

like to know what the Conditions are. Cynthia states that the Board already granted Preliminary Approval With Conditions. The Conditions are the requirement of all the other Approvals from the State and County level. Cynthia states she believes the Board has received evidence of all the Approvals, with the exception of two documents, one being the Fire District Easement, and possibly one other Easement. Roland states he has seen a draft of the Fire District Easement and suggested it be sent to the Fire District Council. Cynthia states that maybe it is just the Fire District Easement that is outstanding. Cynthia states that out of the whole laundry list, she believes 15 out of 16 conditions have been met. Bernard asks whether the issues with the State and County are the reason why the Applicant is not here tonight. Cynthia states that it is her understanding the Applicant will not make a change unless the County and everyone else like the proposal. Will states that rather than go through the process of finalizing everything, if the Plan is going to change, it may be better to look at it now between Preliminary and Final, rather than go to Final and then have to come back for an Amendment or a new Application. Bernard would like to know what the Applicant means as far as a changed Plan. Will states there may be changes to the configuration, number of units, or a utility component. The number of units is discussed. Cynthia does not believe the number of units will change. Gary asks whether the units will be bigger. Cynthia states no, they may take up a smaller footprint on the Plan. They may be less luxurious and more compact. Gary states that it does make financial sense. Cynthia states that under the Ordinance, the Applicant has every right to request an extension. Gary states that we have the right not to extend this. Gary does not want to give them 90 days. Cynthia asks why not? Does the Board want to go through this every month? Gary states that while this is pending, the Applicant may try to sell the property implying that he is much further down the road towards approval. He might make other promises or commitments that may bind us. Gary would rather not have it out there that the Applicant may be very close to having an approval on this Plan. Cynthia does not understand how the Planning Board could be bound. The Board is only bound to the Preliminary Approval which has conditions. Cynthia states that if the property is sold, it is buyer beware. The buyer would have to come in and look at the Preliminary Approval Conditions and pick up where the prior Applicant left off. Gary states he is not willing to give the Applicant 90 days. Cynthia is not sure how the rest of the Board feels and suggests they take a vote.

REGULAR MEETING:

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

- Consider a Fourth Request for an Extension of Preliminary Subdivision Approval With Conditions, from December 2, 2011 to March 1, 2012.

Chairwoman motions that the Planning Board Grant a Fourth 90-day Extension of Preliminary Subdivision Approval With Conditions from December 2, 2011 to March 1, 2012 for Salem Hunt. Robert Tompkins Seconds. All in favor, except Bernard Sweeney and Gary Jacobi are Opposed.

3. **Fink:** Eric Groft (owner – Lawrence Fink)
Wetlands Permit (location – 55 Finch Road)

- Consider Referral From Wetlands Inspector and MDRA Recommendations
- Set Site Inspection

Cynthia states that there are two representative here tonight for the Applicant. This is a Wetlands Permit that has been referred to the Planning Board by the Building Inspector and Wetlands Inspector. Cynthia states that this is not a complete Application. The Board has quite a bit of information to move forward. Cynthia states the materials that were submitted were an excellent read on a very complicated Project. Cynthia appreciates the level of detail that has been done. Eric Groft has a handout for the Board to refer to, which is a smaller

version of the materials that were submitted. Cynthia states that besides to providing a quick overview, the other reason the Applicant is on the Agenda tonight is to see whether they have any issues or questions in regards to the information this Board will need to move on in order to continue with the process. Mr. Groft states that he is a Landscape Architect with Oehme, van Sweden & Associates. Mr. Groft states that Paul Jaehnig is here tonight. Mr. Jaehnig is their Environmental Consultant. Mr. Groft refers to their Plan and states that when they first started working on the Project it was the original Finch Farm, consisting of approximately ten acres. The house has been renovated as well as the addition of other structures. The second phase is at 164 Vail Lane where we eliminated all impervious surfaces by taking up the driveway and an existing house. The Plan also included the renovation of an existing pond and meadows to replant the area and improve the water course. Mr. Groft refers to the riding ring and states they didn't believe there were wetlands issues there. The landscape architect replanted to reduce the amount of runoff on the property. Mr. Groft refers to 55 and 25 Finch Road in regards to removing the existing structure, farm, houses and driveway to incorporate all of this into one property. Mr. Groft states that the Finks have two goals with regard to Finch Farm; one is to environmentally correct the problems that are there, such as extensive work that had been done for underground storm drainage. We have radically reduced the amount of lawn with meadows and ornamental plantings which slow water down. Aesthetically we are trying to blend the man-made environment complex with nature so there is a seamless transition. Mr. Groft shows the existing house, barn, driveway, parking area, pond, and drainage on the Plan. Mr. Groft states that Mr. Jaehnig will talk about the existing conditions of the environmental aspects of the pond.

