Board asked that they consider moving the driveway from north to south of the barns and they submitted a revised drawing. Mr. Watson said that one of Mr. Miller's and Mr. Bibbo's comments was that the bridge probably needed repair and Mr. Miller's office originally suggested that an inspection be made. He said that they have engaged Tactonic Engineering to inspect the bridge and prepare a report. Mr. Watson said that he spoke with Mr. Lukasic from that office today, and he expects to have the report in approximately a week and at this point, they are expecting that the repairs are going to be made. He said that will require them to get a DEC permit. Mr. Watson said that they also had a concern with regard to sight distances, and they provided in the most recent submittal, sight distances from the new driveway location.

Mr. Gibbons said that in going back to the original piece, they had discussed the situation with the septic field and asked if that were to fail, it could possibly be re-built in its present location.

Mr. Watson said that it depended on the failure. He said that it is conceivable that it could be repaired in its present situation, but they wanted to make sure they had an area that would be

suitable. Mr. Watson said that it is not an easy fix because it would have to cross the stream, which means excavation of the stream, state permits, etc., but that's really the only solution they have and is the only solution they have regardless of whether the Board approves the subdivision or not.

Mr. Gibbons said that he realized that but wanted it on the record that the Planning Board has looked at the situation. He asked if an engineering study was done on it.

Mr. Watson said that they did the typical deep percolation tests in the area and found enough soil.

Mr. Pidala asked if when they repaired the bridge, they would put guardrails on there.

Mr. Watson said that he was sure the designer would put guide rails.

Mr. Pidala said that sight distance....He asked if the State owned the property.

Mr. Watson said that the State right-of-way used to go straight out. He said that now it bends over (pointed out on plan), so the sight distance is over the unknown piece of property, which he guessed Mr. Ochsenschlager thinks the Rockets own, but he has permission to trim that.

Mr. Merante asked if Mr. Watson anticipated the bridge would need to be repaired or replaced.

Mr. Watson said that he did not know the answer to that question. He said that it certainly would need significant repair.

Mr. Merante asked if he said that he expected the report within a week.

Mr. Watson said thereabouts.

Mr. Merante said that he was concerned about the road with five hundred and eighty something feet. He asked if the long sight distance was a requisite for brush and stuff being cleared so they can have that sort of a sight distance.

Mr. Watson said it is being cleared - yes. He said that it would have to be maintained clear.

Mr. Merante said that the Planning Board just received the memorandum tonight from the CAC. He read the letter aloud. Mr. Merante said that he wondered where that put the Planning Board regarding moving ahead on the application.

Mr. Miller said that he thought there were a couple of things. He said that first of all, they have a State wetland on the property and the improvements to the bridge are potentially regulated by the

State.

Mr. Watson said that they are definitely regulated by the State.

Mr. Miller asked if they would also be regulated under the Town's wetland code.

Mr. Watson said yes.

Mr. Miller asked if they had submitted a wetland permit application, as he did not see one.

Mr. Watson said no.

Mr. Miller said that the Board needs to have a wetland permit application along with the bridge improvement plan which is also subject to a public hearing.

Mr. Watson said that it is a little different. He said that it is a driveway - it is not a common element to the subdivision. Mr. Watson said that it might not be built for a couple of years. He said that there is no reason why they couldn't submit a wetlands permit application with the building permit application.

Mr. Miller said that first of all, this is the only place he could put the driveway.

Mr. Watson said where it is.

Mr. Miller said right. He said that it is the only place they can approve the road. Mr. Miller said that he thought it would be prudent and consistent with SEQRA, which suggests that all connected activities should be addressed simultaneously.

Mr. Watson said that he wondered if it was actually regulated by the Town.

Mr. Miller said that was what he was asking.

Mr. Watson said that it is certainly normal maintenance.

Mr. Miller said that it says, "any routine driveway maintenance if the activity will not cause pollution or erosion of a water course or a controlled wetland or interfere with natural drainage", but they don't know right now what the extent of necessary improvements might be for that bridge.

