

**Philipstown Planning Board
Meeting Minutes
May 17, 2007**

The Philipstown Planning Board held its regular monthly meeting on Thursday, May 17, 2007 at the VFW Hall on Kemble Avenue in Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman, Anthony Merante.

Present: Anthony Merante
George Cleantis
Josephine Doherty (arrived at 8:00 p.m.)
Michael Gibbons
Kerry Meehan
Andrew Pidala
Pat Sexton
Stephen Gaba, Counsel
Tim Miller, Planner
Janell Herring

Minutes

-April 19, 2007

Mr. Cleantis made a motion to adopt the minutes. Mr. Meehan seconded the motion. The vote was as follows:

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

Miscellaneous

-July, 2007 Meeting

Mr. Merante stated that Mr. Rippelon requested the July meeting be moved from the 19th to the 12th or 26th as he would not be available. He said that he would check availability at the VFW Hall.

Public Hearing

Wassil - Access Permit - 64 Crest Road, Cold Spring

Mr. Merante said that the Sunday after last month's meeting, three Board members went up to the site with two members of the CAC and the Wetlands Inspector to look at the proposed roadway across the wetlands. He asked Mr. Pidala to give his review of what he saw.

Mr. Pidala stated that they met with David Klotzle and walked the lower lot/access driveway. Mr. Klotzle said that he was fine with where they were putting the road. Mr. Pidala said that he asked Mr. Klotzle if building a new road would impact the houses down below and he said no. He said that they went to the upper second access where the Wetlands Committee wanted it and John Sussmeier pointed out where the road was going to go, which was where the applicant wanted it and it was the wrong spot because Wetlands had an old plan. Mr. Pidala said that where the road would go would be too much in the wetlands, so the lower access would be the better spot. He said that they asked the applicant if it would be o.k. if Mr. Klotzle could be on site when the road is being built in the wetlands and the applicant agreed to do that.

Mr. Cleantis said that one of the reasons he had gone was because of the concern of the neighbors. He

said that he was very concerned as he had mentioned to the Wassils and he said that night that if in fact the wetland was impacting on the road or the neighbors, he would have to vote against it until such time there were measures to mitigate it. Mr. Cleantis said that when they went down, the neighbors were there, the Wassils, the Wetland Inspector, and people from the CAC were there. He said that he was very impressed with the cooperativeness of the Wassils. Every suggestion made to them by the Wetland Inspector they embraced and said that they would have no problem whatsoever, including the engineer who would oversee the minute-by-minute construction of the road. Mr. Cleantis said that they went over every square inch of the wetland and they were assured by the Wetland Inspector himself that the “pond”, which didn’t look much like a pond and was quite a ways away from the proposed driveway and the road, was not impacted whatsoever from the driveway. Mr. Cleantis said that he was also surprised at how little of the wetlands was really impacted. He said that in essence, they all came to the conclusion that the lower road was acceptable and that it in fact, did not have any impact whatsoever on the swamp up from there. He said that also, he had met with the homeowners and was shown the drainage thing that was a concern to them. The drainage thing was crushed by construction vehicles building a house across the street. Mr. Cleantis said that on the Wassil’s behalf, they are not going near that drainage thing. He said that they also said that they would be willing, so long as everybody else on the road would be willing, to get together and pay to put in a new drainage thing - but the idea is to get all the neighbors together and that’s part of the problem. Mr. Cleantis said that he said that because they have to get together and do it - the Board can’t do it. He said to the audience that it is not their problem - they are not even going to be near it. He said that they are willing to even put up a sign that says, “no construction vehicles near the drainage ditch”, and there are no other construction issues with regard to that particular driveway. Mr. Cleantis said that as far as the Wassils’ property is concerned, he had no problem with it and wished them all the best.

Mr. Merante said that he would summarize what Mr. Klotzle said in his letter dated May 3rd and he read the letter aloud (copy on file at Town Hall). He said that when they went up to look at what had originally been proposed, they were informed that it was beyond the property line. Mr. Merante said that if there were no further comments, he would call for a motion to close the public hearing.

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

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

Joseph Tuana - Application for approval of site plan - Route 9, Cold Spring

Mr. Noviello said that as the Board may recall, the properties were previously subdivided by deed with the approval of the Town, but not the Planning Board. He said that the three lots currently consist of two lots - each of which has a single family house on it and some buildings - a garage and a studio on one lot, and an attached garage on the other house. The third lot is a vacant lot, which they’ll propose a one family house on. Mr. Noviello said that one of the comments at the previous meeting was that the Board wanted a note on the plan indicating that utilities would be underground, which was their intention so that was no problem. He said that the Board asked for driveway profiles, which have been submitted and sight distance calculations, which have been shown and submitted. Mr. Noviello said that he thought they

covered all the issues and they would like approval.

Mr. Merante asked Ms. Herring if the issues of April 19th had been addressed.

Mr. Herring said that she did not believe the note on the plat was there, but that was minor.

Mr. Merante asked if the Board had any comment.

Mr. Gibbons asked if they were still renting a house on Lot 47.

Mr. Noviello said no.

Mr. Gibbons asked if they were in agreement with Mr. Huston that the twenty-foot wide driveway also be an access into his property, so that doesn't have to become sixty feet wide.

Mr. Noviello said that there is no written agreement, but the neighbors are friendly. He said that if that's what the Board wanted, he did not think that would be a problem.

Mr. Miller said that he guessed what it boils down to is that there is a common driveway that would be shared between Lot 50.2 and 50.3 and the applicant would be offering a right-of-way for Huston to share that common driveway, so Huston doesn't really have any say in it.

Mr. Noviello said that he does.

Mr. Miller said that he doesn't have to use it.

Mr. Noviello said agreed.

Mr. Miller said that he has no say in it, but they are providing the opportunity.

Mr. Noviello said that Mr. Tuana was present, so he could confirm he would offer that to Huston.

Mr. Tuana said that it was not a problem.

Mr. Miller said that they would need a note on the plat to that effect.

Mr. Merante said, and the fact that they are contiguous to Fahnstock State Park has no affect on this.

Mr. Noviello said not that he was aware of. He said to put the Board at ease on that issue, it may recall the stream along the same eastern property line. They are staying a hundred feet from the stream, so they are staying a pretty good distance from the Park anyway.

Mr. Richard Gordon introduced himself and stated that he and his wife live at 1024 Old Albany Post, which is the adjacent property to the lots. He said that he wanted to talk about the concern he had with the lot itself. Mr. Gordon said that it is adjacent to the Park and adjoins an old road in the woods that goes back up to Catfish Pond. He said that part of his concern is that when they cleared the lot last summer, they actually went passed that boundary into the State land and now have drainage barriers or erosion barriers that are set up basically on the property line. Mr. Gordon said that first of all, there's no

other house that is that close to the Park land. Every other house in the area has a much bigger setback.

Mr. Cleantis asked if he said that he passed the boundary.

Mr. Gordon said that when they cleared the land, they basically pushed some debris and stuff up until...they were mapping out some territory and he is concerned that when somebody builds a house there and has a yard that basically is coming right up to the property line of the State park, that the whole area is going to be compromised. Mr. Gordon said that he was concerned about drainage and things like that that might happen back there. He said that he would at least like assurances that it is going to be maintained since it is on State land. Mr. Gordon said that he was also very concerned about Lot 47, which is the other side lot that he guessed belongs to Paul Huston, that was actually sold by the previous owner of his property to Pratt and subsequently sold to Huston. He said that initially there was a plan that had three driveways next door to each other coming through the woods, going back down there. He said that he is a little concerned about the traffic from three houses now suddenly coming up through those woods.

