

North Salem Planning Board Minutes

April 7, 2010

7:30 PM – Annex

PRESENT:
Cynthia Curtis, Chairwoman
Charlotte Harris, Board Member
Gary Jacobi, Board Member
Robert Tompkins, Board Member
Bernard Sweeney, Board Member
Roland A. Baroni, Town Attorney
Sonja Teichmann, Planning Consultant

ATTENDANTS:	Straus/Sullivan:	Don Knapp
	Dubin:	Jeri Barrett
	Monomoy Farm:	Jeri Barrett
	Clearwater Excavating:	Michael Liguori, Esq.
	T-Mobile Northeast, LLC:	Cara Bonomolo

Chairwoman Cynthia Curtis calls the April 7, 2010 North Salem Planning Board Meeting to order.

PUBLIC HEARINGS:

1. Salem Hunt: Tim Miller Assoc. (owner – June Road Properties, LLC)
Site Dev. Plan, Subdiv., Wetlands Permit (location – June Road & Starlea Road)

- Continue the Public Hearing Regarding Site Development Plan Approval
- Continue the Public Hearing Regarding Wetland Permit Approval

Cynthia states that this is a continuation of the Open Public Hearings on the Salem Hunt Development. Cynthia confirms no one is here tonight in the audience for these Public Hearings. Cynthia states the Applicant's Representatives are not here tonight either. These Public Hearings will be kept open while the Applicant continues to fulfill the Conditions of the Preliminary Approval. The Public Hearings will not be closed until the final information has been submitted.

2. Straus/Sullivan: Don Knapp (owner – Roger Straus/Connie Sullivan)
Wetlands Permit & Chapter 189 Permit (location – 238 Hunt Lane)

- Open the Public Hearing Regarding Wetland Permit Application and Tree Cutting Permit Application

Cynthia confirms with Dawn that the Public Hearing Notice was published in both the Journal News and the North County News, and evidence of the notification to the neighbors has been submitted. Cynthia asks Mr. Knapp to provide a brief overview of the proposed Project.

Mr. Knapp states that this Project is a proposal for the minor dredging of a small pond on the Straus property, as well as the repair of a slight crack in the dam. The spoils will be spread out in the field and dried. We will then put grass seed down. We are proposing to take down one tree that is dying. It is a small willow tree. Below the dam we are proposing to install large stone blocks to act as a spill pad. We are proposing to install a small plunge pool. Mr. Knapp states it is a very minor Project.

Marc Fleischmann of 240 Hunt Lane is here tonight. Mr. Fleischmann states that he received the Notice, and Planning Board Minutes – 04/07/10

it did not state whether the water will be turned back on. Mr. Knapp states that yes, the water will be turned back on. Mr. Knapp states that all of this work will be done during the dry season. Mr. Knapp states that they will install temporary blocks as well as sand bags. The stream will continue to flow. Mr. Fleischmann would like to know when this project will start and how long it will take. Mr. Knapp states that he is hoping to start in July. The pond work will take approximately one week. The drying out of the material will take a little longer. Mr. Fleischmann states that a part of the charm of buying his house is the stream. Mr. Knapp will call Mr. Fleischmann to let him know when the work will begin. Mr. Knapp states that the area will be seeded and mulched.

Cynthia asks if there are any other questions. There are none. Cynthia states that the Public Hearing is closed.

REGULAR MEETING:

3. **Straus/Sullivan:** Don Knapp (owner – Roger Straus/Connie Sullivan)
Wetlands Permit & Chapter 189 Permit (location – 238 Hunt Lane)

- Consider Draft Resolution of Approval, With Conditions

Cynthia states that we have a final Report on the Plans, as well as a Draft Resolution of Approval. Cynthia asks Mr. Knapp if he has had an opportunity to read through the Draft and if he has any questions. Mr. Knapp states he has read the Draft and does not have any questions. Cynthia confirms the Board does not have any questions or concerns. Cynthia states that the Draft is 11 Pages long. The Draft is Findings of a SEQR Negative Declaration, Approval of a Chapter 107 Wetlands Permit, and Approval of Chapter 189 Land Excavation and Filling Permit for the Straus/Sullivan Property at 238 Hunt Lane. This is a non-coordinated SEQR unlisted action. Cynthia advises Mr. Knapp to be reminded of the expiration dates and states it is his responsibility to follow them and request extensions if needed. Cynthia states that minor changes need to be made before mylars are submitted for signature. Mr. Knapp confirms he will need to submit two mylars. Cynthia states that mylars have been submitted in the past for Wetland Permits. The Board may want to discuss whether or not to continue with that process. Cynthia states that we are also asking for an electronic copy. Cynthia states that the instructions are all spelled out in the Draft.