Mr. Watson agreed.

Mr. Miller said, so they can get their bridge plans and decide if its routine or if it would result in placement of new concrete or excavation or piling and they could talk about it at the next meeting.

Mr. Watson said that he did not know why that was necessary as a part of the subdivision approval because it would be a driveway improvement that would be done when the house was built.

Mr. Miller asked if there was going to be, as part of the subdivision approval, an improvement plan connected with the bridge.

Mr. Watson said that originally, they hadn't thought that there was going to be and he didn't know that it was necessary. He said that he thought it could be submitted at the time of the building permit.

Mr. Miller said that he would put that in front of the Planning Board as to whether or not it felt it's desirable to have it reviewed as part of the application - including reviewed by the Planning Board's consulting engineer, or whether it would like to postpone that to a future time before the Building Department.

Mr. Merante said that even though it is only a driveway, it is a sole access to a proposed residence. He asked why would they not have the same considerations as with another bridge they built about a year or so ago over Clove Creek .

Mr. Watson said there is no comparison - they're talking a bridge built a year ago over Clove Creek, and was serving nine or ten families in a situation where there was no emergency services. Mr. Watson said that this is very simple - if it doesn't have a bridge plan that's acceptable and certified, he doesn't get a building permit.

Mr. Merante asked how the Board would deal with the fact that the CAC wants to put them on the agenda for October 9th.

Mr. Gibbons referred to the Code - 93C, 93I and asked if it then becomes under the jurisdiction of the CAC - "the construction and installation of any structure facility..." .

Mr. Miller said that the CAC is an advisory board - they have no jurisdiction other than to advise the Planning Board, and it's already been referred to them under any circumstance, whether there's a wetland permit formally applied for or not. It's before them. Mr. Miller said that it is his opinion, however, that this is a driveway, it's the only place where the driveway can be located. This is a bridge - it's the only bridge that you can get to a proposed house location by and part of the Planning Board's purview is to assure that when land is being subdivided, it's of a

character that protects the public health and safety and fire access over a driveway is, and an important matter when it's on a parcel of this nature. So it would be his recommendation that the matter be tended to during the subdivision review and that a wetlands permit application be filed and that too, be referred to the CAC, and the public hearing be held open until the information is submitted and reviewed.

Mr. Cleantis said that with regard to what Mr. Gibbons had just read from the Code, he believed Mr. Watson was suggesting that the driveway was not going to be constructed new, but the road will be maintained in accordance and within the laws of the Town of Philipstown, and therefore his contention is that it does not need to be considered (did not finish sentence).

Mr. Gibbons said that it is also installation.

Mr. Cleantis said that they know this is going to one house and there generally is only one driveway going to a house whenever you build it. He said that Mr. Watson is suggesting and he thought rightly so, that when the time comes for them to have a house approved, the Building Department should be able to oversee how that driveway is constructed. Mr. Cleantis said that he thought it was overkill for the Board to micro-manage. He said that he did not think it was a planning issue so much as it is an individual house issue.

Ms. Sexton said that it seemed to her they've done more on other subdivisions and she asked why they would leave that to the jurisdiction of the Building Inspector when it is a safety issue and is part of the subdivision.

Mr. Cleantis said because it is a driveway and in place already. He said that it is to one house and when the Building Department gets a plan for a house and overlooks the site plan and has the expertise and has been charged by the Community to ask for all the different requirements in order to do the driveway. Mr. Cleantis said that what the Board has done in the past was private roads, right-of-ways that lead to several houses, and when it occurs to multiple houses, he could certainly see why it would be the Board's jurisdiction.

Mr. Gibbons said that this application was very similar to the Marangoni application on Route 9. He asked the Board if it recalled whether or not it was a CAC case.

Mr. Watson said that he thought the difference in that particular case was exactly the point that Mr. Cleantis was making in that that driveway was being changed to a shared driveway. He said that this is an existing driveway. The bridge has got to be repaired. There's a note on the plat saying no building permit shall be issued until satisfied building plans have been issued. Mr. Watson said that the question of whether they go to the CAC with regard to the Wetlands would normally be handled at that time if it is, in fact, more than routine.

