North Salem Planning Board Minutes
March 7, 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
Roland A. Baroni, Town Attorney
William Agresta, AICP

ATTENDANTS:	**Salem Hunt:**	**Bill Balter**
		Scott Blakely
		John Binlardi
	Fink:	**Peder Scott**
	Titicus Road Commons, LLC:	**Michael Sirignano**
	Westchester Exceptional Children's School:	**Chris Caralyus**
		John Caralyus
	St. James Church:	**Jack Caley**

Chairwoman Cynthia Curtis calls the March 7, 2012 North Salem Planning Board Meeting to order and confirms that no one is here from the public in regards to either the Joint Public Hearing for the NYSEG Peach Lake Substation Project or the Fink Wetlands Permit Application Project. Chairwoman states that neither of the Public Hearings will take place tonight. The Board will consider resetting them below for April 4, 2012. This change is due to the fact that the notifications were not sent to the neighbors.

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

- Consider Resetting the Joint Public Hearing Regarding Town Board Special Use Permit Petition and Planning Board Site Development Approval for April 4, 2012

Chairwoman motions that the Planning Board Consider Resetting the Joint Public Hearing Regarding the Town Board Special Use Permit Petition and the Planning Board Site Development Approval to April 4, 2012, Subject to the Consent by the Town Board. Robert Tompkins seconds. All in favor. No opposed.

After the motion Cynthia states that the Town Board will meet next Tuesday.

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

- Re-notice Public Hearing
- Consider reports from consultants

Cynthia states that the Salem Hunt Project is now being called Bridleside. Cynthia states that Reports from the Consultants were circulated and asks Mr. Balter whether he has any questions. Cynthia states that there are a few items the Board has to go over.

Mr. Balter refers to all of the questions that had been raised relative to the affordability, enforcement, and leases and states he has a meeting scheduled with the Town Housing Board on March 19th to discuss these items.

Mr. Balter states that the items in both Consultant memos were fine.

Cynthia states that this Board is re-writing the provisions of the Moderate Income Housing Section of our Code for the Town Board. Cynthia states it may be a good idea for some of the Planning Board Members to attend the Meeting with the Housing Board. Mr. Balter states that within the next few days, they will respond to the comments in both memos. Mr. Balter states that the Town Housing Board does not have a full time staff. Our intention is to answer all of the comments, but some may be delayed depending on our being able to obtain answers from the Town Housing Board.

Cynthia talks about the MDRA Memo and states this has to do, in part, to assessing the Bridleside/Salem Hunt particular Applications, and part of writing the regulations in regards to the timeframe for keeping people on the list before re-advertising takes place. Cynthia states she did not find any directions from the County. Mr. Balter refers to the marketing plan with the County and states there has to be a lottery for the initial occupancy. Mr. Balter refers to a project he had done in Cortland and states there were approximately 520 people in the lottery. From that list, we pull every single name, even if we had an application from 1992; we still pull every single name. We go through everyone on the list as the development gets filled up. Cynthia asks how long the list is valid for. Mr. Balter states it is a valid waiting list forever. We check with people on the list and if they are not interested we keep going. Mr. Balter states that in this case, with 65 units, the odds are we will not go through the entire list. Mr. Balter states there is a turnover of approximately three to six units a year. We add names to the list for people who call into the County Website, our Website, or for people who drive by the development and then may call in to be placed on the list. The Town of North Salem may refer people to us. Cynthia states that it seems to her that after six months or a year, you would want to re-advertise. Cynthia states yes, if a person happens to drive by and notice the development, they may call in order to be placed on the list, what about everybody else? Mr. Balter understands what Cynthia is saying. Mr. Balter states that is not how the County requires it to be done. Mr. Balter states that as per the Settlement, through our initial marketing, we try to reach out to the individuals who have applied. After time, there is more of a local turnover because of less advertising.

Roland asks if someone is on one waiting list, does that mean they are on all of the waiting lists. Mr. Balter states that is a good question. Mr. Balter states there are three senior developments in Carmel, Southeast and Cortland. Everyone would be on all of the waiting lists, as long as they are willing to live on either sides of the County.

Cynthia refers to the Plan sheets and states she assumes there will be a bank of mailboxes and asks where they are proposed to be located within the development. Mr. Balter states that we usually don't get the attention of the post master until after the road is in. We then have the post master come and meet with us. Mr. Balter talks about a central location, near the first turn. Cynthia states she has been in other neighborhoods where the mailbox island is right along the side of the road. People tend to stop their cars in the middle of the travel lane in order to pick up their mail. Cynthia states it would be better for the mailboxes to be located in either a parking lot, or a pullover. Mr. Balter states that is something to consider. He discusses the bus stop area. Mr. Balter states it has been his experience that most of the time people park their cars and walk to the mailbox. The loop road is discussed. The possibility of having mailboxes in a few locations is discussed. Will states it might be a good idea to have the mailboxes placed by the club house.
Cynthia refers to the Hahn memo and states that a comment was made that the Applicant should confirm that the system would be designed to safely handle the 100 storm. Cynthia asks if it is a matter of the information

not being clear, or should the Board anticipate any problems. Mr. Blakely states they have a central corridor and the lower section has a pipe that has been sized for the 100 year storm. Mr. Blakely will clarify this with Frank at Hahn.

Cynthia refers to the Hahn memo and states there is confusion as to which sections will have porous pavement and which sections won't. Cynthia states the Applicant should clarify this. Cynthia states there was a comment from Hahn about the measures to protect the porous pavement being explained in the SWPPP and in the By-Laws.

Mr. Balter states that one of the other questions in the MDRA memo had to do with the responsibilities/ownership aspects in regards to how items that previously would have been in a Homeowners Association Agreement would be dealt with. Cynthia states that at some point, we should sit down with Roland about this. Mr. Blakely states the porous pavement is outlined on the drawings. It is shown on the layout plan. In the Road Monitoring Plan that was put together for Salem Hunt, there is language in there as to how we would have taken care of the porous pavement for Salem Hunt. Mr. Blakely states they will include that information in the new Plan.

Cynthia asks what the surface of the emergency access road will be. Mr. Blakely states it will be gravel. Cynthia asks whether there will be a problem with increasing the back-up areas from 22 to 24 feet. Mr. Blakely states he took at look at that and believes Frank is referring to areas where there is parking on both side of the access road. Mr. Blakely states there is about 600 square feet total of pavement, a portion of which will be porous. Mr. Blakely refers to the sections in the south and west side that will get the least traffic. Cynthia confirms it will not create a problem. Mr. Blakely states it is a minor increase.

Cynthia asks the Board whether they have any other questions.

Cynthia states the Board should consider the re-noticing of the Public Hearing for the April 4th Meeting.

Chairwoman motions that the Public Hearing on the Salem Hunt/Bridleside Site Plan be Re-noticed in the Newspaper and Mailed to the Neighbors for the April 4, 2012 Meeting. Charlotte seconds. All in favor. No opposed.