Mr. Jaehnig states he has been charged with locating the wetlands. He has prepared and submitted a Wetlands Report. He has been working with a Pond Consultant. Mr. Jaehnig states that he went around the property and took soil borings in addition to identifying vegetative cover to come up with a wetlands boundary. Mr. Jaehnig states that almost the entire site has been disturbed to a large extent. Mr. Jaehnig states it reflects mans work that has been done over the past few hundred years. Mr. Jaehnig states a trolley bed was installed to lure investors in the 1890's with the intent for them to go from Danbury to Croton Falls in the comfort of a trolley. Mr. Jaehnig shows the trolley track bed on the Plan. The trolley track was never actually placed, only the bed was constructed. The land is level and graded. Large trees have grown up along the bank. Some time in the early 20th century someone who owned the property decided to make a pond that showed up in the 1947 aerial photos. Mr. Jaehnig states the maximum depth of the pond is approximately 4 feet in the center and approximately 2 to 3 feet or less in outer portions of the pond. It is not a very deep pond. The bottom is all rocky with processed stone such as granite. Part of the material may have been from the trolley bed track that was missing. The pond has no drainage course going into it. It does have a drain leaving it to the west. Mr. Jaehnig shows on the Plan where the runoff comes off the road and states it is mainly fed by groundwater. The springs are directed by gravity towards the pond.

Cynthia refers to the Plan and asks if there is a stream or brook to the east of the pond. Mr. Jaehnig states that catch basins are located there. The prior owner built the house in the early 1970's and installed a drainage structure which was crushed after going into disrepair. Approximately 20 or 30 years ago, the Highway Department did an abandonment and sealed the collapsed drainage pipe. The property changed ownership in the 1990's. Mr. Jaehnig states that an area has been filled in and compacted.

Mr. Jaehnig states the wetlands on the site completely reflect the fact that everything has been disturbed. Mr. Jaehnig states it is easy to move around the marsh area due to the gravel processed stone. The vegetation that has grown up after this wetland has been disturbed is entirely invasive, such as phragmites, multiflora rose, and cattails. It is well covered, but there is nothing special about the plant material that is growing there.

Mr. Jaehnig refers to the south side on the Plan and states there is a level wetland lawn area. There are swamp areas around the pond all of which have been disturbed at some point in time. Our pond expert has told us the pond suffers from poor circulation. It is classified as eutrophic meaning a high nutrient, poor quality type

pond. This type of plant material is not what a pond needs. There is wildlife that habitat the area such as egret, turtles, mallards, Canadian Geese, and water snakes.

Mr. Jaehnig states the goal is to take the existing pond, make it deeper, and reshape it. We would like to eventually have a more inhabitable water body.

Mr. Groft shows the proposed improvements on the Plan which include deepening the pond, reshaping it, and creating a buffer. We will maintain the paddocks area and installing plantings to filter the water and runoff coming down from the hill. We are also proposing a new stone bridge, weir, and a spring house to house the pump for recirculation. We are proposing to improve the environment in between the existing trees. We are proposing a pond. The Finks would like to have the option to swim.

Cynthia asks whether there will be any flows off the property from the second pond. Mr. Jaehnig states no. Mr. Jaehnig shows the drainage course on the Plan near the stone wall. Mr. Jaehnig states it appears at first glance that there will be disturbance going on, but the disturbances are quite justified and the final outcome will fit in very favorably to the overall improvement to the site.

Cynthia refers to the Plan and would like to know where the road drainage improvements will be. Mr. Jaehnig shows the catch basins are located in the gravel parking area. Mr. Groft states they will improve the outlet. Cynthia refers to Vail Lane and asks whether there will be drainage improvements. Mr. Jaehnig points out the catch basins on the Plan. Cynthia confirms the runoff will be improved once it reaches the property. Cynthia states the Town is very interested in recording the improvements, especially the reduction in phosphorous. Cynthia suggests the Applicant make that part of their presentation as to whether or not there will be phosphorous reductions considering all of the work that is being proposed on the property. The information would be beneficial to the Town.

Mr. Jaehnig talks about widening the buffer. The improvement of the water quality is discussed. Mr. Jaehnig states they are proposing to sort the dredged material and spread it around on the site. Re-grading and terracing will take place on the site.

Cynthia states she understands the approximate disturbance is less than five acres. The Applicant will have to be running their Stormwater Application parallel with the Town Engineer who will also be reviewing the Application before the Planning Board. Cynthia asks whether the Applicant has filed the Stormwater Application with Bruce Thompson. Mr. Jaehnig states no not yet.

