

**Philipstown Planning Board  
Meeting Minutes  
June 21, 2007**

The Philipstown Planning Board held its monthly meeting on Thursday, June 21, 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  
                      Josephine Doherty  
                      Kerry Meehan  
                      Andrew Pidala  
                      Pat Sexton  
                      Stephen Gaba, Counsel  
                      Fred Wells, Tim Miller Associates  
                      Eram Qadri, Tim Miller Associates

Absent:           George Cleantis  
                      Michael Gibbons

**Public Hearing**

**Tyjan Corporation - Site Plan Application - 2560 Route 9, Cold Spring: Submission of revised plans/discussion**

Mr. Watson stated that they were seeking permission to revise the site plan and construct a new building on the southerly portion of the property. He said that they have been before the Board for quite a while and have made several changes despite the fact that the site is quite limited in its capacity. Mr. Watson said that today there are two entries - one at the extreme northern end of the property and one a little north of the center of the property. Neither has very good sight distance, so in order to accommodate the vehicles that will be delivering the window stock to the new building, they have proposed to close off the northerly most entrance, which has virtually no sight distance to the south, and construct a new entrance near the south end of the property. They would then have a one-way traffic system where people would come in on the new northerly end, circulate clockwise through the property, and come out at the southerly end - the advantage at the southerly end being that the sight distances are much better. Mr. Watson said that there is limited sight distance at the new northerly entrance - the one near the center. He said that it is partially blocked by the building. But by designating the circulation one way, they would be limiting traffic to turns off of Route 9 and into the property. Mr. Watson said that to compensate for closing the northerly entry, which does lead to a garage door, they are constructing a fairly wide sidewalk behind and around the building to the small work area so that stock can be brought into the workshop. He said that on the newer portion of the property, there is a mound of dirt. It was taken from the back of the existing building at the north of the property in order to alleviate ground water conditions that were flooding the basement of the existing building. Mr. Watson said that they are providing for a more formalized and structured parking space toward the existing building, and a driveway up to the level of the new building, at which there will be parking and then the entrance. The new building is a storage/garage

building. There are garage doors in the back, which won't be seen from the road. The front of the building will be much the same as Mr. Giachinta's brick building. Mr. Watson said that there was concern for the look of the slope and they've provided a landscape plan to cover the rock slope and a selection of plants that will help to do that as well as landscaping to the southeast of the existing road. He said that there is a wetland and a wetland buffer on the southerly part of the property. A proposed driveway does go through the wetland buffer and comes very close to the wetlands itself and there's drainage that's being captured on the site and being conveyed to new catch basins near the southerly entrance and into the state catch basin. That's to avoid putting it into the wetlands. Mr. Watson said that they met with the Wetlands Committee, they've staked it out and they've been out there and looked at it. He said that they do not have the report yet, but Mr. Klotzle's verbal report to them at the meeting was that if they would provide wetlands plantings (pointed to location), they could go along with it. They had two major concerns. First, Mr. Klotzle reported that it was a marginal wetlands at best - it really wasn't very functional. He suggested that in the area of the actual wetlands, they plant some plants that would help to restore its functionality. Mr. Watson said that they've agreed to do that and agreed to meet with him to select the plants and that is supposed to happen between now and July 6<sup>th</sup>. He said that he did not have an appointment yet. Mr. Watson said that the other concern was that they would be taking road drainage - the drainage plus the new driveway, and dumping it into the wetlands, but they've re-graded it and put in the new catch basins in order to prevent that, so that the surface runoff off the impervious surface would be directed to the catch basins and avoid going directly into the wetlands. Mr. Watson said that with regard to the issue of the building being on top of the hill, they are concerned about the height of the building as Mr. Miller's office was too. He said that Mr. Gagnon spoke with his architect. Mr. Watson distributed material to the Board. He said that they have reconfigured the roof. Mr. Watson said that they've broken the rules. He said that it actually does two things. It provides a little more room upstairs and also gets them at least three feet of the four feet that Mr. Miller was concerned with in lowering the pad. Instead of lowering the pad, they're lowering the building. They haven't quite achieved the four feet, but it keeps them out of the problem of building the retaining wall that needs to go behind the building into a ten foot high retaining wall and all the structural elements that wouldn't necessarily have to go into that and the added disturbance. Mr. Watson said that obviously they're within a foot of the goal Mr. Miller set and he thought it was a reasonable compromise. He said that they are prepared to submit revised architectural.