After the motion, Cynthia states that we did the SEQR Circulation. The Applicant had been notified that by the time all the documents were sent out, the date of February 21st would be considered the first day of the 30 day comment period, which would bring us to March 21st. Now the Public Hearing will be April 4th. Cynthia states she received a call from the Attorney General's Office requesting additional time to prepare comments. Cynthia asks Mr. Balter if he has any problem extending the SEQR comment timeframe to April 4th, the date of the Public Hearing. Mr. Balter states no. Mr. Balter asks whether Cynthia received a call from the Watershed Inspector General. Cynthia states yes, he wanted to review the Plans for the Sewage Treatment Plant. Mr. Balter states they are the same as they were before.

Cynthia states that before Mr. Balter leaves, does anyone have a question on the affordable housing regulations because we have someone here tonight that has experience with it. Mr. Balter asks the Board if he should just wait. Cynthia asks if it would be helpful for Mr. Balter to be here when we get to that section in the Agenda. Gary asks if Mr. Balter is an affordable housing expert. Cynthia states no. Mr. Balter has had developments that have gone through the HUD Settlement and the Model Ordinance Regulations. If the Board wanted to know from a practical side what some of the experience has been, Mr. Balter may be able to answer questions from his perspective, if that would be helpful to the Board.

Mary Anne Miras, a neighbor here tonight would like to know whether they are allowed to ask Mr. Balter

questions, or if they would be asked at the Public Hearing. Cynthia states that questions for Mr. Balter may be asked of him outside, but that is up to him.

Mr. Vassik, a neighbor here tonight has a question and would like to know when the appropriate time would be. Cynthia states the Public Hearing will be April 4th. That would be the time. Cynthia asks what the nature of the question is. Mr. Vassik states he would like to know the process regarding the change in the Application with the Planning Board, ect. Cynthia states the Application started as a Site Development Plan for 65 moderate units of housing. When we were in the middle of the review process, we asked the Applicant if he would change to a fee simple housing development, which triggered the change to Subdivision. The Applicant changed the Application to a Subdivision and the Board granted Preliminary Approval of the Subdivision. Now the Applicant is asking for an amendment of the original Site Development Plan Application and abandonment of the Subdivision Application because it will no longer be a fee simple housing development, it will be rental units. It is an amended Site Development Plan, which any Applicant can do in the middle of any Application.

Ms. Miras asks when the Board talks about units, what comprises a unit. Cynthia states there will be 65 housing units. Cynthia states they will all be apartments. Cynthia states there are 8 buildings which will hold the 65 rental units. Ms. Miras states her property boarders that whole area, and that is why she is concerned. Cynthia states the proposal had been for a series of buildings that would have had more than one unit. Cynthia states the proposal is to have the same number of units. There is a different configuration for the bedrooms. The first Application had all two-bedroom units. Now there is a mixture of one, two and three bedroom units. Cynthia states this will all be presented at the Public Hearing on April 4th where questions may be asked.

Mr. Vassik refers to the Amended Site Development Plan Application and would like to know what the Planning Board procedures will be. Cynthia states we explained that we want to re-notice the Public Hearing and re-open the Public Hearing, which the Applicant agreed to. That is what will happen on April 4th. We have re-noticed every interested and involved agency under SEQR. All of the agencies that have permits have received the revised application materials and are reviewing it now. All of the interested agencies such as our own Boards, the Architectural Review Board, Housing Board, and Conservation Advisory Council all received notification and are reviewing it now. Everyone is reviewing the environmental and site plan aspects. We expect to receive feedback by the time the Public Hearing opens in April. Cynthia states that this Board has to take action under SEQR, as they had already granted, under the prior Application, their findings under SEQR. The prior Application was about one step away from being approved. Cynthia states the SEQR had concluded, the Applicant had obtained all approvals from outside agencies, the legal documents were being reviewed, and we were very close to finalizing it. Now with the change, and the re-opening of the SEQR, we are going to have to re-state our conclusions under SEQR. Once we do that, and the Public Hearing closes, we will have to either approve or deny the Application. Mr. Vassik confirms that after the April 4th Public Hearing, the process will move quickly. Cynthia states in this case it moves quickly because the Applicant has almost all of his Permits in place and is getting a few Amended Permits. The Applicant is still proposing the Sewage Treatment Plant and still has private water, so there are not too many physical changes.

Mr. Gress, a neighbor asks if the complete amended plan is online. Cynthia states it is not online. She spoke with the Supervisor about getting it up on our website. It is available if someone came in with a disk or a flash drive. It is available electronically. It is also available for review in the Planning Board Office.

3. Westchester Exceptional Children's School (WEC): Site Development Plan Chris Caralyus (owner – WEC) (location – 520 Rt. 22)

- Consider referral to ZBA for variances
- Consider setting of public hearing
- Consider report from consultants

Chris and John Caralyus are here with us tonight. Chris Caralyus states they are proposing nine additional gravel parking spaces on their Site Plan, a 24 x 48 greenhouse, the installation of a backup generator, as well as the re-grading of the wood chip embankment. Chris Caralyus states that since the last Meeting they have changed the grading to 2 ½ on 1 and are proposing to stop just before the tree line. Chris Caralyus states they are proposing to submit New York State Stormwater Erosion Sediment Control Specifications in regards to the slope stabilization. Chris Caralyus states he is in receipt of comments from both MDRA and Hahn Engineering. Chris Caralyus asks if the Board has any questions. Cynthia asks Chris Caralyus if he has any questions in regards to providing the information that is being asked of him. Chris Caralyus states there are a few items. He thought he would contact each Consultant for a discussion. Cynthia states any questions should be asked now. If there are a lot of concerns, with permission from the Board, a meeting may be set up with the Applicant and the consultants. Chris Caralyus refers to the memo from Hahn and states he believes they are not exceeding 5,000 square feet, so that is really not an issue of disturbance. In regards to a comment from Hahn, we will provide an independent certification of the fill, as we have an analysis for that. Cynthia states that some of this information may have been provided previously to the Building Inspector. Chris Caralyus states yes, the Building Inspector should have a copy of the analysis. In regards to parking spaces, there are more than 35 employees, and we will update our Plan. Chris Caralyus states there are approximately 52 employees. There are 90 students. We are required to have more parking spaces than the 25 we have on the Plan. We currently have 65 parking spaces. The students at the Westchester Exceptional Children's School (WEC) require a little bit more supervision, so that is the reason for the need for additional parking. We also have functions that parents attend although they are very rare, approximately two times a year. We believe the 65 parking spaces are adequate. Cynthia suggests a footnote be added on the Plan stating that based on your experience, and the actual student to teacher ratio, this is how the number of spaces have been derived.

Will states the numbers the Applicant used in the zoning table in regards to parking spaces are not the actual numbers. Will states that they have more students and employees compared to what they have listed on the Plan, and will need to revise their calculation. Cynthia states the figures that were put on the Plan were taken from the Code. Cynthia confirms with Will that we need to see both sets of numbers. Chris Caralyus will update the Plan to show 52 employees instead of 35, as well as 90 students instead of 75. Will states the distance will be smaller once the correct numbers are added in.

