

WORK SESSION:

2. **Hawley Woods:** Dan Gould (owner – Hawley Woods, Ltd.)
Subdivision (location – 396 – 404 Hawley Road)

- Discussion of Meeting With Fire Commissioners and Project Status

Cynthia states that Hawley Woods is now being proposed as a three-lot subdivision. The last time the Planning Board met, they emphasized that they like the idea of the proposal of a common driveway. The Town Engineer was with us that night and pointed out some of the considerations that should be thought about from an engineering and safety standpoint. We also needed the Fire Commissioners to weight in. Cynthia states she, Charlotte and Frank just came from a Meeting with the Applicant and the Fire Commissioners. Cynthia states that a 10,000 gallon water tank is being proposed at each of the three houses. This provided a great level of comfort for the Fire Commissioners as there will be a water supply on site. There is the potential to have 30,000 gallons of water available if needed. Cynthia confirms that the Fire Commissioners stated they could live with the proposed width of the driveway, as well as shoulders being proposed. The Fire Commissioners do want the pullovers. They noted the pullovers on the Plans that they liked. For the most part, we will continue to work with Frank on the specifics regarding the engineering, and keep the Fire Commissioners in the loop. Cynthia states it was a green light to continue with the Plans as generically designed for the size of the road. We should concentrate on the Applicant's response to the engineering issues, and hear Frank's updated comments on how well he thinks they have been addressed and what his concerns may be.

Frank states the Applicant has tried to mitigate the issues that were discussed the last time. They are still showing two alternatives for the roadway width, one at 14 feet with 3 foot shoulders on both sides, and one at 16 feet with 2 foot shoulders on both sides. They both amount to a 20 foot wide stabilized surface. Mr. McKenna states the Fire Commissioners wanted a 16 foot width.

Cynthia states the Board was given permission to go up the driveway for the Landi Subdivision at 218 Titicus Road. She is not sure whether all of the Board Members have had a chance to go. Cynthia states this was a previous three-lot subdivision, with steep slopes and steep grades. Cynthia states that she and Charlotte went tonight. They measured the first run to be 16 feet wide of paved area. They have grassy shoulders and pullover areas. Cynthia is not sure what the grade is. She will look it up and let everyone know. Robert states the grade is greater than what the Applicant is showing for Hawley Woods. Cynthia states there was one sharp curve. Frank states he is curious, as he believes the width is 14 feet.

Frank states the Applicant has made a few changes. They increased the centerline radius. Frank states that there are still parts of this proposal that he considers to be substandard. The Applicant has stated they have designed similar common driveways and feel they function safely. Our position is that the term common driveway covers a very wide slot. A common driveway could be as short as 100 feet long on a relatively flat surface to serve a few houses, or to what is being proposed here where the common portions before the driveway branches off is proposed to be approximately 750 feet long. The Applicant is proposing three houses. A good stretch of the driveway grade is 14%. Frank states it curves back and forth. We consider it to be more like a private street. Street standards may be more applicable than driveway standards. We tried to see which of the street standards we would feel better loosening and which standards should be held to. At previous Meetings we talked about the 14% grade and felt that it could be pulled back. The latest Plan shows it at 10% grade which would be for a private street. The road intersection at the apron where it meets with Hawley Road should be 2%, the Applicant is proposing 3%. There is the centerline radius in a few spots that do not meet the required 175 feet Town Standards of 175, 150 and 100 feet. The angle where the road meets Hawley Road has been improved a little bit. Depending on how you measure it, the standard is supposed to be

100 feet at no less than a 75 degree angle, a 90 degree angle would be ideal. According to the Applicants measurements, it is 63 feet instead of 100 feet, and 88 degrees. Frank states there is not a long distance before the road starts to bend. Frank talks about the distance between the reverse curves and states that we want to have at least 100 feet between curves. The Applicant is proposing two curves at 50 feet, and one at 66 feet. Frank states that all in all there are substandard parts to this proposal. We continue to have concerns and issues. It is going to come down to the Planning Board balancing all of the issues. Cynthia talks about starting at the top at the last house and confirms Frank's concerns are not concentrated on the other smaller driveways. Cynthia states that the Fire Commissioners did like the two pullover areas that lined up with the driveway access to the two homes. Cynthia refers to the Plans and confirms where Frank has concerns. Frank refers to the first turn in conjunction with three houses using the section of road. The curves are discussed. There is a discussion of street standards. Cynthia refers to the Landi Subdivision driveway which she drove up and down a few times, and states she is not overly concerned with the 350 being proposed by the Applicant. Cynthia refers to two curves shown on the Plan and talks to the Board about being able to get by them as they are currently being proposed. Cynthia states she does appreciate what Frank is saying.

