

section of the stone wall and to not install belgian block along the sidewalk. Cynthia states she does not have a problem with those changes. Cynthia had a meeting with Warren Lucas today. They had a conference call with Sarah Cwikla. Sarah brought Warren up to speed so he is aware of what the engineering firm is dealing with. Cynthia wants to keep Warren in the loop with this project. Cynthia states that she and Warren do not believe these changes are an issue, as they have to do with the back of the property. Cynthia shows the Board where the two changes will be, and states the section of stone wall will be boulders, and the sidewalk will be lined with gravel instead of belgian block. Robert asks if these changes will affect the price. Cynthia states these changes will save approximately \$90,000. Sonja asks who will pay for this. Cynthia states the residents of Peach Lake will be paying for it, in addition to all of the grant money received. The engineering firm is trying to figure out why the contractor is asking for an additional \$400,000. The Board talks about the contractor needing to change the piping, as well as the excavation going back. Cynthia states that the construction of the building will require the removal of the rock ledge, in addition to the installation of the stormwater system. The engineering firm is trying to get the cost down to under \$300,000. Bill Gerard of the Conservation Advisory Council (CAC) asks if the change order is based on something that is not in the drawings that were bid on. Cynthia states yes, when this project went out to bid, the Pump Station was proposed to be along the road. The Town Board did not want it along the road. Cynthia states that there have only been a few change orders.

Cynthia states that the Planning Board of the Town of North Salem acknowledges receipt of communications from GHD Consulting Engineers, LLC dated January 18, 2011 requesting two changes to the Site Plan. Specifically, a section of the stone wall will be replaced with boulders, and the sidewalk area proposed to be belgian block will be replaced with stone gravel.

Chairwoman motions that the Planning Board Accept the Changes to the Site Development Plan Mentioned Above. The Changes will be Incorporated Into the Final Drawings. Charlotte Harris seconds. All in favor. No opposed.

After the motion, Cynthia states that when on the phone with Sarah, and while Warren was in her office, there was a discussion about an extension needed because the Plans were supposed to be signed by today. Warren provided Dawn with a verbal request for an extension.

Robert Tompkins motions that the Planning Board Grant a ninety-day extension of Site Development Plan Approval With Conditions From January 18, 2011 to April 18, 2011 for the Peach Lake Sewer District Pump Station at Peach Lake Commons, per verbal request from Warren Lucas, Town Supervisor. Bernard Sweeney seconds. All in favor. No opposed.

WORK SESSION:

3. Discussion Regarding Chapter 89 Fill, and Chapter 189 Sand & Gravel/Tree Removal

Cynthia states that Bruce could not be with us tonight. He did stop by her office this afternoon and they met for over an hour. Bruce is dealing with all of the Permits that are non Building Permits, such as Wetlands, Fill, and Stormwater. Bruce is preparing a Clearance Form. When someone stops by his office, he will hand them the form in order to confirm whether any type of Permit will be required. Cynthia states that part of the form will deal with land excavation and tree slashing. Cynthia spoke with Bruce about identifying all of the thresholds as to whether the work would trigger a Permit. Bruce is working on the form so that right from the get go, applicants would know what the threshold for a Permit is, in case they want to modify their project so they don't need variances, or have to go for a Tree Slashing Permit. As an example, Cynthia refers to the project for Toney where a State Wetlands Permit was obtained before Town approval. Cynthia states that the easiest thing may be to understand what is coming into the Building Department that may trigger a Permit, or