Chris Caralyus talks about the request for paving the parking spaces and states it is their preference for the spaces to be gravel so the runoff in stormwater will not be increased. Will states that gravel will not be different than pavement as far as stormwater is concerned. Chris Caralyus does not believe the school has the money to pave the parking spaces. Will states that maintenance will be expensive for gravel spaces. John Caralyus states that they will be able to pave the parking spaces. Will states that he is not an engineer, but as far as stormwater regulations go, gravel counts as pavement. Will states that it will be cheaper in the long run to have the parking spaces paved.

Chris Caralyus states there was a comment from MDRA regarding the width of the driveway next to the parking spaces. MDRA noted that the travel (backup) aisle (measuring between 14-18 feet wide) associated with the proposed spaces is insufficient to safely accommodate perpendicular head-in parking (this should be a minimum of 24 feet wide). Chris Caralyus thought the 24 foot wide width would apply for a two-way driveway. Will states it would apply to a one-way driveway also. Chris Caralyus would like to know where that is written. Will states it is a standard code regulation for perpendicular parking. Chris Caralyus states

they are not able to obtain 24 feet in width. Will states he understands. The Applicant cannot even obtain 16 feet in width. Chris Caralyus refers to the parking spaces and states they are already there and being used. There has not been an issue. Will states it is not appropriate and is not as safe as it should be. Chris Caralyus asks whether they will have to ask for a variance, and whether this is in the Code. Will states he will have to look into it, and states it is a safety concern. The information listed on the Plan does not meet the safety standards. Will states he wouldn't sign a drawing like that. There is a discussion about moving the parking spaces, or taking a few out. Chris Caralyus states they may be able to take out the two end parking spaces to provide more distance. Will states the problem isn't in the length, it is in the width. Chris Caralyus talks about making those spaces for contact cars. Will states that doesn't really exist any more. There is discussion about the spaces being more angled. The traffic flow pattern is discussed, in addition to the space. Robert states that all of the traffic goes in one direction. Will states the Plan shows both lanes going in one direction. Chris Caralyus states the reason why it is like that is because this is the only angle that is feasible in order for cars to get out onto Route 22. Cynthia talks about the possibility of having a loop through the parking lot. If someone drove close to the school in order to park and there were no spaces, how would they get to the other road? They can't make a left hand turn on Route 22. Will asks what people do. There is a discussion about there being assigned spaces. John Caralyus states that people can drive around the loop. He states this building has been here since 1927. John Caralyus states they agree there is a problem. It is not the best parking lot in the world. We have more teachers than students. Will talks about pushing the nine gravel parking spaces over. Chris Caralyus states that they could do that. Will states that a loop may then work.

Chris Caralyus refers to the landscaping comments and states the reason they have not added proposed plants and sizes to the Plan is because they are supposed to be donated. They are not sure exactly what will be donated. John Caralyus states the plants will be deer resistant, and look nice, just like the front of our building does. Cynthia states she knows everything else John Caralyus has done has been beautiful. It would be nice for there to be an indication of the type of plantings being proposed. John Caralyus states there will probably be Dwarf Alberta Spruces and Andromeda's which would be deer resistant.

Chris Caralyus does not have any other questions.

Cynthia states that we have to refer the Applicant over the Zoning Board of Appeals (ZBA). Our Board has to consider whether there will be a Public Hearing for the Site Development Plan Application. Cynthia states that variances will be needed, including a variance for the coverage. Cynthia states this Board sometimes weighs in on the variances. Cynthia asks the Board whether they are supporting this and whether they would like her to write a letter of encouragement to the ZBA on the items that need variances. Cynthia confirms there would be a setback variance for the two items in the back, the generator, and green house, as well as a variance for the coverage. Chris Caralyus states there is an existing shed. Cynthia thought that a variance had been obtained from the ZBA for the shed. Chris Caralyus did not see that a variance had been obtained. Cynthia states this is the time to clean up the variances. Chris Caralyus states the shed has been there since I went to school there. Cynthia states that Chris Caralyus should speak with Bruce. If Bruce rules that they should have had a variance, let's do it now and do it right. Roland agrees. Robert states the Board should write a letter of encouragement to the ZBA.

Cynthia states this is the first time a Site Development Plan is being done for WEC. Cynthia asks the Board whether they feel the need for a Public Hearing. Cynthia states that a waiver has been requested. Cynthia asks Roland for his advice on waiving the Public Hearing. Roland states the Board seems comfortable with this Application and there may not be a need to go through the Public Hearing process. The Board agrees.

Bernard motions that the Planning Board, in this Instance, Waive the Site Development Public Hearing for the Westchester Exceptional Children's School. Robert seconds. All in favor. No opposed.

After the motion Cynthia states she will write a letter of support to the ZBA. Chris Caralyus should apply to them as soon as possible.

Roland asks if this is a coordinated or uncoordinated review. Will states it might be a Type II. Will states it is unlisted, it would have been a Type II if it were not for the variances. Will states we do not need to coordinate it, it may be uncoordinated. It is up to the Board. The Board agrees for it to be uncoordinated.

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

- Consider Completeness of Application
- Consider Referral to Department of Health

Mr. Sirignano states that after the last Meeting with the Board and the Site Walk, he has revised the Site Plans, answered the Consultant's questions, and resubmitted. Mr. Sirignano states the issue he would like to speak with the Board tonight has to do with the two parking spaces that we talked about during the Site Walk. Mr. Sirignano states that during the Site Walk it looked like there would be ample room for the space next to the rear building. When the space was plotted, it was determined that it would block the access way. Mr. Sirignano states he will advise his engineer to put two spaces next to the front building. Cynthia confirms there is one space there now. Mr. Sirignano states there is a brick/dirt walk that may be invaded in order to get two parallel spaces there. Cynthia states that the Town Engineer had questions as to whether the area could be graded properly, as well as a concern about someone backing out onto the driveway. Cynthia asks the Board how they feel about that. Cynthia asks Mr. Sirignano if he will still need a waiver if he puts the two spaces next to the rear building. Mr. Sirignano states he would still need a waiver, instead of 12 spaces, he would have 10. Mr. Sirignano states that ideally he would like to obtain a waiver of four spaces and believes it would work because of the alternating use of the office space. Mr. Sirignano states that four spaces for a little office seem a little excessive. He understands it is in the Code. Mr. Sirignano states it is a workable plan with a waiver of four spaces given the alternating time they would be used. Mr. Sirignano states if the Board is unwilling to waive four, waive three and he will keep the one space on the driveway. Mr. Sirignano states if the Board is unwilling to waive three, waive two and he will put two spaces on the driveway. Mr. Sirignano states he would like to leave here tonight knowing which direction the Board would like him to take. The Board looks at the Plan and Mr. Sirignano points out where he is proposing two spaces next to the front building which would require a waiver of two spaces. Mr. Sirignano states the standards call for 12 spaces. Mr. Sirignano talks about designating the spaces for the potential future need and build them if the need arises. Cynthia states Mr. Sirignano would have to come back to the Board for an Amended Site Plan and asks what will trigger that. Mr. Sirignano states that if people double and triple park in the driveway, he would then have to come back before the Board. Cynthia states it might be a safety issue if people are blocking other people in. Roland talks about a Land Bank Parking Agreement which is recorded against the property. Mr. Sirignano would have to show the spaces as only being built if the Planning Board triggers it. Roland is not sure how it would be determined to be triggered, and states maybe it would be a Building Inspector Report, Complaint, or Accident Report. Roland states a property owner himself may trigger it and states that if the tenants will not be pleased if they are unable to park. Cynthia confirms there will be a two family home in the front which will require four parking spaces, as well as a two bedroom apartment downstairs and upstairs, that will require eight spaces, and then the office which would require four. Mr. Sirignano states the office parking requirement is excessive. Cynthia has a fear that everyone will start parking any which way. Cynthia asks how the spaces will be delineated. Mr. Sirignano states by lease, and assigned parking signs. Mr. Sirignano states the parking for the people in the front house will be closer to their building. Will asks whether that means the spaces will be limited. Mr. Sirignano states yes. Cynthia confirms Mr. Sirignano would like two spaces per apartment, which would be a total of eight. Cynthia confirms Mr. Sirignano would like two spaces for the office. Cynthia states Mr. Sirignano would have to show ten spaces and show two on

