

**North Salem Planning Board Minutes**

**August 1, 2012**

**7:30 PM – Annex**

**PRESENT:**            **Cynthia Curtis, Chairwoman**  
**Charlotte Harris, Board Member**  
**Robert Tompkins, Board Member**  
**Gary Jacobi, Board Member**  
**Roland A. Baroni, Town Attorney**  
**William Agresta, AICP**

**ABSENT:**            **Bernard Sweeney, Board Member**

<b>ATTENDANTS:</b>	<b>The School House Theatre:</b>	<b>James Nixon</b>
		<b>Jan Asong</b>
		<b>Lee Pope</b>
		<b>Pamela Moller Kareman</b>
	<b>McCarthy:</b>	<b>Tim Allen</b>
	<b>Total Energy:</b>	<b>Tim Allen</b>
	<b>Purdy's Farmer &amp; the Fish:</b>	<b>Ed Taylor</b>
		<b>Viktor Solarik</b>
		<b>Michael Liguori</b>

**Chairwoman Cynthia Curtis calls the August 1, 2012 North Salem Planning Board Meeting to order. The Agenda has been amended to take off Item No. 5 for Highgate/Woodlands. Chairwoman Curtis states the Board will be opening three Public Hearings this evening.**

**PUBLIC HEARINGS:**

- 1. The Schoolhouse Theatre: James Nixon** (owner – White Squirrel Properties, LLC)  
**Site Development Plan** (location – 3 Owens Road)
  - Open Public Hearing Regarding Site Plan Approval

Cynthia opens the Public Hearing and states the owner for this Project is White Squirrel Properties. The School House Theatre is located at 3 Owens Road. Cynthia states we have several people here tonight to represent the Theatre. Cynthia refers the members of the public to the Plan which is located behind her on the left, even though it is rather small. Cynthia states that a presentation will be given in a moment. Cynthia asks Dawn Onufrik, Planning Board Secretary to confirm the Public Hearing Notice was published in the newspaper. Dawn states yes it was. Cynthia asks Dawn whether she has acknowledgement of the deliverance of notification to the neighbors. Dawn states yes. Cynthia asks the Dawn whether she has received any written comments, phone calls, or e-mails from anyone up until this point. Dawn states that a neighbor by the name of Bret Puchir came in to look at the Project File, and a neighbor by the name of Linda Leidich called in regards to this Project. Dawn states she e-mailed Ms. Leidich two of the consultant review memos. Cynthia asks the Board whether they have anything else to report regarding public comments. The Board does not.

Cynthia states she does not have anything further. Cynthia asks Mr. Nixon whether he will be giving a presentation. Mr. Nixon states yes. Cynthia asks the audience whether there are people here tonight to hear about this Project. Several members of the audience raise their hands.

Mr. Nixon shows the building location and elevations on the proposed Site Plan. Mr. Nixon states the Theatre is located on Owens Road, off of Harvey Road. Mr. Nixon states there are two basic components to their proposal. The first component is a small addition towards the back of the building in the interior corner. This addition is proposed to be approximately 448 square feet in size. The second component is that the Theatre space will be re-arranged in order to add more seats. We are proposing to go from approximately 73 to 75 seats to a total of 99 seats. Because of the addition occupancy, we are proposing to increase the amount of parking available. Mr. Nixon states they are showing 40 marked parking spaces on their Plan. There will be some expansion towards the back and front, as well as the construction of a retaining wall to the right end of the building. Mr. Nixon shows the location of the retaining wall on the Plan. Mr. Nixon states that in addition to the 40 marked spaces that are proposed, they are proposing to widen the driving lanes so as to be 24 feet to provide for two lanes of traffic. Mr. Nixon states that when a performance is in progress, in the event that the lot is full, someone from the staff will direct people to park in areas that are normally driving lanes. We will not block in parked cars, the ingress/egress, or access for emergency vehicles. Mr. Nixon states that is the basic proposal.

Cynthia opens the floor up to the public and asks them to identify themselves and direct their questions to the Board.

Linda Leidich asks how many parking spaces the lot currently holds. Mr. Nixon states the lot is not marked for cars, but holds approximately 30 to 35 cars. Ms. Leidich asks whether the proposal is to only increase the parking by five spaces. Mr. Nixon states that is about right. Will states there will be five permanent marked spaces. There will be additional space for approximately six cars during performance time. There will be approximately eleven additional total spaces.

Cynthia states that one of the items the Board asked the Applicant about is to pay attention to the performances, especially the more popular ones. Cynthia states the Board asked the Applicant to have someone go out and count the cars and observe what is happening. Cynthia states the Board is particularly concerned if there are cars that are not parking on the property, but parking out on the streets. Cynthia states that all of the parking is supposed to be on the Site. Cynthia states that a number one concern of this Board is to whether or not the Applicant can provide parking spaces for all of the cars on the Site.

Ms. Leidich states she would like to elaborate on the parking. Ms. Ledich states she lives on Harvey Road, and during performances there are cars parked on her street from patrons going to the shows. Ms. Leidich states that this past spring, there were cars parked all the way up Harvey Road. Cynthia asks Ms. Leidich if she has any idea how many cars were parked on her street. Ms. Leidich states approximately 10 cars.

Bret Puchir states his house is right behind the Theatre. Mr. Puchir states he looked at the proposal and the map. Mr. Puchir states that definitely an increase in parking spaces is necessary for the Theatre. It seems as if they will have space to accommodate without disrupting the neighbors. Mr. Puchir does not believe that the addition of 10 more parking spaces and increase in seats will create an issue.