Mr. Jaehnig states that as far as agency review, they have received comments from the Town Consultant, as well as the New York City Department of Environmental Protection (NYCDEP). They will be meeting with NYCDEP tomorrow. The New York State Department of Environmental Conservation (NYSDEC) took a look at this and determined it is not within their regulations. We have reached out to the Army Corp of Engineers (ACOE) to obtain feedback. Mr. Groft states that the comments from the Town and NYCDEP recommended we coordinate with the ACOE. We reached out to them 10 days ago and have not heard a response. Mr. Groft asks the Board if they have any recommendations as to how they may expedite the situation. Cynthia states she will give Mr. Groft the names of the individuals who have handled a few of the other permits.

Mr. Groft talks about their proposal and states they are trying to make it feel like it was always there. Mr. Groft shows an aerial photograph taken from the southwest corner of the property which shows the main farm complex. The type of landscape around the existing pond is discussed.

Cynthia refers to the dredged materials being buried on the site and would like to know how this process will work in regards to the phragmites. Cynthia refers to the Dubin Project and asks Will whether they had a special process in order to bury the phragmites to make sure they died and did not come back. Bruce states this was discussed at the time of the Application and Mr. Dubin elected to have them hauled off site. Mr. Jaehnig states there is a stand of phragmites at the northwest section of the pond. Cynthia states that the Applicant may want to give them special attention, as you don't want the phragmites to come back. Cynthia states that Joe Bridges will most likely have comments about this after reviewing the next round of materials, especially since we were just through this with another wetlands application.

Robert refers to the east of the main body of water on the Plan in regards to the bridge. Mr. Groft states they are proposing a pedestrian bridge, as well as a wooden bridge. Mr. Jaehnig states the existing driveway will be abandoned. Charlotte confirms the gravel driveway and stone wall the runs between the two properties will remain. A bridle path is located nearby.

Mr. Groft refers to the review memo from the Town and states there isn't anything they shouldn't be able to address. They were hoping to get the approval process done over the winter so they may possibly obtain a Building Permit and get started in the spring. Cynthia states the Applicant should submit an EAF Part 1 fairly soon so the SEQR process may begin. Once the materials are declared complete a Public Hearing may be set. Mr. Groft confirms that they need to submit responses to the MDRA Memo, especially the EAF Part 1. Cynthia states that once declared complete, the Board may declare themselves lead agency and set the Public Hearing.

Cynthia talks about the possibility of the sediment coming back once all of the approvals are done and states it sounds like all the work being proposed on the property should prevent that. Cynthia confirms there still will be drainage coming from the road, but it will be filtered out before reaching the pond. Cynthia asks who will be doing the maintenance. Mr. Jaehnig states the sediment will be serviceable and discharged. The sediment will be cleaned out. Mr. Jaehnig states there are overhead utility poles and shows on the Plan where there are lines they would like to relocate. They have spoken with NYSEG. There is discussion about the utilities going underground. Mr. Jaehnig states that the lineman from NYSEG told them that they do not like to go underground because it is more of a maintenance problem. Cynthia states that in this Town any new Subdivision or Site Plan has to have the utilities buried underground. Mr. Jaehnig states they will continue their discussions with NYSEG. There is a discussion about the pole closest to the road. Mr. Groft states that pole will eventually have to be moved.

Robert talks about the recirculation and would like to know what the Applicant thinks will occur, especially when they will be feeding it with groundwater that is approximately four feet deep. Robert asks how deep they intend to make it. Mr. Jaehnig states they are proposing the depth to be at least eight feet. Mr. Groft states there will be an aeration system as well as a recirculation system. There will be an overflow. Mr. Jaehnig states that their planning consultant told them that making the pond deeper will be an improvement.

Cynthia refers to the other pond and asks whether a monitoring plan was put in place. There is discussion about temporarily relocating the wildlife while the dredging is going on. Mr. Jaehnig states that hydraulic dredging will not work and the bottom is too rocky. They will not get proper shaving. We will go in and do this quickly in order to be back up and running. We will have someone on site during dewatering to relocate any critters that don't relocate. They may also go to the other pond. Cynthia confirms the timing will not disturb nesting.

Cynthia requests that the Applicant provide the Board with a copy of their response materials to the NYCDEP so they may all work together. Mr. Groft confirms they will respond directly to the NYCDEP and copy the Board. Referring to the ACOE, Cynthia states the Applicant should let the Board know if they continue to

have trouble obtaining feedback.