the side. Will states that if the area is there to build the two spaces, he does not see it as a problem.

Mr. Sirignano states the other issue has to do with the width of the driveway. Mr. Sirignano states the Board seemed to agree with him at the Site Walk that widening it to 12 feet is not necessary from a safety point of view. Mr. Sirignano states that aesthetically he is trying to keep it looking like a residential driveway. Mr. Sirignano states he hates to admit this on the record, but Will was right when he told him he would have to go to the Zoning Board of Appeals (ZBA) for a variance. Mr. Sirignano states he would like a favorable referral to the ZBA. Mr. Sirignano states that under State Law, he could go on his own, but he would like a nice letter from this Board.

Cynthia confirms with Mr. Sirignano that no other variances would be needed. Cynthia confirms the waiver for the two parking spaces would be under the jurisdiction of this Board.

Mr. Sirignano states a referral to the Department of Health (DOH) would be fine with him. Cynthia states that as soon as Mr. Sirignano presents a Plan showing the two parking spaces, and all of the coverage, it may be sent to the DOH. Mr. Sirignano confirms that all the parking spaces count as far as coverage.

Cynthia refers to the Zoning and states Mr. Sirignano has already filed his Petition with the Town Board. Mr. Sirignano states that Petition will be referred to the Planning Board. Cynthia states that process will trigger SEQR and asks Will to explain the steps that have to occur. Cynthia states that if this is going to move forward, the Town has to consider amending the Zoning Ordinance to allow for the apartment in the professional office building. It is going to impact parcels with 25 acres or more in the Town. Cynthia states this will be a Type I action for which a Long Form EAF will be required to be submitted by Mr. Sirignano. Cynthia talks about both of the Applications being run together with one SEQR process. Will refers to the Long Form EAF and states that a lot of it will not be pertinent. Will talks about looking at the whole zone which only allows for one type of accessory apartment. Cynthia states the Comprehensive Plan encourages the use of accessory apartments. Mr. Sirignano states it is also already permitted in three other non-residential zones. Roland states he would think the County would be supportive. Cynthia states she had asked once before whether Mr. Sirignano would consider making one of the units affordable, and is asking again tonight. Mr. Sirignano states he has tenants that do not pay rent anyway, so it would be generous of him.

Cynthia states that Mr. Sirignano had a question today about the escrow request and states it was made in anticipation of what will be coming, considering the referral from the Town Board. Mr. Sirignano states he posted $1,000 when he filed the Petition with the Town Board yesterday. Mr. Sirignano states he has been through two reviews, and he is not proposing any new construction other than excavating two parking spaces, he thought that the escrow request of $5,000 was excessive. Mr. Sirignano requests the Board lower the amount and if he gets close to exhausting the amount he will be more than happy to submit more down the road. Cynthia states Mr. Sirignano should understand that he may have repeated requests for escrow replenishment, as now a referral will come to this Board from the Town Board for the review of the SEQR. This will all generate additional bills. Cynthia states that technically, if the escrow is negative, an Applicant may not be on an Agenda. Mr. Sirignano states he would never be in a negative position. Mr. Sirignano states he thought that Will would prepare the SEQA on the zoning request. Cynthia states the Town would not take it on as their one of their projects, and pay for it. Will states it might be less of an expense for Mr. Sirignano to prepare something for him to review. Mr. Sirignano states that is fair enough.

Will asks whether there was an issue with the number of bedrooms in one of the apartments. Cynthia states no. That has been resolved with the Building Inspector.

Mr. Sirignano asks that given the small site, with no new construction, would the Board consider waiving the Public Hearing? Cynthia states that there has been a Public Hearing with the ZBA, and the Town Board

would have a Public Hearing on the Zoning. Cynthia states there is no new construction. The Board agrees it is a reasonable request.

Mr. Sirignano asks if we have come up with lesser escrow amount. Cynthia asks Dawn if the previous escrow has been exhausted. Dawn states that half of the escrow has been used. Cynthia requests Mr. Sirignano submit an additional $2,500 towards the escrow.

Cynthia asks whether Mr. Sirignano has any additional questions in regards to the Consultant's reports. Mr. Sirignano refers to the landscaping and states he agrees with Will and will show more depth to the planting areas. Mr. Sirignano states the proposed stoops are there now, and we will have to cut them back to create the planting areas. Mr. Sirignano talks about taking a foot of space from the parking lot. Will states it is hard to tell from the Plan the exact dimensions.

Mr. Sirignano states he will address the Hahn comments quickly.

Cynthia asks Will if procedurally, the Planning Board will not be able to move forward until the Town Board finishes their process. Will confirms yes and states there is not much more that this Board may do at this point. Mr. Sirignano states that worst case scenario, if the Town Board didn't adopt the amended zoning, he just wouldn't use the second floor of the rear building. He would still need a Site Plan Approval for the office. Will states it is Type I because the zoning requires coordination. Mr. Sirignano would need to speak with the Town Board in regards to Lead Agency. Mr. Sirignano asks if Will is talking about the Lead Agency on the Zoning Amendment or the Site Plan. Will refers to the Zoning Amendment and states it needs to be looked at as a whole. Mr. Sirignano states he is not rezoning the whole property, he is asking the Town Board to change or include a use town-wide in all PO districts. Will states that rezoning will allow Mr. Sirignano to have the use for his proposal. Without that, Mr. Sirignano will not be allowed to have the apartment. Mr. Sirignano has a Site Plan that includes the apartment. Mr. Sirignano still wants the same parking, driveway, and everything else. Will states the Plan may be changed to take out the apartment. If the Town Board did do the Amendment, Mr. Sirignano would be back before the Board to amend the Plans. Roland talks about having a Condition in the Site Plan Approval, whereas if it was done before the Town Board entertains the zoning change, so that if the zoning change is not adopted the Applicant than has to return for an Amended Site Plan to delete the second floor. Will asks whether the Board would allow a Plan not allowed by zoning. Roland states it will be approved for the office use, and Mr. Sirignano will go through SEQR, and show a provable plan. The Site Plan would have a condition in it for Mr. Sirignano to come back if the Town Board doesn't adopt the zoning. Cynthia states the complication with that would be the BOH approval. Mr. Sirignano wanted to show the BOH all of the uses that he wanted to have on the property. Otherwise there will be a BOH review on the office and will have to go back to have the apartment added. What if that does trigger the septic work? Will confirms Mr. Sirignano would like to have the tenants move back quickly. Will suggests the amended plan not have the apartment on it. Mr. Sirignano could then go through the approval process in order to receive approval on the apartment, which would be a simple change. Will talks about Mr. Sirignano continuing to work with the Town Board, and if everything goes well, come back to the Planning Board. Roland asks if this property is occupied. Cynthia states no. Roland was under the impression the second floor was going to have an accessory apartment. Mr. Sirignano states it does, it is fully fitted, but empty. Roland states that there is no down side then.