Gary motions that the Town of North Salem Planning Board Adopt the Draft Resolution of SEQR Negative Declaration, Chapter 107 Wetland Permit, and Chapter 189 Land Excavation and Filling Permit Approval for Straus/Sullivan as Read. Bernard Sweeney seconds. All in favor. No opposed.

After the motion Mr. Knapp confirms he should bring in paper sets showing the revisions for review prior to mylars.

4. **Peach Lake Sewer Dist.:** (owner of property – Peach Lake Commons, LLC)
Site Development Plan (owner of facility – Peach Lake Sewer District)
(location – Route 121/Peach Lake Road)

- Review Reports from Planner and Engineer on Completeness

Cynthia states that the Applicant's Representatives are not here tonight. When reviewing the above-mentioned Reports there are two Site Plans on the same Site running concurrently. It does raise procedural questions. Roland has suggested a conference call take place between the various parties for both Site Plans. Cynthia obtains permission from the Board to set up a Conference Call.

5. **Clearwater Excavating:** Michael Liguori, Esq. (owner – Gilbert Shott)

Conditional Use Permit/Site Development Plan (location – 110 Hardscrabble Road)

- Consider Setting a Public Hearing on the Conditional Use Permit
- Review Report From Planner

Cynthia states that we are bringing this to a head, procedurally following the regulations of a Conditional Use Permit. Michael Liguori is here tonight. Mr. Liguori states that they have narrowed it down to four items. SEQR, the buffer, Public Hearing on the Conditional Use Permit, and Architectural Review Board (ARB) Approval of the architectural renderings. Referring to SEQR, Cynthia states that the first round was a Type I Action. Cynthia states that the size has not decreased. Mr. Liguori talks about trying to decipher the disturbance between the existing Site and the original 1984 approval. Mr. Liguori states that at the end of the day there is going to be coordination between all of the agencies. Mr. Liguori states that if it is a Type I Action it has to be coordinated. Mr. Liguori states that there were changes to the Plan made in November, 2009 which will have to go back to the DEC. They will not go back as a new Permit. The DEC has been treating them as modifications, not being substantial enough to require a new SEQR determination. Mr. Liguori talks about not having the ability to provide a technically detailed drawing showing the existing disturbance between the original and the expansion. Cynthia states that the Board will need a full package with an updated EAF. On the SEQR circulation we may only need the EAF. A set of Plans may be needed. Mr. Liguori will check. Mr. Liguori states that DEP is on board and has seen the most current Plan. Cynthia states given the minor changes discussed tonight, we will have a complete Plan. Mr. Liguori talks about the buffer. Cynthia states that the cover letter from Mr. Liguori has thrown the Board off. The Board agrees that they are not going to impose an additional buffer for the yard, and the buffer isn't the entire yard, it is in sections. The Planner would like to know where the buffer begins and ends. Mr. Liguori states that is not his understanding. Mr. Liguori states going back to the minutes from July it did not appear that the Board made any determination

as to whether there would be a condition of a buffer. Cynthia states that there always was. Cynthia states that the December, 2007 Plan had a buffer. That is when it was first modified to be within the yard. Mr. Liguori was not aware of that. He was under the impression that in the 2007 Negative Declaration Approval there was not a condition of a buffer. Mr. Liguori understood there were no changes other than modifications to the stormwater basins. Cynthia points out on the Plan where permanent plantings are shown and states that is the buffer. Cynthia does not know where it stops. Cynthia refers to specific trees and states those trees cannot be taken down and sold. Mr. Liguori states he understood that there was no buffer in 2007. Mr. Liguori thought that the implication of the buffer was at the discretion of the Board. Mr. Liguori thought that if there was no buffer in 2007, we would not want to lose the right to locate the temporary nursery stock there. Mr. Liguori states that if the permanent tree area is the buffer, we will mark that off.

Mr. Liguori requests the Board set the Public Hearing on the Conditional Use Permit. Cynthia confirms Mr. Liguori agrees to bring back all of the materials that have been asked for so that there will be a complete application, in addition to the requested amount of copies for circulation. Cynthia states that the other issue is understanding the situation with the building and the fact that there are limited architectural drawings. Cynthia states that in addition to going before the ARB, the Planning Board would like the Applicant to come before them, as well, prior to the construction of the building. Mr. Liguori states that is fine. Mr. Liguori talks about the justification in the Code being an arbitrary request. The overall visual impact is discussed as well as analyzing the impacts. The exterior lighting is discussed. Mr. Liguori refers to their lighting profile and states that they are proposing lights on both buildings. Lights over doors are discussed. A note on the Plan is discussed and requested.