Cynthia states the Board wanted to know what the neighbors are experiencing. Cynthia states this is the first  
Planning Board Minutes – 080112

time they are hearing about an overflow of parking on the local streets. Cynthia states this is especially a concern during the winter in regards to snow plowing. Cynthia states the Applicant is intruding into the residential neighborhoods. Cynthia states the Board did talk briefly with the Applicant about possible alternatives, such as having staff, employees, and performers park down at the public parking spaces in Croton Falls, and be shuttled up. Cynthia talks about the Applicant making arrangements with the Town in regards to other public parking spaces that are available and currently under lease. Cynthia states the parking is a number one concern of the Board. Mr. Nixon states that generally the alternatives that were discussed in regards to the staff and actors parking off the Site would work if they could make arrangements in-house to do that. Charlotte asks approximately how many cars typically would there be for staff and actors. Pamela Moller Kareman states generally, no more than six to seven. Ms. Moller Kareman states that the actors usually come up together in a van. Ms. Moller Kareman states that it depends on the show. Ms. Moller Kareman states the van drops off the actors, and may go down in Town to park. Ms. Moller Kareman states people have parked on the street. Ms. Moller Kareman states that they only have four performances a week and very rarely sell out. We also thought about valet parking to control the parking better. Ms. Leidch states that she has always seen cars parked up to her driveway. This past spring, the cars were parked all the way up the street. Ms. Moller Kareman states they rented the theatre to a different company for a production called Into the Woods. There were a lot of children in the shows. This was a community theatre project. Ms. Moller Kareman states they rented the Theatre to a Company by the name of Spotlight Productions. Ms. Moller Kareman states they can control it easily. Cynthia refers to the alternatives of utilizing public parking down in Croton Falls and asks when the performances are. Ms. Moller Kareman states their performances are on Thursday, Friday, and Saturday nights at 8:00 p.m., and Sunday at 3:00 p.m. We do have special events, such as comedy night. The most performances we have had are 16 performances per play, and 4 plays per year. Cynthia confirms there are no weekday matinees. Ms. Moller Kareman states they have never had weekday matinees. If five years from now, we are popular, we may have weekday matinees.

Mr. Puchir refers to the parking lot being pushed back towards 20 Harvey Road, and states there is flat land there, as well as hedges and a steep slope. Mr. Puchir asks how far off the main part of the driveway will the parking be. Mr. Nixon states there will be approximately 25 feet left from the edge to the property line. Mr. Puchir states a concern in regards to digging into the hedge line. Mr. Puchir states he does not like the hedges. He would rather have them taken out, and see something nicer put in. Mr. Puchir states a concern about the slope, as his septic field runs parallel with the location of the retaining well. Mr. Puchir states he worries about runoff. His main concern is keeping his property private with respect to cars and noise. Mr. Puchir states that he and his wife just moved into the neighborhood. They are thrilled that someone wants to maintain the building and improve the space. We would like to figure out a way to make it look a little nicer. Mr. Puchir would like to work something out with the Applicant. Mr. Nixon states he did have an alternative sketch that would have provided for the parking of more cars, but the lot would have been pushed closer to Mr. Puchir's property line, so it would not have made sense. Mr. Puchir states he appreciates that.

Ms. Moller Kareman states that having the spaces marked will be helpful.

Robert asks whether there is any reluctance on the part of the Theatre to use the additional public parking, when needed. Robert states it is a resource that is available. Robert refers to busing in regards to people who park first being the last to leave. One car may have three or four people. Robert asks whether that may eliminate the problem. Ms. Moller Kareman asks whether Robert is referring to do this instead of the spaces. Robert states, no, in addition to the spaces. Robert asks how many of the performances traditionally sell out. Ms. Moller Kareman states they are getting more popular. Ms. Moller Kareman states the Theatre has a

relationship with artist by the name of Tom Christopher in regards to parking down in a lot in Croton Falls. Ms. Moller Kareman states they have a van that seats 12 people. Robert states that will take away some of the anxiety of the neighbors. Cynthia states that the Applicant did say that the Theatre will have a person out directing people where to park, especially when the performances are sold out. Ms. Moller Kareman stated that at the last Planning Board Meeting a gentleman offered the use of his bus to us, which was very nice. There is a discussion about valet parking. Ms. Moller Kareman states they want to be able to serve everyone who wants to come, but not be an eyesore, or a danger. Ms. Moller Kareman states that a few years ago, fire trucks had to come because someone fell in the building. That was the first time they had to come when she was at the Theatre. Cynthia states the Theatre should be encouraging people to car pool in their advertisements, come right out and say that parking is limited. Will states it should be incorporated into the rental of the facility as well.

Kerry Feeney would like to know whether there will be an exit now behind the building. Mr. Nixon states no. Ms. Feeney asks whether anything is being done to address how narrow the entrance currently is. Ms. Feeney states she sees a lot of people exiting the building in reverse out up onto the hill. Ms. Feeney would like to know whether a safer way may be identified for going in and out of the driveway. Mr. Nixon states this has been addressed. The look of the opening appears narrow is because of the way people park in the front. Mr. Nixon states they are getting rid of the diagonal parking. There will be parallel spaces up against and on the side of the building. We will have a 24 foot minimum width two way entrance and exit. Mr. Nixon states that people should not be parked in that type of orientation, so as to back out that way. Ms. Feeney states the other question is that her son sleigh rides on the hill in front, and he would like to know whether he will still be able to do that. Mr. Nixon states that so far they are not changing that.

Cynthia asks Mr. Nixon whether he has made an Application to the Zoning Board of Appeals (ZBA). Mr. Nixon states yes. They are on the Agenda next Thursday. Cynthia asks Mr. Nixon to state the variances being requested. Mr. Nixon states the variances are related to the addition, and the parking. They are violating the front and side yards.

Cynthia asks Mr. Nixon if he has any questions in regards to the Memos from the Planning Consultant and Town Engineer. Mr. Nixon states he has no questions at this time, and will respond to the Memos.

Cynthia refers to the slope in the back in regards to the plantings that are proposed. Mr. Nixon states they had proposed to retain what was there. Cynthia states that based on what was heard tonight, maybe Mr. Nixon could take another look at that in order to enhance it. Mr. Puchir states that Hemlocks would be awesome. Mr. Puchir states he would love to talk with Mr. Nixon about the plantings.