Robert states this is going to be a driveway, not a street.

Cynthia talks about looking at the history of the reviews for this Project and asks if a "Y" had been discussed. Frank does not recall. Robert states that the Board had originally talked about it because of the sight distance.

Cynthia states it was confirmed tonight that the biggest truck the fire department has is 35 feet.

Cynthia refers to the "Y" and states they have been removed from every intersection in Town. Frank confirms a "Y" is more like an island. Frank asks why this would be considered. Sight distance is discussed. Frank states the Applicant has provided additional information in regards to sight distance, and states it looks to be satisfactory. Frank talks about the wall that is proposed. Cynthia confirms with Mr. Gould that the only way to make the curve bigger would be to create more disturbance. Cynthia asks Will to weigh in. Will states the critical place is the entrance. Will states that a "Y" would be a concern for people driving in versus people driving out. Will states that people tend to get used to pulloffs. Charlotte refers to the Landi driveway at 16 feet wide and states that two cars could pass without using the shoulder.

Robert states the Applicant has come a long way from where they started.

Bernard asks if the Fire Commissioners had any issues with the entrance and exit. Cynthia states they want the Applicant to take a look at their Plans and make sure the vehicles may get in and out. Bernard states if the Fire Department can get in with their vehicles he doesn't see a big hassle with entering and exiting the end of the driveway. Cynthia states there are so many more issues to look at, including stormwater. Cynthia talks about moving forward with what the Applicant is proposing. The Board will consider the comments from Frank in regards to the turns. The Applicant will confirm the turning radius in conjunction with the fire trucks. Cynthia confirms with Frank that he has not reviewed the stormwater. Cynthia states the stormwater might cause other items to change. Cynthia talks about the Applicant coming in with a package for Will to review for completeness. If it is fairly complete substantive review may begin.

Mr. Bliss refers to stormwater and states that he believes the Planning Board has to provide their approval so they may go to the NYCDEP. Cynthia states the reviews take place at the same time. Mr. Bliss states he has been told that they will not even look at it. Mr. Bliss states they will not provide us with comments. Will states that is strange. Cynthia states that is not the way she has interpreted it. Frank states the Applicant should get as much out of NYCDEP as they can. Mr. Bliss states he is trying to figure out what the next steps are. Will states that NYCDEP cannot issue an approval until SEQR is done. Cynthia states that at this point the Board has declared themselves as Lead Agency. We haven't gotten into any type of technical review.

Will states that the Applicant should continue talking with NYCDEP. Will states they openly talk with the Planning Board. Frank states we are all working from the same book as far as regulations and the State Manual. Frank talks about adjustments taking place later on. Will asks if 2009 was the last time we heard from NYCDEP. Cynthia states yes. Mr. Bliss refers to the new regulations. Will states that back in 2009 the NYCDEP was calling for a Positive Declaration. Will states that the Applicant is down to three lots, the NYCDEP might be a little more open.

Mr. Gould will make a submittal responding to the previous comments. Cynthia confirms with Will that an addendum to the EAF would be needed. Will states there may be aspects of the comments that require a response, and not the entire comment.

3. Discussion Regarding Chapter 189 Sand & Gravel/Tree Removal.

Cynthia states this is the Chapter in the Code that we are splitting. We have done the Sand and Gravel. Cynthia states she has not forwarded the Sand and Gravel over to the Town Board because it makes more sense to bring both of the Chapters over at the same time. Robert asks if we have the final version of the Draft for Chapter 89. Cynthia states that was circulated over a month ago. Robert asks whether comments came back. Will confirmed that the Planning Board endorsed it, but it hasn't gone over to the Town Board. Cynthia states the Town Board is working on the Comprehensive Plan and Sign Amendments that we did. They are also working on the budget. Cynthia thought it would be better for the Board to get caught up with the tree removal section and she will bring both over as package. Will states this way one local law may be done.