Chairwoman motions that the Planning Board Determine the Conditional Use and Site Development

Plan Applications Complete Conditioned Upon Submission of the Outstanding Items, Declare Their Intent to be Lead Agency, and Make Required Referrals, Including the Westchester County Planning Department. Robert Tompkins seconds. All in favor. No opposed.

Chairwoman motions that the Planning Board set the Public Hearing for May 5, 2010 on the Conditional Use Permit, Site Development Plan, Wetland Permit, and Stormwater Improvements for Clearwater Excavating, Assuming all Materials are Submitted. Bernard Sweeney seconds. All in favor. No opposed.

**6. Monomoy: Jeri Barrett (owner – Steven Rattner)
Wetlands Permit (location – 806 Peach Lake Road)**

- Consider Draft Resolution of Approval, With Conditions

Cynthia states that a presentation is not needed unless Mr. Barrett has questions. Mr. Barrett confirms that he has had a chance to read the Draft Resolution and it looks straight forward. Cynthia asks Mr. Orphen what is going on with the Easement, as there is a concern with it. Mr. Orphen states he is comfortable that this issue will be resolved soon. Cynthia states that mylars will not be signed until the issue has been resolved. Mr. Barrett would like to know if a signature block is required on every plan sheet. Cynthia states yes. Mr. Orphen states that he has power of attorney regarding signing privileges. Cynthia states that there not all power of attorney documents are the same. Mr. Orphen will submit a copy. Cynthia confirms that when asking for all owners, that would include both Rattner pieces, as the Easement covers the other owners. Cynthia asks the Board if they have any questions. They do not. Cynthia states that it is the responsibility of the Applicant to pay attention to the expiration dates in the Draft Resolution.

Charlotte Harris motions that the Planning Board Adopt the SEQR Negative Declaration, Chapter 107 Wetland Permit, and Stormwater Permit Resolution for the Monomoy Farm Properties at 706 and 806 Peach Lake Road. Robert seconds. All in favor. No opposed.

**7. T-Mobile Northeast, LLC: Cara Bonomolo (owner – Pasquale Carrozza)
Site Development Plan**

- Review Report From Radio Frequency Specialist
- Consider Visual Impact Analysis

Cynthia states there are three issues to discuss, the Ron Graiff Memo, Visual Analysis, and Zoning Board of Appeals (ZBA) status. Cynthia asks Roland at what point the Applicant will address going to the ZBA. Roland states that the Applicant has to conclude SEQR before the ZBA may act. Cynthia states that there are quite a few variances needed. Roland asks if the Applicant has requested to start the process with the ZBA. Roland states that the Applicant should proceed to the ZBA when they are closer to the end of the SEQR process so when they are before the ZBA they will be able to act on the variances.

Ms. Bonomolo states that she has received a Report from the Town Engineer with minor comments that they will address, as well as the Report from Mr. Graiff for which they will provide a written response to those items. Ms. Bonomolo refers to the last page in the Report from Mr. Graiff where he discusses alternatives. Ms. Bonomolo states that one of the alternatives suggested is the Westchester Exceptional Children's School (WEC). Before the Applicant analyzes this as an alternative, Ms. Bonomolo would like confirmation from the Board that WEC would be a preferred location the Board would consider. Gary states that the Board can't answer that until they know the height the tower would be proposed at. Ms. Bonomolo asks if the Board would consider locating a facility at a school property. Gary states yes they would consider it. Robert states

that WEC is a higher building elevation-wise. Charlotte asks if Ms. Bonomolo is referring to radio waves in regards to children. Ms. Bonomolo states that it has been her experience that typically boards shy away from such an installation. Ms. Bonomolo does not want their team to waste time analyzing WEC as an alternative only to find out this Board is not interested. Roland states that it is up to the property owner to determine. It is not a Planning Board determination. Ms. Bonomolo states they will look into the WEC. Cynthia talks about the use of a larger building and the possibility of having the technology roof mounted, versus a tower. Ms. Bonomolo states that it would depend on the ground elevation at the site, and the height of the existing structure. Cynthia states that the Board wants the least visual impact. Ms. Bonomolo states that is why they are proposing a stealth monopole installation with the antennas mounted internally so it would not be visible from the exterior. Ms. Bonomolo states that with respect to alternatives, at the last Meeting, the Board suggested a number of alternatives for which the Applicant will submit an alternative analysis in writing. Ms. Bonomolo states that they have had discussions with Barry Reisler, and he is interested. Ms. Bonomolo states that further testing will take place to confirm the Reisler property is a feasible location from an RF standpoint. Prior to testing, Ms. Bonomolo would like to confirm whether this Board would consider the Reisler property as a viable location. The Board confirms it is.

