

area calculations, based on the requirements, the 6 inch drain pipe in the back covers a small area. Cynthia confirms Mr. Nixon is fairly confident, given the calculations, this will not trigger changes. Will refers to No. 6 in the Report from the Town Engineer regarding the standard 2 feet of cover not being provided. Mr. Nixon states he will provide that information.

Cynthia states the other area of concern is that when the Application was first filed, it was stated that approval from the Westchester County Department of Health (WCDOH) would be required. Cynthia asks Mr. Nixon if that is the case and has he spoken with the WCDOH because the Planning Board has not made the referral, but they will if it will be triggered. Mr. Nixon states it may not necessarily be required, based on the fact that the septic system is designed for a higher occupancy than what they currently have, or what is being proposed. Cynthia asks Mr. Nixon to submit something in writing that explains his understanding of what the current WCDOH approval is, and what it was approved for, and whether the current proposal for the additional seating will trigger anything. Cynthia suggests Mr. Nixon speak with the Building Inspector too. Cynthia talks about the Board doing a referral at this point, based on the seating count because there are no calculations to back it up. Will refers to the increase in seating and whether or not that changes anything with the septic. Will does not know what the County regulations would be. The theatre has been there as is for a while. Lee Pope states she understood that there were approximately 280 children attending the school at one point in time. Cynthia states this is the kind of information the Board would need to determine whether the additional seats will trigger WCDOH approval. Cynthia states that Mr. Nixon had mentioned this on the EAF Form. Cynthia talks about receiving information to back up that statement. If it is not the case, then Mr. Nixon should explain what his understanding of what the current approval provides for.

Cynthia talks about the referral to the Fire Commissioners and asks Dawn whether there is an extra set of Plans in the Planning Board Office. Dawn states she will take a look tomorrow. Cynthia lets Mr. Nixon know that Dawn will contact him if an extra set is needed.

Cynthia states that because of the discussions tonight, the Board will not be considering a Resolution of Approval at this Meeting. Cynthia states the Applicant is almost there. The Board needs to receive responses from Mr. Nixon on the two memos he received tonight, particularly the drainage calculations, as well as the WCDOH issue. Cynthia states she will make a referral to the Fire Commissioners asking them to get back to the Board before the next Regular Meeting on October 3rd. The Board could consider closing the Public Hearing and voting on a Draft Resolution at that Meeting. Cynthia states that when preparing the Agenda for tonight's Meeting last week, she had hoped the Board would be in a position to move forward at this Meeting, but some of the issues raised by the Town Engineer have set the Project back slightly. Will states he has drafted the beginning of the Resolution and will fill in the information needed as soon as Mr. Nixon supplies his responses. Cynthia lets Mr. Nixon know that he shouldn't hesitate to contact her if he has any questions. Cynthia asks the Board whether Frank Annunziata may be contacted if needed to resolve some of these issues. The Board agrees.

Ms. Pope asks whether they may proceed with the work on the restrooms if they have a Permit from the Building Inspector. Cynthia states she does not believe the restrooms affect what the Planning Board is doing with the Site Plan. Will states that he believes this has been discussed before. As long as the Applicant is doing something within a Building Permit inside, there is no reason to think there will not be an approval.

Cynthia refers to the lighting in the back in terms of the height of the new poles and asks how that will affect the neighbors in the back and whether the poles be above the neighbor's ground level. Cynthia states she believes that eight foot poles are proposed. Mr. Nixon states the poles are eight foot and the level of the light would be two feet above the grade of the neighbor's property. Cynthia asks whether any of the downward lighting will extend onto the neighbor's property. Cynthia refers to the two foot retaining wall in terms of having low bollards, or lighting on top of the wall. Cynthia states she is trying to keep light off the neighbor's

