

**North Salem Planning Board Minutes**

**February 1, 2012**

**7:30 PM – Annex**

**PRESENT:**            **Cynthia Curtis, Chairwoman**  
**Charlotte Harris, Board Member**  
**Bernard Sweeney, Board Member**  
**Robert Tompkins, Board Member**  
**Gary Jacobi, Board Member**  
**William Agresta, AICP**  
**Frank Annunziata, Town Engineer**

**ABSENT:**            **Roland A. Baroni, Town Attorney**

<b>ATTENDANTS:</b>	<b>Salem Hunt:</b>	<b>Bill Balter</b>
		<b>Scott Blakely</b>
		<b>Tim Miller</b>
	<b>Hawley Woods:</b>	<b>Dan Gould</b>
		<b>Steve Bliss</b>
		<b>Kevin McKenna</b>
	<b>McCarthy:</b>	<b>Tim Allen</b>
	<b>Fink:</b>	<b>John Knowlton</b>
		<b>Paul Jaehnig</b>
	<b>Titicus Road Commons, LLC:</b>	<b>Michael Sirignano</b>

**Chairwoman Cynthia Curtis calls the February 1, 2012 North Salem Planning Board Meeting to order.**

**PUBLIC HEARINGS:**

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

Cynthia states that this item is a hold over of Public Hearings. The Applicant has filed an Amended Application. At the appropriate moment when that Application is deemed Complete we are going to hold a Public Hearing on the Amended Application.

**REGULAR MEETING:**

- 2. Salem Hunt:** Bill Balter (owner – June Road Properties, LLC)  
**Site Dev. Plan, Wetlands Permit** (location – June Road & Starlea Road)
  - Discuss Circulation of SEQR Materials for Amended Site Plan Approval
  - Consider Completeness of Amended Site Development Plan

Cynthia asks whether there is anyone here tonight from the public for this Project. It is confirmed that no one is here regarding this Project. Cynthia states that Salem Hunt is now a revised project called Bridleside. The Applicant has amended his Application to change it to an all affordable rental proposal which is in accordance with our Zoning as a permitted use. Cynthia states it would be appropriate for Bill Balter to give us a quick overview as this is the first time the Board will provide feedback on the proposed layout.

Mr. Balter states that they were on an Agenda last month to very briefly introduce this change their Plan. We

started this Project and began the approval process approximately five or six years ago. We went through the Findings approximately three years after that. Originally we were proposing the development to be 80% market rate and 20% affordable. The reason we are proposing the development to be 100% affordable now is because in this environment, the development is not feasible at 80% market rate and 20% affordable. In addition to having done many luxury market rate developments in Westchester County and in the Region, we have also done a lot of affordable housing. The property is consistent with the Zoning. When we went back and made the changes we went out of our way to make sure that every physical impact would be the same or less than what had previously been proposed. Mr. Balter shows the Board a new Plan, which has been overlaid on the old Plan. Mr. Balter states that the dark shaded areas in grey are now part of a Conservation Easement. We are still proposing 65 units. We had been proposing 65 two-bedroom units. Now we are proposing 20 one-bedroom units, 40 two-bedroom units, and 5 three-bedroom units. The end result will be fewer bedrooms. Because there will be less bedrooms, we will be able to pull the septic area back approximately 100 feet. Mr. Balter states that the physical impacts will be less. The one area where the impacts will be worse is on the fiscal side, due to the change to a 100% affordable development. Mr. Balter refers to the architecture aspects and states that they are building senior developments in Carmel and Cortland which will have three-story buildings that are twice as wide as what they are proposing in North Salem. Mr. Balter states that a process has already taken place with the Town, and the feedback received has been in regards to the size and height of the buildings. Mr. Balter states they are proposing two-story buildings even though the Zoning allows for three-story buildings. Mr. Balter states the reason they are proposing less buildings is because the units are approximately half the square footage of the units they had proposed before. The physical footprints of the units are much smaller, so more units may go into the same building.

Mr. Balter refers to parking and states they are proposing to have the same number of surface parking spaces as they had before. Mr. Balter states the garages have been taken out of the new Plan. Mr. Balter states that in terms of the broader road system, they previously had approximately 2,700 feet of road, and now have approximately 2,000 feet of road. Mr. Balter states that between the smaller unit footprints, and less road surface, there will be much smaller impervious surface. Mr. Balter states that in the prior proposal the closest building had been approximately 100 feet from the property line. With this new Plan, they are approximately 400 feet from the property line, and approximately 330 feet to the road. Mr. Balter states that because they are proposing less of a footprint, there will be less runoff which has allowed for the elimination of a stormwater system on a portion of the property. Mr. Balter refers to the new Plan and shows where the basins will be located.

Mr. Balter states that many items have been discussed with the Board over the past number of years, and there were items that we represented we would do. Mr. Balter states that there is a recreation fee of \$300,000 in addition to the outside recreation area we will provide. Normally on an affordable development we would make the argument that we shouldn't be paying a recreation fee. We are not making that argument here. We are still going to pay the \$300,000 recreation fee.

In regards to phosphorous removal, Mr. Balter states that they had gone through a process with the Watershed Inspector General and agreed to pay approximately \$94,000 as a phosphorous offset fee.

Mr. Balter states we have had conversations with the Town about giving them additional dollars as an offset due to the fiscal impacts. Mr. Balter states they have agreed to pay \$200,000 to the Town for its general purposes.

Mr. Balter shows the Board the proposed elevations for the buildings and states the big difference on this Plan is that there are no garages. The buildings are still two-stories, with similar roof lines. There is only one place where there will be a walkout basement because the topography works there for it. Mr. Balter states that in terms of site disturbance, this is a very relevant easy site to build this way, and it happens to lay out very

well for development. There have been many different versions of this Plan, and we are very happy with the interior road system and green area of the new Plan. We thought that there would not be a need for the Sewage Treatment Plant, but it has been determined we need to have it. It will be located in the same place, and be the same design.

Cynthia states the Board has not received visuals showing what the Sewage Treatment Plant will look like. Mr. Balter states the visuals are the same as previously proposed. Cynthia states that at some point the visuals for both the Sewage Treatment Plant and the Recreation Building should be submitted, as they will also be provided to the Architectural Review Board. There is discussion about submitting the floor plans and elevations for the Water Treatment Plant.

Mr. Balter refers to the memos from the Consultants and states they have a couple of questions. Mr. Balter states there was a comment from MDRA in regards to interior walkways. He asks Will if he is referring to the paths that were on the old Plan. Will confirms yes and states there are gardens proposed in that area and it would be nice to have a walking path.

Cynthia refers to the MDRA Memo and asks Will whether he incorporated a comment in regards to her conversation with the Building Inspector about the Building Code Requirements. Will confirms yes. He asks Mr. Balter if the Building Code Requirement will change in regards to architecture and sprinklers since this Project is going from fee simple ownership to single rentals. Mr. Balter states he will have a firm answer for the next Meeting, but he believes they will have a sprinkler system, and storage. Cynthia states that the Applicant is showing one, 10,000 gallon storage tank for potable water, and two, 10,000 gallon tanks that the fire department has requested. Cynthia asks where the storage for the sprinkler system is located. Mr. Balter states that they probably will not need storage, but if they do, they have already proposed a water control building. Mr. Balter refers to a similar project in Putnam County where they buried a tank into a hill. Cynthia states it has to be shown on the Plan and the Code needs to be confirmed. Mr. Balter states he will have to confirm this information with his office. Cynthia states this is the first time the Board is dealing with an all rental situation. The Building Inspector has mentioned that the Fire Code is different.

Cynthia states there may be ADA requirements considering the Project changed from fee simple single-family housing to rentals. Mr. Balter states that all buildings will be handicap accessible and there has to be handicap access from the parking lots to the buildings.