Cynthia states we had a very brief discussion of the Tree Removal Law to give Will guidance as to how to prepare the Draft. Will has highlighted critical sections for the Board to concentrate on. Will states this Draft is basically modeled after the Excavation and Fill Law. Will refers to the text that has been struck out and states he left these pieces in because they show aspects of the existing law that are going away. The Board never really looked at these aspects. Will refers to the highlighted and shaded areas and states he needs more guidance from the Board in those portions. Will states the Board talked about what to regulate, which is embodied in the definition of Tree Removal. Referring to the definition of Tree Removal, Will states we had talked about it being the cutting, grubbing or other removal of twenty or more trees, and/or of five or more trees in any contiguous five acre area, with a diameter at breast height of six inches or more within any twelve consecutive month period. Will set it up so that there will be clarity with the Excavation and Fill, as well as Wetlands Law. In the future if the Board ever changes or expands what is regulated, only the specific section will need to be revised. Will states this Draft is based on the removal of trees. Cynthia states that the language referring to the removal of vegetation has been taken out. Cynthia would like the Board to take a look at the definition of Tree Removal.

Robert states that the definition for Farming Operation is not the same one we had talked about. Robert states the definition in this Draft is the old one. Robert states the intent was to have the same definition. Cynthia talks about bringing in the other definition for Farming Operation, and look at every Law and see how it will weigh in. If the farming definition is going to change it should be changed everywhere. Robert states he believes that was the intent of Peter Kamenstein. Cynthia states she didn't bring her copy with her tonight. Will asks how long ago it was circulated. Robert states about a month ago. Robert states it takes us out of being in an adversarial position with the State because if it went somewhere they would go by their definition anyway if someone is in an Agricultural District. Robert states the definition came out of Chapter 25AAA. There is a discussion about seeing how the NYCDEC Wetland Law handles farming. Cynthia states there is a definition of farming for the purposes of the Agricultural Districts. Robert states there is a 20 page section on the regulation of State Wetlands. Cynthia states we don't necessarily have to give farmers a full pass on every one of the environmental regulations. Robert refers to Page 3, (B)(3) in regards to excluded activities and he thought we took out the requirement to provide written notice to the Building Inspector. Cynthia states that

Bruce wanted that. Robert states he knows that. Robert states he cannot speak for Peter Kamenstein, but he believes Peter would feel similarly. Robert states he is unhappy with it. Cynthia asks Robert if when he talks about farms, he is talking about the farms that are on the Agricultural District List, or farms that just meet the definition. Robert refers to the Agricultural District, and states there are people who have committed their land to the program and those are the people he would be concerned about. Robert states the major operations should not have more bureaucracy than what already exists in Town. Cynthia refers to the excluded activities and asks Robert if he is talking about all farming operations, or only the farms that are a part of the Agricultural District. Cynthia is not sure if there is a way to distinguish between the two. Robert does not think we can. Robert states he is interested in the people who are attempting to make a living here. Robert states it might be a question for Roland.

Bernard refers to the business of the farmers versus the non-farmers, and states that if it is beneficial to the farmers it should be beneficial to everyone else. Why are the farms so important? Why are we talking about extending the benefits to the farms. Why would one group be allowed and others not? Robert states the assumption is that farmers know better than the Building Inspector. Bernard agrees in respect to the farms in the Agricultural District. Bernard states that beyond that to extend the Agricultural District or State Agricultural District is not applicable or it should be applicable to everybody. Cynthia states the short answer is that this is not a question for our Board. We have no say in who gets into the Agricultural District and who doesn't. This would be a question for the Westchester County Agricultural Board. We have to acknowledge that these regulations come down from the State. Robert states that the cheapest way to maintain open space is through the farms Statewide. Cynthia states this is why she wants to make sure the Board is not giving blanket passes. The farms are defined and regulated by the State. The State also has their own regulations. Cynthia does not believe the State gives complete passes to all of the farms from all of the regulations. Robert states the environmental regulations are very specific. Cynthia states to that extent we are safe in doing the same thing in North Salem. We will be in trouble if we don't give farms certain recognition. Bernard states he understands that. He refers to a two-horse farm on Bogtown Road and states they should not be part of the Agricultural District. Robert states they are not. Robert states someone has to have seven acres. Robert states that as Cynthia mentioned, Roland may very well have to develop language that will be suitable so we may get the regulations we so desire without interfering with business as usual. Robert states he had hoped Bruce would be with us tonight. Robert states that in some cases the horse community feels different than the crop community. Robert does not believe we want any more regulation than we already have.