property. Mr. Nixon states he understands. He believes a few more bollards may be needed. Bret Puchir , one of the neighbors is here tonight. Cynthia asks Mr. Puchir if he is concerned about the light spilling onto his property. Mr. Puchir states he looks at it every day. The hill is very steep. Mr. Puchir refers to the landscaping proposal and is not sure whether it has been discussed already tonight. Mr. Puchir states that as long as the plantings are tall and block the light, there shouldn't be a problem. Mr. Puchir states the bushes that are there now are shorter than he is. Mr. Puchir states that if eight foot trees are planted there shouldn't be a size problem. Mr. Nixon states that a change has been made to the Plans since the last discussion. Mr. Nixon states they are proposing to plant trees in the rear area which will vary in size. Will asks what the species of the trees are. Mr. Nixon states they are proposing Blue Spruce and Pear Trees. Will confirms the Pear Trees will be on the end and the Spruce Trees will be on the hill. Will refers to the light fixtures and asks whether the eight feet would be the top or bottom of the fixture. Mr. Nixon states it would be the bottom of the fixture. Mr. Puchir asks how large the Spruce Trees are proposed to be. Mr. Nixon states five to six feet. Mr. Puchir asks approximately how much the Spruce Trees will grow each year. Will states they grow slow. Will talks about the trees being planted on top of the grade, and at five to six feet, they will be up higher than the base of the light. Will states there are only two lights, and if the fixtures are changed the way he suggested, there should not be any horizontal light. Mr. Nixon states he had an error on his Plan which he has now revised. Cynthia states that she doesn't have a problem as long as the modification that Will has suggested is adhered to. Cynthia confirms the lights will be on timers and will be turned off half an hour after closing. Will asks whether there are lights on the back of the building. Mr. Nixon states there are standard flood lights such as many people have on their houses. Will asks Mr. Nixon whether those four lights are needed, as opposed to just having the two lights in the middle. Will states he would rather see the two lights listed and have the Applicant come back after a year or two and go through a simple process to add more if needed. Will does not recommend listing the word "optional" on the Plan. Cynthia states the Board understands that people have to get to their cars safely, but the Board would prefer to keep the lights at a minimum since the property is in a residential area. Mr. Puchir asks whether the planting materials will grow like trees. He has a concern that he will be looking at a lot of bark. He worries the trees will get tall, and he will lose the coverage. Will states that Blue Spruce trees grow slow and full. It will be like planting Christmas trees. Cynthia states that if Mr. Puchir has a view, he will not have a view anymore. There will be a solid wall.

Cynthia states the Public Hearing will be held over to the October 3rd Meeting.

**3. Hilltop Stables, LLC: Scott Blakely (owner – Hilltop Stables, LLC)
Site Development Plan (location – 39 Hilltop Drive)**

- Discussion of Proposed Application

Cynthia states that similar to the New York State Electric and Gas (NYSEG) Site Plan that the Board did last year, this Project involves two Applications running concurrently. A Special Use Permit of the Town Board and a Site Plan with the Planning Board. We will try to run this together and coordinate the review, and may have a Joint Public Hearing at the appropriate time, with the Planning Board taking the lead under SEQR. Cynthia states at the last Town Board Meeting all they did was accept the Application and refer it back to us for a Report back to them with the request that Will at MDRA review it for completeness. Cynthia states she did not ask Will to prepare a Report for tonight because given the nature of the proposal, the Board wanted the Applicant's Representative to come in and provide them with an overview. Cynthia states that the Board has a few questions as to how this is really going to work in the proposed neighborhood.

Michael Sirignano states he is the Attorney for the Owner/Applicant. Mr. Sirignano states that Scott Blakely is here with him tonight from Insite Engineering, the engineering firm for the Project. Mr. Sirignano states this proposal pertains to property at Hilltop Drive. It is a 33+ acre property with an existing home, horse barn,

garage, and accessory structure for a caretaker. The Owner/Applicant wishes to and are proposing to operate a not-for-profit, charitable animal shelter for dogs. This is a permitted use as a Special Permit in this Zone, under the Code. It is a Special Use issued not by this Board, but by the Town Board. We have made Application to the Town Board. The other component of this is a Site Plan review which is before the Planning Board. We filed the Applications jointly and would like to run them concurrently. Mr. Sirignano states that even though it is a permitted Use under the Ordinance, and the maximum number of dogs they are proposing is 50, and well below what 33 acres under the Code and the formula in the Code would allow, their client is still very sensitive to the fact that there are residential neighbors on the west side of the property. We have taken very careful steps in planning and designing this to minimize any potential impacts on the neighbors. We want to be good neighbors, and do not want to disturb anyone. Mr. Sirignano states along those lines, he will turn the floor over to Mr. Blakely in a few minutes who will describe the Plan in more detail. Mr. Sirignano states they are proposing to utilize the existing barn and garage to house the dogs. The dogs will never be outside unattended. We are proposing to utilize areas that have previously been used as paddocks where the dogs will be exercised and trained. There is a small for-profit component here in order to attract a high-quality expert in dog training and grooming. We have a husband and wife team who will need to have some ability, on a limited basis, to do private dog training. As to the majority of the operation, is the not-for-profit, this would be a temporary, limited duration opportunity for dog owners who, because of difficult financial circumstances, cannot maintain their pets. This will help the owners through the hard times, and provide very good care to their pets. Mr. Sirignano states there will be a limit of somewhere between 30 and 90 days allowed for any given dog to be on the premises. The dog owners will not be driving on and off the premises with any regularity what so ever. In most cases, they won't be coming to the premises. We want to be sensitive to the neighbors and the neighborhood. We don't want to generate traffic that is out of character with regulations.