Ms. Sexton asked if there was any possibility of taking some of the soil out and achieve a lower elevation and why some of the soil couldn't be spread around the property.

Mr. Watson said that there really isn't a lot of place to spread it around the property because as it is, they are in the wetlands buffer more than they'd like to be and they tried to minimize that. He said that he couldn't tell the Board it was impossible. Mr. Watson said that it is certainly possible, but they've gotten the wall up to that height and don't really want to make that wall any higher. If they lower the platform, they are going to have to raise the wall in the back, which gives them more construction cost because it has to be lagged into the hillside and perhaps more importantly, from the Board's point of view, it gives them more disturbance to the east, more digging, and they'd just like to avoid that.

Ms. Sexton said that aesthetically, it is sticking up there in the middle of nowhere and doesn't look like it belongs there. She asked if there was any way to dig some of that soil and spread it out in the front without going through the wetland buffer although she understood it was costly.

Mr. Gagnon asked if Ms. Sexton saw the configuration on the new gambrel roof. He said that first, they eliminated the metal roof, which he knew was a big concern, so they are back to a nice asphalt roof, which they can do something more natural like a cedar shake blend or something. The other advantage is that you don't have the massive peak - it just drives straight up and looks like a mountain top. He said that it's done two-dimensional now and he thought it was a tremendous compromise compared to what it was.

Mr. Watson said that Mr. Gagnon was saying that your eye, in looking at the peak, goes all the way up, which is three feet higher than the other peak. He said that with the other building, your eye perceives this (pointed out) as the peak, as opposed to the other because it drops back and is out of sight, so you don't perceive it at the full height.

Mr. Merante said that as Mr. Watson said, the benefit is that they get more storage with the gambrel roof.

Mr. Watson agreed and said that there is more cubic feet upstairs.

Ms. Sexton said that they did not show where the fuel tank was going to be located.

Mr. Watson said that she was right and that there was only one place they could put it.

Mr. Pidala said that with the asphalt parking lot, it would look better if they blacktopped to the top of the hill. He asked if the rest was dirt going up to the top.

Mr. Watson said that they'll pave it.

Mr. Pidala asked how much.

Mr. Watson said that if the Board wants that, they'll do it.

Ms. Doherty asked if the Design Standards apply to this application.

Mr. Watson said that he did not know.

Ms. Doherty said that she did not have a copy of the letter, but she believed they did. She said that she would like to make sure that they at least look at them.

Mr. Watson said that it is really a pretty handsome building.

Ms. Doherty asked how much of a variance they got from the ZBA for the street line and the

center line.

Mr. Wells said that they had a note in their memo from last month indicating the building required an eighteen foot variance from the hundred foot setback to the center line.

Ms. Doherty said that she was referencing that to the site plan. She said that the site plan says that they were providing thirty five feet instead of a hundred and four and a half feet instead of fifty.

Mr. Watson said that it sounded like a mistake in the chart.

Ms. Doherty agreed and said it sounded like a stretch.

Mr. Watson said it wasn't anywhere near that. He said that it was wrong and they will fix it. He said that eighteen feet sounds right. Mr. Watson looked at his file and said that they have 82.5 from the centerline, which is seventeen and a half. He said that he thought they were not too close to the street line, but too close to the center line.

Ms. Doherty asked if he would change that on the plan.

Mr. Watson said absolutely.

Mr. Merante said that he had a couple of questions about the so-called wetland. He referred to a letter from the CAC of October, 2004. He said that Mr. Coleman thought it was formed by drainage problems and asked if it was an actual wetlands or not.

Mr. Watson said that he did not know the answer to the question, but he did not think it made any difference - a wetlands is a wetlands, and it doesn't matter whether it was manmade.

Mr. Merante asked, even if it was recent.