Robert states he is not very pleased about this amendment relative to what had been on the table. He states he was quite shocked. Robert states the swimming pool has been taken off the new Plan. Robert states that recreation during the summer will be off campus. Mr. Balter states that they are proposing a field next to the club house. They feel it will be more useful and a better recreation use. Robert refers to the \$300,000 recreation fee and states there will be a significantly greater increase in the use of recreational services compared to the old Plan. Mr. Balter states if the Board prefers a pool, it will be put back in the Plan. Mr. Balter states it is his opinion that it would be more useful to have a field. Robert states he would rather see a greater contribution to the recreation fee whether there is a pool or not. Robert states that all of the elements over the last four or five years have been relative to an 80/20 split, and 87% of the tax revenue that this would create has been reduced. Robert states he is not familiar with 581(a), but he knows this is not good for the Town of North Salem. Robert states that each taxpayer is going to end up eating this. Robert states that he wants to do everything they can do as a Board to support the taxpayers in Town. Cynthia states that 581(a) is a new legislation, and she does not believe there would be any change in regards to this particular development since they will be 100% rentals, and it is based on the rent. It is not like a mixture of 80/20. Cynthia does not believe there is any difference between having it and not having it. Mr. Balter refers to 581(a) and states that assessors have to consider the actual income that is received. Cynthia states the Board should obtain clarification. Will states that the assessment is different, it is not only from a rental perspective.

Cynthia states it is a totally different ball game going from fee simple to rentals.

Gary asks Mr. Balter who will administer these apartments. Mr. Balter states they own and manage approximately 3,400 apartments in approximately 34 developments for which approximately 2,000 of those apartments are affordable. Gary confirms Mr. Balter's firm manages them. Mr. Balter states there is confusion that the County is providing funding. People think that the County will own and control it; that is not true, we own it and we will control it. Mr. Balter states the County does have rules. Cynthia states that our Housing Board will actually go through the processing. They will manage the process. Mr. Balter states it depends. Sometimes a Housing Board is equipped to work with us to create a non-profit housing organization. Mr. Balter talks about the input in regards to marketing oversight. Mr. Balter states at the end of the day, we sign the loans.

Bernard asks Mr. Balter what would prevent him from walking away from this. Mr. Balter states they are guaranteeing all of these loans. Bernard states that there are a lot of foreclosures throughout the country. Mr. Balter states that is true. Mr. Balter states that they own a lot of these developments, and every year they get paid enough money from them. It is a good business.

Gary asks whether the funding will come from a public corporation. Mr. Balter states corporate and personal. Gary would like to elaborate on the point Robert made given that there is a fair amount of government money coming into this. Gary would like to know why the recreation fee is being capped at \$300,000. Gary states a fair amount of demand will be put on Town facilities. Mr. Balter understands the point. They have offered to pay the Town an additional \$200,000 on top of the \$94,000, on top of the \$300,000. Mr. Balter states that the \$200,000 could be used for recreation. Mr. Balter states that paying the \$200,000 is not a requirement in the Town Code. Gary states that is the first time he has heard about it. Mr. Balter refers to an issue that had come up in Putnam County where there was a problem with an intersection. They gave the County approximately \$200,000 for intersection improvements because the County was trying to use the money for a specific purpose.

Gary states that given there will be a fair amount of money coming into this project, clearly there is the potential for a lot of profit for Mr. Balter's firm. Mr. Balter states there is the potential for us to make back some of the money we have spent already. Gary talks about the cash flow going forward and asks why shouldn't the Town get a percentage of the surplus profit? Gary states he sees government money coming into a private project, and the demand that will be put on Town resources on an ongoing basis. In the event that there is surplus cash flow, shouldn't the Town receive some of that to reflect the surplus demand that will be put on the resources? Mr. Balter states he will take that under advisement. He has never been asked that question in 20 years of doing this. Tim Miller states that may also be a question to speak with Roland about. There are legal issues as to what a Town is in the business of doing in so far as tying land use decisions to the project financial matters of a builder or any property owner. Gary states this isn't private because government money will be coming in. Mr. Miller states that at the end of the day, it will be a private project and funded largely through loans that a private party will be borrowing. The government money that will be coming in will not in and of itself fund this project. Gary understands, and states it could make the difference between a small profit and a big profit.

Cynthia states that there will be an impact on the schools and talks about consideration being given to the Town to offset the impact. Robert states that the SEQR documents for the old Project listed 9 to 21 school children, which he thought was minimal to begin with. In the revised Plan, the numbers are reduced. Robert would like to know the basis for that reduction, considering the fact that if he reads the HUD regulations and standards properly, the two-bedroom units will allow for five people. Mr. Balter states that what is allowed and what people actually do are very different. Robert states it has to be based on something. Mr. Balter makes the comparison of having 65 two-bedroom units, versus 5 three-bedroom units, and 20 one-bedroom

units and states there will be fifteen less bedrooms. Robert states the HUD standards are different. Mr. Balter states that they could have had five people in the two-bedroom units before. Gary believes the point that Robert is trying to make is that the Applicant will be more likely to qualify for subsidized housing the larger the family size is. Therefore, a family with two, three, or four children would be more likely to qualify for one of these apartments. Mr. Balter states he will make a copy of a study that was just done for a development they are doing in lower Westchester in regards to school children in affordable housing. Mr. Balter refers to a development they had done in New Castle approximately 15 years ago and states that the development was included in this study to see how many people were living in the units. Cynthia asks whether the study will show the relationship between the income level to qualify for the units and the rent, because if the income level is down and the rents are up, it may be a lot different. Robert states it costs \$20,000 per child for an education in the Town. Robert states that using the maximum of 21 children, the amount would be \$400,000. Gary states the amount of 21 children is only an estimate. Robert states in the best possible circumstance, the school district will lose \$300,000 on this project on an annual basis. Mr. Balter acknowledges Robert's point, but states that every affordable unit anywhere is going to have a similar fiscal impact; whether it is in New Castle, North Salem, or wherever, it will occur every year. Mr. Balter states that the way they are required to do the fiscal impact on the schools is to look at everything as a marginal cost, not a fixed cost. The cost to educate a child, up until the point where a new school may be needed, is not \$21,000 a year. Mr. Balter states that if we take all the capital costs, and divide it by the number of children, it is \$21,000. The rest is a cost not even close to \$21,000. Mr. Balter states Robert has made a good point. There will definitely be a negative fiscal impact. Mr. Balter states that is the one negative impact that is unavoidable. Robert states the key word Mr. Balter just said is "the". Robert states that is the most important impact, and if everything else is physical, this is fiscal.