Cynthia states that the Ordinance allows for animal kennels, which is a building, structure, or premises in which domestic animals other than horses are kept, boarded, or trained. Cynthia states she read something in the proposal about the grooming of dogs. Cynthia would like to know if the grooming and training will only be for the dogs that are to be boarded, or is this going to be an operation where someone may call up and make an appointment to have their dog groomed or trained. Mr. Sirignano states the grooming will be a component of the services provided to dogs that are being cared for temporarily on the site. Cynthia confirms the grooming will only be for the dogs being boarded. Charlotte states that Mr. Sirignano mentioned the training will be allowed for outside dogs. Cynthia asks what the for-profit element would be. Mr. Sirignano states that dog owners who want their dog trained will make an appointment to drop off their dog for one to two weeks. The owners will come back and pick up a trained dog. Cynthia confirms the training will not be for the dog owner and dog together. Mr. Sirignano states the dogs being trained will be groomed while they are in their care. Will asks if someone would be able to bring their dog there just for grooming. Mr. Sirignano states no. Mr. Sirignano states the shelter dogs will be transported onto the premises not by their owners, but by other charitable organizations that help out in this type of a situation. When the dogs are ready to leave, they will not be taken off the premises by their owners, but by the intermediaries.

Cynthia refers to the buildings where the dogs will be housed and asks whether they will be upgraded or retrofitted so they are heated and soundproofed, or used as is. Mr. Sirignano states they do not expect major structural modifications. They are proposing to utilize existing buildings. Cynthia states one of them is a metal building. Mr. Sirignano states one is a metal garage, and one is a very substantial horse barn. Mr. Sirignano states the dogs themselves will be maintained in crates inside the buildings. We will not be creating any fixed stalls. The cages will be portable. In terms of soundproofing, we could certainly do that if it becomes a problem, but we do not anticipate it to be a problem. Cynthia asks whether, except for a little exercise outside, will the dogs will be in crates all day? Mr. Sirignano states no. He will let Mr. Blakely describe the proposal and states they are proposing to make an enclosure around the existing cluster of buildings that are there, and have a court yard area where the dogs may go during the day. Mr. Sirignano

states the dogs will never be left out unsupervised; so if a dog feels like barking it is going to be dealt with. Mr. Sirignano states that noise will be very much of a concern for the staff onsite and they will deal with that.

Mr. Blakely starts to refer to several of the Plans he brought with him tonight. Cynthia tells Mr. Blakely that he should just be talking to the Board as this is not a Public Hearing. We are not at that point with the Plan.

Mr. Blakely refers to the Plan and shows where the access to the property will be off Hilltop Drive. Mr. Blakely states they also have frontage in another area on Hilltop Drive. Mr. Blakely shows where Titicus Road is located. Mr. Blakely shows where the existing gravel drive will be maintained, and where the existing residence is located. Mr. Blakely states the husband and wife that will be running the operation will be living in the residence. Mr. Blakely shows the location of the existing barn structure on a larger Plan. Mr. Blakely states the barn is two stories, and has a foot print of approximately 2,100 square feet. There are five existing horse stalls inside. The existing garage is a little over 850 square feet. Mr. Blakely shows where the proposed gravel parking area will have two spaces for the caretaker that won't be associated with the operation. Mr. Blakely shows where the staff will park. Mr. Blakely states there is an existing gravel access road that comes around the barn, garage, and caretakers cottage that leads to the remaining portion of the property. Mr. Blakely shows on the Plan where the proposal is to fence the compound on its perimeter with access gates for vehicles. There will be a number of gates for people to utilize. Mr. Blakely shows the proposed courtyard area and states they are proposing to fence in areas to give the dogs an area to run, facing the open field area. Mr. Blakely shows an area on the Plan that will be used for circulation. Mr. Blakely shows the existing paddock area and states it will be used for dog training. There are two existing paddocks with post and board fencing. We will be removing the fencing and replacing it with a flat-footed vinyl chain link fence. There are additional board fences in other areas that will be removed. Mr. Blakely shows an existing manure pad that will be utilized for removal of manure from the dogs that will be carted off site. Mr. Blakely shows an existing shed that will remain as storage. They are proposing a continuation of the dense evergreen plantings along the property line.

Mr. Sirignano asks Mr. Blakely to show on the Plan the change in grade to the west of the existing barn in reference to the neighbors. Mr. Blakely states the barn is located approximately 75 feet off the property line. The exercise or training area is 100 feet from the property line. The closest residences are roughly 200 feet off the rear property line. There is a grade change of approximately 50 feet down to the bottom area. Mr. Blakely states the existing evergreens are somewhere between the 15 to 20 foot range. We are proposing to plant 14 to 16 foot evergreens as a buffer. Cynthia states they will be a visual barrier, but to her knowledge they won't be a sound barrier. Mr. Blakely states they will provide somewhat of a sound barrier.

Cynthia refers to the people who will be running the operation and asks whether they will be coming in at any point to explain how they train the dogs, and how they are going to control barking dogs. Mr. Blakely states they will, but were not available tonight. Mr. Blakely states they put together the operational plan that was submitted.