Cynthia asks the Board whether they have any other questions or comments. They do not.

Cynthia states that normally when the Board closes a Public Hearing they leave a period of ten days open for written comments. Cynthia states that if any of the neighbors ask what is going on, please tell them we are live tonight, and by Friday, any of the neighbors could watch our Meeting on their computers by going to the Town Website under Planning Board. Cynthia states we are going to close the Public Hearing tonight. Will recommends the Public Hearing be left open until the first Meeting in September, so that the Applicant will have obtained the required variances. Cynthia states we will adjourn the Public Hearing to September 5<sup>th</sup>. Cynthia states we will probably have a new submission by then, and will hopefully have thoughts from the Applicant in regards to the hillside.

Lee Pope asks whether it is a possibility that if all goes well, there may be a Resolution at that Meeting. Cynthia states if the Board receives a submission back in a timely manner, it is possible.

Will asks Cynthia whether the Board did a motion to adjourn the Public Hearing.

**Chairwoman motions that the Planning Board Adjourn the Public Hearing for the School House Theatre until the September 5, 2012 Meeting. Charlotte Harris seconds. All in favor. No opposed.**

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

- Open Public Hearing Regarding Land Excavation, Fill, and Chapter 189 Permit Approval

Cynthia opens the Public Hearing and asks the Dawn Onufrik, Planning Board Secretary to confirm the Public Hearing Notice was published in the newspaper. Dawn states yes it was. Cynthia asks Dawn whether she has acknowledgement of the deliverance of notification to the neighbors. Dawn states yes. Cynthia states she received a phone call from Andrea Good who could not be here tonight. Cynthia states she explained to Mrs. Good that the Public Hearing could be viewed on the computer, and also the comment period would be extended for ten days. Cynthia states she also received a phone call from Andrew Sternlieb, who is here tonight. Mr. Sternlieb came in to look at the Plans. Cynthia asks Dawn whether she has received any written comments, phone calls, or e-mails from anyone up until this point. Dawn states no. Cynthia asks the Board whether they have anything to report regarding public comments. The Board does not.

Mr. Sternlieb requests Tim Allen flip the Plan the other way on the easel so it may be viewed easier.

Cynthia states that Mr. Allen is here from Bibbo Associates to represent the Applicant, Ryann McCarthy. Cynthia asks Mr. Allen to provide a brief overview.

Mr. Allen states Mr. McCarthy is also with him tonight. Mr. McCarthy states they are here tonight in regards to a violation of Chapter 189, for clearing and grading without a Permit. Mr. McCarthy, not knowing he needed a Permit, cut trees down in the back of his house and started filling an area in the front for a small soccer field for his kids. Mr. Allen states that a Stop Work Order was issued and work has been stopped at the property. At that point we came before this Board to try to rectify the situation. We have had several Meetings with the Board. The Board has seen the Plans, and the Site. We are trying to minimize further disturbance and rectify the situation. Mr. Allen states they are proposing work to be done in different areas. Mr. Allen shows an area on the Plan that they will be finishing, as well as an area in the front where they will be finishing the fill. Mr. Allen states the whole meadow area that was cut to the east will be replanted in a meadow form. Most of the meadow has come back in grass form since the last time we were before the Board. Mr. Allen states they have proposed plantings along the driveway, and along the lower slope. Mr. Allen states there were also trees taken out on the top of the slope. We are proposing to plant evergreens on the top of the slope. Cynthia asks Mr. Allen to describe how he plans to stabilize the disturbed slope. Mr. Allen states the whole area will be rock cut. There will be a small retaining wall around the lower area. Everything else will be seeded properly. Mr. Allen talks about his plan for seeding the various areas. Cynthia refers to the alcove section in the upper left hand corner of the Plan and asks whether that cut will be seeded, or whether anything else will be put there. Mr. Allen states it will be graded because that is the only area where we didn't hit rock. Mr. Allen states it will be graded, seeded, and planted. Robert asks what the depth of the bedrock is in that area. Mr. Allen states that is the only area where we actually hit earth, otherwise it

was mostly rock in the area behind the house. Robert asks how the area will be seeded. Mr. Allen states that will be rock and retaining wall with a little bit of fill above the wall where an area will be seeded. Charlotte asks whether there will be enough soil to plant the trees above. Mr. Allen states yes, they are importing topsoil that was discussed at the last Meeting. Topsoil will be brought on the Site to top everything off and seed properly. Cynthia states that the trees being proposed are small, four to six foot Norway Spruces. Cynthia states it is a wooded area. What is the likelihood they will take and grow, and also provide screening? Mr. Allen states they will be replacing six trees that were brought down at the top of the slope.

Mr. Sternlieb states there were much more than six trees taken down. Mr. Allen states he is talking about the top of the slope. Mr. Allen states they counted six stumps up top, and eight more on the side.

Cynthia asks the audience whether they have any questions and requests they identify themselves.