Cynthia refers to the layout and asks the Board whether they are comfortable with it moving forward. Mr. Balter states that when this Project was started, they worked hard to move farther and farther away from the property borders. We have kept the septic in the same place, even though we have shortened it up. We have kept the basic road, even though we have shortened it up. We wanted to have the interior section and buildings a certain size so they will not be as visually large as we have done in previous developments. We are staying away from the property border as much as possible. Gary states to answer the layout question from Cynthia, some of us have seen this new Plan for ten minutes. Cynthia states no. This submittal was circulated many weeks ago, and there was a presentation at the last Meeting. Cynthia states that Gary has had three weeks to study this entire set and be ready for his questions tonight. Gary states his answer is that he is not ready to proceed with this layout. Gary would like to know why the underground parking has been taken out. This is a fairly large footprint, and it is not all that expensive. Mr. Balter states that it is very expensive and not fiscally viable. Cynthia asks if Gary is suggesting that the garages be built underground, or have the building sizes increased? Mr. Balter states they have no more surface parking than what the Board previously approved. Gary states that what we have looked at and approved is now out the window. Mr. Balter states that in terms of physical impacts, it is not. Gary states he has not seen this Plan and was not here last month, he apologizes for that. Gary would like to know why parking may not go underneath the buildings. Gary would also like to know whether it might be better to go up one floor in order to eliminate two buildings. Cynthia asks what would be gained and what would be lost with that. Gary states 33% less drainage area would be gained right off the bat, as well as losing a little bit of a visual impact. Cynthia states definitely the visual impact would be hit. Gary doesn't know the topography, and doesn't know what the impact would be if we went up another 10 feet. Cynthia states we had discussed this before in the prior Salem Hunt Plan. Mr. Balter states that there have been five years of discussions with this Board, and it has been requested that the buildings not be tall. We could have done three stories. Gary states that is when there were 60 homes. Mr. Balter states there were 65 homes. Gary states that now they are proposing six buildings, so there would only be four buildings that would be taller. Gary states that if everyone is ready to move ahead with this Plan, fine, but he is not. Mr. Miller states they are now proposing fewer buildings, and a smaller envelope. On the issue with the underground parking, we have reduced the area of disturbance quite a bit, by five acres. To go to

underground parking in light of the much smaller footprint, given the costs, Mr. Miller states he has not seen it done in situation like this. Given the fact that it is now an affordable project, it would be difficult to fund something like that in terms of obtaining participation from the agencies and banks. Gary states that the banks are going to look it as an improved collateral package. Mr. Balter states he has done a lot of these developments. Mr. Balter states he has taken some of the other concerns discussed tonight under advisement. In this instance, he doesn't need to, and states they will not be doing underground parking. In regards to the layout, if there is something suggested, we will consider incorporating it. Mr. Balter states that underground parking will not be funded by any agency when there is a less physically impacted alternative.

Cynthia refers to Page 21 in the EAF Narrative in regards to the reference that the unmet obligation for affordable housing in the Town of North Salem is 148, and states it is her understanding that that number does not exist anymore and should be stricken. Cynthia refers to the next paragraph on Page 21 where there is a reference to the Comprehensive Plan that was just adopted and the fact that we are going to modify our moderate income housing regulations. The Comprehensive Plan specifically has three bullets, which Cynthia would like to see referenced in the EAF Narrative, so people do not think that the Town is going to modify the entire section in accordance with the model ordinance. Cynthia refers the Applicant to the website for the Town and states it is electronic page 91, or the physical page 79.

Robert states that in terms of the visual impact, he believes Theresa Havell will be happy as it seems as sensitivity has been given to her needs considering the fact that she is such a close neighbor. Robert talks about having the road on the inside perimeter of the houses instead of on the outside perimeter of the houses so there will be a little more space to spread out. Robert states there is a lot of lovely open land. Mr. Balter shows a Plan in which they had actually already looked at that option. Mr. Balter refers to a recreation area to be fully graded and states it makes more sense from a recreational standpoint and a safety standpoint to have the road on the outside. Robert confirms the scale of the Map is 60. There is a discussion about safety. Robert states he doesn't know whether he would want to live there, it seems tight. Charlotte states it looks like a college campus. Robert states there is a lot of open land around there. There will be approximately 24.5 acres not being used, so it will stay the same, which is nice. Robert states that the Board already came to the conclusion that the previous limits of disturbance at an increased level were acceptable. Robert states it would be nice for the children to have more space. Cynthia states that if she had children, she feels it would be safer for the children to get from one house to another house in order to visit their friends without having to cross the road. Will states there is a safety factor. Robert asks how many people will live in each unit number wise. Mr. Balter states there will be eight units per building. Robert states there is 60 feet between each building.

Cynthia asks if any other Board Members would like to weigh in. Charlotte states she prefers the Plan Mr. Balter spoke about first with the road on the outside, especially for safety reasons and the layout.

Mr. Balter refers to the walking trails and states now that he is looking at the Plan, they will add more.

Frank talks about the rain gardens and recreational area. Will refers to the walking path helping to make it more of a passive garden space. Mr. Balter states they will provide details. Mr. Blakely states they do have Plans from the previous Salem Hunt Project where they were proposing rain gardens, a walking path, and meadow grasses. Mr. Blakely states in the prior Plan there wasn't a lot of room outside the walking path for recreation. Mr. Blakely believes they will be able to recreate something to input the suggestions. Cynthia refers to the procedural steps that need to be taken, and states the Amended Plan should go out to all interested and involved agencies, assuming the Applicant will be able to put together the modifications spelled out in the MDRA Memo discussed tonight, so the circulation may take place. Cynthia asks Mr. Balter whether he will be able to turn around those modifications rather quickly. Mr. Balter states yes. Cynthia restates that the Board is Lead Agency on this Amended Site Development Plan, and Amended SEQR

Materials. The Board would like the amendments sent out to all the interested and involved agencies and ask them to respond in a 30-day timeframe. Robert refers to all the involved agencies which require permits or approvals, and asks whether they have been noticed. Cynthia states the SEQR circulation will be the official notice. Mr. Balter states that process has not started yet. We cannot begin the process to have the amended Plan approved until we have a Plan in place. Will states that technically the Findings will need to be amended. Robert states that the Board is reviewing an amended Plan that is significantly different than the prior Plan even though there will be less impacts for the most part. Mr. Balter refers to the Westchester Health Department and states that they will have to approve the revisions made for the septic fields. Mr. Balter states the Army Corp of Engineers also has to look what they have done, as the layout of the buildings is different. Robert states that seven out of the ten approvals require amendments.

**Chairwoman motions that the Planning Board Re-Circulate the SEQR Materials and Amended Site Development Plan to all Involved and Interested Agencies for the Salem Hunt/Bridleside Project Upon Receipt of a Revised Submission by the Applicant. Charlotte seconds. All in favor. No opposed.**

After the motion, Cynthia states that the Application is not Complete. If the Application were to become Complete, the Board may consider setting the Public Hearing at the next Meeting.

**3. NYSEG Peach Lake Substation:** (owner – NYSEG)  
**Site Development Plan** (location – 823 Peach Lake Road)

- Consider Setting a Joint Public Hearing for March 7, 2012 Regarding Town Board Special Use Permit Petition and Planning Board Site Development Plan Approval

Cynthia states that we did check with the Town Board and they are fine with setting the March 7, 2012 Joint Public Hearing. We have assurances from the NYSEG representatives that their materials will be submitted on time. If for some reason the materials have not been received, we will keep the Public Hearing open.

**Chairwoman motions that the Planning Board set the Joint Public Hearing With the Town Board for the NYSEG Peach Lake Substation for March 7, 2012. Robert Tompkins seconds. All in favor. No opposed.**

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

- Overview of Pending Completeness Issues

Cynthia states the Applicant is on our Agenda tonight in case they have specific questions. The Applicant has submitted a set of Plans. There are two lengthy reports from both Consultants. The Board will need the Applicant to resubmit. This Meeting will give you an opportunity to clarify and ask specific questions. Mr. Gould states they are in receipt of both memos and have reviewed them. We have a few items to go over before we submit again. Mr. Gould states there are two comments that are combined. One item is in regards to the EAF we had submitted in which we indicated that no construction is proposed beyond the limit of disturbance indicated on the Plans. The comment from MDRA stated that there are currently no controls proposed to limit the disturbance of, or the clear cutting of the trees, located outside the shown disturbance area. It was also stated in the memo that Conservation Easements and lot specific development envelopes, if proposed, would require a metes and bounds description on the Plat. The other comment was in regards to the impacts on roads and traffic. Mr. Gould states they are willing to put grading and limit lines on the Plan. Cynthia asks if this will be a development or construction envelope. Mr. Gould states it would be a development envelope that would be outside the proposed limit of disturbance shown on the Plan. Mr. Gould

asks if there is some type of a definition as to what activities may be performed outside of it, such as equestrian activities, walking paths, or fences. Cynthia suggests Mr. Gould put a proposal together for the Board and Consultants to see. Cynthia states the land is not flat, and it may be more conducive to paths instead of an area for horses. Cynthia states that generally there would be no structures allowed. There may be an exception for a fence. Mr. Gould talks about their clearing design being done with future owners in mind in regards to the cutting of trees and the stormwater impact. Will states that their impact analysis has to show the property areas. Frank talks about the definition for clearing and grading. There is discussion about future owners not having to come in depending on what they want to do. Cynthia states it should be part of the overall disturbance map. Will talks about the stormwater system being tied to the three lots. Mr. Gould talks about the infiltration areas and slopes. Will states that expansion of the community system may not happen. Pre-planning has to be done as much as possible to accommodate future owners. Mr. Gould states that they are showing relatively large footprints with a terrace off the back of the house, and pool. We believe the driveway works best with the development. Mr. Gould states he understands where to go from here.