Cynthia asks if the proposed location is the only space available. What about the big horse rink down below? Is that available for this operation? It is much further away from the homes. Cynthia is not sure whether it will help sound-wise. It seems as if a fair amount of the operation will be right along the neighbor's property lines. Mr. Sirignano states that there are no buildings down there. They are trying to utilize existing structures rather than create new facilities. Cynthia states the rink is big, why can't the dog training be down there? Charlotte states that will not be the noise component, it will be the dogs living in the crates that will bark. Cynthia would like to see information as to how the buildings will be sound-proofed and mentions the Applicant providing the Board with examples of other facilities that they may visit, so they may talk to the neighbors.

Roland asks if there is a requirement that the owner of the property live on the property. Cynthia states the owner does live down closer to Titicus Road, but not on this lot. Roland asks if there is anything in the Code about this. Cynthia does not think so and states it is not the owner's operation; it is someone else's operation. Roland states he was thinking of it as a home occupation, but it's not. Cynthia states it is a Special Use Permit of the Town Board as a kennel. Mr. Sirignano states the Code does not speak specifically to noise, but it does talk about a formula to be based on the number of dogs, which they are well within. Mr. Sirignano states they will certainly look into the sound-proofing options for the existing buildings. Mr. Sirignano states, as he started out tonight saying, they do not want to impose on the Use and the Zoning of our neighbor's properties, but are also trying to do something good. Cynthia states that on the surface, the proposal may sound wonderful, but we don't know if this Site is really appropriate. Cynthia states in addition to the amount of dogs allowed per square foot, the Zoning refers to the Town Board considering the number, size, breed and temperament of animals to be sheltered and impose reasonable conditions to protect approximate uses, aesthetic impacts and safety of the animals sheltered in order to insure the health, safety and general welfare of the community. The Zoning also states that no run shall be less than 100 feet from any lot line, and no dogs shall be permitted in runs before 8:00 a.m., or after dark. Will states the issue of noise will come into play in the general standards of the Special Permit, Site Plan Approval and SEQ. Roland asks Mr. Sirignano whether he computed how many dogs they could have under the Code. Mr. Sirignano states no. They do not know what the size of the dogs will be. Will states if they had 50 dogs at approximately 100 pounds they would only need 11 ½ acres. Roland asks how many acres the property is. Mr. Sirignano states approximately 33 acres. Mr. Sirignano states there is the potential for 150 dogs. They do not want to have anywhere near that amount. Cynthia states for the Town Board to follow the Town Standards they would have to know the size, breed, and temperament of the animals to be sheltered. Mr. Sirignano reads that as to be what type of animal, as opposed to be what type of dog. They want to know whether we are housing lamas or dogs. Will states it would be anything other than horses. Charlotte states the sound-proofing will be hard unless the Applicant comes up with an elaborate ventilation system. If the windows are open, whatever sound-proofing that is done within a building will not do any good. Cynthia states that one barking dog can disturb an entire neighborhood. Charlotte states it is a cool idea, but she is worried about the barking considering all of the neighbors up and down Hilltop Drive. Cynthia states it is not only the immediate neighbors, as we know, sound travels. If one dog starts to bark, they all will. Mr. Sirignano states there is a 40 or 50 foot difference in elevation which may help. Mr. Sirignano states that Mr. Blakely will look into the noise issue. Cynthia asks for examples of other facilities. Cynthia states she has been to the Elmsford Animal Shelter. The animals are all in cages outside. During the day, they generally are not barking because the workers are there. Cynthia is not sure what will happen once the place closes at night. Mr. Sirignano states the facility will never be unattended. Cynthia states that you just never know what a dog might do, especially when putting strange dogs next to each other. If it is a shelter where dogs are there for six months or a year, the dogs get used to the dogs next to each other. This proposal sounds like it will have a constant turnover. Will states that dogs bark no matter what. Mr. Sirignano talks about having a limited period of time as an initial run, and maybe coming back in a year or two to talk about how everything is working out. Cynthia states that the Applicant may want to not only look at a limited period of time, but also a lesser number of dogs to see how that will work. Cynthia does not know how the Town Board feels. Cynthia talks about not a maximum of 50, but a maximum of something much less than that. See how it goes for six months or a year and then consider whether or not it could be increased. Mr. Sirignano states they could do that. They didn't want to be accused of not being upfront with the Boards. They are not confident or sure they will get 50 dogs in the first year or two. They didn't want to ask for 25 dogs and then come back six months later asking for another 25. They didn't think that would be fair to the neighbors, or being straight with the Board. We would certainly consider maybe a lesser number for year and then revisit it and see how we are doing with the neighbors.