Cynthia suggests the Board try to get through a few specifics of the Tree Removal Law. At the October Work Session we should concentrate on the definition of Farming Operations in all of our regulations. There is discussion about asking Bruce Thompson and Peter Kamenstein to attend. Cynthia talks about revisiting the Farming Operations definition in Wetlands, Chapters 89, 189, and Zoning. Cynthia states she will let Bruce, Peter and Roland know what the Board will be discussing at the October 19th Work Session.

Cynthia inquires in general whether the Board is okay with the definition of Tree Removal. The Board discusses the definition on Page 3 in the Draft which states "The cutting, grubbing or other removal of twenty (20) or more trees, and/or of five (5) or more trees in any contiguous five (5) acre area, with a diameter at breast height (dbh) of six (6) inches or more within any twelve (12) consecutive month Period." Bernard understands the concept. He is not sure whether he is comfortable with the numbers. He refers to the last storm and talks about the number of trees that are around residents homes that they are concerned about. Bernard states that now they have to get a Permit to take those trees down because people are concerned they may fall on their homes. Robert asks what we are protecting here. Robert refers back to the Intent on Page 1 and states the intent is to safeguard Town Residents by controlling the number of trees that may be taken down for the protection and conservation. Cynthia states there are a variety of reasons such as aesthetic reasons, soil disturbance reasons, and wildlife habitat reasons. Bernard talks about houses that are located in the middle of the woods and states that is no one else's business. Bernard refers to the desecration of the

Speyer property. That was a complete disgrace, but yet it was bypassed. Cynthia does not believe it was bypassed. A violation was issued and the Applicant had to come before the Planning Board. Bernard has not seen a replacement of those trees yet. Bernard states it is still a disaster. Bernard refers to the rules and regulations and states it bothers him that the little guy again is always hurt. Bernard states that obtaining a Permit is very expensive. Bernard does not believe it is fair to the little fellow. Cynthia states right now if a person wants to take down three trees a Permit is required. Bernard states that is why we are here, to change it massively. Cynthia states not massively. Bernard states he is not concerned with someone else's definition of aesthetic beauty. Cynthia states that we are talking about making a change so someone may take down up to 20 trees. Bernard states a concern about restricting people from taking down all 20 trees in one spot. Bernard states that if someone has 20 trees that are causing a light restriction in their home, they should be able to do what they want to do with them. Cynthia disagrees. She has seen cases where someone took down 15 trees, and someone in the property below ended up with a swimming pool filled with silt. Bernard states this is only one instance. Cynthia states it is not just one instance. Cynthia refers to Route 116 where someone took down only six or seven trees causing dirt to wash out on the road. This person only took down six or seven trees, and look what happened. There is a reason for regulation because not everyone does it in a careful and responsible way. Cynthia states a concern with someone taking down trees without installing the proper stormwater precautions. Bernard refers to the restriction on the amount of acreage and states that someone with 1 ½ acres has the same restrictions as someone with 10 acres. Bernard states allowing three trees to be removed is absurd, and now five trees is just as absurd as far as he is concerned. Bernard talks about people who are afraid of having a tree fall on their homes. Will states there is an exclusion included in the Draft for safety reasons. Bernard asks if there is a Permit involved. Will confirms no. Cynthia states that dead or diseased trees may be taken down in addition to trees that are causing a safety issue. Cynthia states we are trying to make it relative. Cynthia states that Gary had provided input at a previous Meeting in regards to having the amount of trees to be removed based on the amount of acreage the individuals have. There is a discussion about having a scale for so many trees per so many acres. Robert states it makes sense. Robert states that we can only improve it to make it more flexible. Cynthia asks Will to add in language in the Draft for people who have 10, 20, 50 or 100 acres. Robert asks what we are trying to protect. He talks about the smaller neighborhoods where someone takes down a specific tree in their yard which exposes the neighbor across the street. Robert states that is still the individual property owner's tree. Robert states it is like the fence issue a few years ago. Robert understands the environmental issues. There is a discussion about land disturbance when mud from one property ends up on another property. There is a discussion about slopes. Robert talks about the expense for individuals who come in with an Application in regards to what they will have to spend in order to get an Approval. Will states that would depend on the scale of what is being done. Robert asks at what point someone would need to have plans drawn up by an engineer. Cynthia states if there are stormwater issues involved. Will states the Board has the latitude to be more lenient depending on the specifics of the Application. Robert states that is what he needs to understand. He is not prepared tonight. Cynthia talks about Will providing the Board with an overview of some of the situations and how they may be handled. Robert states that people are fed up with over regulation. The only people that are getting ahead are the professionals.