Mr. Cleantis agreed and said that is the threshold where you would go before the CAC - if the Building Inspector made a determination that there was something in excess of what the code allows you to do under maintenance, because there's a possibility that you won't have to do it.

Mr. Watson said that he did not want to say that because every indication so far that he's seen, which is not formal by any means...Mr. Bibbo's office was not formal, Tactonic was not formal, but indications are that the bridge is going to need some serious repair.

Mr. Cleantis said that he was saying, "don't give the baby antibiotics until you find out that it has something".

Mr. Miller said that he thought in this case the baby is sick and it does require some medicine.

Mr. Cleantis said that the question is, can the Building Department handle that.

Mr. Miller said that the answer would be no. He referred to Section 112-32 of the subdivision code and said that it calls for the Planning Board to review preservation of environmentally sensitive lands and natural features. He said that it states that, the planning, design and structure of the subdivision and all improvements shall provide for the protection of management of environmentally sensitive areas and environmentally sensitive areas include encroachment upon the natural water course including ponds, lakes and water course buffer zones and land disturbance on wetlands and wetland buffer zones. Mr. Miller read through the rest of the section and said that in his opinion, the subdivision regulations are quite clear that when you have an action that is modifying environmentally sensitive lands, your duty is to review it and make a finding prior to rendering a decision on a subdivision. He said that this meets that definition in his view quite clearly.

Mr. Watson said that he agreed and they could certainly find that there's no practical alternatives.

Mr. Miller said that would be one of the findings, but without a set of plans indicating what the necessary improvements are, the Planning Board would have difficulty making other findings.

Mr. Merante said that Mr. Miller was saying that if they come back with a set of plans, he still doesn't have to build five years ago, but they do have a set of plans in the bottle.

Mr. Miller said, and they've reviewed it and they've had technical input from their advisors and that technical input may or may not agree with the extent of construction or what needs to be protected or the phasing of the construction, the time of year when the construction may occur. He said that there's a whole assortment of things that are the Board's obligation to review in this type of situation based on his review of the code.

Ms. Sexton said that her concern is that five years down the line, they don't know where the Building Department is going to be or what their responsibilities are going to be.

Mr. Gibbons said that he seconded what Ms. Sexton and Mr. Miller said.

Mr. Meehan said that he didn't have much confidence in their Building Department. He said that he agreed with Mr. Miller.

Mr. Merante asked for a vote to continue the public hearing until the Board gets an engineering plan on the rehabilitation of the bridge and the wetland permit application.

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

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

Mr. Miller asked Mr. Watson what the speed limit was on the State road at that location.

Mr. Watson said 55.

Mr. Miller asked what the stopping sight distance was for a 55 m.p.h. designed road.

Mr. Watson said that he didn't know. He said that the rule of thumb is ten miles (inaudible).

Mr. Miller said that the site distance to the left, which is 310 feet, could actually be quite shy of that and he would like when they come back to see if there is any way of addressing that. He said that there are obviously existing curb cuts, but that is a substantial shortage in sight distance.

Carlson Construction Management - Tochia Road, Cold Spring: Request for Resolution Modification: Discussion

Mr. Merante asked Mr. Miller and Mr. Gaba to speak on this application.

Mr. Gaba said that the applicant has received a final approval on this and it's going to expire. He said that the conditions haven't been met and they are essentially surrendering the old approval, which is about to expire and asking the Board to issue a new approval - a new set of findings identical to the old set of findings. Mr. Gaba said that if there's been no change in the facts upon which the Board based its findings, then absent anything else, it is pretty much obligated to re-

adopt the same determination. He said that the applicant should make a brief presentation as to the project, explaining why things haven't changed. If they haven't, he would ask the Board to move on. Mr. Gaba said that it isn't really a public hearing, so close that and grant the approvals.