Will asks whether the Applicant has reviewed or discussed the County requirements with them. Mr. Blakely states they have not. Will states there are certain items that have to be done with regards to kennels and

shelters. Will states mostly it is about the health of the animals, but it may also deal with the way the shelter is planned. Mr. Blakely states his office has not been in touch with the County and is not sure whether the people who are going to run the shelter have. Mr. Sirignano states he knows they have looked into complying with all the health requirements in terms of vaccinations.

Cynthia would like to have a better understanding of how the interior of the buildings will work and asks whether all the dogs will see each other, or whether they be separated. Cynthia asks whether the grooming area will be in the middle. Cynthia states she doesn't know too much about dogs. She owns one and that is it. It seems to her that the more the dogs are separated, and not interacting, there may be a better handle on the noise issue. Mr. Sirignano states the partitions in the horse barn will remain, so there will be visual blocks. There is a discussion about how many cages will be in each horse stall. The Board would like to see floor plans. Cynthia confirms that the barn and garage will be used to house the dogs. Bernard asks how many people will be there to attend to the dogs. Mr. Sirignano states that will depend on the number of dogs. The husband and wife couple will always be there. The ratio is discussed. Mr. Blakely states the operational plan lists one person per five dogs. Bernard asks how many people will be in attendance overnight. Mr. Blakely will look into it.

Mr. Sirignano invites the Board and neighbors to do a Site Visit earlier in the process than later. There is discussion about having a Site Visit with both the Town Board and Planning Board. The Board talks about setting up something on a Saturday morning. Cynthia asks Dawn to send out an e-mail to both Boards.

Cynthia states the Planning Board is supposed to turn around a Report to the Town Board and talks about discussing this again at the next Work Session on September 19th in order to have something over to the Town Board by the end of the month. Cynthia asks the Applicant how quickly they will be able to get the additional information discussed tonight to the Board. Mr. Blakely states they will try to turn it around as quickly as they can. Cynthia states the Board will be meeting in two weeks. It would be helpful for them to have the documentation before the Meeting, or it may be pushed over to the October 3rd Meeting. Cynthia states that loud and clear the biggest issue will be noise, without question. Cynthia asks the Board whether they would like any other additional information. Cynthia suggests a conversation be held with the Building Inspector as to how he interprets animal kennels and whether or not it includes grooming. Will states a grooming business is different than the dogs being groomed that are in the shelter. Cynthia states Will is going to prepare a Review Memo on the Site Plan aspects of it, as well as a Memo for the Board to consider in their recommendation to the Town Board.

Mr. Sirignano states that if any of the neighbors have questions, they may call him or Mr. Blakely to address any concerns.

Cynthia asks Will for a quick overview as far as how the SEQR will run. Will states a Full EAF has been provided, but it hasn't been reviewed. At some point a declaration of the intent to be lead agency should be done. That will be the first step. The second step will be the completion review along with starting the analysis under SEQR. Cynthia asks if the Board should do that tonight. Will states we haven't reviewed the Plans. We would be circulating a Plan with a Declaration. The Board has to decide whether they want to do that after the review. Cynthia states no, she doesn't want to do that after the review. There is discussion about possibly considering intent to be lead agency at the Work Session on September 19th.

Cynthia states she is going to do something she doesn't normally do, but since there are so many people here from Hilltop Drive, she asks if there is anyone here tonight who has an issue that has not already been raised.

A resident refers to the Foundational Operational Plan proposed use for the property where it states "In order to provide these services, the Vallejos politely requests permission to conduct the following for profit

operations on the Hilltop Lane property”. The resident states that training and grooming are listed as onsite activities. Cynthia asks Mr. Sirignano to explain what is meant by that as opposed to the not-for-profit aspect. Mr. Sirignano states that Kristen Vallejo is a professional trainer. She will take private clients who will leave their dogs for one to three weeks. She will care for them, groom them, and train them. Hopefully the owners will have a better behaved dog. Cynthia states she clarified earlier that this is not training for both the owners and the dogs. Charlotte confirms the only grooming will be for the dogs that are being boarded.

A resident refers to the Foundational Operational Plan where it states “Robert is a professional dog groomer who takes private appointments only: no advertising, and no high volume. His expertise in the physical care of animals will be important to the maintenance of the shelter animals as well.” Cynthia states she read that as well, and that is why she specifically asked Mr. Sirignano to confirm with his client that we are not talking about a daily basis of people coming and going. Mr. Sirignano states that anything of that nature will be done off premises.

A resident states he heard this property is zoned for this Use and asks if that is true. Cynthia states yes. The resident asks if this requires an approval. Cynthia states it is a Special Use Permit of the Town Board. The resident asks if someone has to approve it to happen. The resident asks if every 10 acre property may have a kennel. Will states they may apply for it, but they would have to get approval from the Town Board and the Planning Board. Roland states it is a Special Use Permit which means it is a permitted Use subject to some additional special criteria, which, if the Applicant meets, may qualify for a Permit. The resident asks again if everyone in Town that owns 10 acres may open up a kennel. Roland states only if they meet the criteria. The resident asks if the Site may be moved east down the hill because that is where the owner of the property lives. Cynthia states she did ask that question and we will wait to hear back as to whether part of this may be moved down.