Cynthia states a concern about seeing someone else's dirt end up on someone else's property. She is concerned about the cutting of the trees and what happens to the land afterwards. Robert talks about someone coming in with an erosion control program, without defining how many trees to be cut. Robert states a concern about taking away people's rights. Cynthia states it is a permissive regulation.

There is a discussion about the impact on the smaller lots. Cynthia talks about the Board considering putting back in the exclusion for landscaping improvements which take place within 100 feet of a dwelling, and which involve less than one acre, by excluding those individuals from the requirement of a Permit. The Board agrees. Bernard refers to the prior conversation about someone taking down trees causing dirt to go into a neighbor's pool and states that is what the courts are for. Cynthia states she believes the NYCDEC stepped in

at that point due to their regulations. Cynthia reads the definition of Landscaping Improvements in the current Chapter 189. Cynthia states that Gary had an original proposal for a sliding scale based on acreage. Cynthia states we have to pay attention when someone wants to take down a whole stand of trees in one specific area. Cynthia is not sure how the other Board Members feel about this. Robert talks about someone being required to obtain a Permit, and provide the necessary security that there will be no environmental issues or destruction. Robert talks about limiting the number of trees people may take down. Cynthia states that no one is limiting the amount of trees to be taken down, we are talking about what triggers a Permit. Someone may clear cut their whole parcel if they come in for a Permit and the Board gives a pass under SEQR.

Both Robert and Bernard state they need more time to study this Draft.

John Gress of Lakeview Road would like to know if the cutting of trees is addressed in the Chapter on Erosion and Sediment Control. Cynthia states there is a referral back to Code Chapter 189 which we are discussing tonight. Mr. Gress refers to the concerns discussed tonight and thought there might be language within the Erosion and Sediment Control Chapter in regards to the cutting of trees and removal of stumps. Cynthia states that removal of stumps would be considered soil disturbance. Will states that erosion control is a component of stormwater. Robert states that right now both Chapters are together. Mr. Gress thought that Stormwater is a separate Chapter from Erosion and Sediment Control. Will states that Erosion is a component of the Stormwater. It is also part of the Zoning. Cynthia states that within the Stormwater there is a certain amount of activity that is required for soil and erosion control, prior to and post-construction.

Cynthia refers the Board to the highlighted portions of Pages 9 and 10 regarding waiver provisions and states this should be looked at and studied. Will refers to the Public Hearing process and states he added in triggers or items that have to occur in order for the Board to waive a Public Hearing. Cynthia states there have to be good reasons for the Board to waive a Public Hearing. Cynthia refers to someone cutting down 20 trees in the middle of their backyard with no neighbors around, and states, in that instance, the Planning Board may decide to waive the Public Hearing. Will states the Board does not have to waive Public Hearings. Will states that the Planning Board may decide to waive Public Hearings on a case by case basis. Referring to Page 10 (d), Robert asks what the definition of “activity” would be. Will states the activity would be tree cutting. Robert talks about someone wanting to cut down trees in their setbacks. Will states the way the Law is written now, someone may take down four trees in a setback and never need a Permit. If someone were to take down five trees within an acre in a setback, they would need a Permit. This would not be considered for a waiver of the Public Hearing because neighbors may have issues of concern to discuss. Cynthia asks Will to provide the Board with a few more examples of what triggers Permits and what doesn’t.