The Board has a discussion about making a Site Inspection. Gary states he will be able to go this weekend and then will be gone for three weeks. The Board decides to have the Site Inspection on Saturday, December 10th, at 9:00 a.m. Mr. Groft states they want the Board to come. He will speak with the Finks as they may be coming up on the weekend. The Board decides to meet at the parking area near 164 Vail Lane, near the old maintenance road. There is a red barn there. Cynthia states the CAC is supposed to provide the Board with a Report. They may have already made their own Site Inspection. We will let them know about the Board going out and may have a few of their representatives join us as well.

WORK SESSION:

- 4. Walsh/Continental:** Robert Fogle (owner – Denis Walsh)
Subdivision (location – 6 & 7 Brookside Lane)

- Discussion Regarding Outstanding Issues Concerning 2003 Plat Approval

Cynthia states that she has had three people inquire about the abandoned house on Bloomer Road. Cynthia states we have Robert Fogle here tonight. He has made an inquiry and asked a series of questions. Because these inquiries are coming in from individuals who may be considering purchasing the property Cynthia does not want to pretend that she knows how the Board would respond. Cynthia states that Mr. Fogle has fifteen minutes with the Board since he does not have an Application before them. Cynthia states it is important to try and understand where the Board would go with this. The Town as a whole would like to see something happen with the property. Cynthia states that she and Mr. Fogle went out and took a quick look at the property. Cynthia gave Mr. Fogle copies of the Conservation Easement, Homeowners Association documentation, and a Memo that Joe Bridges wrote back in 2008 that summarized his Site Inspection. Mr. Walsh was going to remedy the violations that happened on the property. Mr. Walsh never came back. Insite Engineering never formally submitted the next step, and the property has been sitting there. Cynthia states Mr. Walsh still owns it. Mr. Fogle states Mr. Walsh does not own the property. Cynthia states as far as the Town records go, Mr. Walsh still owns the property. Cynthia states that Mr. Fogle may know more than the Board does. Cynthia states the bank is in foreclosure with the property. We have not seen official documentation from the bank yet. Cynthia states the bank is very much in control.

Mr. Fogle states he is here tonight with his wife Jennifer. They both live in Town along with their children who go to North Salem schools. Mr. Fogle states he and his wife grew up in Town. Mr. Fogle states that they are very interested in having a home on the lake. There are a few options. The bank/Mr. Walsh owns Lots 3 and 4. They are not willing to separate the lots. Lot 3 is the unimproved lot without a home on it and the lot is valuable because it has frontage to the lake. They want to package both lots together because no one will want to buy a house with no backyard, not having access to the water. Cynthia asks if the bank understands that of the four lots, everyone has a right of access. Because of the Conservation Easement, the only access to the lake is a walking trail. A boat may not be brought down, nor docks allowed. Cynthia states that we will have the Town Attorney weigh in. Cynthia states that no structures are allowed. The piece that Walter Hutchins had allowed for docks. Mr. Fogle thought that he read where a dock would be allowed. He did read about boating and fishing allowed on the lake. Roland asks Mr. Fogle if he read the word “dock”. Mr. Fogle thought that no permanent structures or piles were allowed. Mr. Fogle talks about floating docks. Mr. Fogle is proposing to change the lot line between Lots 3 and 4 which would give both properties lake frontage. We would like to do a lot line adjustment to give the house and lot lake frontage. The lot that has been improved will still be sellable, no impacts to the septic. It would be a little over a two acre lot. Mr. Fogle states they would be able to use the other lot that is on the lake with the house. They would fix all of the problems. Mr. Fogle states that he has spent a lot of time with Bruce Thompson in regards to the properties and getting a

realistic handle on what it will cost to fix the whole place. Mr. Fogle states the house is a mess. There have been no inspections for the framing, electrical, plumbing, or air conditioning, but yet the work is all done. The framing is a mess. There is water damage coming down from the chimneys. The wood is rotted. The pipes are full of water, and may be broken. The blacktop was never finished. The detention pond plants were never finished. Mr. Fogle is considering purchasing Walter's property and states that would be the fastest way for he and his family to get into a house on the water as long as everything works out with the bank. It has to make sense financially. Mr. Fogle has seen the latest Planting Plan Insite had prepared which shows approximately \$26,000 worth of plants. The detention pond would require approximately \$13,500 worth of plants. Mr. Fogle states that the Planting Plan obstructs the view of the lake which would be important to him.