Cynthia states as this Application evolves at some point we will put it up for a Public Hearing. The paperwork may change from what we have already seen. We may be discussing this again in a couple of weeks at our Work Session. It will also be on a Town Board Agenda at some point. Cynthia states that interested parties should follow both Boards. The Town Board does the Special Use Permit, and the Planning Board does the Site Development Review. Cynthia states if the neighbors think of something else, don’t hesitate to e-mail Dawn Onufrik or herself, or call us at the office. Cynthia states we will try to get your comments and concerns as part of the record, especially when a Public Hearing begins.

4. Restaurant 121: Ken Siegel (owner – Michele Savino)
Site Development Plan Waiver (location – 1 Dingle Ridge Road)

- Consider Waiver of Site Plan

Cynthia states this is a Site that to the best of her knowledge has never had a Site Plan Approval. Cynthia states that most of us know the Site has had a restaurant on it which pre-dates this Zoning Ordinance, and may pre-date Zoning in general. Cynthia states the current proposal is pretty minor in nature. Cynthia states she did draft a Resolution and is glad Mr. Siegel is here tonight because she needs one item clarified. Cynthia refers to the Site Plan being on a corner lot. Cynthia shows on the Plan where the Building Inspector did make a determination that there are two front yards. Mr. Siegel states that in this case, there will be no rear yard, there will be two fronts and two sides. Cynthia shows on the Plan where the fencing is being proposed and states it is on a separate detail Plan. Cynthia states the fencing will be utilized to screen the cooler. Cynthia states the fencing is proposed to be 6 ½ feet tall, and unfortunately a little bit of it protrudes into the front yard. Cynthia states the Board has to send Mr. Siegel over to the Zoning Board of Appeals (ZBA) for an approximate one foot Variance. Mr. Siegel states it is more than a foot, probably the first segment of the fence. It is critical for screening. Mr. Siegel states the portion of the fence that is non-compliant with front

yard setback is above four feet and in the front yard setback. Cynthia states the color of the fence was not specified. Mr. Siegel states the fence will be white. Cynthia states the color has to be added to the Plan. Cynthia refers to the decorative lighting that is being proposed and shows where that will be located. Cynthia asks Mr. Siegel if the lighting will come all the way down, or just be in the back. Mr. Siegel states Mrs. Savino has requested accent mood lighting, which would be very low towards the ground. Mr. Siegel talks about the stone wall in the back, as well as the stockade fence in terms of lighting. Mr. Siegel states there is no plan for there to be lighting on the left side at all, only in the back. There is nothing to attach it to, and it would get run over by cars.

Cynthia states she drafted a Resolution which the Board received this afternoon. Cynthia states the approval is conditioned upon the Applicant receiving the Variance, as well as making a couple of changes to the Site Plan. Cynthia refers to the patio and confirms with Mr. Siegel that it is just being fixed. Mr. Siegel states that Bruce Thompson is looking at the history of the existing patio use and how long the prior restaurant used it. Mr. Siegel states he has been living here for twelve years, and the patio has always been there. Mr. Siegel states that when Mrs. Savino purchased the building, it was used for many years. Mr. Siegel states that Mr. Thompson is going to look back as far as he can and if he determines it was used for outdoor dining way back then, it can still be used for outdoor dining. If this determination is made, repairing the patio does not have a Permit requirement. Cynthia states that the outdoor dining came under this Ordinance after the front porch. That could open up a Pandora's box as to how it got there and what is it doing there. Mr. Siegel confirms it is not a part of this Site Plan. Cynthia states that right now, this Application is just in regards to the fence.

Cynthia asks the Board whether they are comfortable with a Waiver of Site Plan for the addition of the fence, and the lighting across the back wall. The Board states they are. Cynthia asks if the Board had a chance to read the Draft Resolution. The Board states they have. Cynthia talks about making modifications to the Draft.

Gary Jacobi motions that the Planning Board Adopt the Draft Resolution of Site Development Plan Waiver, as Amended, and Conditioned Upon Receipt of a Size Variance from the ZBA. Charlotte Harris seconds.

After the motion, Bernard asks where this Application goes from here. Cynthia states the approval is conditioned upon the Applicant going to the ZBA due to the height of the fence. Bernard asks whether there is anything else for this Board to do. Cynthia states the ZBA will receive a copy of the adopted Resolution which is a positive recommendation.