Mr. Watson said yes. He said that if it is a functioning wetlands, it doesn't matter.

Mr. Merante said without a doubt - no exceptions.

Ms. Qadri said yes.

Mr. Merante said so it would still be determined by the usual criteria that determines a wetland.

Mr. Watson said yes.

Mr. Merante asked if with regard to Mr. Miller's letter of March 15<sup>th</sup> saying the Board should refer the plan to the CAC, Mr. Watson had received a response.

Mr. Watson said no they had not. He said that they were at the CAC a couple of times and most

recently the second Tuesday of the month and that's when they agreed to the planting and showed them the revisions they had asked for the previous month.

Mr. Merante said that he knew there was a difference in the distance in the back of the building on the alternative plan to the last and the earlier and he asked if there was a difference between the base of the building on the plans.

Mr. Watson said about thirty feet.

Mr. Merante said that the disturbance was with mainly the roadway and asked if that was correct.

Mr. Watson said that was certainly the main part of it and they submitted drawings demonstrating that it is actually the least damaging. But there also is a drain pipe - an overflow from a seepage pit that's in the parking lot, that goes down across on the north side of the driveway, but also goes from the north side of the driveway to the catch basin.

Mr. Merante said that he thought a couple of meetings ago, they talked about a catch basin along the edge of Route 9 and asked how that dispersed the water that flows in there and where it go from.

Mr. Watson said that it eventually gets into the wetlands south of Papa John's, but there's a straight drainage system that takes it there. He said that it may come out of the pipe you drive over when you go into Papa John's.

Mr. Merante said so there's a connection from the catch basin to that.

Mr. Watson said that he would think so.

Ms. Sexton asked if they were going to maintain the stockade fence around the building.

Mr. Watson said not in front. He said they want to expose the front to the road.

Ms. Sexton said so it is going to go from the edge of the building around the back.

Mr. Watson said that it is going to come from the edge of the building, go to the parking lot (he thought on both sides), but not in front of the building.

Ms. Sexton said that with the mound that is there, Mr. Merante said that he felt there was about fifteen feet, and she asked if Mr. Watson thought that was about right.

Mr. Gagnon said that he thought it was about twelve feet.

Ms. Sexton said so they're going to have twelve to fifteen feet and they are going to have nearly thirty seven or thirty eight feet of building on top of that.

Mr. Gagnon said that the building was not going to be thirty eight feet tall.

Ms. Sexton said that when they were there, she thought Mr. Watson told them it was five feet over the top of the existing telephone pole that was there.

Mr. Wells said that the street elevation is approximately 480 and the proposed pad elevation is 493 - a thirteen foot difference.

Mr. Watson said then there's about four feet between the street and the base of the hill, so they're talking about nine or ten feet that's clearly an upper slope.

Ms. Sexton said that she was almost sure that's what they had said.

Mr. Merante said that he thought so too.

Mr. Watson said that they have a new building. He said that they have the plans and they can scale that.

Mr. Merante said that the new building is three feet lower than the original.

Ms. Sexton said that he said it was higher than the Habitat Revival building on Route 9.

Mr. Watson said that the new building was twenty five and half feet to the higher peak.

Mr. Merante said so they're suggesting twenty five plus nine - thirty four from the base of the mound and another four feet from the road, so they're talking approximately thirty eight feet.

Ms. Sexton said that the telephone pole they said would be approximately another twelve foot above that. That would be the peak.

Mr. Watson said that the peak would be moved back and the peak is lowered because of the new roof line and lowered again visually because of the break that they put in.

Mr. Merante said that the type of siding that is on the new structure is different than the impression he got when they were talking.

Mr. Gagnon said that it is rough sawn.

Mr. Merante said that it is horizontal and asked the applicant if he originally said it would be vertical.

Mr. Gagnon said no, he didn't like the vertical. He said that they both decided the horizontal would look aesthetically a lot nicer than the board and batten look.

Mr. Merante said that one of the concerns the other Board members raised after the site visit in comparing another building farther north on Route 9, which has untreated siding also, was that shortly after it's installed, it starts to grey unevenly. He asked if there was something they could do about staining that.