Mr. Merante asked Mr. Watson if this automatically started the clock at zero again.

Mr. Watson said yes. He stated that Mr. Carlson was present. Mr. Watson said that as the public hearing notice stated, the Board previously approved a five lot subdivision. Torchia Road is a substandard private road that crosses Clove Creek and heads up to the east. He said that Mr. Carlson applied for alternate road standards to waive the (inaudible) road coming in, he agreed to build a paved road and a private road off of that along with improvements - stormwater treatment basin, the bridge itself a paved road, drainage system. In fact, nothing with regard to the subdivision has changed. None of the rules have changed with regard to the subdivision. Mr. Watson said that the thing that has changed in the positive sense is that the road is essentially complete. All of the improvements required in Torchia Road proper have been completed. The new road has been brought to the level b (inaudible), buffer portions of the stormwater system have been installed, and the private road has been installed with a cul-de-sac at the end - all of which have been paved. Mr. Watson said that what has not been installed is the stormwater treatment basin. There is also a punch list from Bibbo Associates who inspected the site enumerating several deficiencies - some of which have been addressed and some have not been addressed. Some of the gutters were not installed properly and have to be re-installed. Mr. Watson said that in terms of the conditions of approval, nothing has changed except that a significant amount of the improvements have been made. He said that Mr. Carlson is simply in a position where he wants to finish the road and needs more time. This will give him the opportunity to finish the road - whether or not he chooses to post the bond and file the map. Mr. Watson said that he would also like the Board to consider a reduction of the bond, but they would be at this point, willing to take a Resolution that maintains the bond at its present level with the idea that they'd come back in a month or so because Bibbo's office wanted an as-built survey on the road, which they haven't had time to do.

Mr. Merante referred to the August 27th letter from Bibbo regarding the thirteen items and asked Mr. Watson how much of those were done.

Mr. Watson said that he thought the major things have been done. He that the stormwater detention basin has not been put in, the deficient curbs have not been replaced, but things like the cleaning up of the gutters has been done, all the maintenance issues have been done, there have been some planting of grass seed so that the adjacent driveway that's no longer being used has been taken out and seeded over. Mr. Watson said that there is certainly still work to be done. He said that the most important thing from their perspective is the public service that's been promised as part of the alternate road standards approval has been fully accomplished.

Mr. Cleantis said that other than what Mr. Watson had mentioned, there were no new facts.

Mr. Watson said no new facts.

Mr. Merante said that the bridge meets all the criteria that was not there before and asked Mr. Watson if that was correct.

Mr. Watson said that it went in over supervision of an engineer, had regular inspections and is in function and is a far cry better than what was there.

Ms. Sexton asked if Mr. Watson would look at the memo and tell the Board which items were done.

Mr. Watson referred to the memo and said the following: #1 was not done, #2 was not done, #3 has been done, which is cleaning out the catch basins, erosion control measures. The stormwater treatment plan has not been done, proposed gutters have not been prepared, proposed wall has not been constructed, #8 was done, #9 was done, #10 is not something to be done - an explanation is needed, #11 is done, #12 is partly done - not entirely, and he did not know what #13 was, so he would say it is not done.

Mr. Carlson asked what it was.

Mr. Watson said, "additional pipes have been installed in the catch basins..." .

Mr. Carlson explained that after the storms, the house were flooded because the water had nowhere to go.

Mr. Merante asked if there had been an agreement drawn up on that.

Mr. Carlson said that the neighbor asked him if he could stick a pipe in.

Mr. Miller said that this is a little bit of an unusual situation. It expired one time before and a year ago, the applicant re-applied and it was renewed.

Mr. Watson said that he did not remember.

Mr. Miller said that according to the Resolution, that's what happened. He said that it has taken a very, very long time and the site is not totally stable based on the report from Bibbo Associates. Mr. Miller said that he'd just make note of the fact that the law generally provides for an approval and one year to get it done and this is now going into the third year. He asked Mr. Carlson if he was going to get the job done.