Cynthia asks whether the coordinated SEQR will trigger a 30 day comment period. There is discussion about the Planning Board declaring Lead Agency. Mr. Sirignano would like the Planning Board to do that. Will states the Town Board would still have their input. Cynthia confirms that even though the Town Board has not made a Referral to the Planning Board, the Planning Board may declare their intent to be Lead Agency. Roland states the Planning Board has the Site Plan before them.

Chairwoman motions that the Planning Board Declares their intent to be Lead Agency for the Petition on the Zoning Amendment for the Professional Office District for Titicus Road Commons, LLC. Gary seconds. All in favor. No opposed.

After the motion Cynthia asks whether Mr. Sirignano is going to keep the Application together or pull it apart. Mr. Sirignano states he is going to pull it apart. Mr. Sirignano talks about it taking two months to go through the zoning process, as the Town Board will meet next week, and refer it to the Planning Board officially. Mr. Sirignano asks whether this Board would take this item up again at their next Work Session. Will talks about Mr. Sirignano getting on a ZBA Agenda. Will states that breaking apart the Applications may not be a time saver. Roland states that if he breaks apart the Applications, he will not need as much parking. Cynthia states he is going to the ZBA for the driveway width, not the parking. Mr. Sirignano states he will be able to make the April ZBA Meeting. He talks about opening and closing the Public Hearing in one Meeting. Mr. Sirignano will think about it, but he would like a Referral Letter to go out before his filing deadline. Mr. Sirignano states the ZBA application review deadline is March 26th, and the filing deadline is March 27th, which will get him on the April 12th ZBA calendar. Jack Gress states that the ZBA cancelled their meeting tomorrow night, so they may be backed up for the April 12th Meeting. Cynthia states she would not rush to have Mr. Sirignano break apart the Applications, but it is up to him. Cynthia states the Board will still do the referral to the ZBA on the driveway width. Mr. Sirignano would like to get to the ZBA. Cynthia states that Mr. Sirignano could file with the BOH for everything. If he doesn't build it all, at least he will know what the outcome will be. Mr. Sirignano states if it is not going to be an apartment, it will be office space. Cynthia states that Mr. Sirignano may need even more parking spaces.

Chairwoman motions that the Planning Board make a Positive Referral to the ZBA in Regards to the Variance for the Reduction in the Driveway Width. Charlotte seconds. All in favor. No opposed.

After the motion the circulation of a revised EAF is discussed. Will states that the Board will need a Part 1 as soon as possible. They will not need a narrative. There is a discussion about the interested and involved agencies. Cynthia asks if this SEQR will be on everything, the Site Plan and Zoning Amendment. Will states yes. Cynthia states the involved agency will be the DOH. Will states the ZBA should also be circulated to. Cynthia asks whether the ZBA may act in regards to the driveway width. Roland refers to the regulation in regards to the property being less than 4,000 square feet. Will states he does not know how that falls in with the fact that there are other categories for variances. Roland states he will have to look into it, but if the ZBA can't act, they may have to hold it, and close the Public Hearing once the Planning Board issues a Negative Declaration.

Cynthia discusses the principal uses and wants to make sure we are not triggering Planning Board review for any other accessory apartments. Cynthia states there are a couple of special use permits of the ZBA that we would prefer not to have before the Planning Board. We have to be careful with our wording in the referral. Mr. Sirignano states he was only targeting this kind of a Special Use Permit and accessory apartment above a commercial establishment. Cynthia states that is fine. Mr. Sirignano didn't mean to drag in riding stables and regular accessory apartments. There is discussion about taking away the word "principal". Cynthia states she and Roland will be attending the next Town Board Meeting, and will be there for the discussion.

5. St. James Church: Jack Caley (owner – St. James Church)
Sign Permit (location – 296 Titicus Road)

- Consider Draft Resolution of Approval, or
- Consider Referral to ZBA

Cynthia states the Board has new Sign Regulations. Jack Caley is here with us tonight. He is a Boy Scout

doing an Eagle Scout Project. We are not talking about the St. James sign that is along June Road. We are talking about the St. James sign that is along their driveway. We have a few issues with the size of the sign. If we can call this a pre-existing, non-conforming sign, which means it went up prior to the 1987 Zoning Ordinance, and if he agrees to not change the size, then we do not have to make a Referral to the ZBA. Cynthia states if it is determined to be pre-existing, non-conforming, and the size of the sign will not change, does he even need a Permit from the Board. It all depends whether the sign is pre-existing, non-conforming. Cynthia asks the Board whether they know when the sign went up. Cynthia states she asked the Building Department and they don't know. Cynthia reads the Sign Regulations and confirms the Applicant still has to be here. Cynthia speaks with Mr. Caley and confirms that the sign has to be larger to accomplish what the church wants. Mr. Caley states that having a larger sign will allow the Church to notify the public about upcoming events. If the sign size were to stay the way it is, it would defeat the purpose, because we can only fit 20 characters on one line of writing. We wouldn't be able to write the name of the Church all on one line. Cynthia confirms with Mr. Caley that he does want a larger sign, which means he will have to be referred to the ZBA. Cynthia asks Mr. Caley if he will be able to work within the timeframe in order to get this process done. Cynthia speaks with the Board and asks them how they feel about a larger sign. Mr. Caley has provided the Board with the dimensions. Cynthia asks Mr. Caley if the sign he is proposing for the Church is the same size as the Lions sign in Purdys. Mr. Caley states his sign is smaller. Cynthia asks if it is the same size as the sign in Croton Falls. Mr. Caley states he is not sure, he has not seen the sign in Croton Falls. The Board does not have an issue with the larger size. Robert states the sign will also be serving the community, as it will identify where the Church is.