Mr. Sternlieb states he is a neighbor to the south and lives at 6 McMorrow Lane. Mr. Sternlieb states he completely understands and will not comment on anything done to the north because if it is fine with the Becker Family, it is fine with him because it doesn't impact him. Mr. Sternlieb refers to the north and states he understands why Mr. and Mrs. McCarthy wanted to take down the trees because there were a lot of pines with very little needles left that were close to the house. Mr. Sternlieb states there were some specimen type Beech Trees which, in his opinion, should not have come down. Mr. Sternlieb states that the trees, for eight months a year, provided a lot of privacy from the canopy, which was way above the roofline. Mr. Sternlieb states that what is done is done. The trees will not grow back in his or his children's lifetime. Mr. Sternlieb refers to the southeast corner and states that is a vertical cut. To grade it, it will be necessary to cut into the slope more. Mr. Allen states they will be grading and stabilizing. Cynthia asks whether fill will be added in. Cynthia asks Mr. Allen to explain grading. Mr. Sternlieb states it means cutting. Mr. Allen shows on the Plan the area of cut and where the back corner will be graded back, as well as trees planted. Mr. Sternlieb asks Mr. Allen to be more specific about what grading back a bit means. Mr. Allen states they are proposing to grade back about 15 feet to stabilize the grade that is there now. Mr. Allen states that the Town Code requires a certain grade be established. Cynthia asks Mr. Allen if he will bring in fill. Mr. Allen states no. They will be grading back a bit more to stabilize the area. Mr. Allen states that Mr. McCarthy hit rock in this area. Will gives an example of the grade. Mr. Sternlieb states he is concerned about the southeast corner, as there will not be a lot of sun in that area. Mr. Sternlieb is concerned that Mr. McCarthy will be pushing back closer to the property line as opposed to having a retaining wall and stabilization in that area so that the trees will be able to be pulled forward more where they will get sun and grow. Mr. Sternlieb states that the trees are being proposed to be planted in an area of the woods where they will not grow. Mr. Sternlieb states that there is a substantial grade drop, so planting trees that are four to six feet will not mean anything. Mr. Sternlieb refers to the Plan and shows where his pool is located. Mr. Sternlieb states that before the trees were cut, we could not see to the other property. Mr. Sternlieb states that when Mr. McCarthy replaces his roof, he would prefer the color not be white, because it looks like Coney Island Beach when looking down at it. Mr. Sternlieb states that cutting back and building a retaining wall will be better in order to move the screening forward, and protect the privacy that they had before the hillside was cut down. Mr. Sternlieb states he does not know what stumps were there because they have been cut out. Mr. Sternlieb would like to see bigger trees planted forward more towards the sun. Mr. Sternlieb states there were so many pines. He understands why McCarthy took them out. Mr. Allen states Mr. Sternlieb has made a good point. They will look at extending the wall around the corner. They will have to bring a little bit of fill in. Mr. Allen states the upper corner will become a small fill, as opposed to a cutback. Mr. Sternlieb states that Norway Spruces have been specified which require sun to grow. Mr. Sternlieb does not know whether Mr. McCarthy has spoken with his arborist in regards to what

trees are appropriate. Mr. Sternlieb states that the area in front of the Becker's gets a lot of sun, so those trees will take off. Robert states it is like being in a bowl. Mr. McCarthy states he had a professional do the Plan, who suggested the Norway Spruce. Mr. McCarthy states he would not know what a Norway Spruce looked like if he saw one. Mr. McCarthy refers to six foot trees and states this was brought up at the last Meeting. The concern was with the rock in that area, we would not be able to get a large enough hole to plant eight or ten foot trees without making a much bigger disturbance and taking out more rock. Mr. Sternlieb states if you are building a well, pulling it forward, and bringing in fill, you should be able to get bigger trees in there. Mr. Sternlieb states there were 60 foot pines in that area before. Will states he likes the idea of the retaining wall. Robert asks whether more trees will have to be cut down in order to minimize the area. Mr. Allen states that is what they are trying to avoid. Mr. Allen states the area has been cleared a little bit up there, but there is still a little bit of a buffer. Mr. Sternlieb states there is almost a direct sightline to the pool through that area. Robert states a better solution is to come forward which will bring more depth to the rock. This will help with the privacy aspect. Cynthia asks whether Spruce Trees grow fast or slow. Will states depending on the sun, they could grow a foot a year. It depends on the soil and the conditions. Robert states it will take them four years to grow a good amount which is why he feels four to six foot trees are insufficient.

Mr. Sternlieb refers to an area behind the big rock where trees were cut down and had fallen onto his property. Mr. Sternlieb asks Mr. McCarthy to take those away. Mr. McCarthy agrees.

William Monti asks if there were the benefit of a Permit, what safeguards would have been in place to protect the land, because there are wetlands in the area. Mr. Monti states that the Good property also has wetlands. Cynthia states that a SWPPP, a soil and erosion control plan will be required, which would have been most important. Mr. Monti refers to the trees that have been taken down, and asks what happens to the runoff. Mr. Monti asks whether the runoff increases the size of the wetlands such that a person's property now becomes less usable because the wetlands have been artificially increased. If so, what remedies are there? Cynthia states that when the Board went out there, they didn't see any evidence of runoff silt. Cynthia asks Will his opinion as far as water goes. Cynthia states the question generally is will there be more water there because there are less trees. Will states the wetlands look pretty sizeable. The increase in runoff should be minimal. Mr. Allen states they did prepare a SWPPP. Based on that plan the runoff increase from the woods to the lawn was infinitesimal. Mr. Monti asks Mr. Allen to quantify it. Mr. Allen states if 10 cubic feet per second were coming off the hill, it would be 10.1. Mr. Allen states that all of the buffer will remain. Robert refers to the east near the Audubon Society. Mr. Allen states nothing will change in terms of the wetland proper. Robert refers to the meadow being created where the soccer field is. Mr. Allen states the soccer field will still be a soccer field. There is a discussion about which stumps will remain, and which stumps will be taken out.

Mr. Monti states that this was basically a logging operation. Mr. Monti states that he is the person who called the Building Inspector because it went on during the week, Saturdays, and sometimes on Sundays. Mr. Monti states that when the Building Inspector finally went out there, he found that it was a professional logging company outfit. Mr. Monti asks whether this company has done work in North Salem before. Cynthia does not know the name of the company and is not sure whether she would be able to answer that. Cynthia states the Building Inspector would be the person to speak to. Mr. Monti states he believes the company has done work in North Salem, and to not be familiar with the permit requirements seems to be careless and cavalier. Mr. Monti states that there should be some notice given to this logging company to wake up and realize that they have gained and benefited from all of this without all the necessary permits. Mr. Monti states that permits would have cost a certain amount of money to acquire. The Town has lost this revenue. Now Mr. McCarthy is here trying to make up for a deficit on the part of someone else. Cynthia refers to the permit process and states the process is the same. The Applicant would have had to come before this Board and paid the same

permit fees. Cynthia states there were mature specimen trees that came down. Cynthia is not sure how the Board would have reacted, but there is a likelihood that not all of those trees would have come down. Mr. Monti states that there is a significant change when driving down Hardscrabble Road. Instead of seeing all of the trees, we are now seeing a house. Mr. Monti states that no one owns the view, but by the same token, there should have been some consideration given. Robert refers to the violation. Roland refers to the notice of violation that was issued and does not know whether it has gone beyond that. Roland states the next step would be a summons. Robert states that we have dealt with a number of people where there has been significantly less disturbance, where people were outraged. Robert states he was outraged when he saw what was done on this property because we can never replace what has been done. Robert states there is nothing that can be done to resolve this on the short term. Robert states in terms of Mr. Monti's point, he thinks the Town should have issued a summons or some penalty because everyone is being hurt by this.