Mr. Meehan asked if there were any easements on the property.

Mr. Cleantis asked if the road to the pond was on his property.

Mr. Noviello said that he believed they were talking about a carriage trail that runs along (did not finish sentence).

Mr. Cleantis asked if it was on his property.

Mr. Noviello said that he was not sure. He said that he had heard that there is a right-of-way along the rear property line - it's part of Fahnestock.

Mr. Cleantis asked Mr. Noviello if he thought it was important to find out whether the right-of-way is a public right-of-way on his property.

Mr. Noviello said that he did not think it was public. He said that he thought it was a private right-of-way.

Mr. Cleantis asked, for whom.

Mr. Noviello said for homes that have rights which may include rights to Catfish Pond. He said that he was not sure.

Mr. Gordon presented a plan to the Board. He pointed out Lot 45, and said that was where he is, and Lot 47, which is the part that was parceled off and sold to Huston.

Mr. Cleantis asked where the alleged right-of-way was.

Mr. Noviello pointed it out.

Mr. Merante said that he was trying to get to the information about the road, their infringing upon it, etc., and asked how it affected the applicant.

Mr. Gordon said that they use it to access Catfish Pond. He said that he wanted to make sure that if it is actually on State land, and they do have the right to go through there, that they are not....you can see it is already half-way over it. Mr. Gordon said that you don't have much room to get by there.

Mr. Noviello said that he thought it was clear from the subdivision plat that they intend to preserve that right-of-way. He said that they've delineated it on the plat.

Mr. Cleantis said that it would make it a lot easier for everyone involved if they found out whether it is a right-of-way or not on the applicant's property, and if it is an established right-of-way then he has to yield a right-of-way and has got to do what's right. Mr. Cleantis said that if it is not a right-of-way, then he closes it off and fences it and does whatever is necessary.

Mr. Noviello said that it is his understanding that it is a private right-of-way not shown on the plat because of that.

Mr. Cleantis said private to whom. He asked if he was allowed on the property.

Mr. Noviello said that if it is a public right-of-way, anyone's allowed to use it, but a private right-of-way, certain people are allowed to use it.

Mr. Cleantis asked who those certain people are. He asked if that was him.

Mr. Noviello said he believed the (inaudible) property owner would have a right to use it.

Mr. Cleantis said that it opens up a can of worms for him and he would like to know about the right-of-way.

Mr. Gibbons said that the Board needs the deed.

Mr. Noviello said that it is his understanding it is a private right-of-way and certain property owners have the right to go back and forth.

Mr. Gaba said that he did not know if it was terribly germane as to who has the private right-of-way in terms of the subdivision if there's an acknowledged private right-of-way in the subdivision, and he thought the most the Board could ask is that a note be added that they will not impede the private right-of-way until such time if ever it's extinguished.

Mr. Cleantis asked how they would control people who don't belong there.

Mr. Gaba said that it's the property owner's problem.

Mr. Cleantis said that they as a Planning Board don't have any say or control over it.

Mr. Gaba said that they are overreaching on a subdivision. The Board either says they're going to keep it open for use by the people who have a right to use it or (did not finish sentence).

Mr. Merante said that he thought it was going beyond what the Board was being asked to deal with. He asked if the rest of the Board had any comment.

Mr. Gibbons said that he would think the deed would be able to tell the Board what easements there were. He asked if Mr. Noviello submitted a deed to the Board.

Mr. Noviello said that he didn't recall as they started two or three years ago. He said that he thought they did.

Mr. Merante said that originally, yes.

Mr. Noviello said that he didn't think it addresses the right-of-way in the deed. He said that he thought it was from a prior document.

Mr. Gaba said that if the Board is concerned about preserving the right-of-way as not being impeded, it could add a note saying that the property owner will not impede the existing right-of-way until such time as ever if said right-of-way is extinguished. He said that keeps it open.

Mr. Noviello said that it is not a public right. He said that it is a private right as he understood it, and if any private person has a problem, it's a private issue between two property owners.

Mr. Miller said that the Philipstown Subdivision Regulations in section 112-24 states regarding information required on a plat, that "it shall include such additional notes as may be required or approved by the Planning Board specifying applicable zoning provisions or restrictions pertaining to private rights-of-way, channel and building lines, reserved areas, easements and other features of the map", so clearly the Code contemplated that this could potentially be a matter that the Planning Board would take into consideration in its review of a subdivision.

Mr. Noviello asked if he thought they were talking about rights between owners within the subdivision.

Mr. Miller said that he was not going to go to what the intention was because he wasn't there when this was drafted.

Mr. Noviello said that it sounded to him the way it read that they were talking about rights between owners in the subdivision.

Mr. Miller said that he could only read the words. He said that it pertains to private rights-of-way.

Mr. Merante said that he did not see what negative affect putting the note on the plat would have. And establish at least minimum standards without proscribing any action on the owner.

Mr. Noviello said for the Board to tell him the wording and he would add the note.

Mr. Miller said that if there is a note to be placed, he thought it would simply be to make a future purchaser aware that this lot is encumbered by a private right-of-way that may benefit other parties. Mr. Noviello said that is what it says and it shows the distances and the variance and everything.

Mr. Miller said that he did not think that it said what he said. He said that what Mr. Noviello said on the plat does not give the future owner, he felt, clear-cut information that they're purchasing a piece of property that has a private right-of-way on it that may be subject to the rights and interest of other people,

so he thought the Planning Board was suggesting that a note be very clearly placed on the plat that says lot 50.3, which consists of 99,000 square feet is encumbered by a private right-of-way as shown that may infer rights of passage or some other rights of right-of-way to other parties or something to that affect. Mr. Miller said that the only other reason this would be an issue is that he didn't believe you could include a right-of-way as part of the eligible area for the lot. He said in the case of this lot, it is sufficiently in excess of the minimum requirement that it shouldn't be an issue. Mr. Miller said that he calculated it to be about 5000 feet in area.

Mr. Gordon said that his other big concern was the idea of the multiple driveways and if they are going to be sharing the driveway, because now they have three houses that are going to be coming out of one driveway. He said that there is an existing driveway right now and two of those houses. Mr. Gordon asked why the access that the one house had been using for its entire existence suddenly shifted over to the other driveway. He said that he thought if there was going to be a driveway going through there, his main concern was to limit the amount of traffic.

Mr. Miller asked if Mr. Gordon was asking that one driveway serve all three lots.

Mr. Gordon said that would be his preference - that the existing driveway already there, which they already did a new road cut for one of the driveways last year...they demolished an existing garage structure that was on the road and all the debris has been dumped in the woods behind his house. He said that it has been this way for over a year and it is a real mess down there.

Mr. Noviello said that the answer is that it was specifically requested that lot 50.2 have a separate driveway from 50.1. He said that it wasn't a garage structure, it was a (inaudible), which was in the way of the path of the driveway for 50.1 and the driveway then encroached on lot 48 and lot 48 wanted the driveway off their property and back on to 50.1, so the driveway had to go straight out instead of snaking around the sister. Mr. Noviello said that the sister was constructed of masonry cement, which is not subject to decay or rodents and the intention was to use that to help the grading on the new proposed driveway for 50.2. He said that as they heard tonight, the Board's request was that the driveway also be used for lot 47, which was news to him.