The draft visual impact analysis is discussed. Cynthia states that considering the Applicant now has two other possible alternatives to research, do they want to proceed with the visual analysis, or coordinate a visual that takes into account one or more sites? Ms. Bonomolo states that at this point she believes they should move forward with the visual analysis at the originally proposed site. Gary states he would prefer to wait. Gary states that if all three sites are viable from T-Mobile's perspective, he would prefer to have the testing take place at all three sites simultaneously. Otherwise one will be done now, and it may be six weeks before another one takes place. Ms. Bonomolo states that they have been asking to schedule a balloon test for several months. T-Mobile has indicated that they are willing to proceed with this balloon test while simultaneously looking at alternatives. If necessary a second balloon test will take place. Ms. Bonomolo does not want to wait and wait, only to find out that WEC is not interested and the Reisler property may not work from a radio frequency perspective. Then we will be back before this Board a few months from now still without a balloon test. Gary asks Ms. Bonomolo if T-Mobile is willing to re-do the balloon test. Ms. Bonomolo states that it would not be reasonable for T-Mobile to re-do the balloon test at the proposed location while simultaneously holding a balloon test at an alternative location. Sonja asks Ms. Bonomolo how long it will take to analyze the Reisler property to find out if the site would be feasible. Sonja talks about the Applicant running through a computer program to check the feasibility. Ms. Bonomolo states that field testing would have to be done due to the topography in the area. Sonja asks how long it takes to coordinate a balloon test. Ms. Bonomolo states it is a matter of coordinating the crane operator and engineers. Ms. Bonomolo states that it could take a month before everyone can coordinate a date to get out there. Cynthia states that if the crane is out there, and testing is being done at a certain height, why not let us know. In that sense, why can't all of the testing be coordinated for the same date as Gary has suggested? Ms. Bonomolo states that certainty when the crane is out there, we will let you know so you may go look at it. For T-Mobile to spend money on someone to take pictures of the crane and perform an analysis of a site that might not work from a radio frequency standpoint does not make sense. The information will not be known immediately. It will need to be analyzed. Gary is not convinced that the tests can't be done simultaneously. The worst case would be that the test at the Route 22 Site would not take place for two, four, or six weeks. Ms. Bonomolo states that she believes this is the timeframe they would be looking at anyway. Ms. Bonomolo would like to request the balloon test be scheduled for the end of April. Charlotte talks about setting the balloon test the same time the crane will be at the Reisler property. Ms. Bonomolo states that they are not going to do a visual analysis of the crane at the Reisler property at that time. It is an additional expense for T-Mobile on an alternative that might not be feasible. Gary states that a red balloon may be tied onto the crane at the Reisler property. Ms. Bonomolo states that if the Board has the opportunity to go out and look at the balloon and crane at the Route 22 location, and review the photographs that will be provided from the extensive list of viewpoints, the Board will see a very comprehensive visual analysis. If there is an alternative that works from a radio frequency

standpoint, that this Board wants T-Mobile to pursue, we will go ahead and perform a second test with the same extensive reports as will be done for the Route 22 location. Sonja states that the conditions will not be the same. If it takes two or three months for testing at an alternative site, the trees will all be in full foliage. The visual analysis will not be the same. Ms. Bonomolo states that she would like to have the Route 22 testing done before the trees are in full foliage. Cynthia states that it is important to have the Route 22 testing done without the trees in full foliage. Cynthia states that if an alternative site may be tested at the same time that would be great. Cynthia does not want to miss the season for the Route 22 testing. Robert refers to the expense previously discussed and states that his preference is to not have testing done at the present location. Robert states that the Board would prefer the alternative sites. Cynthia states that the Board does not want the Applicant to perform the visual analysis for the Route 22 site and then give up on the others. Ms. Bonomolo states she has mentioned at the last few Meetings that they are willing to perform the balloon test while simultaneously looking at the alternatives. Bernard also would rather wait and have both tests done at the same time. Robert states that the key to the Reisler property will be the radio frequency. Robert states that the Reisler property would be preferable to the school. Gary states that the school might be interested in the money.