Cynthia states that when the Board was out on the Site Inspection there was a huge commercial truck parked there. Cynthia asks Mr. McCarthy if that truck is still there. Mr. McCarthy states yes. Cynthia states that there are not supposed to be any commercial vehicles parked at residences. Cynthia asks Mr. McCarthy if it is his truck. Mr. McCarthy states yes. Cynthia asks when the truck will be moved. Mr. McCarthy states as soon as the job is done because he wasn't sure how long it would take. Mr. McCarthy states he does not have plates on it. Cynthia states that if there are no plates on it, then it really shouldn't be there. Cynthia states we will let the Building Inspector know. Cynthia asks where the truck normally lives. Mr. McCarthy states he has a friend in Bedford. Cynthia states the truck should go home to Bedford.

Mr. Sternlieb would like to state one thing in Mr. McCarthy's defense. Trees that are close to the house do not require a Permit for removal, and some of the trees were inordinately close to the house. Mr. Sternlieb talks about being concerned about the one corner and states the solution is a better solution. Mr. Sternlieb states it will be hard to replace what was there because there is a 70 grade foot drop. Twelve foot trees 40 feet down will do something, but not a whole lot. Mr. Sternlieb states that most of the trees that were close to the house provided screening for him. Mr. Sternlieb states we do not own the screening. Mr. Sternlieb states that trees were blocking light into Mr. McCarthy's house. Mr. Sternlieb states the south side of the house is obviously a different situation.

Cynthia asks Mr. Allen whether he has a clear understanding of the visual impact Mr. Sternlieb has presented. Mr. Allen states that he believes Mr. McCarthy and Mr. Sternlieb will be able to work together to make sure everyone is happy. Mr. Allen states that is where we left it at the last Meeting. We wanted to hear from the neighbors. Cynthia states yes, we wanted to hear what the impact was to the neighbors and their reaction to the proposed plantings.

Cynthia asks the Mr. & Mrs. Becker if they have any comments about what is being proposed. Mr. Becker states he has spoken with Mr. McCarthy. Mr. Becker states that Mr. McCarthy is the first neighbor they have had who cared about the property. We have had neighbors the last few years who have not done anything to the property. Mr. Becker states for years there was always brush, and he took care of it. Mr. Becker states he has the right of way and they share the driveway. Mr. Becker states that McCarthy has showed him what he plans to do and it will look nice. Mr. Becker states we have to go forward now. Mr. Becker talks about water runoff and states the runoff they get is actually from Apple Mill Road. The road has been washed out at times. The water comes down like a river. There is a discussion about the drainage cut.

Cynthia asks the Board whether they have any further questions.

Mrs. Becker states they would like to see Mr. McCarthy move forward. Mrs. Becker states she believes all the neighbors would like to see the improvements Mr. McCarthy has planned instead of being in limbo all of this time.

Mr. Sternlieb states he would like the Board to come to a decision, so this work may be done in the fall. Going through another year is not good for anyone.

Cynthia talks about the Board closing the Public Hearing tonight and leave ten days open for written comments. Cynthia asks Mr. Allen whether he will be making one more submission for the Town Engineer. Cynthia confirms the SWPPP is in. Mr. Allen states the Town Engineer has to sign the acceptance form. Mr. Allen states the landscaping has to be worked out with the neighbors. Cynthia states that assuming Mr. Allen makes a submission quickly, the Board may consider having this Project on the September 5<sup>th</sup> Agenda. Mr. Allen requests a Draft Resolution be prepared for the Meeting so they are all on the same page.

**Chairwoman motions that the Planning Board Close the Public Hearing for Ryann McCarthy. Charlotte Harris seconds. All in favor. No opposed.**

**3. Total Energy: Tim Allen (owner – Robert Armentano)  
Amended Site Development Plan (location – 2 Hardscrabble Road)**

- Open Public Hearing Regarding Site Plan and Wetland Permit Approval

Cynthia opens the Public Hearing and asks confirms there are no members of the Public here tonight for Total Energy. Cynthia asks Dawn Onufrik, Planning Board Secretary to confirm the Public Hearing Notice was published in the newspaper. Dawn states yes it was. Cynthia asks Dawn whether she has acknowledgement of the deliverance of notification to the neighbors. Dawn states yes. Cynthia asks Dawn if she has received any written comments, phone calls, or e-mails from anyone up until this point. Dawn states no. Cynthia asks the Board whether they have anything to report regarding public comments. The Board does not. Cynthia states she does not have anything further.