Mr. Gordon said that it seemed like it would make more sense to have two houses using one driveway and two houses using the other driveway, rather than one house using one driveway and three houses using the other one. That would be his request. He said that the other thing concerning him was that it seemed they talked about this being the subdivision of the original lot 50, and the piece of property on the plan now is not just that piece of property. It's also been added to from different pieces - some from what used to be 47 or 46 on the (inaudible) driveways were never part of what was originally 50. He said that again, if you look at the different zoning maps that he had, the pieces of property have been parceled out in different ways over time and his concern is trying to figure out how you can squeeze maximum density out of the area.

Mr. Miller said, by doing this. He said that is the answer - and it is lawful to do so apparently. Mr. Gordon said that he guessed his main concern then would be to potentially have three houses coming out of that one driveway to try to minimize that amount of traffic.

Mr. Miller said that he thought the plan right now has 50.2 and 50.3 coming out of one driveway and 50.1 coming out of another driveway.

Mr. Gordon said that 47 or 46 could be using that as well.

Mr. Miller said that 47 could use what would now be a common driveway if they so choose, which would be terrific. He said that the reason the Planning Board elected to do it that way was because the feeling was that at least under that circumstance, nobody is crossing in front of another person's house to get to their house. The new house that would be on 50.3 pretty much has a private right of way. The existing house on 50.2 can come off of that common driveway without going in front of anybody else and 50.1 has its own curb cut, which seems to be fairly distanced from the others. Mr. Miller said now if 48 and 49 were to also choose to share a driveway, more curb cuts could be eliminated, but it's kind of too late for that it seems because they are not a party to this application. So he thought the Planning Board's view was to find the best solution without forcing a compromise of privacy to the existing dwelling that's out there by forcing someone to drive by that to get to their house.

Mr. Gordon said that they're not driving past the front of their house, but it is right next to the side of their house and again having three houses do that, rather than just one or two.

Mr. Noviello said that actually, it was the Planning Board's request to do a thirty-foot buffer. He said that they really only border 47. Mr. Noviello said that instead of Lot 47 having a driveway right next to Mr. Gordon's house, this would give a buffer.

Mr. Gordon said, and Paul Huston could still theoretically build a driveway there if he wanted to.

Mr. Miller said that the opportunity is there for that to not occur. He asked Mr. Noviello if the area along the water course had been cut or cleared and what the status of the area was.

Mr. Noviello said that the last he knew, there was some clearing of brush. He said that he didn't think there was an encroachment over the property line, but he didn't know.

Mr. Miller asked if the area was clear cut or there were trees in there.

Mr. Noviello said that he believed there were still trees all over the whole place, but the smaller ones are gone.

Mr. Miller said that he would make a note that clear cutting of this area certainly within a hundred feet of the stream would be regulated activity because of the buffer, and a note to that affect to forewarn a future property owner.

Mr. Noviello asked if when Mr. Miller said note, he wanted a note on the map.

Mr. Miller said yes. He said that they could draw the line as to where the hundred foot distance is from the stream but the area is subject to Chapter 93 of the Philipstown Code - wetlands and watercourses. Mr. Miller said that it also happens to be in the right-of-way, so who knows what will happen.

Mr. Merante asked if anyone else had any comment.

There was no comment.

Mr. Gibbons made a motion to close the public hearing. Mr. Cleantis seconded the motion. The vote was

as follows:

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

Quarry Pond - Application for approval of site plan - Route 9, Cold Spring

Tim Miller Associates have recused themselves and left the table.

Mr. Bill Balter gave a brief introduction for those who were not familiar with the application. He said that they had site plan approval in September 2006 for a development similar to this except, it was for a total of 78 homes - 68 senior, semi-attached homes and ten affordable homes. That development had sole primary access coming off of Horton Road. After the approval, they came back to first, the Town Board and got the zoning amended to allow them to do ninety units if they came off of Route 9 and made all the improvements necessary to get DOT approval to come off of Route 9. The Town Board subsequently passed that zoning. They came before the Planning Board during the zoning process on a referral from the Town Board. Last month, the Planning Board scheduled the public hearing. Mr. Balter said that they believe they have satisfied the requirements of the Board and the Town's engineering consultant and thought there was a letter from the consultant to that affect.

Mr. Merante asked if the Board had any questions.

Ms. Sexton said that she originally had a concern about the emergency exit and saw that it was taken care of.

Mr. Balter said that at the last meeting there were several concerns raised. He said that he met with the North Highland Fire Department, who voiced many of the concerns the Board voiced. Mr. Balter said that the submission that was submitted about two weeks ago for this meeting now shows an emergency access coming off of Horton Road. It will be a gated access. He said that frankly, everyone hopes it never gets used. Mr. Balter said that from the Horton Road standpoint, it shouldn't be anything that has a big impact on them at all. He said that they did it as close to Route 9 as they could, so that it has less impact on the Horton Road community. Mr. Balter said that the road bed is like a regular road bed - it's compacted item four. On top of that, is something called grass pit, which allows them to plant grass on top of the road base, so that it blends in more with the homes next to it and you are not seeing another road coming in. It will be blocked off with a chain like the emergency access they have now. They added a sidewalk that goes up to Route 9 and cleared the sight line. He said that he believed it worked great now. Mr. Balter said that they suggest the Planning Board accept it as a condition of the Resolution that the sight line will have to be maintained by the Homeowners Association. Mr. Balter said that since they added some units, they wanted them to put a hydrant at a location which they agreed to do. Mr. Balter said that the letter to the Board speaks to that.

Mr. Gibbons asked Mr. Balter to go over the meeting with the CAC.

Mr. Balter said that he thought it was just a referral. He said that the wetlands permit they were there for

was because the septic area, while it doesn't go into the buffer, the grading goes into the buffer.

Mr. Gibbons asked if that was an issue with them.

Mr. Balter said that there was nothing that they asked them to do.

Mr. Gibbons asked a question (inaudible).

Mr. Balter said that it is about twenty feet.

Mr. Gibbons asked if he was willing to re-seed or plant that so it is not going to be an erosion problem.

Mr. Balter said no, it will basically be natural when they're done. He said that it is not steep slope and they are not putting a wall up.

Ms. Doherty said that she visited the site today and the sight lines are much better and the brush has been cut. She said that she would just ask that the Board have it not only as a condition but as a note on the plan, so that the Board can be sure that it will be maintained.

Mr. Williams said that they had addressed most of their concerns. Any outstanding issues are fairly minor and pertain pretty much to construction detailing, so their office has no objection to closing the public hearing.

Mr. Merante asked if the audience had any comment.

Mr. Chmar asked why there was a sidewalk that goes all the way up to Route 9. He said that it just seems to be a safety issue.

Mr. Balter said that the reason it is there is because while most of the development is obviously senior, there's a likelihood that the school bus will stop at the intersection.

Mr. Merante said that the street where the sidewalk crosses is crosshatched so that there is an indication that it is a crossing from a sidewalk on one side of the road to the other, leading up to Route 9.

Mr. Joe Debold of Stephanie Lane asked how far the septic was from the pond and the creek.

Mr. Peter Karis said that the septic fields for the project are a hundred feet from Clove Creek and they are a minimum of a hundred feet from Quarry Pond.

Mr. Debold asked if the Wetlands also looks into that.

Mr. Karis said that it's a hundred foot buffer from the creek and they are proposing to (inaudible) the fill for the septic area twenty feet into the buffer and the previously disturbed area.

Mr. Debold said that it is almost as if it is wetlands itself between the pond and the creek.

Mr. Balter said that he knew what he was saying, but it was not at that point of the property. He said that there is a lot of frontage along the creek.

Mr. Debold said it is a lot higher up, but as far as the pond is concerned it's (did not finish sentence).