Mr. Gagnon said that he could paint it. He said that he thought the Board wanted it to blend into the landscape. He said that he sided the Highlands Country Club on Route 9D with rough sawn and it has the natural gray, that he thought naturally disappears into the landscape.

Mr. Merante said that he did not know and would get the feeling of the Board. He asked if Mr. Wells had any comment.

Mr. Wells said no.

Mr. Merante asked if the audience had any comment.

There was no comment.

Mr. Merante said that they do need the report from the CAC.

Ms. Doherty said that she would like to know for sure that the application complies with the Design Standards.

Ms. Sexton asked Mr. Watson if there was going to be a sign.

Mr. Watson said yes, there is currently a sign. He pointed it out on the plan and said that he believed it would be moved back a little bit.

Ms. Qadri asked if all options were explored and if, where the retaining wall is now, the building could be pushed all the way behind with the road right in front of that.

Mr. Watson said that they looked at at least a half dozen options - four of which they've shown the Board. He said that the reason they talked about building the building back was so that the back of the building was the retaining wall, but that forced the garage doors to face the street and put the parking in front of the building. Mr. Watson said that by pushing the building up, they were able to present an architectural finished front of the building to the street, put the parking behind it and put the garage doors behind the building.

Mr. Merante said that they would carry the matter over until they get the Wetlands report and make sure it complies with the Design Standards.

Ms. Doherty made a motion to leave the hearing open. Ms. Sexton seconded the motion. The vote was as follows:

Anthony Merante -  
In favor

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

Mr. Watson asked if Mr. Miller's office would work on a Resolution so that they could act on it next month.

Mr. Merante asked for everyone to be aware that because of a conflict, next month's meeting would be held on the fourth Thursday at the Recreation Center in Garrison.

**David Kaiser - Approval of a 4-lot subdivision - East Mountain Road No., Cold Spring: Submission of revised plans/discussion**

Mr. Watson said that the property is presently approved to serve three lots. One lot does not use it. They are seeking approval to take three existing lots and re-divide the property so that they have four lots. The westerly most lot has 28 acres. It's improved with a fairly new home that Mr. Kaiser constructed for himself. To the extreme west of the property, Old Smith Town Road has been extended to Mr. Kaiser's house. His property has a significant amount of wetlands to the south, which they've avoided. There are wetlands along the border between parcel 2 and parcel 3. The land to the north is a previously approved subdivision. There are some wetlands in the east. Mr. Watson said that they have a septic permit from the Health Department based on the old approval to construct a septic system and thus the house on the northerly parcel of four acres. Mr. Watson said that they then want to take the remainder of the property and divide it into two parcels - a five acre parcel and a 3.3 acre parcel - all of which would take access off of the private road of Lot IV, three acre lot, just shortly after you get off of East Mountain Road. Each lot has a septic system shown. Each lot has a building area that's required. Mr. Watson said that they do have to reconstruct Old Smith Farm Road. It is not up to standard. They do need a wetlands permit for the driveway into parcel 3. That involves about seventy two square feet. Mr. Watson said that other than the small disturbance he mentioned before and the disturbance within the wetland buffer, they have avoided wetlands disturbance. Everything has stayed out of the buffer. He said that they did again meet with the Wetlands Conservation Advisory Council. They took it up in May. They took it up again in June. They had two major concerns. They believed that when this road was constructed, a wetlands was severed by the construction of the road and they've asked them in the reconstruction if they would add pipes to re-establish that connection under the road, and they've agreed to do that. Mr. Watson said that they've also agreed, while they're exempt from certain sections of the Wetlands Law, to abide by their suggestions with regard to erosion control. He said that he have a tentative meeting sometime before July 6<sup>th</sup> to go to the site and review the issue with regard to the pipe. There were some materials dumped near the edge of the road that they would like removed and again, they've agreed to do that. Mr. Watson said that they're expecting a positive report from the Wetlands people.



Mr. Meehan asked if utilities would be underground.

Mr. Watson said that he did not know if they were or not but would find that out. He said that he did not know how they'd get in there - they're already servicing the house, but anything new would go underground at the houses.