Mr. Carlson said that he is working on it. He said that not a month goes by that he's not working on it. Mr. Carlson said that he needs this, as his life savings is invested in it.

Mr. Merante asked if by the Board adopting the Resolution it would facilitate it moving ahead and by not adopting it, it would retard it.

Mr. Miller said that he was not suggesting it not be adopted. He said that the experience that the Planning Board is having is that sometimes people bite off more than they can chew and can't get the job done in a timely fashion and he does not know how the Town addresses that. Mr. Miller said that the site has not been stable for a long time and it's been done consistently, as the applicant said, but there's erosion going into Clove Creek. The improvements haven't been done according to specification and it is just something to be mindful of as these types of things come to the Board in the future. Mr. Miller said that he just makes it as a comment and is not making anything other than an observation. He said that it's been taking a long time and it's an issue for the Town in his opinion. Mr. Miller said that he had the old Resolution that the Board acted on on September 28, 2006 in which the Board re-approved it after it expired because of the approval that was made in 2005. He distributed a revised version of it to the Board.

Mr. Merante asked if with regard to the thirteen items that Bibbo had mentioned, there was a priority to stabilize it to keep it from running into Clove Creek and if a priority could be assigned to issues that are more important to reduce that.

Mr. Miller said that the Board could place a condition on this that the Bibbo items shall be addressed by a certain date. He asked if in the event it is not, the Board wanted to have a performance bond that it calls, and the Town does it.

Mr. Merante said that he did not know that the Town wanted to get involved in it.

Mr. Miller said that is the Planning Board's option.

Ms. Sexton said that by approving this, the Board is allowing Mr. Carlson to at least finish the job and asked if it just sits there if they don't approve it.

Mr. Miller said that he could finish the job and come back with everything satisfied, no conditions and he's done. That's another option available to him. Mr. Miller said that he's got his life invested in this, so he expected the applicant won't just walk away from it. He said that then he could re-submit at some future time and pay fees and review fees, etc.

Ms. Sexton said that in other words, they are approving something that's not finished.

Mr. Miller said that the Board approved it before it was finished anyhow, but it is much closer

now than it was and certainly this is a sign of good faith on the part of the Town and he hoped a sign of good faith on the part of the applicant that it is going to move forward and be done.

Mr. Gibbons said that it is not approving it - it's just the allowance of it continuing.

Mr. Miller said no - it expires in a few days and then it's not an approved project anymore. He said that the Board is approving this.

Mr. Pidala asked if the Board could approve it and put a time limit on it.

Mr. Miller asked Mr. Gaba if the Board could put a different time limit on it.

Mr. Gaba said that the time limit is set by the code of the Town law.

Mr. Miller said that it says 180 days plus two ninety-day extensions.

Mr. Gaba said that is what it is then.

Mr. Cleantis asked Mr. Carlson to address the Board with regard to what his plans are over the next year.

Mr. Carlson said that he was originally approved on August 11th. It was a nineteen week lead time on ordering the bridge and until he had an approval to do the project, there was no pre-ordering the bridge. According to the DEC, he couldn't start any construction after October 1st until April 30th, so there was no point in his putting in a bridge on a project that he couldn't start any work on until May 1st of the following Spring, which he did. He said that they got everything done from Route 9 all the way across - guard rails, catch basins, etc. Mr. Carlson said that he spent all his money on getting from Route 9 across the bridge and he thought that would satisfy the Town Board. Then he realized he was not done because he still had to do the road, catch basins on top, the cul-de-sac, etc. They had done underground utilities and there's electric there now. Mr. Carlson said that they had done a lot of work, but in his inexperience, he didn't realize that the value of all of this, especially a lot of the erosion control things...so his money ran low. He said that he worked on it every month, but the first year was almost wasted just in the State DEC not allowing him to do any work.

Mr. Pidala asked Mr. Carlson how much more time he needed to finish.

Mr. Carlson said that the storm reservoir basin he has to do. He bought the big tank that goes into it, but he needs a big chunk of money at the moment, and would be happy to start that project as well. Mr. Carlson said that he's got the bulk of materials on site.