Mr. Karis said that the septic area is probably about six to eight (inaudible) the water elevation of the pond.

Mr. Debold said but then you have to go down.

Mr. Karis said then there'll be subsurface trenches. He said that it works just like a private septic system at your house.

Mr. Debold said that it seemed there was so much septic there that you would want to be a bit further than just one house.

Mr. Balter said that one of the very positive things about the site is that it is a former gravel mine and has really wonderful soils. He explained that they have to go the Putnam County Department of Health to get their approval and as part of their approval, they need witnessed tests that they've done with the soil. Mr. Balter said that if the tests do not have adequate or appropriate percolation, they will not approve it.

Mr. Debold said that Mr. Balter was saying that it is going to be filtered enough to the point where it won't be affecting the Town.

Mr. Balter said that it wouldn't be an issue.

Mr. Debold said that it is so close and down low in the water and there's a lot of stuff underground.

Mr. Balter said to make sure that wasn't an issue, they also did a analysis, which studies the water.

Ms. Budney asked if in the sewage system there was a place where there'll be treatment before it goes into the ground or the leech fields.

Mr. Karis said that it will go through a series of tankage, be filtered out, dropped down and collected. Then it will have to be pumped periodically. The first treatment of the sewage then goes in to the trenches and into the ground and is treated through the ground.

Ms. Anita Chester asked if the fields were a hundred feet from the pond and the creek.

Mr. Balter said correct. He said that most of the fields are much more.

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

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

Pat Sexton - In favor

Mr. Williams said that they prepared two Resolutions. He went over the Resolutions with the Board.

Ms. Sexton said that when she addressed the situation with the emergency exit, the Fire Department told her that originally they felt that there were not enough fire hydrants in the place to begin with and now the applicant said that they are only going to include the fire hydrant to replace another one.

Mr. Balter said that when they met, they pointed to the four hydrants. He said that they basically said the four hydrants are fine. Mr. Balter said but now that they have this road and will put a hydrant up here (pointed out). He said that the four hydrants do not include that one - they had already added that. Mr. Balter said that there was no hydrant on that road.

Ms. Sexton said that was not what they told her.

Mr. Balter said that they had a letter.

Ms. Sexton said right. She said that she thought they were under the impression that Mr. Balter was including another hydrant, because they had originally said to her that they didn't feel the four hydrants were sufficient but they didn't feel they had any recourse because that was all that was being provided.

Mr. Balter said that Ms. Sexton was actually right. He said that they were not saying they are taking one of the four hydrants and moving it. Mr. Balter said that they are saying they added a fifth hydrant. The location of the hydrant, they wanted them to move, so they added a hydrant since they met three days ago.

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

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

Mr. Williams presented the Resolution for final subdivision. He read it aloud.

Mr. Merante asked if the Board had any comment.

There were no comments.

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

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

Pat Sexton - In favor

Tim Miller Associates joined the table again.

Wassil - Access Permit - 64 Crest Road, Cold Spring: Resolution

Mr. Miller said that there is a request for access and a wetlands permit. He said that on the SEQRA aspect, it is a Type 2 action. He distributed a Resolution and read it aloud.

Mr. Cleantis made a motion that the Board adopt the Resolution (copy attached). Ms. Sexton seconded the motion. The vote was as follows:

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

Joseph Tuana - Application for 3-lot subdivision - 992 Old Albany Road, Garrison: Part 2/Resolution

Mr. Miller said that to comply with SEQRA, the Board needed to do an evaluation of the Part 2 and even though it is a 3-lot subdivision, there are two houses already on this. The project really involves construction of a driveway and one house. He said that on the issue of the thresholds, they've reviewed them all and they do not believe that any of the potential large impact thresholds would be exceeded by this and therefore, he would recommend that all items be checked "NO".

Mr. Gibbons said that the one question he had was on #12. He said that it is abutting Old Albany Post Road and somewhere up there, there is an old encampment. Mr. Gibbons asked if the Board received letters from the State Historic Parks.

Mr. Miller said no. He said if the Board wanted to, it could be checked "small to moderate impact". He said that the proposed action is contiguous to a site listed on a state or national register of historic places, so "small to moderate impact" makes sense.

Ms. Doherty asked if the Board was going to require a letter now to clear this.

Mr. Miller said no.

Ms. Doherty asked if the Board would just say that it is (did not finish sentence).

Mr. Miller said small to moderate.

Ms. Doherty made a motion to accept the Part 2. Mr. Gibbons seconded the motion. The vote was as follows:

		Anthony Merante	-
		In favor	
George Cleantis-	In favor		
Josephine Doherty	-	In favor	
Michael Gibbons	-	In favor	

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

Mr. Miller distributed the Resolution.

Mr. Merante asked if the Board wanted to add any of the notes to the Resolution that were brought up with regard to this matter.

Several Board members said yes.

Mr. Miller asked if the Board wanted to take action this evening on the Resolution.

Mr. Merante asked if it could be conditional on those things.

The Board agreed to do that.

He read the Resolution aloud. Mr. Miller stated that the Planning Board is approving the Negative Declaration as attached, finding no impacts.

Ms. Sexton asked Mr. Miller if he mentioned altering that as a right-of-way to the other lot.

Mr. Miller said good point, so there will be a third note. He asked Mr. Gaba if it would be a designation of a right-of- way.

Mr. Gaba said that you can't give a right-of-way unless the person getting it accepts it, so it's got to be an offer of a right-of-way. He said that it would be obligation of tender - offer of a right-of-way.

Mr. Miller said that it would be another note and then conditions A through F.

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

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

Referral of Local Law to Amend Chapter 175 - date of the Zoning Map: Letter from Tina M. Merando dated April 16, 2007 requesting Planning Board review/comment

Mr. Miller said that basically, they've had a map they had been using as the Town Zoning Map that's in the Code and it's been poking around since the mid-80's and kind of being amended now and then. It was not on a tax lot base. Mr. Miller said that they took the tax lot information from Putnam County, which is updated on a regular basis and put that on a base map, so it clearly shows tax lot locations and so on, and then they added color to it. He said that basically, there are no zones that have been changed, but they now have a map that's beautiful to look at and easy to read. Mr. Miller said that at a small size, it is easy

to put into the Zoning Code, and at a large size, it could be at the Town Hall, and it is also digitally available so it can be posted on the Town's website. He said that it is the same map, just sort of a different look. The date's been changed to reflect the new version of the same map.

Mr. Cleantis made a motion that the Board recommend the Town Board adopt the new map. Mr. Gibbons seconded the motion. The vote was as follows:

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

Mr. Miller said that he would prepare a letter for the Chairman's signature.

Lanza - Approval of a 3-lot subdivision - Nelson Lane, Town of Philipstown, Cold Spring: Submission of revised plans

Mr. Merante said that he just received a letter tonight requesting to defer consideration, so the Board would not address the matter.