Cynthia states she prepared a Draft Resolution for the Board to consider tonight. There is a discussion about the lettering size on Page 2. Cynthia states she had listed three inches. Mr. Caley confirms the size of the letters will be four inches. Cynthia states the sign will be white, with black lettering. Cynthia asks Mr. Caley if he took a look at the Draft Resolution. Mr. Caley states yes. Cynthia goes over the conditions with Mr. Caley to verify them. Cynthia states that one item that we haven't been able to verify, which should be discussed with the Building Inspector, is to make sure that the new sign will be located 10 feet back from the property line. Cynthia states she pulled the plans that St. James had done a while ago, and the stone wall is not the property line. Cynthia will give Mr. Caley a copy of the St. James Site Plan on file. Cynthia states it does not matter where the sign is today. The new sign, so long as it is kept 10 feet back, would not require a variance. If the sign will not be 10 feet back, when Mr. Caley goes to the ZBA next month, he will need a variance. Roland asks if the location is what makes it non-conforming, or is there another aspect that is non-conforming. Cynthia states that Bruce Thompson told her that the sign never had a Permit. Cynthia states that St. James came to the Planning Board and did a Site Plan which showed the two signs. They never completed the Site Plan. They did make a lot of improvements. Cynthia states she thinks that maybe the sign went up as part of the improvements, but she can't verify it, and neither can Bruce. The good news is that it is now before us for a Permit. Cynthia states the Draft Resolution will be revised to show the increase in size, and the size of the letters. The sign will not be illuminated. The Town Board waived all of the Application Fees. Mr. Caley will be referred to the ZBA for the variance in regards to the size of the sign.

Charlotte Harris motions that the Planning Board Adopt the Sign Plan Resolution of Approval With Revisions for St. James Church. Robert Tompkins seconds. All in favor. No opposed.
After the motion Cynthia confirms the Board would like her to write a letter of support to the ZBA in regards to the variance. Cynthia suggests Mr. Caley speak with Janice Will and Bruce Thompson this week to speak with them about the ZBA Application process, as it will entail more paperwork. Mr. Caley states he will.

6. **Fink:** Peder Scott (owner – Lawrence Fink)
Wetlands Permit (location – 55 Finch Road)

- Consider Resetting Public Hearing for April 4, 2012

- Discussion of Technical Issues

Peder Scott is here tonight to represent the Applicant. Mr. Scott hands the Board a letter from Eric Groft regarding the escrow replenishment request and states the escrow will be provided.

Mr. Scott states they received all of the review memos and acknowledge the fact that they need an MS4 approval. We did an uncoordinated review with the New York City Department of Environmental Protection (NYCDEP) and we haven't heard anything from them yet. He indicates that they have satisfied all the comments of the SEQR review and are trying to move forward on the stormwater side. Mr. Scott states they are hoping to have updates for the upcoming Public Hearing. Mr. Scott states they are working on the MDRA Memo. We are trying to coordinate the Environmental Monitoring Plan with the Plan that had been provided to us on the prior Dubin Project. Mr. Scott states they may need a little back and forth discussion with Will to make sure it all makes sense. Cynthia asks whether the Applicant has heard from the Army Corp of Engineers (ACOE). Mr. Scott states no. Their associates filed for a jurisdictional review. Mr. Scott states they have instead elected to take out a Permit for the maintenance and stormwater management activities. Mr. Scott states they have spoken with the ACOE, and they have reviewed all the permit options. We have filed all the paperwork and are in the middle of the review. The ACOE has 45 days to review it. We did acknowledge all the permits that are pending. Mr. Scott does not know whether they will have all the comments back prior to the opening of the Public Hearing.

Cynthia asks whether the Board has a problem with the Environmental Monitoring Plan going to Will for a quick turn around. The Board agrees. Cynthia states the Board has to reset the Public Hearing. Cynthia confirms Mr. Scott will have no problem turning around the paperwork prior to the Public Hearing. Mr. Scott confirms the deadline date for submittals is next Wednesday.

Chairwoman motions that the Planning Board Consider Resetting the Public Hearing for the Fink/ Finch Farm Wetland Permit Project to April 4, 2012. Gary Jacobi seconds. All in favor. No opposed.

WORK SESSION:

7. Affordable Housing Amendments:

- Continue review with Town Attorney

Cynthia states the Board is still working on the initial Draft. We do have changes coming that were already discussed, and we have a few questions for Roland. Cynthia refers to the definition of family in the Town Ordinance, and states the Model Ordinance for the County uses the term household unit. We decided to list both in the Draft which prompted questions in regards to our definition of family. Cynthia asks Roland whether he has any problem with the current definition of family. Roland states he actually likes the definition of household. Cynthia asks whether Roland is suggesting we change all the references throughout our Ordinance. Roland states they may be interchangeable. Will states the point was to not necessarily eliminate the word family, as it may be used somewhere else in another context. Will states for this Draft we will use the word household. Roland asks if there is any reason to still have the definition of family. Will does not know. He did not search to see where else the word family is used outside the moderate income regulations. Will states it wouldn't take long for him to figure it out. Roland talks about using the same definition and have it apply to both family and household. Will states they are pretty much the same. Will states he didn't bring the definition of family with him tonight, and asks whether Roland has it. Roland provides the definition to Will. Gary states maybe it would be best to leave it alone. Will states the definition of household does not make reference to boarding room, boarding house, motel, or hotel. Will states that if we want to merge the definitions, we would have to incorporate those items. Cynthia asks what we do with all

the dwelling unit definitions that are dependent upon the definition of family. Will does not see a need to eliminate family as a definition for the purposes of the affordable housing regulations. Cynthia states the definitions of household and family will stay the way they are.

Cynthia refers to Section 250-129(b) in regards to marketing and states after the initial marketing is done by the developer where will we put the responsibility for the marketing after that, especially if there is no Homeowners Association. Roland states he is lead to believe that the marketing has to be done through the County for the full 50 years. If they assign the developer to do it, then it is up to the County to assign a marketing agent. Roland believes it is the full period of the 50 years. Will asks if this would be through the County, or is it according to their marketing plan. Roland states he believes the County can either do it themselves, assign it to an experienced developer, or to an agency. Tony Hoeltzel from the Housing Action Council is with us tonight and states the County also posts to their website registry where they continue to add names electronically. Will states it is still not clear to him that it has been mandated that the County now has that role and the towns are forced to use that role as opposed to the Housing Board doing it. Will states that North Salem is small, and the Housing Board may not have that kind of staff. Roland states that would be a good question for the County. Gary asks why we care about other communities. Roland states he is not talking about other communities. He is suggesting that as far as he knows, it is the County that has the responsibility for the fair and affordable housing, and sets the criteria. If the County assigns it out, that is fine, but the Town may be able to automatically assign it to their Housing Board. Gary states that Will brought up other communities. Roland states it might not be as cut and dry as he is suggesting because larger communities might be able to do it in-house. Gary states that we don't want to. Will states that is fine, we can give it to the County to do. Jack Gress states he attended an affordable housing meeting in Bedford and according to the Stipulation of Settlement, the marketing that goes out first must be done according to the Settlement. It was indicated at that meeting that afterwards the list would be extended. After that, the owner of the rental units would work together with the town housing boards. It was implied at that meeting that the housing boards would be more involved than what is stated in the Settlement. Mr. Gress states that once the Settlement is agreed upon, the County may back out of it and pass it on to the local communities. Cynthia states there are two different items here, our local Housing Board is going to be involved in the process, but they don't have to do all the work. We are trying to figure out, if later on through the process, our Housing Board may turn to the County and ask them to supply more marketing. Cynthia states she will put that on her list of questions for Ed Buroughs. Will states the County is going to walk away from the liability and if the Town is not doing what they are supposed to do, the County will come down on North Salem. Cynthia states the County cannot abandon us. Mr. Gress verifies that the full period would be for 50 years. Cynthia states she understands it when there is a developer who will be a part of the project for the full 50 years, versus having one or two little isolated units. Cynthia states a developer may come in and do a 10 lot subdivision. The Town ends up with one unit of affordable housing. The developer goes away, and the houses are sold, and the one unit is left, how will we deal with that in the future? Cynthia states she wants to make sure we do not place a burden on our Housing Board.