what are the situations where it may not be necessary for the Building Department to handle it, and due to the magnitude, it should come before the Planning Board for a Permit. After speaking with Bruce, they stuck with the thresholds that are currently in place, such as the 250 cubic yards, and a certain area of property to be disturbed. Cynthia states that under the new Stormwater Laws, if someone is doing work on their property and disturbing the 5,000 square foot threshold, they are required to come to the Building Department for a Permit. Cynthia and Bruce talked about examples of areas that fall through the cracks. Cynthia refers to Sunset Drive where the houses are close together. A neighbor had a Building Permit and raised the grade of their property. Bruce explained that in any of these activities, if the direction of the water flow is changed, it will be picked up by the Stormwater Regulations which also has a threshold of 5,000 square feet of disturbance. Cynthia states that with that in mind, we are back to the stopping point discussed at a prior meeting. Referring to Page 4, No. 5, in the Draft there is a discussion about the thresholds. To trigger a Chapter 89 Permit, in order for the Building Inspector to require documentation as to the quality of the fill, there is a 250 cubic yard threshold. Robert asks if that is proposed. Cynthia states that is the current regulation as far as the quality of the fill. Referring to Chapter 189, Cynthia states that all fill and excavation requires a Permit from the Planning Board unless certain exemptions are met, such as a landscaping project within 100 feet from a residence, as well as disturbing less than 20% of the lot area. Cynthia states this is where she, Robert and Gary became stuck when discussing this last. Cynthia would like to hear from Charlotte and Bernard as to their opinion of the thresholds. Robert talks about a swimming pool being 10 truck loads and asks Cynthia what the zoning is in her neighborhood. Cynthia states one acre. Robert states that may be sufficient for one acre. We are asking to use the same standards for someone who has 20, 50 or 100 acres. Robert does not feel that is fair and reasonable. Robert states he appreciates what Bruce is trying to accomplish with the Clearance Form. Robert asks what constitutes land disturbance. Is the addition of fill onto the property a disturbance? Cynthia states yes. Robert asks if some were to spread 250 cubic yards, how far would they be able to get? Cynthia states that a SWPPP may be required which will work in favor of the environment. Cynthia states that this includes farming operations. Robert states that the farming operations need to be exempted. Cynthia states that we are exempting farming operations under our regulations. Robert states they are only conditional exemptions. Cynthia states the current draft respects the farming operations. Robert talks about having to file an application. Cynthia believes it is an excluded activity and refers to Page 4. There is a discussion about providing the Building Inspector with a written notice of intent which follows the State law. It has nothing to do with the Planning Board. Robert states that the agriculture and markets law does not exempt farms from applying for a SWPPP. There is a discussion about the SWPPP law. Cynthia states the law that is on the books right now, requires a permit for someone going beyond 100 feet of their house. Cynthia states that farms are excluded. Robert states there are a lot more swimming pools than farms. Cynthia refers to swimming pools and states that if going in front of the Building Inspector, someone would be exempt because anything that requires a Building Permit would be exempt. If someone is already in front of the Planning Board for Site Plan or Subdivision they would be exempt. If someone is doing an activity that had prior approval from the Planning Board, they would be exempt. Bruce mentioned to Cynthia that an item that would fall through the cracks would be when someone has a vacant piece of property and wanted to improve it in order to sell it. In that instance, the individual would not come before the Building Inspector. We need to make sure in a case like this that the property owner comes to the Planning Board for a Permit to excavate and level out their land. They would have to go for a SWPPP. Robert states that the SWPPP is a serious piece of legislation. It is very onerous. Cynthia states that given what Bruce discussed with her, it sounds like the 250 cubic yard threshold is one to hold onto. We may want to have qualifying language in the Draft so that whatever someone is doing, it will not cause a disturbance to a neighbor. Cynthia refers to the existing law exemptions and states that if someone is in a small neighborhood where the houses are all close to each other, if someone has an exemption for a landscaping project 100 feet from their house, they might be right up against the property line. That could be a potential impact to a neighbor. Cynthia asks if this language could be written better. Mr. Gerrard asks if the concern is that the grade of the land will be changed. Cynthia states yes. Mr. Gerrard did not see such language in the Draft. Mr. Gerrard states that if someone is changing the topography, the top grade will change and there will be an impact which may flood a neighbor's

basement. Cynthia states that presumably the stormwater regulations would pick this up. Mr. Gerrard states that he deals with the DEP on a weekly basis and is intimately familiar with SWPPP applications. Mr. Gerrard states that once a week he sits with the DEP in Manhattan because of their tunneling operations. Mr. Gerrard understands that if stormwater impacts are recognized, it would be picked up. If it is on private property, and not within the watershed permits, they won't pick it up. Cynthia states that our entire Town is in the watershed. The DEP threshold is not the same as our local law's threshold. Mr. Gerrard states that the watershed runs right through the middle of his property. He has a civil survey which shows a boundary. Cynthia states Mr. Gerrard may be talking about a basin. Mr. Gerrard refers to the 100 or 200 foot dimension from the edge of the waterline. Cynthia states that our local wetland law has a 100 foot threshold. The City has a threshold of 300 feet. Cynthia states there are about three different basins in Town. Mr. Gerrard states that may have been a term he was using loosely. Mr. Gerrard states it may need to be with a designated area. If someone brings about 25 truck loads of dirt and dumps it in the back of their property outside the boundaries, the SWPPP won't pick that up. Mr. Gerrard states that he deals with this everyday. Cynthia asks if Mr. Gerrard means that people may do this and the Building Inspector will not be informed. Mr. Gerrard states they are not required to file an application. Cynthia states that anyone disturbing more than 5,000 square feet in the Town of North Salem is required to file for an Enhanced Stormwater Permit. Cynthia states that individuals in front of the Planning Board deal with the reduction in phosphorous. The Board is trying to get the reduction in phosphorous memorialized in a local law. Cynthia talks about tightening the restriction.

Cynthia states that dealing with the phosphorous reduction has caused the 10 towns in Northern Westchester over fifty million dollars. Cynthia states that twenty million dollars was just given by the City to help cover the costs. Cynthia states that the stormwater issue and costs associated with it are major.