Tyjan Corporation - Site Plan Application - 2560 Route 9, Cold Spring: Submission of revised materials

Mr. Watson said that the last time they had any lengthy discussions on this matter, the Board scheduled a public hearing and shortly after which, they asked the Board to pull the public hearing. Mr. Watson said that they've had many iterations of this project. They've tried to be responsive to the Board's comments, DOT's concerns, and still get a project that's viable for Mr. Gagnon. Mr. Watson said that a few changes on the plan before the Board that it really hadn't seen before are the entrance/exit in the middle of the property. He said that they were originally turned down by DOT during the last few months because they were concerned about sight distances. Mr. Watson said that he met with the Traffic and Safety guy at DOT and discussed an alternate. It has not yet been approved, but he said that they will consider it. Mr. Watson said that a major problem with regard to access was getting the big trucks to deliver the windows in and out - they're big, long trucks and it is a very tight situation. They studied all sorts of options. DOT does not like to have three entries onto a piece of property. They do not like to have two entries onto a piece of property unless there's at least three hundred feet in between the sites and then they need you to justify it. Mr. Watson said that his discussion with Mr. Bouchey was such that when he explained the traffic situation with regard to the large trucks, he was soft and said he would consider the plan they have before the Board tonight - with two miniature conditions. One, that there be no left turn out of the north entry and signs be placed to do that. Additionally, they would have to close off the entry that DOT provided several years ago. Mr. Watson said that those two things have been reflected on the plan. He said that one of the iterations is to have a driveway come around the back of the building, close to the building, to get to the front area where there's a garage. That proved problematic simply because of the space that was available and he guessed also because the drainage is a problem behind his building. He said that the drainage was a perennial problem. With all proper permits, it was graded out and drainage was carried away from the back of the building so the building no longer floods. That's why there is the mound of fill and riprap in the middle of the property. Mr. Watson said that they are proposing now a five foot concrete sidewalk around the building that will allow Mr. Gagnon to bring a small front end loader, so he can move his window stock from the storage building that they are proposing to the

workshop in the north part of the building. He said that Mr. Miller's office was concerned about the south entrance and had suggested they look at a turnaround and they did and submitted to the Board options for a turnaround at the north end. Mr. Watson said that they have a wetlands area at the south end of the property and a wetlands buffer that comes up - they cover roughly the south corner of the property, so they do have a wetlands permit application before the Board as well as site plan approval. He said that they did study a turnaround for the trucks and found, using engineering guidelines returning trucks, which may not be what could be done in the most critical situation, but they could reduce the disturbance, but to do that they would have to actually go into the wetlands. By using the access that they are proposing, they could reduce the total disturbance by 1500 square feet within the wetlands and wetlands buffer, but at the same time they would be increasing the wetlands buffer disturbance by 350 square feet.

Mr. Merante asked if the delivery trucks were forty-foot eighteen wheelers.

Mr. Gagnon said yes, they are the big over the road things.

Mr. Merante asked how many deliveries he gets.

Mr. Gagnon said that they get the big deliveries probably once a week on Thursdays. He said that the regular trucks are smaller, but they are still pretty substantial.

Mr. Watson said that they met with the Wetlands people. They were working on about two versions ago of the plans, but they were kind enough to look at the current plans. They've asked them to stake the wetlands line so they can see a limit of disturbance. Mr. Watson said that they did not prepare a report for the Planning Board, so they are going back there next month, but they have asked them to look at two things, which they are happy to do - to do something within the wetland proper to encourage wetland growth, because right now it is just a lawn that has been mowed over and they would like to see some wetland plants restored in there. They also want to make sure that they are capturing the runoff from the parking area and the driveway getting to a place where it doesn't go directly into the wetlands. Mr. Watson said that he didn't think there were any other significant changes - there are little bits and pieces to make things work, but other than that, it's pretty much what the Board saw before. He said that he hoped the Board would place this matter on the agenda for a public hearing.

Mr. Miller asked why the DOT requested the restriction on the right turn out, or no left turn.

Mr. Watson said the left turn out, because there is limited sight distance because of the building to the north and they are afraid that when somebody's pulling out, somebody will be coming from the north and whack into the back of them.

Mr. Cleantis asked if there was any proposed landscaping.

Mr. Watson said that there is another plan for landscaping in the Board's package.

Mr. Meehan asked if they could dictate the time of deliveries.

Mr. Gagnon said that they leave Wisconsin, make periodic stops and either call the night before to tell them they'll be there first thing in the morning, or they'll drop in about 3:00, but unfortunately, it's throughout the day and not even consistent on the days.

Mr. Meehan said that a bad time is rush hour times.

Mr. Miller said that he wanted to remind the Board that when the Town did the Route 9 Corridor Study back in the mid-90's, they made a very strong recommendation to minimize curb cuts on Route 9 and so he continues to recommend that this have one access and a turnaround because he thought it would be a safer situation and a minor incursion into a wetland that's not even functioning as a wetland is not going to be a great resource loss and it can be planted up. He said that he also continues to recommend that this building pad be lowered by at least four feet. By lowering it four feet, you substantially reduce the side slope, and he thought it improves the ability to maneuver a truck on the property within the property and it will substantially enhance the appearance of the property. Mr. Miller asked Mr. Watson what the side slope was in the front of the building now.

Mr. Watson said fifty percent.

Mr. Miller said that it is a fifty percent manufactured grade and doesn't look very attractive. It looks very unnatural. He said that he knows Mr. Gagnon's position on it and there is a financial consideration, but once the Board approves it, the Town is going to live with it forever, and that would be a long time.

Ms. Doherty asked Mr. Miller if he thought the maneuverability of a delivery truck was realistic and if they're really going to do it.

Mr. Miller said that he was a truck driver before he went to college and they moved trucks into very tight places. He said that there is no constraint to moving the truck on the property. It doesn't matter if you back in and out six times, because there's nobody else there to both you. Mr. Miller said that it is certainly maneuverable - you can turn around.

Ms. Doherty said that she just didn't want to encourage backing out onto Route 9.

Mr. Miller said that under this scenario, he can't get out - he's got to turn around there.

Ms. Doherty asked why he couldn't just back in.

Mr. Miller said that it is going to be planted, landscaped. He said that it gets landscaped so that the whole area, however it's treated, is going to be screened from public view. There are no curb cuts. You've got one curb cut. Mr. Miller said that the only thing that he would be concerned about is what Mr. Watson and the DOT had mentioned, which is the sight distance at the northerly entrance.

Ms. Doherty said that it is very bad. She said that she went out and looked at it. It is terrible. Ms. Doherty said that she thought it was very dangerous.

Mr. Miller said that is a genuine issue, but his suspicion is that if the Planning Board limits it to one access, the DOT would approve it.

Mr. Watson said that there is no question that it is shorter to the north. He referred to the plan, pointed to a location and said that it is a much better place to enter Route 9. The sight distance is much better.

Mr. Miller asked if it was even with the sign there that says "no left turn". He said that they are going to go where they want to because there's not going to be any enforcement.

Mr. Gagnon said that they have two existing curb cuts right now and are going to give up the dangerous one. He said that they thought that over time, the further you come down, it's actually safer to pull out. Mr. Gagnon said that their concern is that when they are getting deliveries, they also have customers coming in - it is a lot of activity during the day. He said that if they are limited to one entrance, it gets messy. Mr. Gagnon said that they are trying to create a flow. He said that even with the two entrances, he already sees a lot of problems.

Mr. Watson said that the net is that there will be no additional curb cuts. He said that the new curb cut will be far superior than the one it is replacing with regard to sight distance. Mr. Watson said that the one at the north end has a real problem looking to the south. He referred to the other and said that it has a good sight distance both ways. Mr. Watson referred to the plan, pointed to a location and said the area just to the south of the parcel of land is the wetlands parcel they wanted to put a pool company on a few years ago. Mr. Gagnon has purchased that. He said that they can foreclose that opportunity too.

Mr. Miller asked if a one-way circulation pattern works for everybody including the customers. He said that everyone would come in the northern and exit the southern.

Mr. Gagnon said that would be ideal.

Mr. Watson said that he thought the one-way would work better.