Cynthia refers to Section 250-132 in regards to ownership and deed restrictions Cynthia asks Roland if he has any advice. Roland does not understand the issue. Cynthia states that this was a question from Gary. Roland asks Gary why the corporation has to be a New York corporation. Gary states because if it is a Montana corporation, and we have to sue them, we don't want to sue someone in Montana. Roland talks about adding in a restriction. Gary states that would be fine. Will asks where we would put that. Roland states it would be a Deed Restriction at the time of Approval that would be filed with the County. Cynthia confirms that nothing new would go in the Code. Gary states another reason to request a New York corporation is to make sure they pay taxes in New York State. Roland states it is not a function of the Planning Board. Gary states maybe not, but it may be something we should ask for. Roland does not believe the Code should be muddied with something like this. Cynthia asks if Gary would like to elaborate on any other questions he had such as the LLC's and LLP's, and bankruptcy situations. Gary asks Roland whether it has to be a corporation, or may it

be an LLC or LLP. Gary is talking about the person who will own the structures a year from now. It may be the developer, or maybe the developer will sell it. Gary asks whether there would be a plus or minus to the type of ownership. Roland states not from the Town's perspective. Gary asks if we will need to make sure that the property may not be subdivided, such as sell one building. Roland states no, why would you permit that? Will asks whether a condo or cooperative may be created without having to come to this Board. Roland states the developer may decide to sell the units without coming before this Board. Gary asks if the developer may sell them individually. Roland states yes, as condos. Roland states the individual units may be sold, not the structure. Gary asks how that would affect the affordable housing portion. Roland states they would still have to be affordable. Roland states the developer may violate other provisions obtained from the government, such as where the money comes from. Roland states it is legally possible to go from a rental project to a for sale project. Gary asks if it could go back to a fee simple structure. Roland states no, there would be a requirement to subdivide. Roland states the way these buildings are being set up, they are not all on ground level. Gary asks whether condos may go in. Roland states yes.

Cynthia states that Gary had asked about bankruptcy. She thinks it ties into the County Contract with the developer, and asks Roland if that would be covered. Roland states he is sure there are all kinds of provisions if that were to occur. We can ask for all of those documents. Gary is just concerned if a developer walks away from a property, the Town may end up being responsible for the maintenance and so forth. Gary would like to know what protections the Town would have. Will asks how the Town would ever be responsible for something like that, as opposed to any other business or house. Roland states it is not likely. Roland states the only way the Town would get involved would be if the taxes are delinquent and then a foreclosure would take place. Roland states that with all the County and State money behind this, they would never let that happen. They would just come in, pay the taxes, and take it over. Gary states he is worried about the Town ending up responsible for maintenance, upkeep, and management if the developer walks away. Cynthia refers to the individual aspects such as water and sewer and asks whether there is a possibility that those could end up with the Town, such as the creation of a district. Roland states there are districts created. There have been suggestions to keep those in place. Cynthia states that if they become condos, and people own their unit individually, they would all become payers in the district. If they don't pay, the Town has a right to foreclose on an individual unit. Will states that even then, the district would only be those specific units.

Cynthia states that Gary had asked the question as to whether the owner of a rental complex can make a profit on a resale. Cynthia states an owner cannot sell for more than what the limits are between what we put in the Code and what the County has. There is discussion about the CPI and 2% of interest incurred on assets. Gary confirms an owner cannot make a profit greater than the CPI base. Mr. Gress talks about the CPI base and 2% of the interest of assets depreciating depending on how profitable the investments were during a time period. Roland asks if Mr. Gress is talking about an individual unit. Mr. Gress states he is talking about the complex because the individual units can't be sold. Gary states that Roland told us they can be sold as condominiums. Mr. Gress is talking about the whole unit. Roland asks Mr. Gress where he obtained that information. Mr. Gress states that Peter Harkin talked about it at a housing meeting which was clarified by Mary Ann at County Executive Rob Astorino's office. They were worried about people borrowing money, selling the money to a bank, and then walking away from the project. There were discussions about taking the grant money and selling it to a bank over a ten year period. Mr. Gress states they were worried about the developer walking away, just like Gary was concerned about. Roland states that is good information he didn't know about. Mr. Gress states that the bank will own the grant money, and there will be upfront money from the bank prior to the start of the project. The grant money will not be received until the project is completed. They will be taking the income from the tax credits. Mr. Gress states that profit-wise, it is based on CPI, assets are not included, but interest on the assets are included on 2%. Will states that is not the same thing as a developer owning a rental property. Will states that the public funding might have restrictions. Will states there is nothing in the ordinance that would affect a developer of a rental property from making a profit by selling it to another owner. Mr. Gress states that the conversation was specific to Bill Balter selling his property and

making a profit on it. Will states the public money might have restrictions. Mr. Gress states that if Mr. Balter wasn't taking public money, there would be no restrictions. Cynthia states this would be a condition of the contract Mr. Balter will enter into with the Town. It is not something we would touch here. Cynthia states we are going to rely on what we wrote in Section 123 B(5).

Cynthia states we are writing this to establish the eligible income limits of the people who would qualify. We have been using the 80% figure and the 50% figure depending on whether they are going to own the units, or rent the units. What we are hearing is that the developers, in applying for the public funds, have to come up with a two tiered system. Cynthia does not understand why the County is coming up with a separate set of rules for the loaning of the money that is different than what is set in the Model Ordinance for home ownership and rentals. Cynthia asks whether there is anything we have to do, or does it just become a condition of the people applying for the public funds. Cynthia states it does impact the people who are coming in for qualifying are not what we anticipated under our zoning. Will asks what the Agreement with the County and Court has to say about what is affordable. Cynthia states they are redefining it under the money they are loaning and giving us a different set of rules under the Model Ordinance. Roland states we have to be concerned with what the Town guidelines are for sale and rental and asks why would we care about their definition for public funds. Will states the second tier in the criteria would meet less of a standard, and there is a gap. Mr. Gress states that is because of the funding. Will states there is a gap of people who fall out from getting a unit that otherwise would have been eligible under the Code and the Model Ordinance. It gives preference to a small group by the funding mechanism that is not in the Model Ordinance. Cynthia states it seems like we are worrying about something, after the fact that we truly didn't understand.