Cynthia states that the Town has two local laws. Cynthia states that Chapter 189 is for Excavation, Fill and Tree Slashing. The Board has not had many individuals in front of them for permits. A couple projects went on in the Town that should have come to the Board which slipped through the cracks. About ten years ago there was a major problem when a contractor brought in fill. When heavy rains came, at the bottom of the hill, someone had their swimming pool destroyed from the washing out and type of fill. We learned from that instance that the Town needs to regulate the fill. The DEC fined that individual because the fill that was being dumped had construction debris in it. Quality of the fill became an issue. Instead of taking that aspect and going back to improve Chapter 189, a second chapter was written, called Chapter 89 which is an Administrative Permit from the Building Inspector which deals with the quality of the fill. If someone is bringing in large quantities of fill and has triggered the 250 cubic yard threshold, they have to certify with the Building Inspector that the fill is clean. The Building Inspector took a couple of people through that process. Cynthia states that those individuals should have come to the Planning Board for a Fill Permit in the first place. Cynthia refers to Westchester Exceptional Children's School and states they had work done which required the dumping of fill. They did not obtain a permit. Now they have a steep slope that is unmanageable.

Cynthia states that a closer look was taken at Chapter 189. The way it is written, if someone is beyond 100 feet from their house, a permit would be required from the Planning Board. We do not want someone bringing in a few truck loads of dirt have to come before us. Mr. Gerrard states that 25 truck loads of dirt will not do a lot. Mr. Gerrard states that someone bringing in dirt will need to bring in a lot more to accomplish what they want to accomplish. Cynthia states the question is at what point do we want it to be of a potential impact that would require Planning Board review. Is it that there will be a disturbance of ¼ or 1 acre of land? Should it depend on the amount of cubic yards being brought in, such as 500? Should we have multiple thresholds? Mr. Gerrard states that the threshold could have to do with the dimensions of the lot. Robert does not think that one size fits all for this process. Charlotte talks about the threshold being a percentage of the lot size. Gary talks about an example of a threshold being more than 250 cubic yards of disturbance, and more than 5% of the property size. The side yard setbacks and bulk table are discussed. Robert likes that idea and

states it will eliminate the concern on Sunset Drive where there are elevations on a steep slope to begin with. Robert talks about staying off the side setbacks as a way to eliminate the situation discussed earlier when the fill ended up in a neighbor's pool. Mr. Gerrard asks if an applicant will have to come to the Planning Board if they are changing a grade or setbacks.

Sonja will revise the Draft for the next Meeting.

Cynthia refers to the rest of the law and asks the Board what their overall take is on it, and whether they have any other concerns. Cynthia refers to Page 3 and states that Robert had requested a change to insert the word "breeding". Robert brought up the point about fertilizers and phosphates. There was a discussion about adding in language for non-organic fertilizers. Cynthia asks Sonja if she will be checking with Joe on that. Mr. Gerrard asks how a person would prove the fill is clean. Cynthia states it is up to the supplier. There is a certification form that needs to be filled out and provided to the Building Inspector. Cynthia spoke with the Building Inspector about farming, and someone bringing in fill to create paddocks. Cynthia confirmed with the Building Inspector that the creation of paddocks would fall under the waiver process. There is a discussion about the creation of paddocks on a slope which would be a safety issue. Cynthia states that the only finished slope allowed would be the 15%. Cynthia states that she watched the truck loads of fill coming to Dunkin Dayton's place. She asked herself where the fill was coming from. She wonders if Mr. Dayton knew whether the fill was clean. Robert states that most people buying fill are watching it come in. Cynthia asks how someone would know. Cynthia states that the old orchard land has arsenic and lead issues now. Cynthia states that the chemicals sit in the dirt. They are not absorbed. Cynthia states if a child sat down and put dirt in their mouth, there was a concern about the levels of arsenic and lead. Cynthia sees the truckloads of fill coming in and is concerned as to whether it is being tested. Mr. Gerrard states that in Manhattan they have to test every 100 cubic yards of fill. A chemical sampling analysis is done. Cynthia states that the Planning Board process under SEQR requires sampling, whether it be a subdivision or site plan.

Sonja will rewrite the draft including the thresholds.

Cynthia asks Mr. Gerrard if the CAC has met and discussed the Draft. Mr. Gerrard states yes they have met. He states the draft is well written.

There is a discussion about the Board finishing this Draft and then continuing with the Tree Slashing Law. As the law is currently written, someone taking down three trees or more would need a permit.

4. Next Meetings:

- Regular Meeting – February 2, 2011
- Work Session – February 16, 2011

5. Comments from the Chair:

The Board discusses the possibility of changing the Work Session date in March due to training courses that are being held by the Westchester Municipal Planning Federation. Cynthia talks with the Board about attending some of these courses. Cynthia states if the Board Members are thinking about attending, they will change the date of the Work Session. Charlotte will be away. Bernard states he is having trouble with his computer. Dawn will send out another copy. Cynthia states the dates are March 16th, 21st, and 23rd.

6. Resolution:

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