Mr. Miller said that he heard what they were saying and understood the dilemma, but still, it is a single piece of property and it is small. He said that he just couldn't recommend to the Planning Board that it consider multiple curb cuts for every little business on Route 9 and he is trying to find a way to make this safe and minimize movements on a fifty-five mile per hour highway that will not be a hazard. Mr. Miller asked if it is one-way, could the internal road be any narrower than what it is right now.

Mr. Watson said no.

Mr. Miller asked if it was because of the tractor-trailers.

Mr. Watson said he tried to get that down as narrow as possible.

Mr. Miller asked if the Planning Board had an interest in reducing the elevation of the pad.

Mr. Meehan said that he thought it looked all right.

Mr. Cleantis said that he would like to get to some kind of a scenario as to what would happen if they did reduce it.

Mr. Watson referred to the plan and said that it is a fairly steep slope. He said that the wall is now six feet, so if they dropped it four feet, it would be ten feet high. Mr. Watson said that the grade is already too steep to think about banking it up and getting rid of the retaining wall. What would happen is you would have a lower pad, but you would have a four foot higher retaining wall in the back. Mr. Watson said that they do have a landscape plan, so it would not be a bare rip-rap blanket that's there now. He said that it is a very attractive building - a residential sort of looking building. The stockade fence will be largely replaced.

Mr. Pidala said asked the applicant if he was going to get rid of all the rocks.

Mr. Watson said that it is going to be incorporated into a garden type of thing. He said that they will be utilizing that in the plan, rather than removing it.

Ms. Sexton said that she wanted to know if it would be more aesthetically pleasing to look at with the pad lowered, since she really didn't have a concept of what they're saying. She asked if there were any negatives to the owner by lowering the pad.

Mr. Miller said that the elevation at the street face is about 482 and the first floor elevation of the garage is 493. So the pad rises eleven feet above the surface of the frontage. Mr. Miller said that he thought the primary concern he had was that you have to build the road up and building the road down and you have a fifty percent slope in the face of this thing that's a man-made slope - it is a class three slope. He said that if you were looking at it from the perspective of their Code, this is a very steep slope. Mr. Miller said that he thought it was a very nice looking building, but it looks very unnatural in his opinion. And the only reason from what they've indicated is that he had a lot of extra fill and it was easier to get rid of it there than elsewhere. So if they were to reduce it by four feet, he thought the look would be a much softer, gentler look along the Route 9 frontage, which they are supposed to be trying to beautify as part of the Comprehensive Plan. You have a softer grade that goes up to it on either side. Mr. Miller said that he thought you have a much nicer looking site. He said that the cost to the applicant would be that he would have to get rid of a bunch of truckloads of fill.

Mr. Gagnon said that he knew the amount of runoff that comes up from Old Albany Post Road, drains directly onto the back of his property, and is causes a lot of his water problems. He said that he thought everyone was forgetting the Erickson's house is on another slope that's pretty close to that actual ledge above his platform. Mr. Gagnon said that Mr. Erickson asked that he not dig out because he was afraid it's going to loosen up and he was right because all the soil up against that back bay is very loose. He said that you need that natural buffer. Mr. Gagnon said that the other thing is that he actually did build it to that height. The original road/driveway that came down to his building back in the forties before Route 9 was there, came off Old Albany Post Road and (inaudible) on his actual platform is his original roadway.

Mr. Miller said that he did not understand that at all. He said that they were talking about the pad that he constructed.

Mr. Gagnon said that the pad is part of the road. The original driveway is at least eight feet off.

Mr. Meehan suggested the Board make a site visit.

Mr. Merante agreed.

Mr. Miller said that the whole purpose of the retaining wall is to retain the soil. He said that's what engineers do. They do it all over New York State.

Mr. Gagnon said that they are talking taking it down four feet and asked if they really thought they'd gain that much aesthetically.

Mr. Merante said that the Board cannot set a public hearing on this matter, as it needs to take a look at it.

The Board agreed to meet at the site on Sunday, June 10th at 9:30 a.m.

Mr. Watson said that the Board was talking about the (inaudible) and he did not think that should preclude scheduling the public hearing because the site plan, general speaking, it is the way they would normally present it to the public.

Ms. Doherty said, except an access and Mr. Watson was not sure what the access was going to be and that is a main item.

Mr. Watson said that typically, the Board's site plan approvals come subject to DOT approval of the access.

Ms. Doherty said that she thought in this particular application, the access is critical.

Mr. Merante said that it seems to be the key to the whole project.

Mr. Watson said that he didn't know why that mattered if the Board agrees. He asked why it mattered if the Board comes before them or they come before the Board. Mr. Watson said under most circumstances, if the Board says yes to this and they say no I'm sorry, then they're stuck - period. He said that he did not see why it makes a difference and why it would matter who says yes first.

Mr. Merante asked the Board for comment. He asked if under the circumstances, it wanted to schedule a public hearing and still continue with the site visit.

Ms. Doherty said that she guessed they could and they could say that the one-way circular drive is the plan they are looking at and that would be it - nothing else, and with the northern driveway closed.

Mr. Watson said that it is closed on there now. He said that in terms of the plan, the only thing they are really talking about is signing it for a one-way designation.

The Board agreed to schedule the public hearing for June 21, 2007.

**David Kaiser - Approval of a 4-lot subdivision - East Mountain Road North, Cold Spring:
Discussion**

Mr. Watson said that the Planning Board referred this application to the Wetlands last month. He said that he asked them not to look at it because they were going to do a little more work on the wetlands plan, which they have completed but have not submitted. Mr. Watson said that they have today three lots. They want to create four lots out of three. He said that they did a number of lot line adjustments. Mr. Watson said that there is an existing house and driveway. He said that it is a previously approved open area development road up to about 800 feet. There's an approved lot to the north, which is spilled very slightly to the south of the right-of-way of the large lot. They want to take the southern lot, divide it into two and take part of the lots to the north and have four lots ranging in size from a 3.3 acre parcel, to a 5.1 acre parcel, a 5.3 acre parcel and a 28 acre parcel. Mr. Watson said that he thought the Board would find they responded to most of the comments from the letter last month.

Mr. Miller asked when this was originally subdivided.

Mr. Watson said that there were actually a couple of different subdivision maps. There was one called Hideaway Acres, which were some very large lot subdivisions that were done probably around 1975. Then there were two subdivisions in the mid to late eighties and that was the subdivision that created the private road.

Mr. Miller asked what happened to the water at the bottom of the road. He asked how the drainage was handled and where it went.

Mr. Watson said that he believed it went into the wetland.

Mr. Miller asked if there was erosion that came off the road and goes into the wetland. He said that they've got seven and a half and eight percent slopes on either side of the low point.

Mr. Watson said that there probably has been over the years. He said that they have done a wetlands plan that addresses those issues. Mr. Watson said that they have two things going on with the road. He said that they will have to be able to correct, because it was probably never built correctly, the existing approval. Mr. Watson said then there is the matter of the two new driveways that have not been previously approved, one of which has a small wetlands disturbance. He said that the road has to be repaired and maintained. Mr. Watson said that they've done a wetlands plan that provides for the erosion control, etc.

Mr. Merante asked if any major excavating had to be done on the road.

Mr. Watson said that there is an area where there has to be a little cut and fill, but it is not really bad.

Mr. Miller asked if Mr. Watson believed he was not subject to a wetland permit for the road improvement.

Mr. Watson said arguably, yes, and that he believed they had a previously approved plat, previously approved road, and he thought this clearly was exempt as maintenance and completion of the map and the exemption that goes to previously approved subdivisions. Mr. Watson said that he'd be happy to review it with the Wetlands people because he's going to be doing the work there anyway.