**5. Total Energy: Tim Allen (owner – APC Group, LLC)
Amended Site Development Plan (location – 4 & 2 Hardscrabble Road)**

- Consider Report From Planning Consultant
- Consider Draft Resolution of Approval

Cynthia states the only item we are waiting for is the Draft Legal Instrument. Tim Allen is here tonight to represent the Applicant. Mr. Allen states that Don Rossi is finalizing it. Mr. Allen will get the Draft over to Roland for his review. Cynthia requests Mr. Allen forward a copy to Dawn.

Mr. Allen refers to Page 9 of 14 in the Draft Resolution in regards to the requirement of establishing an escrow in order to take the shed down and take away the driveway. Mr. Allen states that is his only concern. Gary, Bernard and Charlotte do not have a problem with that. Will states the reference to the Town Engineer will have to be taken out and replaced with the Building Inspector. Cynthia agrees also. Mr. Allen states he does not think it is necessary to have an escrow, as there will be no post-construction work. Will asks how the Town Engineer gets paid when dealing with SWPPP issues. Cynthia states that Bruce will take an escrow for the stormwater portion. The escrow is discussed. Will states if there was an escrow, either the Wetlands

Inspector or Town Engineer, would generate a bill when asked to do something in regards to the inspections. That is where the money would come from. Gary asks whether a bill would be rendered. Cynthia states yes. Gary asks how the owner finds out how his money has been spent. Cynthia states that Dawn bills them. Will states that invoices are submitted. Will wants to make sure that Bruce will do everything. Will states he will make the modifications to the Draft Resolution.

Chairwoman motions that the Planning Board Approve the Freshwater Wetland Permit, Stormwater Management and Erosion and Sediment Control and Site Development Plan Draft Resolution, as Modified, for Total Energy. Bernard Sweeney seconds. All in favor. No opposed.

6. Comments from the Chair:

Mr. Allen asks if he may give the Board an update on the McCarthy Project even though it is not on the Agenda. The Board agrees. Mr. Allen states that Mr. McCarthy has spoken with Mr. & Mrs. Good. Mr. McCarthy has agreed to monetarily take care of the trees that were taken down. Mr. Allen states that re-planting will not take place on Mr. & Mrs. Good's property. Mr. Allen states when looking at it in the field, it was determined some of the plantings would not take.

Mr. Allen states they would like to be able to plant this year and asks if this Project could be put back on the Work Session in a few weeks. Cynthia states the Board was waiting for a submittal to show the change to the plantings behind the house. Mr. Allen states he will have that documentation in tomorrow.

Gary asks if the Board is going to issue a Permit for the planting of trees. Charlotte states trees were cut down. Gary states he knows that, but the Board didn't give him a Permit to cut down the trees, so what are we giving him a Permit to do? Will states the Board is being requested to issue a Retro Permit for the trees that were already cut. Gary states forget about the part about taking the trees down, and asks whether the Board will be giving a Permit to plant trees. Will states the Board is giving a Retro Permit for the trees that were taken down, and the planting of trees. Cynthia talks about the Site being restored and stabilized. Gary asks if a fine was ever pursued and will Bruce take any action. Cynthia states yes, there is a court date. Gary asks when it is. Mr. Allen states sometime in September, he is not sure when. Will states the court date has been postponed. Gary asks if it has been postponed so that the Applicant may get in front of this Board to get a Permit. Cynthia states no, it has been postponed because court isn't meeting on September 10th. Gary does not want to issue a Permit until after the court hearing takes place. Cynthia does not know whether the Board may do that. Gary states all we have to do is turn the Permit request down. Cynthia states the Board has to act within a certain timeframe, and follow certain procedures. Cynthia states that Roland is here with us tonight. Cynthia states that at the close of a Public Hearing the Board is supposed to take action within a certain period of time. Roland talks about there being a violation on the property and states there is a stay unless the Town Board grants a Waiver. Cynthia asks if another Waiver has to be obtained. Roland states if the Applicant wants to try and do that he could. Roland states at this point in time the Planning Board does not have to act until the violation has been disposed of. Will states he thought an extension was granted. Cynthia states a Waiver of the APRL was issued for three months. Cynthia states now the Applicant has a summons. Cynthia states the Board should keep in mind that we are getting to a point where it would be more beneficial to get this area finished and stabilized rather than to drag this Project out. Gary states he disagrees. Charlotte states the neighbors want it rectified. Gary states he is not worried about this case, he is worried about the precedent that is sets when someone has to ask for a Permit to plant trees. Charlotte states the Permit is for the cutting of trees. Gary states the Applicant isn't asking for a Permit to cut trees. Charlotte states yes he is. Gary states the trees have been cut. Charlotte states it is a Retro Permit, which is getting a Permit for what he should have received a Permit for before he cut the trees. Gary states if this Application comes before him before the court hearing date, he would vote against granting a Permit.