Cynthia states that she has put together various viewpoints for the Board to review, and asks if the Board would like to add to it. Gary asks when this will be done. Ms. Bonomolo suggests April 24th with a rain/wind date of April 25th. Gary asks Ms. Bonomolo if she will have all of this arranged in less than two weeks, what is the problem with delaying until we know if the other sites will work. Cynthia states that we don't know if it will take a few weeks to obtain confirmation about the other sites. Gary talks about computer testing. Ms. Bonomolo states that it is not only the computer testing. Ms. Bonomolo states that they have already done computer testing and confirmed that preliminarily the Reisler property could work. Ms. Bonomolo states to confirm that, we need real world measurements because of the vegetation in this area, the topography, as well as the necessary height. Ms. Bonomolo states there may be a big mountain in between and it may not work. Gary states that a big mountain would show up on a map. Ms. Bonomolo states that the analysis has been done and it looks like it could work. T-Mobile will not commit until we go out and perform the actual testing. We will be happy to then submit documentation for Mr. Graiff to review. Gary states that Ms. Bonomolo mentioned that vegetation is the key. It would seem to be better to wait until all the vegetation is fully in and covered before testing is done. Ms. Bonomolo states that would be beneficial. She is not a radio frequency engineer. She has been told that once the buds are out and the trees are full with water you already may get some degradation of the signal in order to make an analysis. Gary asks when the analysis was done on the Route 22 site. Ms. Bonomolo would have to take a look, but she believes it was done in the winter months for which a correction factor was used. Mr. Graiff talked about this in his Report, and we will be addressing it in our written response. Cynthia states that the residents of Purdy's don't want to miss the opportunity for a visual analysis before the foliage is out. Ms. Bonomolo states they will let the Board know when the crane test will be done at the Reisler property. The Board should keep in mind that the height that is viewed at that time might not be the actual height of the pole because that is what the testing is for.

Chris Brockmeyer would like to know the locations that have been identified for the visual analysis for the Route 22 site. A copy of the visual analysis, and map showing the historical areas is provided to Mr. Brockmeyer. Cynthia states that the map shows sites within the Purdy's area which are listed locally as historic, in addition to various viewpoints which will be confirmed in the field the day of the test. Ms. Bonomolo requests a copy of the map. Cynthia states that the Board is concerned with protecting the historical entrance. Cynthia states that the Board may add to the visual analysis as they see fit. Bernard requests that Oak Ridge Road be added. Cynthia confirms with Ms. Bonomolo that it is not necessary to zero in on the specific points on the road prior to the test. It may be done during the test.

All of the Board Members except for Gary agree to the April 24th date with a rain/wind date of April 25th. For the visual analysis testing at the Route 22 site.

Cynthia will e-mail Ms. Bonomolo the map with a note stating that we will zero in on specific points on the road, and decisions will be made in the field. Cynthia refers to the letter from the Town Historian.

Sonja asks if the Board would like any materials regarding the technical equipment, or what the crane will look like. Ms. Bonomolo states that information is listed in the draft procedure the Board provided. There is discussion about notification to the residents as well as various Boards in Town. There is a discussion about notifying the neighbors in Purdy's. The Planning Board will take care of the notification to the property owners (John Caralysus' offer) as well as the Landmark and Historic Preservation Commission, Town Historian, all Boards, CAC, and Highway Department.

Ms. Bonomolo asks if she may contact Mr. Graiff directly with any questions. Cynthia states that Ms. Bonomolo should contact her, and with the Board's permission, she will set up a conference call regarding questions Ms. Bonomolo has.

Gary asks Ms. Bonomolo about the MTA outcome. Ms. Bonomolo states the MTA had stated in an e-mail that they are not interested. Gary asks if a letter came back from the MTA. Ms. Bonomolo states no, it was an e-mail.

8. Stormwater Law:

- Consider Code Amendment re: Phosphorous Reduction Policy

Cynthia states that the Stormwater Law Code Amendment will be on our next Work Session. Back in 2009 when we first started to go down this route, Frank Annunziata at Hahn Engineering had prepared a memo that Cynthia discussed with Mr. Greenwood. Nothing became of the memo. We now have an opportunity to work through different types of Applications such as Site Plan and Subdivisions. Cynthia asked Mr. Annunziata to take another look and provide the Board with thresholds under which the criteria would be applied. At the next Work Session Mr. Annunziata will be with us to discuss this. Cynthia would like the Board to think about which Applications they want to be a part of it.

Cynthia states that at the next Work Session we will have a discussion about the renewal of Conditional Use and Site Development Plan Permits. Some of the towers that the Planning Board approved are ready to come back to this Board for renewal permits. There is a ten-year permit period. The purpose to have applicants come back is to reconsider whether or not there have been any changes that would warrant another review before granting another ten-year permit. Gary talks about looking into the possibility of raising the taxes that are received for the towers. Cynthia does not believe that would be in the Planning Board's jurisdiction. Gary may want to speak with the Town Board about that. Gary states that it would be hard not to provide a renewal unless there are violations. Cynthia states it is more of a question as to whether issues may need to be tightened up. Gary talks about taxes in relation to the landowner not collecting all of the money.