Cynthia refers to the review memos and asks Mr. Allen whether he has any questions. Cynthia states she believes variances were granted about a year ago. Mr. Allen states he thinks so. Mr. Allen asks the Board whether they have any questions for him. Cynthia states no. Mr. Allen states the questions regarding planting should not have an impact. Cynthia states that the Board has asked for a mix. Cynthia states the Board has asked for clarity in regards to the lighting. Mr. Allen states the Board may have received a black and white version of the Plan. Cynthia states that on one sheet Mr. Allen shows pictures, and on another sheet Mr. Allen states the lights are on timers or sensors. Cynthia states that the detail should be shown on the Plan Sheets. Mr. Allen states he drives by this Site very early in the morning and has never seen lights on. Cynthia suspects the lights are on a sensor, so they are not on all night. Cynthia states the only lights that seem to be on all night are on the wall. Will asks Mr. Allen why he has not shown the gas lights on the Plan. Mr. Allen states he will add them. Will states they should be on the Plan. Cynthia asks the Board whether they are comfortable with the waiver request in regards to the one loading space. Cynthia states that Will has suggested that there be a note so as if there are any changes in the future, the Applicant would have to come back before the Board. Mr. Allen refers to the generator and states it was reviewed and approved by the Building Department. Cynthia asks Mr. Allen to add the detail. Mr. Allen states it is mounted on a pad. Will asks if the generator serves the residence. Mr. Allen states yes. Will states he has no problem then. Cynthia refers to the screening that Will

Planning Board Minutes – 080112 9

requested. Mr. Allen states he is fine with adding in shrubs. Cynthia asks Mr. Allen whether the easement is in the works. Mr. Allen states yes. Cynthia states the easement should go over to the Town Attorney.

Cynthia asks Mr. Allen whether he has any further comments. Mr. Allen states no.

Cynthia states we will await the resubmission and hopefully have this Project on the September 5<sup>th</sup> Agenda.

**Chairwoman motions that the Planning Board Close the Public Hearing for Total Energy. Charlotte Harris seconds. All in favor. No opposed.**

#### **REGULAR MEETING:**

- 4. Purdy's Farmer & the Fish:** Viktor Solarik (owner – Purdy Family Trust)  
Site Development Plan (location – 100 Titicus Road)

- Overview of Site Plan

Cynthia states that we had received a Pre-Application submission with the request for a Waiver of Site Plan for a few items that had been added. Cynthia states that when she reviewed the submission she noticed that the basis of the Site Plan was not the last approved Site Plan. Cynthia states she spoke with Viktor Solarik and asked him to redo it building off of the 1995 Site Plan which was actually for offices to the east of the restaurant, but it incorporated the whole front area, and talked about some of the parking areas that would need to be addressed in the future in the event the Department of Transportation (DOT) ever changed the intersection. Cynthia states there have been different owners of the restaurant over the years, and minor changes have occurred over the years that are not on the Site Plan. This is an opportunity to do an Amended Site Plan, and have all of the changes that have occurred without benefit of a Site Plan memorialized on there. Cynthia states that some of the items have Building Permits, and some do not. Cynthia states that we are also going to have to involve the Historic Preservation Commission (HPC) because they have a ten foot parameter around three sides of the building, and all of the front up to the stone wall. Cynthia asks Mr. Solarik to walk the Board through where the Site was in 1995, what changes have been done, and what changes are proposed.

Mr. Solarik states he increased the scale of the Plan for tonight's Meeting. Michael Liguori is also here tonight representing the Applicant. Mr. Liguori introduces Ed Taylor and states Mr. Taylor is the Applicant. Mr. Solarik refers to the red dash lines and states they indicate the items that were included in the 1995 Site Plan. Mr. Solarik states there were two parking spaces shown at the top. There was a fence with a gate that separated the two yards of the two different tenants. Mr. Solarik states that there was a dumpster that was supposed to be used by the restaurant on the east side of the building. Mr. Solarik refers to a loading area shown as a rectangle on the Plan. Mr. Solarik states this loading area was used for restaurant deliveries. Mr. Solarik shows a future proposed parking area on the Plan and states it was approved during the 1995 Site Plan process, but when we started working with Mr. Taylor for the restaurant renovations we discovered there was actually a septic system in that area. Mr. Solarik states the septic system is shown further up the hill in a different area on the 1995 Site Plan. Mr. Solarik states there was an existing ice box/cooler that had been there for years that was not shown on the 1995 Site Plan. Recently, the ice box/cooler had fallen apart, and was replaced with a new cooler that is larger than the original one. Mr. Solarik shows on the Plan where two above-ground 1,000 gallon propane tanks were installed for the restaurant. Mr. Solarik refers to a handicapped ramp on the west side of the existing building, and states it did not meet the Code. As part of the restaurant