Cynthia states these are technical questions she wanted Will and Roland to weigh in on because this is an area where there has been a violation of the Final Plat where disturbances were not to take place, and where trees were not supposed to be taken down. Cynthia does not know at what point modifications may take place versus triggering doing something with the Plat. Roland confirms there is an area on the Plat not to be disturbed. Roland states that if the lot will change a new Plat will be filed anyway. Cynthia shows a line on the Plat that will only involve two people. There is a discussion about the violated areas. Will states this will be a restoration of a violation. It is a violation of the approval of non-disturbance, and the easement. It is an enforcement issue. It is not a Planning Board issue. Changing the lot line would be a Planning Board issue. Cynthia states that Hilary had thought that some of this would trigger need for the Plat to be refiled. Will talks about changing the line, taking the area that was disturbed out of the Easement, and reducing the restoration requirements. Cynthia confirms Will is talking about the line of disturbance. Will asks if the line of disturbance is in the Conservation Easement. Mr. Fogle confirms with Bruce that in places it is consistent with the Conservation Easement, and in other places it is not. Will confirms the plantings are a result of the violation. Cynthia shows the areas that were disturbed on the Plan and states that trees were taken down and earth moved. Cynthia states that originally when we were out in the field the grade was supposed to be put back the way it was, as well as the addition of plants, more than originally there. Cynthia understood that it was necessary to put the land back to the original grade, and it was up to the Planning Board whether all of the trees had to go back in. Will states that restoring the area because of a violation is an enforcement issue. If changes are to be made to the Plat, that would trigger another process.

Mr. Fogle states he has no problem putting the grades back, including the berms. The only area he wants to maintain is the back yard. If the contours are put back, there will be a cliff. It slopes down to the detention pond. There would be no walking access to the house and there will be no flat back yard. Mr. Fogle will agree to changing the front and side grades, removing the materials and relocating them offsite. The only area where he is requesting flexibility is towards the back of the house. They would like to slope the back down towards the existing trees. Mr. Fogle walked the property with Bruce today. They both agreed that between the house and detention pond there needs to be some type of boulders to retain the bank. Robert states that Joe had made that suggestion when we were out there originally. Cynthia states that Joe didn't want it to be disturbed, but he did suggest plantings at the bottom and top.

Will talks about a legal limit line being on the Plat as opposed to the construction plans. Will states the modification or restoration may fall in the buffer and may need a wetland permit. It sounds like this will require an Amended Subdivision, Lot Line Change, and Wetland Permit. Will reads the Note on the drawing. There is a discussion about the Board being flexible with the replanting. Roland asks if the taxes have been checked. Mr. Fogle states there are no liens on the property. Will states there is a Note on the drawing which talks about resurfacing clearing limits, envelopes, grading plans, and construction plans. It does state that if someone were to go out of those lines, then an amended subdivision would be required. That may be limited to a lot or lots which the person is dealing with. Cynthia confirms with Will that the Planning Board will have flexibility to work with an interested party. Cynthia confirms if the lots are to be adjusted the Board may

change the limit of disturbance or not require someone to completely put it back. Will states that if the violations didn't happen and the house was built correctly, if a new buyer has different ideas, they would have to come in for an amendment in order to go outside the lot lines to adjust the lot line in order to go outside the envelopes. Bruce states the same type of situation occurred in regards to the DeBellis Subdivision. Mr. Restrepo came before the Board when installing his pool. He needed an access road for the construction. Cynthia states that in that instance the Board didn't require Mr. Restrepo to file a new Plat. The Board had the authority to amend the Construction Drawing. In this situation there is a difference because the lines are on a filed Plat. Will states the whole idea of having building envelopes were defined under the SEQOR process that approved the subdivision. Roland states the reason the Board may be able to do this is because the Note provides a way for it to be done. If the Note didn't have language regarding the ability for the Board to consider an amended subdivision, they would not have as much flexibility. Mr. Fogle states they will still be filling in a buffer. Mr. Fogle states the whole back yard is basically a buffer. Mr. Fogle asks whether this will work in the end. He doesn't want to be stuck with a house that has a cliff in the backyard. Cynthia does not know whether the Board will be able to respond to that question right now without going out in the field. This is where the Board may advise Mr. Fogle whether they would require him to put everything back the way it was, or consider something different. Mr. Fogle states there is 50 feet from the actual wetlands line. Instead of 100 feet we are looking for 50 feet. We talked about a boulder wall and a natural slope. Cynthia refers to the Conservation Easement and states that along the lake additional paths would not be allowed. Mr. Fogle understands that. Cynthia asks whether Mr. Fogle spoke with the Engineer to confirm the re-drawing of the line. Mr. Fogle states John Watson at Insite told him there would be no problem. Robert is agreeable to anything that will improve the grand canyon in the back yard, especially with all of the children the family has. Mr. Fogle states Bruce has seen his work. He does clean work. He will not leave a mess as was left. Mr. Fogle states he has seen wood, garbage, stumps, and televisions lying around which he will clean up. Mr. Fogle states he cannot commit to the installation of \$26,000 worth of plants right now. Cynthia states that if Mr. Fogle were to move forward with this, he would be required to go to the Town Board for a Waiver of the Application Processing Restrictive Law Form due to the violations. Cynthia asks whether Mr. Fogle has to cure the violations before moving forward, or may approvals or building permits state that part of the cure will happen later on in the process. Roland states it may happen later on in the process. Cynthia states that Mr. Fogle may put together a Plan that states certain items will be done now, and certain items will be done later. Cynthia asks the Board for feedback. Bernard and Robert both feel there will be plenty of room for flexibility.