Mr. Meehan asked how much money he was really talking about.

Mr. Carlson said that he has the pump, catch basin and everything on site. He said that if he had a buyer, he'd be happy to come back to the Board.

Mr. Pidala asked how much time he needed.

Mr. Watson said that he expected they'd be back for at least the first ninety-day extension. He said that if the six months starts tonight, they're talking about March. They're not going to work in January, February and March, so in essence, they are just not going to be done in time and will probably be back for a third extension.

Mr. Cleantis said that he thought the applicant has done the best he could and certainly made the situation a lot better than it was and the applicant was telling the Board and showing the Board that this stuff is going forth.

Mr. Meehan said that it goes back to money. The applicant needs buyers and if he doesn't get the road done, he doesn't seem him getting any buyers.

Mr. Watson said that Mr. Carlson has to get the road done. He said that he doesn't get the plat signed until he finishes the road or puts up that \$73,000.00 bond. Mr. Watson said that he can't do both. He said that he can finish the project, then gets the plat signed, but until the plat is signed and filed in Carmel, he can't sell the lot.

Mr. Miller suggested that the Board modify the Resolution a little because he thought some things needed to be added to it. He distributed the Resolution and said that at the top of the header, he thought it should say amended and re-approved September 20, 2007. Mr. Miller said that on the second page, he thought there should be some "WHEREAS'S" stating what has happened. He read through the Resolution. Mr. Miller said that all the other conditions he had kept in there with the exception of the condition that was connected with the construction of the bridge because the construction of the bridge has been done. He said that he thought there always was the opportunity to reduce the bond, but that requires a report and recommendation from an engineer, so that is still there. Mr. Miller said that it is good for 180 days plus two ninety-day extensions, so there's another year connected with the action.

Mr. Merante asked the Board if there were any questions about the amended Resolution.

Mr. Meehan asked the Board if there was some innovative way it could help the applicant or the Town could help the applicant, as it sounded like his heart's in the right place.

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

Mr. Miller said that before the Board acted on the Resolution, he would ask that the Board take an oral vote to re-affirm the Negative Declaration that had been adopted previously.

Mr. Merante asked for the re-affirmation.

Ms. Sexton made a motion to re-affirm the Negative Declaration that had been adopted previously. Mr. Gibbons seconded the motion. The vote was as follows:

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

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

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

Quarry Pond - Site Plan - Route 9, Cold Spring: Submission of materials (site plan, final subdivision plat, stormwater pollution prevention plan)

Mr. Merante said that the Board had received just three copies of the above-stated materials. He said that he was assuming they were just for files.

Mr. Miller suggested that the Board ask Mr. Gaba to review the conditions of the approval, as he is recused on the matter to see if, in fact, it warrants any review or is just a satisfaction of a

condition.

Mr. Gaba said that he could look at the Resolution the Board adopted and would let the Board know if they needed any further action.

Vamco - Site Plan Application - 3090 Route 9, Cold Spring: Submission of site plan and notes

Mr. Ed Gemmola said that they received a memo. He said that they tried to address the storage area in the back. It was shown at ninety feet, which was originally where the gravel and blacktop was when they were in for the auto body several years ago. Since that time the owner had paved out probably ten feet past that. Mr. Gemmola said that they are proposing to bring that in about eighty feet from the back, so it's ten feet shorter than what they've had approved previously and is further away from Clove Creek. He said that there are no tractor-trailers. Mr. Gemmola said that he spoke to the owner. He said that they also removed the fence along the southerly property in the back as recommended. They moved the oil tank and set the proposed addition, which is to combine the two buildings into one by the link, which would be just for storage. Mr. Gemmola said that they removed parking from the front and added landscaping and indicated that the existing four spaces might possibly be for future spaces. He pointed out the planting plan to the Board and stated that there would be arborvitae, boxwood and white pines along the southerly edge. Mr. Gemmola referred to another area on the plan and stated that it was a possible suggestion in terms of storage they had in the rear to possibly put it at the north side. He said that existing now is a loading dock and an overhead door at the front. Mr. Gemmola said that if they have to eliminate some more storage there, they can. He said that most of the workers that work in the field have their own vehicles, they come to the site, check in the morning and they're out. He said that he knows what the Board is asking...it's just that what existed there forever was a work area and the owner said they will try to pull that in as tight as they can. Mr. Gemmola said that they would like to work with the Planning Board and the owner would like to do this addition.