Bernard asks if this Draft being discussed tonight is taken from the old Law, and asks what has been changed. Cynthia states that what changed was the Tree Removal definition. In the old Law if someone wanted to remove bushes or taking down three or more trees they would need a Permit. We are trying to be more reasonable, but at the same time be considerate of the neighbors and environment.

Cynthia states we will try to discuss the farming aspects at the next Work Session. Robert will bring the State Wetland Law portion. Will states that he provided examples of what would be regulated. The Board should come up with different scenarios of what someone might do.

Robert states that Bernard’s point is well taken and he agrees with him in regards to the fake farmers. Robert states the Board may want to obtain input from Roland.

4. Next Meetings:

- Regular Meeting – October 5, 2011

- Work Session – October 19, 2011

Cynthia states she will be out of Town for the October 5th Meeting. Robert will run the Meeting. Salem Hunt is the only Project on the Agenda at this time.

5. Comments from the Chair:

Cynthia states that the Board will be receiving another modification for Restaurant 121 Next Door. The Board granted them Site Plan Approval not long ago. They were supposed to make improvements per the Approval. Ken Siegel came in and stated the owners would like to do two or three more improvements. Cynthia states that initially she thought it might qualify for a waiver of Site Plan. Cynthia asked Mr. Siegel whether all of the approved improvements have been done. Mr. Siegel stated to Cynthia that the owners didn't have the handicapped parking put in. Cynthia stated to Mr. Siegel that she does not believe the stops were installed for the cars in the parking lot. There was also a discussion about the plantings. Different plants were put in. Cynthia would like the Board to go out there and take a look. The Board may not grant a waiver if the owner has not done what they agreed to do. Cynthia states that considering where the plants are, they are an improvement. Cynthia states the owner would like to improve the dumpster area, add a generator, and a refrigerator unit. Cynthia advised Mr. Siegel to speak with the owner about fulfilling the items that were supposed to be done. Cynthia refers to the handicapped parking issue and states that Bruce may need to go out there.

Cynthia refers to Salem Hunt and states they are coming in with their Final Subdivision Approval Application. In regards to the issue of fees, Mr. Balter has stated that this is a Site Plan, and the only reason why it was changed to a Subdivision is because the Town wanted it to be Fee Simple. Mr. Balter has stated that he could change it back to a Site Plan. Cynthia reviewed her notes on the discussion about the Recreation Fee and she realized that at some point our Board has to send this over to the Town Board to consider that whole package. Cynthia spoke with Roland and let him know that everything didn't move as quickly as we thought and this never went over to the Town Board. Cynthia asked Roland if this should be done now, and he confirmed yes. Cynthia states she spoke with Warren and he was very pleased with what we negotiated in regards to the Recreation Fees. Cynthia asks the Board if they had a chance to read the Draft Resolution that was circulated today. Cynthia reads the Draft and states Mr. Balter was asked to change from a Site Plan to a Subdivision so the Town would receive the assessed valuation of 100% as opposed to a condominium rate. As part of that, there would be a waiver of the Subdivision Fees. Cynthia states that Mr. Balter originally had stated he doesn't owe any Recreation Fee. Cynthia states, after discussions, and taking into consideration the on site recreation area, walking trails, pool, and recreation building, Mr. Balter agreed to pay \$300,000 in Recreation Fees. Cynthia states that we as a Planning Board have the authority to negotiate the Recreation Fee. We do not have the authority to waive the Application Fees. Robert confirms that Roland will be attending the October 5th Meeting in case there are further questions. Cynthia states this was very similar to Salem Chase in regards to on site recreation.

REGULAR MEETING:

- 6. Salem Hunt:** (owner – June Road Properties, LLC)
Site Dev. Plan, Subdiv., Wetlands Permit (location – June Road & Starlea Road)

- Consider Draft Resolution of Approval

Chairwoman motions that the North Salem Planning Board Approve the Resolution for Acceptance of Recreation Fees and Recommendation to the Town Board for a Waiver of the Subdivision Fees for Salem Hunt. Robert Tompkins seconds. All in favor. Bernard Sweeney abstains.

7. Resolution:

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