Mr. Gould refers to the exporting of materials from the Site and states this will be phased in over time. Mr. Gould talks about the impact of the 20 yard trucks. Mr. Gould states this will take place between 6 to 8 months with a maximum of 10 to 15 trucks per day. Will states all of this information has to be spelled out. Cynthia asks how long the first phase is proposed to take in regards to the common driveway. Cynthia states that there is the potential that the first lot that sells and gets developed is the last lot. Mr. Gould states they will have a path constructed up at the top where their staging area will be located. They will work backwards towards Hawley Road and the materials will gradually be taken out. Cynthia asks if the first house may obtain a Building Permit before the roads makes it all the way to the next stage. Franks states no, they would never be able to complete the stormwater. Cynthia states the next step would be for the road to be finished to the end of the common driveway. Will states that specific conditions may be set in place so that there would be no COO until the common driveway is finished. Mr. Gould states they have their sequence so that there would be no access to the house until the common driveway is completed. Cynthia confirms the impact analysis will be on doing the whole common driveway first and states that could be a lot. Mr. Gould talks about breaking it down with the amount of material that has to come out. Cynthia asks which is better, fewer trips with larger trucks, or smaller trucks with more trips. Cynthia asks whether there are any bridges that have weight loads. There is a discussion about a study being performed on the road, such as a pre-construction survey. Mr. McKenna states there is a lot of truck activity already. Frank states the Applicant should start with the route. Frank states that improvements may have to be incorporated prior to construction. Cynthia asks whether we have assurances in regards to the route, and confirmation that the traffic will not go over the mountain. There is a discussion about Post Road. Cynthia states there have been issues in front of the Town Board about the truck traffic. Will states it may be an enforcement issue if it becomes a problem. Mr. Gould states there was one other comment in regards to the inspection of a pond. Mr. Gould states that as part of their stormwater analysis, they are reducing the volume of runoff at the design point. Frank states he had asked for this information previously. The Applicant has revised their submittal to demonstrate that they will not be increasing the peak flow or peak volume. Frank states that he has worked with Mr. McKenna on a similar project in New Castle where a pond downstream had sediment deposits due to improper erosion controls. Frank would like the conditions documented in terms of the sediment deposits and depth that are in the pond now, so there is a benchmark for review. There is discussion about obtaining permission from the owner of the pond. Will states it would be an advantage to the owner. Robert states there is quite a bank there anyway. Cynthia confirms there is a Town culvert there as well.

Cynthia asks the Board whether they have any other feedback. They do not. The Board will wait for the next submission and see how this all comes together. The envelopes of disturbance need to be looked at to see whether there will be major issues. Cynthia refers to the memo from Frank and states there are major issues from an engineering standpoint. Cynthia states that after the next submission, we may be able to re-circulate the Plan so as to start hearing from the other agencies. Cynthia asks Will whether the Board may establish

that the current Plan may be re-circulated, or should we put it through one more review. Will states that based on the discussions tonight, one more submittal should be made.

Mr. Gould states there was a comment about testing the infiltration areas for percolation rates. Mr. Gould asks whether that would need to be completed prior to the submission. Mr. Gould states he does not want this one issue to hold them up. Frank talks about the Applicant showing the re-grading on the Plans. There is discussion about when the percolation testing may be done. Mr. Gould states there are eight or nine infiltration areas. The testing may take a few hours for each one. Frank states it should be alright for the testing to take place after the submission. The Applicant may want to wait at least another month due to the hardness of the ground.

**5. McCarthy: Tim Allen** (owner – Ryann McCarthy)  
**Land Exc., Fill, Chapter 189 Permit** (location – 205 Hardscrabble Road)

- Consider Completeness of Application
- Set Site Inspection

Mr. Allen states that he is here tonight to represent his client because of a violation issue. His client has taken down trees, and re-grading has taken place. His client wanted to make the yard more usable for his family. He intended to create a soccer field/recreation area for his children. Work has been done without a Permit. Mr. Allen states that Bruce Thompson visited the property and issued a violation. Trees have been removed, and the stumps remain. Mr. Allen states that re-grading has occurred. Cynthia asks what portion has been re-graded. There is a discussion about the areas behind the house. Mr. Allen states that a silt fence had been installed. There were comments that the silt fence was taken down and that repairs needed to take place. There is discussion about the ditch being checked for damage near the pond. There is discussion about sediment flowing through to the pond. Cynthia states the Board should go out for a Site Visit and asks whether they are available this weekend, maybe Saturday. Gary asks what it is that the Board would need to see. Mr. Allen states he does not think the Board would want to grant an approval without visiting the property. Gary asks what the Board is being asked to approve. Mr. Allen states the Board is being asked to approve a Tree Clearing Permit Application. Gary states that is work that has already been done. Mr. Allen states the Board is also being asked to provide their approval for the land that was re-graded. Gary states that is work that has already been done also. Cynthia states the Board needs to decide whether they will ask for replanting to take place, how the areas will be stabilized, and how the re-grading will take place. Gary asks Mr. Allen how the re-stabilizing will take place. Mr. Allen states it will be re-stabilized with grass. Cynthia states this is a steep slope. Gary asks Cynthia whether the re-planting of trees is feasible. Cynthia states she does not know, as she has not seen the property. Gary asks Mr. Allen whether it is feasible to replant. Mr. Allen states that it could be an option. Mr. Allen states that could be a decision for the Board to have once they are out in the field. Cynthia states it may not be reasonable to ask the property owner to replant all the trees. The property owner is trying to create a backyard in order to have a place for his children to play. It is permissible under our permit process. Cynthia states that the property owner jumped the gun and did this work without a Permit. Mr. Allen talks about the possibility of trees being planted in other areas on the property. Mr. Allen states he spoke with Bruce about the potential wetland impacts. Mr. Allen states that Bruce is interested in joining the Board when the Site Visit takes place. Mr. Allen states he asked Bruce if they were in violation of the wetlands. Bruce stated to Mr. Allen that there was no violation of the wetlands, the violation referred to suspected wetlands. There is discussion about damage to the driveway due to the trucks. The wetland is off the property. Cynthia asks whether the neighbor has a pond.

The Board has a discussion about visiting the property tomorrow, February 2<sup>nd</sup>. Meeting at the site as early as 8:00 a.m. discussed. Cynthia states she will send an e-mail to Bruce tonight to check on his availability. Cynthia states she will confirm with the Board after speaking with Bruce. Gary states he will go on his own.

Cynthia states that Mr. Allen should let the homeowner know that one or two Board Members may visit the property at a later date.