Mr. Fogle states that in terms of going forward, the bank wants to know tomorrow. They would like us to make our best offer. Mr. Fogle let the bank know that he is meeting with the Board tonight. Mr. Fogle states that if the Board were to tell him they are not interested and this is not a good way to go about it, he would probably back away and speak with Mr. Hutchins about selling one of his pieces. Mr. Fogle states that he and his wife have a buyer for their house. Cynthia states that she has flexibility with how the property gets restored. The damage is done. The property has been this way for four or five years. She would like to make this work for Mr. Fogle and the Town. There is discussion about minimizing the disturbance and work with the existing conditions.

Mr. Fogle states he will agree to blacktop the road, and install the detention plants. Mr. Fogle refers to the entrance way on the right, near a pond where large mature trees have been planted. Mr. Fogle states that the Plan shows additional plants to be installed near the large trees. He does not believe it makes sense to do that. Cynthia does not recall this being part of the original discussion. Robert states that plants wouldn't grow anyway. The large trees are 70 or 80 feet tall. Mr. Fogle confirms the Board is interested in having plants around the detention pond. Cynthia states that something is needed there. It is very unsightly. Mr. Fogle states he does not agree with planting White Pines as had been suggested. Will does not think that there will be a problem with substituting plants. There is a discussion about the legal instruments that have been filed. Cynthia states that if Mr. Fogle has any other legal or technical questions this is the time to ask them. Cynthia

states the decision is for Mr. Fogle to make. Cynthia would like Mr. Fogle to fully understand the Conservation Easement, especially the dock restriction. Cynthia believes that docks are not allowed. Cynthia believes a canoe may be carried down and be placed in the water. Mr. Fogle asks whether a floating dock is considered a structure. The Conservation Easement Mr. Hutchins has allows a provision for a dock. There is discussion about Mr. Hutchins obtaining an approval from the Town Board.

Robert suggests the Board make a Site Inspection on Saturday, December 10th. They are scheduled to visit the Fink Property at 9:00 a.m. and decide to visit this property at 8:30 a.m.

Will asks Mr. Fogle if he has time expectations and states the Board has deadline dates for submissions, and hearings will need to be held. Mr. Fogle states that Insite is owed money from the prior Applicant, and would like payment upfront before doing any work. Mr. Fogle talks about the lot line adjustment being changed, as well as the Grading Plan. Cynthia confirms everything will be done at the same time. The requirement for a wetlands permit is discussed. Will states this will not all be done in one Meeting. Will asks what expectation Mr. Fogle has. Mr. Fogle anticipates a three month process. Gary states Mr. Fogle should keep in mind that the holidays are now upon us. There is discussion about Mr. Fogle possibly backing himself into a corner where he has to move out of his house due to the sale. Cynthia states there will be a Public Hearing once the Application is complete. Gary asks Mr. Fogle if he is buying both lots. Mr. Fogle states that as of right now he is, due to the fact that the bank does not want to separate them. He would love to just buy the vacant lot in order to take the fill out and start fresh. Gary asks whether there will be two closing transactions. Roland states there will be two Deeds. The property is not being merged. Mr. Fogle states the bank seemed a little more flexible today when he called.

Cynthia states that Mr. Fogle should start with the Town Board in regards to the violations. The property is not his, but he is buying a property that has violations. Roland states Mr. Fogle may make a submittal to the Planning Board, but it wouldn't be considered until the Waiver is received from the Town Board. Bruce states it is important for Mr. Fogle to get on a Town Board Agenda.

Mr. Fogle states he appreciates the time the Board has given him tonight.