9. Minutes:

- February 17, 2010
- March 3, 2010
- March 10, 2010

Gary Jacobi motions that the Planning Board Approve the Minutes for February 17, 2010, March 3, 2010, and March 10, 2010. Charlotte Harris seconds. All in favor. No opposed.

10. Financial Report:

Gary Jacobi motions that the Planning Board Approve the Financial Report for March, 2010. Bernard Sweeney seconds. All in favor. No opposed.

11. Comments from the Chair:

Cynthia states that the Comprehensive Plan Public Hearing has been set for April 22nd.

Regarding the Draft Wetlands Law, Cynthia has not forwarded the Draft over to the Town Board. After our last Meeting, there have been discussions with MDRA and Bruce Thompson about the language in the Draft regarding the elimination of the 5,000 square foot criteria for referrals to the Planning Board. Since there is language in the conditions, it has been recommended not to take out that language. The language will remain as it was. Sonja will finalize the Draft.

12. Dubin: Jeri Barrett (owner – Dubin Properties)
Wetlands Permit (location – 12 & 14 June Road)

- Review Reports from Planner, Wetlands Inspector, Engineer

Cynthia states that the Town Wetlands Inspector, Joe Bridges could not be with us tonight. Cynthia did speak with him today. Cynthia also spoke with Heather Gierloff at the DEC today. Cynthia states that from a procedural standpoint, just like the Straus/Sullivan Project discussed earlier, when a pond is excavated, not only does it trigger a Wetlands Permit, but it also triggers a Chapter 189 Permit. Cynthia mentioned to Mr. Rossi that the Planning Board is not allowed to Waive a Public Hearing for the excavation portion of the Chapter 189 Permit. As long as outstanding issues are resolved tonight, it makes sense to set a Public Hearing. Mr. Barrett agrees that it is a good idea. Mr. Barrett states that everything required in Chapter 189 is on the Dubin Plans. Cynthia states that Mr. Barrett does not have to fill out a new Application. Cynthia states that the issues to be discussed tonight are the forebay area, restoration along the stream banks, and items needed for a SEQR review. Cynthia starts with SEQR and states that the Applicant has put together all of the commentary on the impacts and how these impacts are proposed to be avoided. During the best conditions take the information that has already been put together in order to package it as an EAF Part 3 response. Mr. Rossi stated to Cynthia that the Board should accept the last letter submitted and consider that an EAF Part 3. Cynthia responded that the Board would not do that. If the Applicant is not going to do it, the Board will ask their Consultant to prepare it, which will take a lot longer.

Cynthia refers to the phragmites and states that Joe Bridges who handles on average approximately 16 Wetland Permits each year for the Town has a very strong view and recommendation on how that area should be handled. We are in agreement for the pond to be dredged and the phragmites to be removed. Joe does not want to see anything put into that area to create a sedimentation basin. Joe is concerned that an area will be created that by definition will require maintenance. Cynthia states that the Board does not know what the Applicant's timeline or envision for routine maintenance is. It has been stated that the maintenance will not be annually. It has been stated that the maintenance will be routine, but we do not know what routine means. Mr. Rossi used the words "not for a long time" in one of his e-mails. Once again, we don't know what that means. Everything that is being done on the Site is going to improve the conditions so that the likelihood of sediment will be less. Cynthia states that the Consultant and DEC have asked where the sediment came from

and how it arrived there. Cynthia states that the Town is doing better with erosion control, cleaning out of catch basins, and improving road drainage in anticipation of sediment building up. Cynthia asks Mr. Barrett if he has a feel for how long it will be before maintenance would take place. Joe would like it to be at least 20 years before maintenance would take place. Mr. Barrett states that they were thinking about 10 years.