Will refers to the re-grading and would like to know what else the property owner has planned. Mr. Allen states that a horse barn may be built in approximately five or ten years. Charlotte states the property backs up to the Audubon.

**6. Fink: John Knowlton** (owner – Lawrence Fink)  
**Wetlands** (location – 55 Finch Road)

- Consider Completeness of Application
- Consider Setting a Public Hearing for March 7, 2012

Cynthia states that we have Peder Scott from P.W. Scott Engineering and Architecture here with us tonight, as well as Paul Jaehnig, Wetland Consultant. John Knowlton states he is here tonight from Oehme, van Sweden & Associates. Cynthia states that Reports have been circulated from both of our Consultants. A response letter also came in from the New York City Department of Environmental Protection (NYCDEP). Mr. Knowlton states that at the last Meeting there was a discussion of the history of the Site. Cynthia states the Board went on a Site Walk. Mr. Knowlton shows the Board the original proposed Plan that had been presented to them last month, as well as a revised Plan. Some of the items that have been changed are based on comments received from the Consultants, and NYCDEP. The lower pond has been removed. We will be enhancing the stream and adding boulders along the edge. There were comments about reducing the grading. We have reduced that down so that wetland conditions will still exist and we can really enhance that as a buffer to the pond. Cynthia confirms the Board has not received a submission of the revised Plan Mr. Knowlton is referring to. Cynthia confirms grading will still take place. Mr. Knowlton states there will be less fill in that area. We feel that hydric conditions will still exist. There will be an increase in wetlands throughout the whole site and an increase of watercourse area all of which will be enhanced with vegetative plantings appropriate for the conditions.

Will states he is not sure he understands. It is his understanding that the amount of wetlands is being reduced, and there will be an increased size in the water volume. Mr. Knowlton states that with a reduction in grading, especially in the area north of the pond, they have wetlands that will be disturbed, but will remain. In this revised proposal the wetland area actually increases. Mr. Knowlton states he believes their calculations show that there is a net increase in wetlands. Mr. Knowlton states that based on their findings of the existing wetlands, the new proposed Plan shows where the wetland line should increase in area. Mr. Knowlton shows the contours on the revised Plan.

Peder Scott states they analyzed the stormwater that exists for the current pond. They worked with the NYCDEP in terms of best management practices in regards to the green techniques and technology to be utilized. The area where we gain a lot of wetlands is in the path where there have been flooding conditions with the pond during various storm events. With the new submission, we believe we have enhanced and focused in on the contours. We have diverted a lot of water from the Site as acquired for a green practice treatment. We have pushed a lot of water to an area of the property. We have enhanced the ability on one area of the Site to be more conducive for wetland plantings. Those are the findings that the NYCDEP agreed upon. By diverting and treating the water we are able to create more of a wetland environment in this location. Two big changes are taking place; diversion, as well as supplemental water supply and treatment. There are still impacts which we have described in the SWPPP. We have taken every part of the Site which was impervious and shown where it all went. We have provided various green practices such as infiltration of areas, a diversion to a rain garden, and a bio retention area. All of these various practices are assisting in creating a more conducive area for an extensive planting plan. We are pushing water in the right location and

it is working well with the overall concept of the Project.

Mr. Scott states they had to create a new Dam Enhancement Plan because the existing dam did not meet the NYCDEP dam criteria. All of the enhancements will help in order to control a 100 year storm event. Mr. Scott states that all of this work has been reflected in the submission before the Board tonight. It meets NYCDEP, and New York State Department of Environmental Conservation (NYSDEC) requirements. Mr. Scott states that there are minor items in the memos that were received from the Consultants. Mr. Scott states their SWPPP shows various impact plans, and an overlay with small and big drawings, which show differences from the old proposal to the new proposal. Mr. Scott states the NYCDEP has reviewed and accepted this. Will states that is the NYCDEP. Mr. Jaehnig shows the Board the Plan where the existing grade is and states they are sculpting down to a point on the side of the pond where they will get hydric soil conditions. Cynthia states that Joe Bridges had a question about all of the work taking place on the north side, with the addition of soils, and how we will know they are going to be hydric. Will states there is a dominance of stormwater. Will states the area is already wetlands to the road, why interfere with the hydric that you do have? Mr. Jaehnig states it is not as if we are going in like gangbusters. It is more like installing woody materials on a soil mound.

Mr. Scott states they had a discharge from Finch Road which went into the pond. The concept that the NYSDEC wanted was a treatment device, such as a sump. They wanted heavy duty erosion control structures installed during construction. The mound will help that a little bit. Mr. Scott refers to the overlay map in the SWPPP that shows the existing conditions and new conditions. Mr. Scott states they are not in the road way. There are no issues with Finch Road. They are creating more of a controlled buffer area. There is nothing species wise. We were told the NYSDEC wanted a controlled environment. Will understands the need for control. He would like to know why the water is being diverted into the pond as opposed to using the area as a forebay situation. Mr. Scott shows a different forebay area on the Plan. Mr. Scott states the property owner wants to keep it as a natural planted environment. Mr. Knowlton states there are existing trees along there. Mr. Knowlton talks about the condition of the current pond in regards to nutrients. Mr. Knowlton talks about an area off Finch Road and states in the wetland he noticed a little film on the top that may be from oil coming off the road. The intention is to create more of a buffer strip for the road water to filter through a vegetated channel. Mr. Knowlton shows on the Plan an area that is proposed to be planted with aquatics. This will benefit the water health and quality. Mr. Scott shows the Board the location of their dewatering pit and states it makes sense to create a diversion swale initially and a more formal swale later on. There is a discussion about the better area of frontage on Finch Road. Mr. Scott states that all of these activities act as multiple traps for the water coming off the road. There is also a pipe on one of the neighbor's property. Will asks whether this will reduce the water going into the wetlands area. Mr. Scott states yes. Mr. Scott states that a lot of the water contained in the wetlands is from all the gaps in the wall. We have a pitched road toward the property, and a wall. Cynthia asks who owns the stone wall. Mr. Knowlton states it is on the property line. Cynthia asks if there is any intention for the stone wall to be repaired. Mr. Knowlton believes that section has been repaired.

Cynthia asks if there is still clearing activity going on and states she was out there several weeks ago and noticed activity in the wetlands on a neighboring property. She was not happy to see that. Cynthia states that clearing is also going on with big machines on the Fink property. Cynthia states the Building Inspector was called, and she is not sure whether he has gone out there yet. Mr. Knowlton states he was out there today and did see that brush and invasive planting materials were removed. Cynthia asks if Mr. Knowlton will make sure this activity stops. Mr. Scott states that they are sending a letter to the homeowner to make sure the activity stops. Charlotte states she noticed a bobcat machine in there. Mr. Scott states the owners have an overzealous site manager who jumped the gun. Mr. Scott states they know and will follow the protocol.

Cynthia states she is very familiar with the water coming off of Finch Road and questions why the work is

being proposed to go one way versus the other way. Cynthia states it is a big area and there will be a lot of fill. Mr. Scott states their overall goal is to protect the pond in the future. We thought that a small berm would offer some sort of protection. Cynthia asks what the finished height of the berm will be. Mr. Knowlton states it will be approximately six inches or just below. Cynthia states they are maxing out at 645. Mr. Scott states the proposal is to have discharge controlled by the berm, and if anything, they will trap the sand. Mr. Scott states they have to repair the dam. We will prepare a full Dam Safety Inspection Maintenance Report in compliance with NYSDEC regulations which has been requested. We wanted to receive feedback from the NYCDEP and it seems as if their recent approach has been positive. It seemed that NYCDEP had initially been less than enthusiastic about our activities. Cynthia talks about the NYCDEP providing comments on the stormwater aspect. Will states the NYCDEP doesn't have a permit process here. Cynthia states the Planning Board handles the wetlands. Mr. Scott states they had to go through SWPPP activities which were reviewed. Will refers to the Army Corp of Engineers (ACOE) and states sometimes it is difficult to gage how long their response will take. Cynthia asks if the ACOE has gone out to the property. Mr. Scott states not yet. He is under the impression that they will need a Negative Declaration in order to make activities happen. Mr. Scott states the ACOE has our paperwork, and we have a project number. Mr. Scott states he believes the ACOE wants to see how we are doing with the other agency reviews. Mr. Scott states they are working with both the NYCDEP, and NYSDEC. Mr. Scott states they have notified the NYSDEC in regards to the archaeological aspect. Cynthia confirms that Mr. Scott went through the Office of Parks and Recreation about the archaeological aspect and not the NYSDEC.