Mr. Gress confirms this Draft has nothing to do with the housing units that are being proposed by Mr. Balter. Mr. Gress confirms the Board is setting the Code. Mr. Gress states the County's guidelines for affordable housing are based on the 80% data margin. The County has just had their model plan approved by the monitor. Several different Towns, such as Bedford, have recently followed the County Model Ordinance and made modifications to their Ordinance. Mr. Gress asks if this is what the Board is doing. Cynthia states yes, that is what we are doing right now. Cynthia states the Board is not using every suggestion in the Model Ordinance. There is a discussion about the five units in Salem Chase that are the exception to the rule, and possibly having a footnote in the Code. Cynthia states the Board has to decide how the Draft will be sent over to the Town Board, and will it be written for future compliance.

Cynthia states that Gary had a question at the last Meeting about arbitration. Roland asks if Gary is referring to a situation that may occur after an appeal is made to the Town Board. Gary states yes. If an appeal is made, and the person does not like the Town's ruling, he doesn't necessarily want to end up in a court house. Roland states it is a lot better for municipalities to end up with an Article 78 proceeding than to go before some sort of an arbitrator. Roland states that arbitration has become uniquely expensive because the municipality often pays the entire cost for the arbitrator. The hearings go on forever. It is not handled the way Article 78 proceedings are handled which is on paper. It requires testimonies and stenographer costs. Roland states he does not recommend it at all.

Will talks about there being an adjustment to the moderate income regulations which envisioned an 80/20 split of market and moderate income units. We were not envisioning 100% affordable rentals. Will asks whether that is something that we need to be more specific about, as a specific use in the Zoning Ordinance as opposed to the typical market development. Roland states there was never anything to prevent a developer from building an all moderate income unit project. Will is not talking about preventing it. He states with a multi-family development there is a requirement for an 80/20 minimum split. Will is not sure whether looking at the Use Table and this Section being discussed now, there is a clear path for a 100% affordable development. Will talks about consistency in the Code and states it is very clear when someone is doing a market development. Roland states it should be looked at. Cynthia understands what Will is saying.

Cynthia recaps the discussion and states the Board talked about definitions and clarified the definition of household. We are not going to use the terminology "affordable fair". Will confirms the word "fair" will be taken out. Cynthia confirms that the MIH's will be changed to affordable. Cynthia refers to the pre-existing units in Salem Chase and states that will be under Section 250-122. Cynthia asks if the Draft may be written ignoring Salem Chase and then have some type of an exception for that pre-existing non-conforming situation, and say that will follow the old rules, but not have to repeat the old rules. Roland states they are already codified. Will states that we would be repeating a lot of language. Roland asks if the Board foresees the possibility of Applications coming before them that propose only an MIH scenario, and do not want money from the County. Cynthia states that all along she wanted to keep the two price structures. She thought that Roland had said that would not be a good idea. Roland was not talking about price structures. He talks about the Board foreclosing the possibility of a new developer coming before them, who does not want to use the Housing Board, even though credit would be given for those units. Roland talks about having the pricing under the County guidelines. Roland asks if the Board intends to eliminate the lottery. Gary states no. Cynthia states it was not her intention, she thought that is what Roland had advised. Bernard asks if Salem Chase is moderate income. Cynthia states yes. Salem Chase has a totally different pricing arrangement. Roland states he hasn't looked at Bedford's Ordinance, but he believes it would be helpful. Cynthia states in regards to Salem Chase there was a discussion about eliminating the preferences, do the marketing, and keep the pricing in accordance with what is pre-existing. Cynthia asks Roland if the preferences should be kept. Roland states if the Board thinks it is realistic that they may have applicants coming before them, they may want to consider it, unless the Board feels the applicants may only be interested in the FIH element, than it may not mean anything. Roland talks about having no preferences, County marketing, and County pricing. Roland states those are the ingredients for the FIH element. Cynthia talks about having two chapters. Leave the MIH chapter alone and add an affordable chapter. Roland is not aware that the Board can't do that. Roland states that in the future the Board may have Applicants before them interested in MIH. There is discussion about the infrastructure. Cynthia states she must have misunderstood Roland. Roland states he never heard that all of the moderate income housing provisions have to be eliminated. Cynthia states it may be necessary to have a link.

Mr. Gress refers to the Bedford Ordinance and states they made a modification from 10% to 20%. They set up a structural housing fund where a developer would be entitled to put money in. If the developer didn't come up with the numbers wanted, affordable rates were set. Roland asks what happens to that money. Mr. Gress states that the money is used to credit new builders coming into build affordable housing. It was used to encourage developers. Will states he is familiar with the fund that Mr. Gress has referred to. Will is not positive, but believes the housing fund may be similar to a recreation fee. Cynthia states a concern that it would be used as an out. Cynthia states that suitable land is supposed to be looked for first, before exercising a recreation fee. Cynthia asks whether legislation would be required in order to set up a fund. Roland will take a look at it. Will states it is his understanding the funds do not necessarily have to go towards affordable units. They could also go towards subsidizing rent and utility expenses. Cynthia states she likes the idea of a fund, but thinks it will be very difficult to make that initial decision.

Cynthia states she is a little concerned that the Town wouldn't be highly criticized if they kept the preferential section in the MIH. She would like to have a conversation with the County and talk with them before anything is forwarded to the Town Board. Will states that in Connecticut, there are two processes. There is a rule and it isn't 10%. They want to be more attractive to workers in the community rather than what the State mandates. Roland states he has had conversations with Norma Drummond where she stated to him that there are four absolutes; FAH Housing, County Formula, County Marketing, and no preferences. Will asks whether we would make a distinction as to what percentage would be affordable, and what wouldn't, or make an all affordable regulation that meets the County definition. Cynthia talks about possibly using specific criteria for someone applying for County funds, versus public funds as far as which rules to follow.

Cynthia will set up a call with Ed Buroughs.

Cynthia lets Roland know that the Board decided to add in efficiency apartments, but not four bedroom units.

8. Minutes:

- December 7, 2011
- January 4, 2012
- February 1, 2012

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

Chairwoman motions that the Planning Board Approve the Minutes for January 4, 2012. Charlotte Harris seconds. All in favor. No opposed.

Chairwoman motions that the Planning Board Approve the Minutes for February 1, 2012. Charlotte Harris seconds. All in favor. No opposed.

9. Financial Report:

- January, 2012
- February, 2012

Chairwoman motions that the Planning Board Approve the Financial Report for January, 2012. Robert Tompkins seconds. All in favor. No opposed.

Chairwman motions that the Planning Board Approve the Financial Report for February, 2012. Robert Tompkins seconds. All in favor. No opposed.

10. Next Meetings:

- Work Session – March 21, 2012 – continuation of affordable housing amendments
- Regular Meeting – April 4, 2012

11. Comments from the Chair:

Cynthia states she will write the letters to the ZBA regarding the variances for WEC, St. James Church, and Titicus Road Commons, LLC (Michael Sirignano).

12. Resolution:

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