Mr. Barrett would like to go back a bit and states the previous Plan had the gabion dam and we were proposing to take out a small portion of grass. Mr. Barrett talks about the concept to take out all the phragmites. Mr. Barrett shows on the Plan how Crook Brook flows. Mr. Barrett states that the Applicant will respond to what the Board wants, which is also what the Applicant wants as far as a long-term solution. The Plan shows a sub-basin area. The creation of a berm is discussed to be two or three feet under the surface. We are proposing to plant species on the berms. The rock core is discussed as well as the spin and swirl of the water. The sediment deposit is discussed. Cynthia states that Joe does not want anything added in. Mr. Barrett talks about over-excavating in order to get the rock core in and then add the material back on top. Mr. Barrett states that they may still be able to put the submerged berm in and rely on the rock line and plantings with the elimination of the rock core. Cynthia states that Joe does not want the anticipation of a build up here and there. Sonja understands that it is Joe's point of view that nothing needs to be installed. Only the pond should be cleaned out. Joe has stated that in the past it took several decades to fill up. Joe believes that if the phragmites are removed it will take several decades before the pond fills up. Mr. Barrett states that taking the phragmites out and grading the basin to create smaller areas will have the same outcome. We are encouraging the sediment to drop sooner before it gets to the main body of the pond. Sonja states that from Joe's standpoint, there is no proof that the measures the Applicant is suggesting will actually accomplish what is being proposed. Mr. Barrett states that there is no proof that what Joe is suggesting is going to work either. Sonja states that Joe is suggesting recreating a process that has worked. Steve Coleman discusses the natural process of the stream as far as following the forebay area. The continuation of transporting the material is discussed. Mr. Coleman states that their process is to promote the best way. Routine maintenance of 10 years is discussed. Cynthia states that Joe is concerned with the maintenance. Gary asks isn't it better to keep cleaning the pond out. Mr. Coleman states that a similar project is being done by the DEP at the Kensico Dam. We are proposing a good practice. We are proposing to remove the sediment under the bridge and remove the phragmites. Cynthia states that Joe does not want to see the creation of a forebay. Cynthia states that Joe has advised that if the area were dredged out and nothing added in, it would be a couple of decades before maintenance would be required. Robert asks if that would be the main pond. Cynthia states no, the area before the bridge. Robert states that does not make sense to him. Cynthia asks what the finished depths are of the two areas. Mr. Barrett talks about the contours and states it is five feet at the deepest point. Mr. Barrett does not see a big distinction between Joe's comment to only dig, versus our proposal to dig and create a deeper bottom. Mr. Barrett states that by creating the deeper area we will have more volume. The Applicant will not notice as much of an issue and will not need to come back before the Board. Cynthia inquires about the depth of the areas. Mr. Barrett states that under the bridge we are at 2.3 feet, and the berm is approximately 15 inches down. There is a discussion about scooping out the material and leaving it. Sonja talks about the open water area in relation to the plantings. Setting up a monitoring plan is discussed. The temperature of the water will not be an effect.

The stream embankment is discussed. Mr. Barrett talks about being on the Site in February, 2010 when snow was still on the ground, and when it had recently rained. Mr. Barrett states that there were areas with scars. Photographs were taken. We spoke about the installation of stabilization material. We were proposing to go to the affected areas, excavate out the bottom, put in gravel and fabric to hold the gravel. We are proposing to add in shrubs and ground cover which are shaded in green on our Plan. Mr. Barrett states that we have mature trees that have been there for sixty years with extensive root systems. Mr. Barrett states that while we have not done exactly as Joe was hoping for in terms of bio-engineering, we are incorporating plantings into and around the rock. We are relying on our engineering report which is based on the DEC Design Manual. Cynthia states that Joe does not agree with the stone work being proposed.

Roland talks about holding this over for a couple of weeks in order to get the Wetlands Consultant and Applicant's Representatives together. Cynthia states it makes sense to her. Roland states that it is very unusual for both Applicant and Town Consultant's not to reach some sort of an amicable solution that everyone may support. Roland suggests discussing this at the Work Session. Roland states that the Board does not have the expertise required without having the Wetlands Inspector tonight.