Cynthia asks if there are any questions in regards to the comments and what is being asked of you by the Consultants. Mr. Scott states there are a lot of minor items in the review memos. Mr. Scott states they do have a Fill Removal Plan which will be provided. We have taken preliminary samples of the lake and we know we are dealing with a granular material. We will put together a more comprehensive plan. We were hoping to use redundant erosion control devices versus one layer. We will put together a Dam Safety Plan. We were hoping to get through the Public Hearing before we do any final engineer drawings on a few components of the bridge, dam and dock. We will provide more details as to what we are proposing. Will refers to the samples that were taken and asks whether any chemicals were done. Mr. Scott states no, it was a physical review of the water. Mr. Scott states the biggest issue is trying to minimize the extensive impervious in the watershed. In regards to the pump and spring house, we will provide basic plans. We have done a quick mathematical analysis to determine that the pumping may be done in about three days depending on average rainfall. We did tests on the water flow of the dam.

Mr. Scott states it is their hope to move the SEQR process along. Cynthia states it will be an uncoordinated review. The Board may consider setting a Public Hearing. Cynthia states the Public Hearing may have to be kept open until the Town Engineer has the level of details required. Frank states the actual design details of the dam may be provided down the road. Frank talks about whether or not a NYSDEC Wetlands Permit will be required and states he looked at the Environmental Resource Map, and it shows a body of water. Frank states that everything directly to the west of that is in the 100 foot regulated area, not in the NYSDEC wetlands but it looked to him like it was in the regulated area. Cynthia states that is the area where clearing was taking place a few weeks ago. Mr. Jaehnig states that Heather Gierloff visited the site and she confirmed we were out of their jurisdiction. Cynthia asks whether the Applicant has anything in writing. Mr. Jaehnig states that Ms. Gierloff does not like to write letters. Mr. Jaehnig states he asked her if he could write the letter for her signature. Her response was to have someone call her. Frank talks about the wetlands itself being another 100 feet beyond that which is still not what is shown on the map. Mr. Jaehnig states the field agent advised that our site is not in a NYSDEC wetlands. Mr. Scott states he e-mailed a package to Mr. Gallagher, the person who reviews the wetlands, and we will have this resolved by the next Meeting. Mr. Scott states it will be helpful to have a decision on the level of the engineering items, we will then know what type of submission the Board would like to receive prior to the Public Hearing. Frank states the calculations may not need to be in prior to the Public Hearing. Will talks about the impacts being evaluated. Cynthia

confirms a Dam Maintenance Report will be submitted. Mr. Scott states they will make a submittal. Mr. Scott talks about the studies which show the design and hydraulics of the dam. We will prepare the Safety Plan prior to the Public Hearing. Cynthia asks Mr. Scott if they will submit responses to both of the review memos prior to the Public Hearing. Mr. Scott states everything except specific design calculations. Cynthia states the Board may consider setting the Public Hearing for March 7<sup>th</sup>.

Frank refers to the forebay area and asks how that area will be accessed in the future. Mr. Scott states it will be accessed by hand. The client has already authorized and assigned an agent to take care of the site. We want to create an aesthetic environment. Cynthia confirms a Maintenance Plan will be required.

Mr. Scott states that Bruce is wound into the compliance with the wetlands in regards to the inspections and would like to know whether they may speak with him in order to incorporate the inspection portion of the Plan. Cynthia states yes, the Applicant may talk with Bruce at any time. Joe Bridges should also be involved. Will states it is spelled out in the Code. Mr. Scott states they are building a dam and fixing wetlands. They are doing three diverse tasks. They want to break it down to a dam component, and wetlands maintenance inspection component. Cynthia suggests the Applicant take a look at the file the Planning Board has on the Dubin property.

**Chairwoman motions that the Planning Board set the Public Hearing for March 7, 2012 on the Assumption that all of the Materials will be in Hand. If the Materials are not in Hand, the Public Hearing will Stay Open Until we Have all the Necessary Materials. Robert Tompkins seconds. All in favor. No opposed.**

After the motion, Cynthia clarifies that if the submission comes in, and there are still some deficiencies, the Public Hearing may have to be kept open. Cynthia states that she will prepare the Public Hearing Notice. The Applicant is responsible for doing the notification to all of the neighbors. As soon as the Public Hearing Notice is prepared we will forward it over to the Applicant.

**7. Titicus Road Commons, LLC: Michael Sirignano (owner – Titicus Road Commons, LLC)  
Site Development Plan (location – 104 Titicus Road)**

- Consider Completeness of Application

Michael Sirignano states this is a ½ site on the north side of Titicus Road. There are two structures on the property. The front building, according to Town records was originally constructed in 1906. Currently there is an apartment on the first floor and an apartment on the second floor. Those are pre-existing non-confirming legal uses. The rear building is a 1 ½ to 2 story wood frame building. There is an apartment on the first floor pursuant to a 1971 Zoning Variance. Mr. Sirignano refers to a Plan and shows where the apartment is located, and where a small office is located. Mr. Sirignano states the second floor, historically, has been two apartments, a studio, and a one-bedroom. Cynthia asks what Mr. Sirignano means by historically. Mr. Sirignano states that when he acquired the property in 2004 it had already been improved, and improved quite nicely by the prior owner or prior tenant of the prior owner who was a builder. Cynthia states for clarification that this work was done without Town Permits. Mr. Sirignano states that is correct. Mr. Sirignano states there were two tenants upstairs and there was a tenant in the residential unit downstairs. Mr. Sirignano states the office area had been created by the prior owner. According to the Town records, the area had previously been used as a workshop or storage area. Mr. Sirignano states that the prior owner of the front building had divided the first floor apartment into two. The first thing we did when we took ownership was to remove the second tenant from the first floor and open that up. Now there is a single unit on the first floor, and a single unit on the second floor. When Bruce came out for an inspection, he brought it to our attention that the upstairs area didn't have Permits, and we removed the tenant.

Cynthia states that when the previous owner received permission to put the apartment in the back building it was subject to Board of Health approval. Cynthia asks whether there is any evidence of this approval. Mr. Sirignano states there are no Board of Health records what so ever for this property. Cynthia states that allowing the accessory apartment in the back building would have been subject to Board of Health approval. Cynthia states the only thing that is legal here is the two-family in the front building and the one accessory apartment in the back building. There doesn't appear to be any evidence that the Board of Health approved the apartment in the back building. Robert states there is a letter in the submittal from Edward Delaney and asks if that letter was from when he worked for the Board of Health. Cynthia states no, that letter is current. Mr. Sirignano states Mr. Delaney is his engineer. Mr. Sirignano states that Bruce had asked for an analysis of what the proposed uses would be compared to the current water and sewer discharge uses. Robert asks whether Mr. Delaney thought the usage was sufficient. Cynthia states no. Mr. Sirignano states the back building dates back to 1915 so there are no Board of Health records. Mr. Sirignano states he sat down with Bruce at length, as well as with legal council for the Zoning Board of Appeals, Jerry Reilly. We looked at the possibility of getting a Special Permit for an accessory apartment above the commercial use, the commercial use being the office. Cynthia states that Mr. Sirignano does not have the commercial use yet. Mr. Sirignano states no, it is being proposed.