Mr. Miller said o.k. He said that they had asked for a more detailed road improvement plan. There's a profile provided that shows, as Mr. Watson indicated, minor cuts and fills. Mr. Miller said that the Board could move it to a public hearing if it felt comfortable with the information submitted.

Mr. Watson said that this has not been submitted and they are prepared to submit it. He said that they have followed through with a roadway improvement plan with all of the silt fence, soil, stockpiling, the typical road cross-section that they need, so they do have that plan.

Mr. Gibbons said it was either wetlands #117 or #119 - a state wetland.

Mr. Watson said that there are three (inaudible) wetlands on the property. He said that the two up by the road are Town wetlands and the new wetlands map that came out from the State...he said that he thought it was WP2, which is State wetlands. Mr. Watson said that there is well over fifty meters he believed, but it was roughly 160 feet between the wetlands and that is the criteria for whether they get merged.

Mr. Gibbons asked if they were going to get together with the State.

Mr. Watson said no. He said that he is going to get wetlands verified by the State. It's been flagged.

Mr. Gibbons said that the proposed SS2 on Lot 3 is abutting the wetland buffer.

Mr. Watson said that it is out of the wetlands buffer.

Mr. Merante asked the Board if it wanted to schedule a public hearing.

Ms. Sexton said that going back to the road maintenance, even though that was existing, being as they are actually creating a new subdivision, there is still no way they could ask for a maintenance agreement and asked if that was correct.

Ms. Herring said that they provided a copy of it.

Mr. Gibbons referred to D5 and asked a question with regard to an easement and asked Mr. Watson to explain.

Mr. Watson said that the way the subdivision open development area regulations works is that the (inaudible) of the land is accounted for. It's not like you're building a public road where the road isn't taxed. So Old Smithtown Farm Road is, in fact, an easement where it passes through lots and with the lots, it is owned by the lot it passes through, but it is subject to the easement in favor of the other owners on that portion of the lot.

Mr. Gibbons said that the road is subject to the four lot subdivision.

Mr. Watson said yes.

Mr. Gibbons said so there'll be no more building after this unless they come to the Planning Board.

Mr. Watson said that technically there are two lots of the four. He said that they are asking for four, one will qualify as a corner lot. There's another one that's a corner lot, so technically there are only three that rely on (inaudible), so somebody could come back and ask the Board for a fourth lot off another lot and still be within the regulations.

Catherine I. Ulmar - Approval of a 2-lot subdivision - Horton Road, Cold Spring: New submission

Mr. Watson said that this is a twenty acre parcel - the remaining lands of the Catherine I. Ulmar estate. He said that they were sales in the late eighties/early nineties of the major portion of the property to the northwest to Harold Lyons. There was a subdivision and a piece to the southeast is another subdivided piece. He said that a piece was sold to a neighbor across the road. Mr. Watson said that Joan Ellison is the residuary legatee and would like to subdivide the property. There's a pond in the middle of the property. Mr. Watson said that a portion of the property is owned by Lyons Realty. He said that they have some physical problems there. They have a piece of the property that they simply can't get to without either crossing wetlands, which is the outerfall from the pond. It is in the State regulated wetlands all about crossing steep slopes. Mr. Watson said that they've looked at three or four different scenarios getting up to the property, they've tested the property, there's good soil, everything's good about it, but they can't get there, so they think that what they have on this particular plan is the best alternative. He said that the Board may be looking at a plan where at one point, they've kept off of the

steep slopes, but with further evaluation, they think coming in with the driveway would be better than going through the wetlands. Mr. Watson said that the pond effectively makes two different pieces of property and they'd like to take advantage of the property to the west.

Ms. Herring said that the driveway location is different than what the Board had.

Mr. Watson said that the driveway, he believed on that plan was over here (pointed out).

Mr. Miller said that he thought this was a State wetland.

Mr. Watson said that it is a State wetland.

Mr. Miller said that it is a good piece of property. They have a functional use of the property with multiple homes on it. He asked why the Town would want to subdivide it when you've already got a use on the property and then let them go through a wetland or on a steep slope. He said that they've got a viable use of the property and they are asking now for permission to either go through a State wetland or a regulated slope to get more use out of it and he didn't understand it.

Mr. Watson said that the applicant wants to use that part of the property and to use it for anything. She's going to need to build a driveway through there.

Mr. Merante asked if the center point of the pond of was Lyons' property.

Mr. Watson said Lyons (inaudible).

Mr. Miller asked Mr. Watson even if they were on the steep slope, they were still within a hundred feet of a State wetland.

Mr. Watson said yes.

Mr. Miller said that he thought Mr. Watson had to get with the DEC and find out if they would consider it because it's been his understanding that they will consider these types of permit requests when you have no functional use of your property. He said that obviously the State or the Town doesn't want to be in the business of taking someone's property rights away from them, but they've got multiple uses on this piece of land. Mr. Miller said that he would want to know before they spend a lot of time with this if the State was amenable to giving Mr. Watson a wetland permit for the access. He said that he didn't know what kind of feedback they would give him because obviously he didn't have a subdivided lot. Once the Town gives him a subdivided lot, it puts the State in a totally different situation. Mr. Miller said that it almost now puts the State in a place where, if they don't give him the permit, they've taken a piece of property, so the Town by subdividing, sort of enables the argument to be made that now they've got a right and he was not sure if that was consistent with the general contemporary notion of environmental protection. He said that was just his opinion.

Mr. Watson said that he understood and thought it was a good suggestion. He said that they would follow up with DEC, but would ask that the Planning Board refer the matter to the Wetlands people for their input on it.

Mr. Miller said that he didn't see any harm in doing that.

Mr. Merante said that the Board is not anywhere near holding a public hearing.

**Lanza - Approval of a 3-lot subdivision - Nelson Lane, Town of Philipstown, Cold Spring:
Submission of revised plans**

Mr. Merante said that he had a letter dated today from Mr. Watson. He read the letter aloud (copy of file at Town Hall). The application was not discussed.

Referral of Local Law changing time to report (CAC) from 21 to 35 days: Letter from Tina M. Merando dated November 2, 2006 requesting Planning Board review/comment (correspondence from November 30, 2006 meeting - not addressed)

Mr. Merante asked Mr. Miller if he had any comment on the above.

Mr. Miller said that he had no comment.

Ms. Doherty said that it's been over three months.

Mr. Cleantis said that he thought it was cumbersome on the applicant.

Ms. Doherty agreed and said that the Board is going to delay them another month. She asked if anyone from the CAC was present.

Mr. Merante said no.

Mr. Gibbons said that he thought they could do it in the 28 days, but it's a couple months that they are having a problem with. He asked Mr. Brower if that was correct.

Mr. Merante asked why they couldn't ask for an extension on an individual basis.

Mr. Brower said that he didn't know if they could ask for an extension or not. He said that he did not know what the law was.

Mr. Gaba said that there's no (inaudible) if they hold it for the thirty five days and hopefully, they would continue to report to the Board within the twenty one. He said that he would think that since they've done it that way for so long, that they are pretty attuned to it. Mr. Gaba said that all it does is give them a little bit more flexibility. He said that they are not going to frivolously do it.

Mr. Watson said that on this subject, he happened to be at a meeting last night where at least one member of the Town Board was fairly adamant that they would make every effort to streamline the processing and this strikes him as contrary to that statement.

Ms. Doherty said that she thought if they were being asked to change a law for this, why couldn't they just change it just to say that on an individual basis, they can ask the Board for an extension.

Mr. Meehan and Mr. Cleantis said that they agreed with Ms. Doherty.