Mr. Meehan asked if the Board's engineer looked at the road or anything.

Mr. Watson said that they sent in the plans, but didn't remember receiving anything.

Ms. Sexton asked if there would be any further subdivisions.

Mr. Watson said that he did not believe so, as he thought the parcels were already spoken for.

Ms. Sexton asked if that would be written in.

Mr. Watson said that he couldn't answer that question, but he would ask.

Ms. Doherty asked if there was a road maintenance agreement.

Mr. Watson said no, there should be one, and they would take subject to one that is acceptable.

Mr. Merante asked if they had anything back from the CAC or Bibbo.

Mr. Wells asked if the improvement to Old Smith Road was covered by a previous wetlands permit.

Mr. Watson said no, it is a previously approved subdivision and the lots in the subdivision are exempt because of that. He said that he believed that the reconstruction of the road is covered under the previous approval under the maintenance and repair section. Mr. Watson said that in the Wetlands Ordinance, it allows it.

Ms. Sexton asked if it was submitted to Bibbo.

Mr. Merante said yes.

Mr. Sexton asked if the Board had gotten anything back.  
Several Board members said no.

Mr. Merante said that two letters were submitted on this matter. The letters were from Alice Krakauer and the McGinley Family. He said that the Board would put them into the record.

Ms. Natalie McGinley of 524 East Mountain Road North stated that their house was not shown on the diagram and pointed it out to the Board. She presented a letter to the Board and read it

aloud (copy on file at Town Hall).

Mr. Meehan said that he thought the Zoning Board should be informed of some of the items in the letter. He also stated that he thought Mr. Watson could work with the plan so that it could be put in the actual area.

Mr. Russ Cusick of 541 East Mountain Road North stated that he wanted to remind the Planning Board that the most recent heavy rains back on April 17<sup>th</sup> caused considerable erosion and problems with storm water runoff on East Mountain Roads - north and south. He said that they are taking the runoff - the most problematic on East Mountain Road South going toward the Putnam/Dutchess border, and they are directing the sediment and silt directly into Trout Brook, which is a Hudson River tributary. Mr. Cusick distributed pictures to the Board.

Mr. Meehan asked Mr. Cusick to point to the area he was referring to on the plan.

Mr. Cusick did so. He stated that all along East Mountain South, the Town of Philipstown has trenches that are directing runoff, because there's nowhere else for the water to go, directly into Trout Creek. Mr. Cusick said that he thought this should be taken into consideration before any further development because they don't have the infrastructure currently to accommodate the runoff on East Mountain.

Ms. McGinley stated that she spoke with Ms. Krakauer this morning and she asked her to read her letter to the Board.

Mr. Merante said that the Board had also received a copy of the letter for the file.

Ms. McGinley read the letter aloud (copy on file at Town Hall).

Mr. Brower asked Mr. Watson how big the travelway was on Smith Road.

Mr. Watson said that it varies. He said that it's too narrow - probably ten feet in some places.

Mr. Brower said that it's a fifty foot driveway.

Mr. Watson said that it's a fifty foot driveway and they are going to have a fourteen foot travelway, which is what they require.

Mr. Brower said that then the question is considerations for turnarounds for fire equipment.

Mr. Watson said that there is a turnaround provided.

Mr. Brower asked if the stormwater management plan had to come in to this and if the overall disturbance was more than one acre on the whole project.

Mr. Watson said that was not the criteria. He said that there is an erosion control plan, but the

stormwater pollution prevention plan is required when there's five acres and anticipated disturbance at residential (inaudible) - not one acre. Mr. Watson pointed to the map and said that the largest one is built.

Ms. Sexton asked if any of the trenches that Mr. Cusick was talking about would be cut into this road or off this road.

Mr. Watson said that he thought Mr. Cusick was talking about was the Town's custom of breaking through on the edges of the road to allow drainage runoff. He said that he did not know where it drains, but believed it drains toward the north - not towards Trout Brook. Mr. Watson said that they have erosion control. There's no sedimentation basin, but they will look at that.

Ms. Sexton asked if there was any possibility of putting (inaudible).