Brenda Ames states she has a problem because they have already done this, and there are times when intelligent people disagree. Cynthia states we are suggesting getting the two parties out in the field so certain items may be agreed to or not agreed to. Ms. Ames refers to the meeting that was held in December with all of the parties. Cynthia states that there was a misunderstanding. Joe thought the Applicant was going to come back with a Plan referencing his concerns, which they did not. Cynthia states that there was a lack of communication. Cynthia states the more that we can narrow down the specific issues, the easier it will be. Cynthia agrees with Roland and states that the Board is in an awkward position. The Wetland Inspector to the Town handles all of the Wetland Permits year after year. He is providing the Board with his best advice and recommendation. The Board can't dismiss his opinion and accept someone else's without giving him another chance to explain his position. Ms. Ames states that if his opinion is so important, why isn't he here tonight. Cynthia states that he could not be here tonight, and we do not always have him at all of our meetings because we are very conscious of the costs. The Board has been highly criticized of the review costs. Ms. Ames states that they would like to resolve this tonight because we were under the commitment two months ago that it would be resolved. Ms. Ames talks about this going on for an additional two weeks, two months, six months, or a year in a half. Cynthia states that when this Application came in, the Board could not entertain it due to a Conservation Easement on the property which stated that nothing could be done. The Board has worked very closely with the Applicant to help them over that hurdle. It took from March to November to resolve that problem. Cynthia states that great strides have been made. Cynthia states that the Applicant may be back before the Board, as we don't know whether or not the DEC is going to provide their approval. Cynthia talks about there not being a coordinated review with the DEC. The Board should know what the DEC is going to do so that there is one approval. Mr. Barrett states that he has had discussions with Heather Gierloff at the DEC. Cynthia states that she has called Ms. Gierloff three times inquiring why the DEC has not looked at the Plans. Ms. Gierloff stated to Cynthia that the Applicant has not provided the submission that they have asked for. Cynthia states this is between the Applicant and the DEC. Cynthia states that Ms. Gierloff brought up the comments she had made during the Site Inspection last March. Mr. Barrett states that on March 5, 2009 we sent a letter to the regional permit office for distribution. On March 9, 2009 we received a letter back stating they received our package. In June, 2009 we filed our Application with the Planning Board. The Conservation Easement did come up so the Application went on the back burner until the situation could be resolved. In August, 2009, Mr. Barrett received another letter from the DEC which stated that the department shall consider the processing of this Application suspended upon receipt of a response. Mr. Barrett states that November 9, 2009 he sent a whole new submittal including maps and reports. In December, 2009 Mr. Barrett had a lengthy conversation with Ms. Gierloff about the project status. Mr. Barrett prepared notes which were submitted to the Board through Attorney Rossi explaining the project. At that time we thought it would be better to go meet with the DEC. Ms. Gierloff replied that it would be best for the DEC to continue to review the plans. Cynthia states that Ms. Gierloff told her she has stated to the Applicant everything she wants. Mr. Barrett will contact Ms. Gierloff.

There is discussion about getting Joe Bridges out on the Site within the next few days. Mr. Barrett agrees and would welcome Ms. Gierloff to come also, depending on the reaction of his client. Ms. Ames thought this would be done tonight. Cynthia states that a Chapter 189 Public Hearing is required. Cynthia explained this to Mr. Rossi today. Mr. Rossi spoke about the wetlands being proved conditioned upon all of the other parts being concluded. Cynthia stated to Mr. Rossi that the Board has never ever done that. They coordinate all of their Applications together. Mr. Liguori states that Mr. Rossi reiterated a question about it not being a

necessity to have an EAF Part 3. Cynthia states that the Board can't conclude SEQR without an EAF Part 3 so they may not consider a Resolution.

There is discussion about setting the Public Hearing. Mr. Liguori states that the Board should make a decision tonight. Cynthia asks the Board if they will meet with Joe on the Site. Ms. Ames states we have to face the facts. This is a case where intelligent people just disagree. Cynthia states that this is only the second time we are making this request. The first time we thought we were all in agreement. We are almost there. Ms. Ames talks about revising the plans in addition to the new issues that were talked about tonight, as well as the EAF Part 3. Cynthia states the EAF Part 3 has always been requested. Gary agrees there should be one more chance for a site visit. Gary talks about the Applicant pushing it, and may not receive the vote they would like. Cynthia talks about a Resolution which would state the Applicant do all of the items Joe has asked for. There is a discussion about having the outstanding items and concerns resolved with Joe in the field. Gary states that Joe may give a little bit and agree with what the Applicant is proposing. Cynthia states that we have to bring this to a conclusion. Roland states that SEQR has not been concluded and the Board is not prepared with a Resolution.

Cynthia states that she would like the Board to consider setting the Chapter 189 Public Hearing tonight for the May 5, 2010 Meeting. Cynthia will prepare the Public Hearing Notice. The Applicant will notify the neighbors.

There is discussion about having Joe at the April 21st Work Session. There is discussion about coordinating a Site Inspection with Joe in the field. Coordination will be made with Mr. Barrett. Cynthia states that the Board will work hard for a conclusion.

Cynthia requests Mr. Barrett submit an EAF Part 3 as soon as possible within the next two weeks prior to the Work Session. There is discussion about considering a Draft Resolution at the May 5, 2010 Meeting.

13. Next Meetings:

- Work Session – April 21, 2010
- Regular Meeting – May 5, 2010

14. Resolution:

Chairwoman motions to adjourn the Planning Board Meeting. Bernard Sweeney seconds. All in favor. No opposed.