Mr. Cleantis asked where the tank was going.

Mr. Gemmola said that the oil tank that was here (pointed out) is going to go inside.

Mr. Merante asked if the back fence was a new fence.

Mr. Gemmola said yes.

Mr. Merante asked if it was going to need a variance.

Mr. Gemmola said that he did not think so.

Mr. Merante said that it is farther out.

Mr. Gemmola said that they had originally a six foot fence.

Mr. Merante said, but the distance from the Creek?

Mr. Gemmola said that they are definitely within the buffer, but again, he thought everything there was in that buffer. He said that at the closest point from the centerline of the Creek is about fifty two feet. In terms of the buffer, there was a (inaudible) and that's the hundred foot buffer.

Mr. Miller said that he thought at a minimum, the applicant needed to supplement the application with a wetland permit application and identify those activities that are taking place in the hundred foot setback that would represent new activities. Mr. Miller said that they've got a smaller storage area, a change in the parking, the fence, and he thought at a minimum that catch basins that are going to have sumps that will remove sand and gravel coming off the surface of the parking lot before it gets discharged into the woods and then into the Creek, would be highly desirable. Mr. Miller said where they had the future parking spaces along the Route 9 frontage, if the applicant believed that there's a high likelihood they would not be used, his thinking at a minimum would be to cut up the pavement and put in some more street trees. He said that it would take advantage of the loss of the parking and provide a little screening in front of the building. Mr. Miller said that he thought in front of their warehouse, where they have the green area, some foundation plantings - possibly a smaller shrub. Some treatment of that would probably break up the expanse of what now is going to be a contiguous building face. Mr. Miller said that he thought relocating the storage to the northern side of the building makes sense given the sensitivity of the site near Clove Creek. He said that he thought this was a good improvement and that the applicant was moving in the right direction.

Mr. Pidala said that Mr. Gemmola said that they were not going have large trucks. He asked the Board if that was o.k., as some day, it could be sold.

Mr. Miller said that they've got loading in the front of the one building and it appears as though there is enough area for a turnaround on the northern side of the building, where he's got the hammerhead cited.

Mr. Pidala asked if they should have that put on the plan - showing that the tractor-trailer would be able to turnaround.

Mr. Miller said yes, if they want to show a turning templet that a tractor-trailer could come in and unload in the front of the building, it is what Mr. Pidala was asking for. He said that he thought the applicant needs to submit a Statement of Use that sets forth what the applicant's intended activities are, so that if it does get sold in the future, there is a Statement of Use that says what the operating hours are, what's stored on the site, what the activities are, the number of

employees, etc. Mr. Miller said that it is required by the Code.

Mr. Merante said that they have a Statement of Use from August 2nd and the things Mr. Miller had just mentioned, he did not see in there.

Mr. Cleantis referred to the front of the building and asked if it was a grassy area.

Mr. Gemmola said yes.

Mr. Cleantis referred to two different areas on the plan and asked what the difference was between the two points. He asked if there were telephone poles.

Mr. Merante said just the one area.

Mr. Cleantis said, so there are no wires going across. He said that he'd like to see a string of probably deciduous trees like maples or something that is indigenous to the area - every fifteen feet apart so that when they grow, they have a nice canopy shading and would give a little softness to the entire building.

Mr. Gemmola said that the only thing is that the property line is here (pointed out), so (did not finish sentence).

Mr. Merante said that it is in the right-of-way.