Ms. Doherty said that she'd much rather see that than to arbitrarily change it to thirty-five days.

The Board agreed.

Mr. Merante said that the Planning Board would send a letter to the CAC. He said that they would keep it as is and have the Town Board allow them to ask for individual extensions.

Mr. Gibbons made a motion to that affect. The motion was seconded. The vote was as follows:

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

Correspondence

-Letter dated April 27, 2007 from William A. Zutt, Esq. To Hon. Merante and Philipstown Planning Board regarding Zoning Board Resolution #810 - Property of Alfredo DeVido

Mr. Merante asked Mr. Gaba to address the letter regarding DeVido.

Mr. Gaba said that the Board has received a couple of letters. He said that he assumed everyone was more or less familiar with the dispute between DeVido and Weinpahl. He said that they've attached a copy of the ZBA's decision, which is that the ZBA held in abeyance at least, the work permits that were issued to DeVido. Upon a finding that because DeVido had moved the existing, non-conforming bungalows or sheds that were on the property, he required site plan approval in order to get a building permit to move on. Mr. Gaba said that DeVido went out and decided he didn't want to come back to the Planning Board to get site plan approval, so they say - he obviously couldn't vouch for it as he didn't know - that he's erased the sheds and that they are no longer on the property, so now it is DeVido's position that since they're not there anymore, he's doesn't have to come for site plan approval, which may very well in affect be true, but the fact of the matter is that the building permits that he issued were (inaudible) by decision of the Zoning Board until it came to this Board and got site plan approval. Mr. Gaba said so now DeVido has basically three options open to him. One, he can go back to the Zoning Board, move to re-open and say that there's been a change in fact, so please reverse the decision and allow the building permits to stand. Two, he can appeal from the Building Inspector's present decision to suspend them per the ZBA's decision notwithstanding this alleged change in facts, and go back to the ZBA on that who would say the prior decision stands and now he'll have to start a new appeal, and he could either re-open the appeal taken by his neighbor or could start an appeal of his own. Third, he could go to the Planning Board and present proof to the Board that he does not in fact need site plan approval. He could submit a survey or some other proof that the Board might deem appropriate to prove that he does not need site plan approval and then the Board could send a letter saying, "on the fact before us, it's clear you no longer require site plan approval". Mr. Gaba said that would satisfy the Building Inspector and you could go on from there.

Mr. Miller asked under what provision of the Code does he need site plan approval for an accessory use in a residential zoning district.

Mr. Gaba said apparently there was a provision that cited the Zoning Board's decision that says to move non-conforming buildings, you need site plan approval.

Mr. Miller asked if they had been deemed to be non-conforming buildings.

Mr. Gaba said that they are non-conforming buildings.

Ms. Herring said that the latest letter from the Town attorney said that it was the Planning Board's jurisdiction.

Mr. Gaba said that there is no application before the Planning Board right now, so it does not have any jurisdiction right now.

Mr. Merante agreed.

Mr. Gaba said that the question is, will the Board allow him to come in and if so, what kind of application/proof does the Board want to see in order to entertain this. He said a full-blown application for site plan approval seems a little over the top. Will a letter and a survey do? Will an affidavit do? Can he just show up and testify? Mr. Gaba said that they are looking for some guidance as to whether they'll entertain it at all. He said that also DeVido had settled an Article 78 proceeding against the Zoning Board and against the Building Inspector and he's seeking to overturn the Zoning Board's decision and also the Building Inspector's refusal to lift the suspension on the building permits. So a proposal to resolve this matter without anybody incurring a lot more in legal fees, is to have things come to this Board to kind of resolve it. He said that doesn't mean that the Planning Board has to do that by any stretch of the imagination. Mr. Gaba said that they'd like to get back to the attorney's for DeVido and the attorneys for Weinpahl and let them know what the Board's thoughts are on this.

Mr. Merante said with regard to Mr. Zutt's letter, it said "please acknowledge receipt of this letter and do whatever else is appropriate so that Mr. Monroe can proceed to lift the stop work order". Mr. Gaba said that Mr. Zutt obviously would like the Board to require much less, but not withstanding the language in that if the Board can get back to them with some guidance as to the next steps if any to be taken, is what the party is looking for.

Mr. Miller asked if the guidance would be that if the buildings have been raised, it's the Planning Board's view that there's no action before them because there's no non-conforming.

Mr. Gaba said that there is no action before the Planning Board now.

Mr. Miller said so there would be action under any circumstances to even come before the Board.

Mr. Gaba said that there is no requirement for site plan approval.

Mr. Miller said that he thought the Board could take care of some business or preempt some business by discussing this and if it concludes that there is no site plan action when there's no building, then the matter is moot for that particular alternative if that is the case. Otherwise they can feel free to file an application and the Board would entertain it if there's still buildings to be addressed.

Mr. Merante said that he said there are not.

Mr. Gaba said that the issue is whether in fact there are any buildings or not.

Mr. Miller said that we don't know that.

Mr. Gibbons said that he would take issue with that. He said that the Board could read the Resolution from the ZBA. Mr. Gibbons said that it is suspending the building permits for the two lots pending receipt of the site plan approval from the Town of Philipstown Planning Board for proposed construction and development of the lots as required by the Zoning Code of Philipstown. Mr. Gibbons said that it doesn't say that they are looking at the cottages. He said that it is saying that in that finding, that's one of the reasons why it's being moved here, but the ZBA is asking the Planning Board to look at the site plan.

Mr. Miller said that the Planning Board has no authority over a residential lot that's being built for residential use.

Mr. Gibbons said that they are asking them to look at a subdivision.

Mr. Gaba said that he didn't read the decision that way. He said that he thought it said they are suspended until such time as site plan is granted as required by the Town's Code. He said that if site plan is not required by the Town's Code, then he thought the suspension should be lifted. Mr. Gaba said whether that's done by letter from the Planning Board or by formal action on the Zoning Board, it will wind up in the same place at the end of the day. He said that he believed they can not infer jurisdiction on the Planning Board to grant site plan approval where the Code doesn't grant it jurisdiction to begin with.

Mr. Gibbons asked if this was the same opinion as the ZBA attorney.

Mr. Gaba said oh yeah.

Mr. Gibbons said that you're making concurrence that if the cottages don't exist, then (did not finish sentence).

Mr. Gaba said that he didn't know if the cottages exist anymore - that's the whole issue.

Mr. Merante asked Mr. Gaba what his recommendation was.

Mr. Gaba said his recommendation is that either by more formal or less formal means, the Planning Board require them to make some showings that the buildings don't exist anymore. He said that Mr. Zutt's letter does represent that. If the Board wants to accept that, it could act tonight. If the Planning Board is not willing to accept that, it can require them to make a submission for next month.

Mr. Merante said that at least a couple of the members could take a look just to see if they're there by the next meeting.

Mr. Gaba said that was helpful, but he really thought the Board should have something firm. He said that the Board could tell them whatever it thinks is appropriate or at least something under oath.

Mr. Merante said o.k.

Mr. Gaba said and if they want to show up at next month's meeting, they can show up or not.

Mr. Miller said a letter from a licensed engineer or surveyor stating the matters of fact.

Mr. Gaba said that he would write to them then and see what comes of it and hopefully will take it up at next month's meeting.

Miscellaneous

Mr. Merante announced that tonight would be Ms. Herring's last meeting with the Planning Board. He stated that the Board would miss her and thanked her for all that she had done.

Adjourn

Mr. Cleantis made a motion to close the meeting. The motion was seconded. The meeting ended at 11:00 p.m. The vote was as follows:

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