renovations we had submitted Plans for a new Code-compliant ramp. The ramp was constructed, however, there was no clear path to it for a handicapped person to negotiate. Mr. Solarik refers to a section of the walkway that will be finished so that handicapped people will be able to get into the restaurant. Cynthia asks if it is a stone pathway. Mr. Solarik states no. It will be made of pressure treated wood. Mr. Solarik states it will look more like a boardwalk. It will be on grade, and built with railroad ties and pressure treated wood. Mr. Solarik states there used to be a stone patio that has since been removed. Mr. Solarik states there also used to be a flagstone walkway that has been removed. Grass and flowers are planted there now. Mr. Solarik states the walkway and porch remain in the front of the building. Mr. Solarik refers to another dash line area on the Plan which states the parking as shown on the 1995 Site Plan. That Plan showed 9 parking spaces. Mr. Solarik refers to the current configuration of the parking area shown on the Plan today. Mr. Solarik states there is a room in the back of the restaurant, which is attached to the kitchen. This room will be renovated for a farmers stand. The renovations are all interior, with the exception of the replacement of three exterior windows, a front door, and skylight. Mr. Solarik states they will have to go to the Architectural Review Board (ARB), and the HPC. Mr. Solarik states he does not believe the building is historic by any stretch of the imagination. Mr. Solarik refers to the old windows and states there is no architectural importance. Mr. Solarik states the proposal is to replace the old windows with new windows to be fit into the existing frames. Cynthia refers to the open roof patio and asks whether that will stay as it is. Mr. Solarik states yes. There are steps there that will lead up to the farmers market. Mr. Solarik states the proposal is to provide a walkway to the grass. Cynthia asks Mr. Solarik how he proposes to address the drainage in the newly extended parking area. Cynthia states there was quite a puddle there after one of the last rain storms. Mr. Solarik talks about drainage work to be done in that area, such as a system that would go under the driveway. Mr. Solarik states they will do percolation tests first to confirm the soils. Cynthia asks Mr. Solarik how many parking spaces he will end up with. Mr. Solarik refers to an area on the Plan that was shown as pre-approved future parking and states this should be discussed and confirmed as appropriate. Mr. Solarik states there are 17 parking spaces along Route 22, 14 in another area, and 6 in another area, for a total of 37. Cynthia asks Mr. Solarik if he calculated what the Ordinance requires for a restaurant and the market use. Mr. Solarik states no. Cynthia suggests Mr. Solarik do that. Mr. Liguori states they may fall under the category for a determination to be made by the Planning Board. Mr. Liguori states they are in the PO District where a restaurant not a permitted use. Cynthia understands what Mr. Liguori has stated, but it should still be calculated. Cynthia states that restaurants are allowed in Town and those calculations should be looked at. Cynthia talks about a retail calculation being used for the market. Gary states the market will primarily be open when the restaurant isn't. Cynthia states there could be an overlap during lunch time. Gary states the big concern is for people not to cross Route 22 in order to park across the street. Gary states the intersection is dangerous. Cynthia believes the Applicant may meet or come close to the parking requirements, but we all know how popular this restaurant is. Gary states he would rather have too many spots, rather than too little. Cynthia states that patrons are parking on New York City Department of Environmental Protection (NYCDEP) property that is leased to the school district. Cynthia states the parking in that area may be shut off one day. Cynthia asks if there is any way to cross the septic area, or come in from the other side? Mr. Solarik does not want to say for sure until looking at it more closely. Cynthia refers to the loading area and asks if there is access through the driveway that services it. Cynthia confirms that is still being used as a loading area. There is a discussion about employees parking there. Cynthia asks whether there are bollards near the propane tanks? Mr. Solarik states no, because no one is driving there. Cynthia states Mr. Solarik just mentioned this was a loading zone and trucks go through it. Mr. Solarik states the driveway doesn't go that far.

Mr. Solarik refers to a picket fence that is horizontal from the end of the building. Cynthia asks whether that is a new fence. Mr. Taylor believes the fence was on the 1995 Site Plan. Cynthia states it was not seen on the

HPC Plans. Cynthia asks Mr. Solarik to receive confirmation from the HPC. Gary states it might be a good idea to have something in front of the propane tanks. Cynthia refers to the fence and asks if there is any way to soften it a little. Mr. Solarik believes they can. Cynthia states the place looks absolutely lovely. Cynthia states the Board is very cognizant to the parking, and the drainage. Cynthia refers to the handicapped parking and asks whether that area will remain gravel. Mr. Solarik states yes, but it will be compacted. Cynthia states she attended an event at the restaurant where a wheel chair was not able to go over the gravel. There is a discussion about the handicapped parking area, and the location of the spaces. Will states that two spaces are required. The use of unilock is discussed. Gary states he knows what the rules are, but doesn't like to see two spaces for handicapped parking when they may not be utilized all the time. Will states the Applicant should look at the Zoning not just for the quantities of the parking, but also for the setback requirements relative to parking. Gary confirms the existing spots will not be paved. Mr. Taylor states they may add more gravel. Gary states he has no problem with it. Will refers to the footprint of disturbance and asks Mr. Solarik if he has a ballpark figure. Mr. Solarik states the current parking area is about 6,800 square feet, and the proposed parking is about 400 square feet. Mr. Solarik states that must be an error, the proposed parking should be 4,000 square feet. Mr. Solarik states it would be roughly 10,000 square feet, which was actually what was approved in 1995.

Cynthia states that a SWPPP will have to be prepared. The question is at what level. Will asks Mr. Solarik whether he has spoken with the New York City Department of Environmental Preservation (NYCDEP) since he is in the watershed. Mr. Liguori states they have to determine the amount of disturbance first. Will states the Applicant should be mindful of that. Will refers to the back building and asks whether Mr. Solarik is proposing any physical exterior changes, other than the windows and skylights? Mr. Solarik states no. Cynthia states the whole building is under the HPC. The point is they probably won't fuss too much, because it is the rear of the building, and not the original part. Mr. Solarik states that they received approval last November when they wanted to replace the windows on the entire building, but the windows were restored in the front of the restaurant. The windows in the back are twenty or thirty years old. Cynthia talks about the Applicant going to the HPC now. Cynthia states the HPC would need to consider the new platform for the cooler, as well as the windows.

Will did not see whether there was a State Permit. Cynthia states she will check the 1995 file.

Cynthia states the Board approved a new sign. The temporary white sign is still on the wall. Mr. Taylor states the new sign will be put up this weekend. Cynthia states the sign should be on the Amended Site Plan as well. Mr. Solarik points out where it is located on the Plan.

Cynthia refers to the exterior lighting and states the lights need to be on the Plan, as well as whether they are on timers or sensors. Cynthia states the lighting should be kept as low as possible, and directed downward. Cynthia states she would like to see bollards if the parking lot has to be lit. Gary states safety should be kept in mind.

Mr. Solarik states that going forward he will work on the Amended Site Plan. Will states that drainage testing should be the first order of business.