Mr. Watson said he simply did not think it was reasonable and would not recommend to his client to agree not to cut trees within ten feet of the building. He said that he was sure he would consider increasing a setback of the property by mutual easement provided that the neighbor, where there was no building or no use of the property, would increase her setback by like amount. Mr. Watson said that he thought there really needs to be a quid pro quo there.

Ms. Sexton said to prevent that, they (inaudible)

Mr. Watson said that the building could be moved a little further away.

Ms. Sexton said so that they wouldn't have the ten foot problem if they move the building. She said that it is set kind of deep back there.

Mr. Watson said that it is a hundred feet from the property line. It is a hundred feet from the other property line. If there is only a hundred and fifty feet between the houses, it means that the house is only fifty feet from the property line. Mr. Watson said that they would certainly consider increasing the setback by mutual agreement, but there needs to be a quid pro quo.

Mr. Pidala asked Mr. Watson if they could have some trees planted.

Mr. Watson said that they are not going to cut down any more trees than they need to. He said that it is a wooded area.

Mr. Pidala said that in the winter time, he thought you could see her yard pretty clearly.

Mr. Watson said that he was sure you could. He said that they'll look at moving the house somewhat forward. Mr. Watson said that they don't have a lot of room. They already have a hundred foot setback on the plan and as he said, they'd be happy to agree to a reasonable setback on both sides of the line.

Ms. Sexton said that it's just that the other house already exists, so they have a chance of moving this one a little bit.

Mr. Watson said, but if they restrict themselves - say to a hundred feet, what's to prevent the neighbor from deciding to put up a shed thirty feet off the line that's required by the zone. He said that for them to voluntarily do that is giving away value on a piece of property and to be fair, it strikes him that if they agree to be seventy five feet away from the property line with any building in order to protect the neighbor, the neighbor should be willing to give a like amount by way of mutual restrictive covenant that benefits both lots. Mr. Watson said that they'd be happy to investigate that sort of arrangement and he thought that was perfectly fair.

Mr. Ferber said that he did not think you could equate a seven foot tall shed to a thirty foot tall building. The sight distances are quite different and are not really compatible. He said that if the shed is an issue, that can become a deed restriction and he was sure she would volunteer not to put a shed there.

Mr. Merante said that he was speaking for someone else.

Mr. Ferber said that it makes no sense to him.

Mr. Watson said that it depends on what's in the shed. He said that if you keep chickens in the shed, it would make a big difference.

Mr. Merante asked the Board members if they felt a site visit was required. He said that they had to continue this matter anyway, as they need the Wetlands report, Bibbo, and road maintenance agreement.

Ms. Sexton made a motion that the Board continue this matter next month. Mr. Pidala seconded the motion. The vote was as follows:

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

The Board agreed to meet on the property for a site visit on Sunday, July 1<sup>st</sup> at 9:30 a.m.

### **Garrison Golf Club PDD - Approval of a site plan - Route 9, Garrison: Resolution**

Mr. Wells said that they had drafted the Resolution and received input from Mr. Watson regarding clarifying a few issues. He distributed the Resolution to the Board and 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 (copy attached). Mr. Pidala seconded the motion. The vote was as follows:

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

### **Regular Meeting**

#### **Miscellaneous**

##### **-Open Space Conservancy, Inc.**

Mr. Merante said that another item, which was not on the agenda, came up because it involves the Town Recreation Department and they are trying to expedite it as there is a time issue involved. Mr. Merante said that the Board would listen to Mr. Watson and if it felt it could move it to a public hearing, that would be done.