Cynthia refers to the two units in the front and the one in the back and states the report from Mr. Delaney had an attachment showing a pump out of two 1,000 gallon tanks. Cynthia would like to know the location of the two 1,000 gallon tanks. Mr. Sirignano states there is a tank under the deck, and a tank on the right side. Cynthia asks where the fields are located. Mr. Sirignano shows where the fields are. Cynthia states she measured from the fields to the well and it is only 80 feet. Mr. Sirignano states this is all pre-existing non-confirming. Cynthia states that the approval for the apartment in the back would have had some kind of look-see by the Board of Health to confirm whether septic would be allowed less than 100 feet from the well. Mr. Sirignano states he has letters from Bruce Thompson which state this is a legal use. Cynthia states no. The ZBA file stated that there may be an apartment subject to Board of Health approval. Mr. Sirignano states that was in 1971. Bruce Thompson has certified the legal uses currently on the property consisting of the two families in the front, and the apartment. He has not said that there are any deficiencies with respect to the apartment, so this is news to me. Cynthia is trying to figure out if there is one more step that is missing. Gary states that normally the approvals from Bruce would be contingent upon Board of Health approval. Gary would not think that Mr. Sirignano's client would want an unhealthy/unsafe condition. Mr. Sirignano states he is the client, and he wouldn't want an unhealthy condition. Mr. Sirignano states he had the system checked before purchasing the property, and had it serviced every two years. It has worked great. We have had the water tested recently and it is fine. Will states that notwithstanding 1971, which is a long time ago, he would think when uses are added, even within the same footprint, with the change of use, that would be something subject to Health Department approval. Cynthia states that this current proposal will definitely go to the Board of Health. They have to sign off as to whether or not an office may be added, as well as an apartment above the office. The ZBA has gone ahead and approved this apartment above a commercial use which doesn't exist yet. The ZBA has stated there is sufficient parking even though there is a waiver request for parking. Cynthia states, in her opinion, the ZBA was a little more premature with their decision, and could have at least asked for a report from our Board. Since their approval is conditioned on everyone else's approval, our Board will now look at the whole picture. Will refers to the Town's Ordinance and states he is not sure how an apartment over an office is a permitted use in the Zoning. The language refers to an apartment in a main dwelling which would be the main use. Mr. Sirignano states that this issue has been looked at by Bruce Thompson, Jerry Reilly, and the ZBA. The ZBA made a finding that it is in fact a permitted use as a Special Permit use in the PO Zone. Will asks whether the ZBA discussed the wording in the Code which refers to a main dwelling. Cynthia states no. There is no reference to the Use Table in their minutes or in their Resolution. Cynthia has a phone call into Roland and has stated to him that this issue needs to be discussed with the ZBA. The ZBA went to the standard section in the Code. The first thing they

should have done is go to the Use Table to see whether or not the use is permitted, they just jumped right to the standards. Roland stated to Cynthia that he will speak with Jerry Reilly. Cynthia states that is not our jurisdiction. Mr. Sirignano agrees. Cynthia states that we are going to follow up about this issue.

Cynthia states the Board needs to focus on all of the Site Plan issues in order to consider whether or not an accessory apartment may be allowed over a proposed commercial use on the first floor. Will does not agree that accessory apartments are subject to the ZBA, but there is a connection with that particular type of accessory apartment which does have authority with this Board. There is a standard to be followed in the Code. Cynthia states that our Board does have sensitivity to the fact that the ZBA did take an action. Mr. Sirignano states that under Article XIII, Section 250-77.2 the ZBA did grant the Special Use Permit. Mr. Sirignano states the ZBA made certain findings that he thinks are important. Cynthia states the Resolution made a finding that there was an Application before our Board. In November there was no Application before our Board. It is right there in the Resolution of Approval. Mr. Sirignano states the ZBA made several findings, such as listing this activity as a Type II action for which no further SEQR review would be required by the ZBA. They made a finding that the Applicant has satisfied all the requirements of Article XIII, Section 250-77.2 for the Special Permit to be issued and to enable the Applicant to proceed and secure Site Plan approval. The Resolution also states that the Applicant's plans, when completed, will aesthetically improve the entire site, will legalize extant non-conformities and provide needed housing and commercial opportunities for the Town. Mr. Sirignano states he does not believe it is within the authority of this Board to get into a zoning issue. Mr. Sirignano states the ZBA and Building Inspector have that authority, and they have already passed on that issue. Cynthia states she totally disagrees. This is a Site Plan in front of the Planning Board under the Professional Office Use Table. Mr. Sirignano states he is not saying that the Planning Board does not have Site Plan authority. Cynthia states we coordinate our reviews. Our zoning is clear that the Planning Board does play a role. Cynthia states there is no commercial use. There is a proposed commercial use. Will refers to the procedures for the Special Permit process, and states the ZBA is supposed to receive a report from the Planning Board prior to adopting their Resolution. Mr. Sirignano states Will is absolutely wrong. Mr. Sirignano refers to Section 250-108(e)(2), and states this only pertains to principal uses. Will states these are all principal uses. Mr. Sirignano states this is not a principal use. Cynthia states a professional office is a principal use. Mr. Sirignano states an accessory apartment is not a principal use under these circumstances. Will states the office is a principal use. Mr. Sirignano refers to Section 250-77(d) where it talks about Site Plan approval by the Planning Board shall being required for all applications pertaining to commercial establishments. The ZBA followed proper procedure. They acted on the Special Permit and referred me to the Planning Board for the Site Plan review. Cynthia states we respectfully disagree. Mr. Sirignano states he is trying to clean up a situation that has been there for years. He does not know whether there is an interest by this Board. Cynthia states there absolutely is. Mr. Sirignano does not want to spin wheels. If the Board is theoretically opposed to this, he would like to know now. He doesn't want to spend a lot of time and money, and waste the time of the Board. Cynthia states no one has stated that the Board is theoretically opposed to the proposal. We pay particular attention to processing procedures in coordinating applications with our other Boards. This surprised us in that not only did the ZBA take an action ahead of us, without our input, there are issues that were not discussed, such as whether there is sufficient parking, and whether the proposal is allowed in our zoning. These are items we would like to have confirmed by our attorney in order to obtain satisfaction.

Cynthia states that the issues discussed above will not hold us up from looking at the Site Plan items. Cynthia states the Board would like to see on the Site Plan a clear indication of where the septic tanks and fields are so that when we do send this to the Board of Health they will know what we are talking about. Cynthia states that Mr. Sirignano will have to provide the information that is in the MDRA Memo. Cynthia states the development coverage will have to be calculated. Cynthia states when she added up all of the impervious surfaces, she believes the development coverage is being exceeded. It may be necessary for the Applicant to go back to the ZBA, if the Planning Board agrees with this Plan, to obtain a variance. Cynthia