**5. Minutes:**

- June 13, 2012

**Chairwoman motions that the Planning Board Approve the Minutes for June 13, 2012. Gary Jacobi seconds. All in favor. No opposed.**

**6. Financial Report:**

- July, 2012

**Chairwoman motions that the Planning Board Approve the Financial Report for July, 2012. Gary Jacobi seconds. All in favor. No opposed.**

**7. Next Meetings:**

- Work Session – August 15, 2012 (yet to be confirmed)
- Regular Meeting – September 5, 2012

**8. Comments from the Chair:**

Cynthia states that we are going to have a Work Session this month and asks the Board whether they are available. Gary asks what the Board will be looking at. Cynthia refers to the Commons at Purdys Circulation for Lead Agency and states the thirty days will be up Thursday, August 17<sup>th</sup>. Cynthia states the next order of business will be to circulate their scoping and set a scoping date. Cynthia states we should have most of the lead agency returns in by August 14<sup>th</sup>, and asks Roland whether it is alright, on the assumption that by August 17<sup>th</sup> we are lead agency, to state at the August 15<sup>th</sup> Meeting that we would circulate the scoping outline and set the scoping date? Roland states he was not aware this was going forward. Roland thought that we were at odds with what they could do there. Cynthia states we are, but we circulated for lead agency. Roland states he knows, but why go forward any further with it until we come to terms with the zoning? Cynthia states their representatives have been calling her regularly to see when they will be on an Agenda, assuming everything is moving forward. Cynthia states she thought the talks with the Town Board were continuing. Roland states to his knowledge, there has been no contact with the Town Board. Roland states he was told to have a conversation with their attorney, which he did. Roland states the conversation didn't go particularly well. Roland states his conversation with their attorney ended with him saying they would try and get to the ZBA for an interpretation. Roland states that to his knowledge, that hasn't happened. Roland states the Applicant would need something from Bruce in order to go before the ZBA. Cynthia asks if that is what the Town Board wants to happen. Roland does not believe there has been further contact with the Town Board. Roland asked Supervisor Lucas at the last Town Board Meeting if he has been contacted by Barry Reisler, or Ken Kearney, and his response was no. Cynthia does not know what they are doing and states we have been inundated with phone calls from Insite Engineering. They thought they were on our Agenda tonight. Cynthia states that she let the contact at Insite Engineering know that the next step would be to circulate the scoping. Roland does not know how or why we would process an Application when we have a dispute over the zoning, until it is resolved. Cynthia didn't know that nothing has moved forward. Roland states that the Applicant's attorney was going to see whether he could get a letter from the Building Inspector in order to go before the ZBA for an interpretation. Cynthia asks Roland to let the Applicant's attorney know that the Planning Board is not going to go any further with SEQR. Roland states that when we went ahead and agreed to circulate for intent to be Planning Board Minutes – 080112

lead agency, it was with the understanding that they were at risk. They were taking a risk, and if we determined within the next several days after that, that we didn't think the zoning existed for them to do what they wanted to do, the project would fall by the way-side. Roland states that is his understanding. Robert states the Applicant has been back here since then. Roland states no, they have not been back here. Will states the Town Board Meeting was after that. Cynthia asks Roland to reinforce all of this with the Applicant's attorney. Will asks whether Bruce would be in a position to write something. Roland states he is sure Bruce would have been in contact with us if he received a request from the Applicant. Will states that is not what he is talking about. Does Bruce have the ability to write something? Will asks what Bruce would be denying? Roland states the Applicant would come to Bruce and request an opinion on zoning. Will states Bruce's opinion would be what is appealed. Roland assumes Bruce would state what we have stated and that would be grounds to go to the ZBA. Cynthia states that Bruce may not have been part of the Town Board's discussion, so he probably needs to be brought up on it. Roland states he is sure we would know if Bruce were contacted. Will states that it might be a good idea to contact Bruce so he knows what might be coming. Cynthia states that as soon as Roland reinforces the status with the Applicant's attorney, something will happen.

Cynthia states that Highgate/Woodlands may be on the August 15<sup>th</sup> Meeting, assuming that they are going to take the final steps. Cynthia states they are close to having a complete EIS which will be circulated. Cynthia states she circulated the Town Board Resolution to the Planning Board to make them aware that a circulation will be taking place, and a Public Hearing may be set for September. Cynthia states when Mr. Lukashok passed away, his son-in-law Michael Plottel started to run the Application. Cynthia stated to Mr. Plottel that since the Planning Board has been out of this process for so long, it would be helpful for them to be brought up to speed, and have a presentation on the Project.

Cynthia states we will have the Tree Ordinance back on for a discussion on August 15<sup>th</sup>. Cynthia states that the fill portion is done. She has not sent it to the Town Board because the Planning Board needs to discuss the tree cutting portion of it. Cynthia states this is something the Board started, and is halfway into it. Cynthia asks the Board to pull out their last version. Gary states he would love to add a fine for anyone who does not comply. Cynthia thanks Gary for bringing that up. Cynthia states that she and Will will be meeting with Bruce the first Wednesday of each month just to get a check on how everything is going, why items are coming to the Board that are a little bit fuzzy, as well as why some items require Building Permits and some do not. Cynthia states she mentioned to Bruce that two of the people who could not be with us tonight for the McCarthy Public Hearing wanted to know whether Mr. McCarthy was fined. Cynthia stated to them that is not a question for the Planning Board, it would be a question for the Building Inspector. Cynthia states she asked Bruce whether there was a fine and he stated no. Cynthia asked Bruce for an explanation as to why he isn't taking that next step. Bruce stated to Cynthia that it is a tremendous amount of work for his department to put together the paperwork and depositions in order to bring people to court. Bruce stated to Cynthia that the fines are minimal, and it is not worth it. Roland states he doesn't know what the fines are, but even if the maximum is \$1,000, historically, the judges don't issue big fines. The Board talks about they have rules in the first place. Cynthia stated that Bruce mentioned to her the punishment was having the Applicant's come to the Planning Board. Cynthia states she told Bruce that the Applicant would have been going through the process and paying all of the fees. Gary asks if there is some way to put in a big fine amount.

## **9. Resolution:**

**Chairwoman motions that the Planning Board goes into Executive Session. Charlotte Harris seconds. All in favor. No opposed.**

**10. Resolution:**

**Chairwoman motions that the Planning Board go back into the Regular Meeting. Charlotte Harris seconds. All in favor. No opposed.**

**11. Resolution:**

**Cynthia Curtis Gary Jacobi motions to adjourn the Planning Board Meeting. Charlotte Harris seconds. All in favor. No opposed.**