Mr. Watson said that the application involved 89 acres. He said that it is the Glenclyffe property. Mr. Watson said that in 2003, the Board approved a two-lot subdivision of this property creating a Parcel A, which was approximately 77 acres and Parcel B, which was 11 acres. Parcel B is a flagged lot that utilizes the existing driveway and surrounds what is now the Garrison Institute. He said that subsequent to that subdivision, the Zoning Board approved a special use permit for the Garrison Institute. Mr. Watson said that in 2005, the Planning Board approved a subdivision of the remaining 77 acres into a parcel of 20 acres and 59 acres. At the time, the stated purpose of it was to segregate the gymnasium building that was a former high school, into a piece of property that would be given to the Town by Open Space Institute from the remaining property which Open Space Institute for the time being, is keeping and on which is located the Fish Mansion. Mr. Watson said that those subdivisions also created approval of a common access through the Garrison Institute property. He said that the Garrison Institute is an institution dedicated to peace and quiet and understanding among men and they felt that the traffic that would be generated by the recreation activities would be intrusive because it would come so close to their building. So there was a series of negotiations that went forth among people who run the Garrison Institute, Open Space Institute, who is giving the land to the Town, and the Town. The Town then engaged Mitchell (inaudible) and his team to do a master plan for the Recreation, which was recently completed. Mr. Watson said that the bottom line is that it was agreed that any objection to the Garrison Institute would go away if the easement to the Fish Mansion were relocated to go through the Town parcel and the easement that was previously approved, most of the easement that was previously approved through the Garrison Institute would be extinguished. So this is a subdivision because it's a change of a right-of-way in a previously approved plat. Mr. Watson said that the lot lines are remaining exactly as the Board

approved it. What's changing is that the easement, instead of coming in off of 9D and going all the way through to the Garrison Institute Building and then continuing on to the Fish Mansion property and a little bit of it going through the Town property, that right-of-way would remain in affect for approximately three hundred/four hundred feet, at which point it would turn left, go through the Town property, and take a different route to the Fish Mansion property. So they are seeking to eliminate most of the Garrison Institute easement in favor of an easement that would go through the piece that is going to the Town. Mr. Watson said that they are asking that the Board schedule a public hearing. The time constraint that was alluded to before is that once this gift is made, the Town is committed to building this road and the Town is going to be under an obligation to have it done by the end of 2007/ January 2008. Mr. Watson said that the Town can't work on the property until they own it.

Mr. Gaba asked why they needed to finish it by the end of the year.

Mr. Watson said that it is just a condition of the gift. He said that there are several conditions on this gift - the number of parking spaces are limited to a hundred twenty, certain areas cannot be built upon, and a significant limitation on what may be built. Mr. Watson said that the reason for the conditions is that the Open Space holds this for the purpose of maintaining the landscape that's presented to 9D and in doing so, they have imposed these conditions on everybody.

The Board agreed to hold a public hearing on this matter next month, July 26<sup>th</sup>.

## **Correspondence**

1. Letter dated June 4, 2007 from Joan Ellison regarding Withdrawal of application of the Estate of Catherine Ulmar.
2. Letter dated May 30, 2007 from Ed Doyle regarding Local Law to amend land development regulations.  
Mr. Meehan asked if someone could explain the local law.  
Mr. Gaba said that the genesis of the local law was that their prior definition of subdivision in the Code had a statement that "exchanges of land between adjoining property owners would not be considered subdivisions unless...", and then it listed four criteria under which exchanged property between adjoining land owners would be considered. He said that if you didn't fall into one of those four criteria, you could have rather large exchanges of land between adjoining property owners - basically create all new lots and never go through subdivision review. Mr. Gaba said that it can lead to some issues as far as developments. So the Town Board has attempted to re-draft the definition of what a subdivision is to make sure that when there are exchanges between property owners, it's going to come before the Planning Board to make sure that if and when the land is developed, it will developed in accordance with the Code. Mr. Gaba said that he thought it accomplishes that purpose pretty well.
3. Letter dated May 22, 2007 from Anthony Merante to the Town Board regarding Local Law, Conservation Advisory Committee - Change the time for CAC to report.  
Mr. Merante said that he did not know what the outcome was from the Town Board and

asked Mr. Brower if he had gotten any feedback on it.

Mr. Brower said not yet.

4. Letter dated May 22, 2007 from the Anthony Merante to the Town Board regarding Local Law to amend Chapter 175, Zoning, to change the date of the Zoning Map.
5. Letter dated May 16, 2007 from Bibbo Associates to Philipstown Planning Board regarding Quarry Pond.  
Mr. Merante read the letter aloud.
6. Letter dated May 15, 2007 from John P. Noschese to the Planning Board regarding Quarry Pond - Dry Hydrant System.
7. Letter dated May 12, 2006 from Bibbo Associates regarding Plan Review - Louis Lanza subdivision.  
Mr. Merante said that he would not go into it, as it was not before the Planning Board.
8. Letter dated May 31, 2007 from Steven Gaba to Bolger, Hinz & Zutt, P.C. regarding DeVido.