5. Discussion Regarding the Following Chapters:

- **Chapter 189, Sand & Gravel/Tree Removal**
- **Zoning & Definitions, Farming**

Cynthia states the Board may hold off discussing the Chapter 189, Sand & Gravel/Tree Removal Law tonight, but they should discuss the definition of farming. Cynthia states the Board thought they had a good definition which has been added to every Chapter that they have been using. Robert received a definition from Peter Kamenstein which has been distributed to the Board. Cynthia asks Peter to tell the Board what is not good about the definition. Peter states the first thing that he noticed is that not all the definitions are conforming. Cynthia states the Board is moving towards the Zoning definition. Peter states that in some Laws 4 acres are listed and in other Laws 7 acres are listed. There is discussion about conforming to the Agriculture and Markets Law being oriented more towards commercial. That is important to keep in mind. In the Agriculture and Markets definition, having less than 7 acres does not preclude someone from having a farm. In Agriculture and Markets, the definition of Farming Operation is based on commercial operations. Robert asks if that is only in the Agricultural district. Peter states no. If someone wants to receive agricultural acceptance, and they are not in an Agricultural district, they would still have to conform to the acreage requirement. In agricultural language if someone produces over \$50,000 in gross revenue, there is not an acreage restriction. It has more to do with income. There is a discussion about 4 acre horse farms in Town. There is discussion about a hydroponic farm near the Blazer. Peter states the various sections of the Code should be consistent

in regards to the acres. Cynthia states that as the Board goes through the Chapters, they are lowering them all to four acres. Peter states that in one or two places fur-bearing animals were excluded. Fur-bearing animals should be included. Someone may be raising them for their fur, such as sheep or alpacas. Peter states it was included in certain definitions and excluded in others. Peter refers to riding academies and states that is the other item he noticed which is non-conforming. He understands because in the old days riding academies were not regarded as agricultural. In the past year Agriculture and Markets Laws have changed to include riding academies. We should, in that respect, conform to the Agriculture and Markets Law. Riding academies are now considered to be agricultural, where in the past they weren't. Cynthia confirms that exclusion should come out. Peter states everything should conform. Charlotte states there is a fine line between a boarding stable and a riding academy. Peter states it has been recognized that the horses don't have to be owned by private individuals. Lessons are now considered to be part of a means to raise revenues as an agricultural enterprise.

Will asks whether there is a traffic component when a riding academy is not associated with a farm. Peter states no. A riding academy may offer riding lessons on horses owned by a stable. Cynthia states that when the Board defines riding academies, we should list "stable". Under stable, the language reads "Any establishment where horses are kept for riding, driving, or stabling". "The compensation or incidentals of the operation of any club association ranch". Peter refers to Page 17 in regards to fees generated and states people may come for an hour to go on a trail ride. Peter states there is a difference between driving and livery. Livery is like a hack in New York City at Central Park. Peter states that the new definition for riding stables encompasses a much broader sphere. More activities are being recognized as agricultural because a change in the Agriculture and Markets Law.

Cynthia states the Board has the exact same definition that appears in the Zoning, and Freshwater Wetlands. Cynthia states the Farming Operation definition is consistent with four of our Chapters. There are two Chapters going over to the Town Board in January; one being the Land Excavation Law, and the other being the Tree Cutting Law. All we have to do is take out the language referring to riding academies. Peter states that under Farming Operations in the Wetlands and Excavation Law, riding academies will have to be changed from excluded to included. Robert asks if we are using the State Definition. Cynthia states we are using the definition we have. Peter states the Board may want to modify it slightly. Cynthia reads the definition "a farming operation is any operation on a parcel of land not less than 4 acres that is used for soil dependent cultivation of agricultural crop production and/or the raising of livestock, poultry or dairy products, raising of fur-bearing animals and the keeping of horses and livery or boarding stables". "This excludes dog kennels". Cynthia would like to know what is wrong with the definition. Peter states you are now eliminating the exclusion of riding academies. Robert asks what would be the purpose of not using the State Definition, and states we would be creating a universal definition. Cynthia states the Board should take a look at the definition Liz crafted in the Zoning Code. Cynthia reads the definition "Farm operation" means the land, no less than 4 acres, and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products and commercial horse boarding operations, timber processing and harvesting of farm woodland". Cynthia states that not all buildings are for farming purposes. Cynthia does not believe why we would use a definition that brings in the buildings. Robert gives an example of the possibility of a difference of opinion at any point in time when a review had to be done; the definition from the State would supersede the Town. Robert states we should be in compliance. Cynthia thought that Liz was in compliance with the State Definition when she wrote the Ordinance. Bruce states that is absolutely correct, as he worked with Liz on this. It goes back to 2003 when the State made commercial horse boarding operations part of a farm operation. Now they have since amended it to include in their terminology, commercial feed barn operations. Bruce refers to riding academies and states that they had expressly eluded that in the commercial horse boarding operations by saying that the ownership did count. Someone had to have a lease of a horse of a year or longer and that is what ruled out riding academies. There is a discussion about staying ahead of the curve. Bruce states he likes