Mr. Miller said that because the applicant is going to have to file a wetland permit, Mr. Gemmola is going to have the wetlands actually located by survey, so someone's going to need to flag them and pick up the location of the wetlands. He said that Mr. Klotzle, Wetland Inspector, works for the Town and is probably available to hang the flags and then he could have a surveyor just pick up the location of them.

Mr. Cleantis asked if there was any way of doing something with the color of the building to minimize the bright glaring impact on the road.

Mr. Gibbons said that this is an existing building, and now they're starting to micro-manage it.

Mr. Cleantis said that he was just suggesting.

Mr. Gemmola said that they could probably do planting and shrubs. He said that it is block so the only thing they could do is some kind of paint.

Mr. Meehan asked what color the new building was.

Mr. Gemmola said that they haven't gotten that far yet.

Mr. Merante asked the Board how it felt about the painting.

Mr. Cleantis said that he likes the painting and would like some architectural changes in there to give it a little bit of a softened look. He said that they can't have landscaping between the building and Route 9.

Mr. Gibbons said also, a lighting scheme.

Mr. Cleantis said down lights.

Ms. Sexton said that she agreed with something to dress up the front of the building and as Mr. Miller suggested, landscaping. She asked if the applicant would be submitting a plan.

Mr. Gemmola said that he did not want to take it to the next step and spend money until they had some kind of feeling from the Board. He said that certainly they'll provide a street scape of the new building and suggestion of some colors.

Mr. Merante said that it could use something to dress it up.

Mr. Gibbons asked where the scrap metal went.

Mr. Gemmola said that there are two dumpsters in the rear. He said that if they had to, they'd have to penetrate the wall and could use some storage in there.

Mr. Gibbons said that he did not know the Board's feeling, but he indicated last month that he didn't like chain link fences with the straps, because after four years, those straps are down in the creek. He suggested taking a look at the white fence that used to be the junk yard. Mr. Gibbons said that it was a very nice fence and thought it would go well back there.

Mr. Gemmola asked if it was vinyl.

Several Board members said yes.

Mr. Gemmola said that the wood would just fall apart.

Mr. Merante said that he didn't happen to like the huge expanses of white.

Mr. Gibbons said that he was just talking about the type of fence - not the color.

Mr. Merante said but they almost always seem to go with white.

Mr. Gemmola said that they could investigate the colors.

Mr. Miller said that he thought the Board would like to see a set of plans. He said that coming up with a proposal for drainage in the read he thought was going to really be important for getting the wetland permit squared away.

Correspondence

1. Letter dated August 31, 2007 from Robert Mitchell, AIA to Mr. Merante requesting a courtesy presentation.

Mr. Merante asked the Board if it should invite him to the next Planning Board meeting. He asked Mr. Brower if he remembered if anything was done when Garrison proposed their new fire house on Route 9.

Mr. Brower said no.

Mr. Merante asked Mr. Gaba what the review process was on this.

Mr. Gaba said that according to the Code, they're permitted in every district. He said that this is kind of a courtesy to see if the Board has any input.

The Board decided to add them to the agenda for the October 18th meeting.

Miscellaneous

-December meeting

Mr. Merante said that if the Board needed to hold a December meeting, he has moved it up one week.

-Zoning Amendments

Mr. Miller said that he wanted the Planning Board to be aware that at the request of the Town Board he is working on some zoning amendments, so they have prepared a draft of a soil mining overlay district and that has been provided to the Town Board and has been reviewed by Mr. Gaba's firm and he expects to go back to the Town Board with that shortly. Mr. Miller said that they are also working on taking the New York State DEC's model stormwater management law, and weaving that into the Town Code with references to it in the subdivision and zoning regulations. Mr. Miller said that finally, they just did a review of a zone change request for a small deli on Sprout Brook Road. The owners had requested that the abutting piece be zoned from R-80 to B-1, so they were asked to review that.

Adjourn

Mr. Gibbons made a motion to adjourn the meeting. Ms. Sexton seconded the motion. The meeting ended at 8:50 p.m. The vote was as follows:

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

Respectfully yours,

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: _____