Mr. Gaba said that last month, the Board received correspondence from the attorney for Mr. DeVido, Bill Zutt, and the letter basically asked the Board if it would entertain an application for site plan review in regard to non-conforming structures. He said that the genesis of it was an application to the Zoning Board challenging building permits that had been submitted. Mr. Weinpahl, a neighboring property owner had filed that. Mr. Gaba said that they went through all the facts on it at last month's meeting, so he was not going to go through it again. He said that they concluded that he would send a letter to Mr. Zutt asking for more information regarding the bungalows on the property and if they had, in fact, been removed and if the property now complied with the zoning code as far as the non-conforming structures. Mr. Gaba said that Mr. Zutt wrote back. He said June 7, he thought, was the letter and submitted a couple of affidavits to substantiate that, in fact, the sheds for which site plan approval would be required were gone. Mr. Gaba said that they also received in that time frame, correspondence from Mr. Weinpahl objecting to the Board taking any action in regard to this and basically Mr. Weinpahl's position was that the Planning Board could not countermand the Zoning Board and that it has no authority to direct the Building Inspector to do anything in regard to this - both of which positions are absolutely correct. Mr. Gaba said that he did not think that anybody was looking for the Planning Board to do either of those things. He said that the sheds were removed after the Zoning Board had rendered its decision. The issue of moving the bungalows was never something the Zoning Board passed on - it never considered it. The facts were never before it as far as that goes. Mr. Gaba said that he could assure the Board that Mr. Robb's decision was a decision drafted for the Zoning Board makes no reference in regard to what the affect of moving the sheds might be because it was never something that was contemplated. Mr. Gaba said that he had prepared a draft letter - follow up. The letter says very clearly to Mr. Zutt that the Board does not render advisory opinions, that the Board does not have an application before it and so is not taking any formal action, but in the event that an application for site plan approval was submitted - and there is none submitted at this time, the Board won't be in a position to entertain that application because the sheds at issue have been removed. Mr. Gaba said that it is not binding. A copy will be sent to the Building Inspector. You can take it for

what is worth and of course, he's the one who's going to make a determination as to whether or not to lift the suspension of the building permits, but it's in response to a request by a property owner as to what the Board's position is and he thought it was an appropriate thing to send informally. Mr. Gaba said that it is the Board's determination as to whether or not to authorize him to send that, so it can let him know.

Mr. Merante asked if the Board had any questions for Mr. Gaba regarding the draft.

There were no questions.

Mr. Merante said that he would take a bit of a step to...not a normal chain... for Mr. Weinpahl to make a brief remark.

Mr. Gaba said that as long as it is very brief. He said that the applicant is not present, it is not a public hearing and it really isn't fair to have any substantive (did not finish sentence).

Mr. Merante said that based on legal counsel, he would take the advice. He asked for a motion to send the letter to attorneys, Bolg, Hinz & Zutt.

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

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

A man in the audience said that he was right there. He said that they could talk about it briefly. Mr. Merante said no, they can't. He said that there is nothing before the Board and it is not a public hearing. Mr. Merante said that on the advise of counsel, he was not going to do it.

The man said the advise of counsel who (inaudible) with his own counsel.

Mr. Merante said the he is not recognized. He said that this is not a public hearing.

The man said that he did not understand how counsel can give advice that is contrary to his own partner.

Mr. Merante said that he is not being recognized. He asked that the man sit down.

Mr. Meehan made a motion to adjourn the meeting. Ms. Doherty seconded the motion. The



meeting ended at 9:10 p.m. The vote was as follows:

Anthony Merante	-	In favor
George Cleantis	-	Absent
Josephine Doherty	-	In favor
Michael Gibbons	-	Absent
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: \_\_\_\_\_