Cynthia states the next Regular Meeting is the first Wednesday in October. We will see whether or not the court date has taken place. Roland asks when the court date is scheduled for. Cynthia states it was supposed to be September 10th, but Bruce has stated it has been adjourned. Cynthia states maybe it has been adjourned for only one week. Roland states if the Applicant comes in and pleads guilty, it will be disposed of in one night. Gary would like to hear the outcome, and what the fine is. Mr. Allen asks if there will be a Work Session in September. Cynthia states there is, but the Board doesn't usually take regular items on a Work Session Agenda. Mr. Allen talks about making a submittal so the Board may review them and maybe take action at the first Meeting in October. Cynthia states next Wednesday is the deadline date for the October 3rd Meeting. Cynthia talks about finding out when court is scheduled and whether the Applicant has to go back to the Town Board to request another Waiver. Roland states if the court hearing is disposed of that night, then both the summons and violation will be disposed of, so there may not be a need for another Waiver. Roland states if the Applicant pleads not guilty, the court would have to set a hearing. Will asks if the Applicant would have to pay that night. Roland is not sure. Roland states the fine is at the discretion of the Judge. Gary asks what we are asking for. Roland states we are asking for the maximum the Code provides for. Cynthia states she believes the maximum is \$350.00. Gary asks the \$350.00 would be per tree. Cynthia states no, per violation. Gary asks if the violation could be written so there would be a penalty issued for each tree. Roland states no. Cynthia states that as the Board reviews the Tree Ordinance, they will have discussions with the Town Attorney about changing the violation section. Cynthia states the Board will be reviewing the Tree Ordinance in two weeks. Gary asks whether any planting will take place on the neighbor's land. Mr. Allen states no, that is the agreement. Cynthia states she will ask Bruce to keep us posted on what happens with the violation.

Cynthia states the Board will be continuing their discussion of the Tree Slashing Ordinance at the September 19th Work Session. Cynthia states it is her hope that the Board will complete their review that night. Cynthia states if the Board has comments on any modifications, please e-mail them so that Will may consider them before the next Meeting. Gary requests another copy of the latest Draft. Cynthia asks Dawn to recirculate the first Draft. Gary asks Roland if we could put language in the Ordinance so as if someone cuts a tree without a Permit they have to make a payment to the Town, such as the cost of a Building Permit. Roland states there is an Ordinance in Lewisboro which has been challenged many times. The Planning Board imposes fines. Usually the Town has to litigate in order to get the fine. The cost of litigation is discussed. Roland states a discussion should be held with the Town Board as to whether they want to give the Planning Board the authority to impose civil fines. Will talks about wetland violation fines being anywhere from \$500.00 and \$25,000 per violation. Gary likes that. Roland states it should be discussed with the Town Board. Gary states the Planning Board is being asked to review the Ordinance. Cynthia asks Roland to review what the maximum limit would be. Gary talks about the fine being per day, or per tree. Bernard doesn't agree with Gary and states it depends upon the situation. Cynthia states we have a system in place where a violation can be issued and the Judge decides. Cynthia states that there should be a discussion about what the maximum amount may be in the court. Cynthia states that as a matter of policy she would think the Town Board would rather communicate with the Judges. Will does think it would be helpful for Roland to look at the amounts, and how the penalties are defined. Cynthia states the Board should talk about what happens if there are repeat offenders.

Cynthia states we also need to work on Code clarifications, in particular, the Planned Development-Continued Care Retirement Community (PD-CCRC) District at the September 19th Work Session. Cynthia states we will have Will prepare a draft. This is a critical item. We have a pending Application for Commons at Purdys. The question of clarity has been raised. The Town Board would like it clarified. Gary asks what we are trying to accomplish. Cynthia states we have a Use Table that is set up just like every other Use Table. In the specific wording for this District, it states there must be a combination of uses. That was deliberate and intentional. It runs into a conflict when looking at the as-of-right uses, and all the special permit uses. Cynthia states we are doing research. There is a lot of information in the file on SEQR. Cynthia states we will get it all over to Will so he may change the "an's" and the "or's", so that it clearly states what the original

intent was, and what the wishes of the Town Board are.

7. Minutes:

- July 9, 2012
- July 18, 2012
- August 1, 2012

Cynthia Curtis motions that the Planning Board Approve the Minutes of July 9, 2012. Gary Jacobi seconds. All in favor. No opposed.

Cynthia Curtis motions that the Planning Board Approve the Minutes of July 18, 2012. Gary Jacobi seconds. All in favor. No opposed.

Cynthia Curtis motions that the Planning Board Approve the Minutes of August 1, 2012. Gary Jacobi seconds. All in favor. No opposed.

8. Financial Report:

- August, 2012

Cynthia Curtis motions that the Planning Board Approve the Financial Report for August, 2012. Gary Jacobi seconds. All in favor. No opposed.

9. Next Meetings:

- Work Session – September 19, 2012
- Regular Meeting – October 3, 2012

10. Resolution:

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