the definitions to be as inclusive as possible. Bruce states that so long as we include commercial horse boarding operations and farming operations in the definition, and include the key ingredients of the commercial farm boarding operations and the equine operations, then he feels the farming operation definition is good. Peter talks about the issue that Cynthia brought up in regards to making it more inclusive like the Agriculture and Markets definition, where it talks about including the land and on-farm buildings. Cynthia states that may cause a problem in the Zoning Code. Cynthia goes over the definition which states “the keeping of horses and livery or boarding stables” and asks whether that is inclusive enough. Will states that at first he thought not adding in “riding academy” language or something similar was not needed because it all points to stables, but he thinks that wherever the Zoning Code lists a farm-type use that we would consider a farm, we should list them in the definition. Robert asks if the State Definition includes commercial equine operations. Will states it does. Cynthia states it will be amended to be “the keeping of horses and livery or boarding stables and riding academies as permitted under Chapter 250 zoning. “It excludes dog kennels”. Will states he would like to take a look through the Use Tables. Robert talks about the issues regarding the buildings that Peter referred to as being difficult with the Zoning Code, and asks for an explanation. Cynthia states she and Bruce would have to go through every Chapter of the Zoning. If a farm building were to go through a permit process, if it is used as part of a farming operation, it may get a pass. It seems like a lot of work for something that may not be needed when we think about how farm operation is used in the Zoning. We don’t have to talk about the building; we need to talk about the use or operation. Robert understands. Cynthia will take another look at how it is used throughout the Zoning. Bruce would prefer to not see any reference to buildings because it would open up a can of worms for people thinking they may do work because they have a farming operation. Bruce states that buildings are treated very clearly through the Building Code, similarly as stormwater legislation. Bruce would rather not have a third place that may cause a conflict with the other two places. Bruce states we should leave it out.

Peter refers to the Stormwater Management and would like to know who the Stormwater Management Officer is. Cynthia states that would be Bruce. There is a discussion about following the State Stormwater Regulations. Robert refers to SWPPP’s and states there are some regulations in two sections that have a reduced requirement. Bruce states that someone may clear land, stump it, and turn it into pasture. If it is re-graded or the contours are changed it is now considered to be disturbed under SWPPP.

Peter refers to Chapter 167 for Peddling and Soliciting in regards to selling produce and states that at least 50% of the products from a farm stand is required to be home grown to qualify as a farming operation. They may buy jams and jellies from someone else. We don’t have that in the definition, but we should. Will states that would be a Zoning Ordinance issue.

The Board thanks Peter and Bruce for joining in on the discussion.

6. Comments from the Chair:

Cynthia states she is considering canceling the December 21st Work Session. Gary states he be out of Town.

Cynthia states the Board granted a Lot Line Adjustment for Jennifer and Michael Esposito of Quaker Ridge Road. This is a case where the Deed and Conservation Easement were never filed for the road widening strip. We made it a Condition of Approval in the Resolution that the Mr. and Mrs. Esposito would take care of those two items. They are unable to take care of those items because they do not own the land. Roland states they only have title to it from the prior owners. When it was created it was a strip of land. The prior owner stopped paying taxes on it. Cynthia goes over the Draft Amended Resolution language.

Chairwoman make a motion that the Planning Board has Approved a Lot Line Adjustment with a Condition that a road widening strip needed to be finalized, and whereas Mr. & Mrs. Esposito are not

owners of the road widening strip and therefore cannot cure this problem. The Condition will be eliminated from the initial Resolution. Robert Tompkins seconds. All in favor. No opposed.

The language will be incorporated into an Amended Resolution which will be forwarded to Roland for forwarding to Mr. & Mrs. Esposito's Attorney.

7. Minutes:

- July 20, 2011
- August 10, 2011
- September 7, 2011
- September 21, 2011
- November 9, 2011

Gary Jacobi motions that the Planning Board Approve the Minutes for July 20, 2011. Charlotte Harris seconds. All in favor. No opposed.

Gary Jacobi motions that the Planning Board Approve the Minutes for August 10, 2011. Charlotte Harris seconds. All in favor. No opposed.

Gary Jacobi motions that the Planning Board Approve the Minutes for September 7, 2011. Charlotte Harris seconds. All in favor. No opposed.

Gary Jacobi motions that the Planning Board Approve the Minutes for September 21, 2011. Charlotte Harris seconds. All in favor. No opposed.

Gary Jacobi motions that the Planning Board Approve the Minutes for November 9, 2011. Charlotte Harris seconds. All in favor. No opposed.

8. Financial Reports:

- September, 2011
- October, 2011
- November, 2011

Gary Jacobi motions that the Planning Board Approve the Financial Reports for September, October, and November, 2011. Charlotte Harris seconds. All in favor. No opposed.

9. Next Meetings:

- Work Session – December 21, 2011 – Meeting Cancelled
- Regular Meeting – January 4, 2012

10. Resolution:

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