states the development coverage for the parking is giving us 8 spaces where 12 are required. Mr. Sirignano has made an argument in regards to shared parking. Mr. Sirignano should hear from the Board as to whether or not they agree that a waiver should be granted, as well as to what extent. Mr. Sirignano refers to the parking and states he reads the statute as having two separate waivers. Mr. Sirignano refers to Section 250-28(b) and states the Planning Board may reduce the number of parking spaces, but may not exceed 25% of the normal amount required. Mr. Sirignano agrees with Will that they will go down to three spaces. Mr. Sirignano refers to a separate section in the Ordinance, Section 250-30(b) which combines uses, and states his proposal will be a combined use. There will be office staff there during the day. There will be no office staff on weekends and evenings. Mr. Sirignano states there is a separate provision which gives the Board additional power to reduce the total amount of parking spaces by another 50% for the use with the least requirement. Mr. Sirignano states the use with the least requirement is the office use. Mr. Sirignano states he believes the spaces may be knocked down by two. Will refers to his Memo and states Mr. Sirignano would still be at ten. Mr. Sirignano states it may be reduced further. Cynthia states she believes the parking could be reduced by the greater of the two, but not a combination. Mr. Sirignano states there is potential for additional parking spaces off the driveway. Mr. Sirignano states that when there were tenants in the rear building, there was ample parking. The tenants knew each other and didn't block each other in. Parking was not a historic problem. Mr. Sirignano states he believes they will be able to get five parking spaces along the back. If the Board does not agree with his analysis under the two separate waiver provisions, they may be able to get two or three additional spaces in another area. Cynthia asks the Board whether they are inclined to grant a waiver of one, two, or three parking spaces given the shared uses of residential and proposed office. Charlotte asks how many spaces the Board may be asked to waive. Cynthia states she believes three is the maximum the Board would possibly be able to waive. Cynthia states that eight are shown now. One more will need to be shown. Cynthia states that this has to be decided because the Applicant will have to calculate the development coverage based on the amount of spaces. Mr. Sirignano states they are trying to limit disturbance to the site to the extent possible. Cynthia agrees that Mr. Sirignano has made an argument that the office is used at one time of day and the residential at another. The overlap possibility should be considered when people are coming home from work, and people are still working in the office. Cynthia talks about having one spot per residence, in addition to spaces for the office staff. Cynthia confirms there would be eight total spaces, four for the office, and four for the residents. Gary states he is not willing to waive three spaces.

Cynthia states the Board should go out and look at the site. There is a discussion about visiting the Site tomorrow. Mr. Sirignano states he is in court all day tomorrow and that Saturday would be better for him. Cynthia asks if Mr. Sirignano would mind if the Board did a drive-through. Mr. Sirignano states he would like to be there to show the Board the upstairs apartment. Cynthia states the Board will not be making any decisions in respect to the inside. The Board will be looking at the site and how the site functions. Gary asks how many bedrooms there are. Mr. Sirignano states that historically it was a studio and a one bedroom. He is proposing to make a single two bedroom apartment above the office. Mr. Sirignano would like to be there when the Board comes. Sirignano talks about the parking and asks if it is the consensus of the Board that he should add two spaces and ask for a waiver of two, or add one space and ask for a waiver of three. The Board would like to see the site first.

Cynthia asks Mr. Sirignano where he would put the septic fields if they were determined to be needed. Mr. Sirignano states the whole front lawn is available. Cynthia asks what the distance is to the well. Mr. Sirignano states he would have to get a waiver because that is the only potential area for additional septic or expansion. Mr. Sirignano states the well may have to be relocated. Cynthia states then there will be an issue with the tank. Cynthia states this has to go to the Board of Health sooner rather than later. Mr. Sirignano states that first he wants to see how he stands with this Board, and whether they are comfortable with the Site Plan before going to the Board of Health.

Cynthia asks Will what the SEQR process would be. Will states this could fall under a Type II, considering nothing new will be built.

Mr. Sirignano shows the lighting on the Plan and states they may be able to add motion sensors. Mr. Sirignano states there is a light on the deck that is on a motion detector. Mr. Sirignano states there are also lights mounted over the doorways.

Gary asks Mr. Sirignano if he is the owner of this property. Mr. Sirignano states yes. He and his wife own the property through an LLC. Gary asks how long Mr. Sirignano has owned it. Mr. Sirignano states he has owned it since the end of 2004, beginning of 2005. Gary asks Mr. Sirignano why he is starting the proposed work now. Mr. Sirignano states that Bruce Thompson brought it to his attention that there were non-permitted uses in the back. We immediately shut it down and evicted the tenants. Cynthia asks how the property was sold without the COO. Mr. Sirignano states he bought a headache and is trying to get it cleaned up. Gary states that Mr. Sirignano bought this property and never asked for a COO. Mr. Sirignano states he knew based on the Town records that there was an illegal use of a two family. He spoke with Bruce and cleaned it up immediately. Cynthia asks Mr. Sirignano if he has a COO for the apartment in the back building. Mr. Sirignano states there are no COO's for anything. Gary asks Mr. Sirignano what he meant when he stated that he cleaned it up with Bruce. Cynthia states that in 1971 COO's were required. Mr. Sirignano has a letter from Bruce in which he certified that the apartment is legal. He has not issued any violation. Robert states the building was built in 1915. Gary states that Mr. Sirignano bought the property six years without a COO and he continued to rent them out. Mr. Sirignano states yes, there were existing tenants in there. Gary states that Mr. Sirignano continued to rent out the apartments even though he knew it was illegal. Mr. Sirignano states he did not say he knew it was illegal. There were non-conforming uses. Bruce came for the inspections, and after looking at the Town records, we were told the apartments had to be vacated, which is what we did. Gary states that took place six months ago. Mr. Sirignano states six or eight months ago.

Mr. Sirignano states he does not have a proposal for signs. The property has a residential look to it from the street. The prior office use was for a company that transported horses around the world. There was never any need for signage. Mr. Sirignano states that if a future tenant wants a sign, we would come in at that point.

Cynthia states Mr. Sirignano received the notice from the Building Inspector September 10, 2010. Gary states it is now 2012.

Mr. Sirignano states a site walk would be very helpful for the Board to see the existing conditions. Gary asks whether there is anyone in the buildings now. Mr. Sirignano states there is a family on the first floor of the front building, a family on the second floor of the front building, and a family in the apartment on the first floor of the back building. Gary states that there are no COO's for any of those buildings. Mr. Sirignano states there are no COO's. The Building Department doesn't deem them necessary or illegal for the three uses.

Will asks Mr. Sirignano what he proposes to do with the 12 foot minimum requirement in the Code in regards to the driveway. Mr. Sirignano states there is a cut of about two feet. The driveway is very stable and has survived many storms. It is more than adequate for the amount of traffic coming in and out. Mr. Sirignano states he will let the Board tell him if they want him to widen the driveway.

The Site Visit is confirmed for 9:00 a.m. on Saturday, February 11<sup>th</sup>.

Cynthia states it is just a ½ acre parcel.

## **8. Next Meetings:**

- Work Session – February 15, 2012
- Regular Meeting – March 7, 2012

**9. Comments from the Chair:**

Cynthia states that on February 15<sup>th</sup> we will take our first look at the revisions to the Town Housing Board's affordable housing portion of the Ordinance. The two components that we are going to address are outlined in the Comprehensive Plan. The biggest issue is that we have pre-existing uses, and whether or not they have to be grandfathered. The Town Board is very comfortable in that they want the preferences removed, and to have the advertising the way the County wants it. It is clear that for rentals we follow the County suggested numbers. Will is going to draft something for the Board to review. Cynthia states that we are also ahead of everybody else in the County because we have required subdivisions of ten lots or more to provide affordable housing. Cynthia states the model ordinance suggests bringing it down to five lots. If we bring it down to five lots, developers will only do four lot subdivisions, ect. Robert states he should have asked Mr. Balter if there would be any future increase possibilities volume wise on this particular lot. Cynthia talks about the SEQR that was done on Salem Hunt and states it is going to be locked in.

Cynthia states the Board will receive a presentation on the Seven Springs Farm property next to Waterview Hills on Route 22 at the February 15<sup>th</sup> Meeting. A Pre-Application was submitted and circulated.

**10. Resolution:**

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