

this year. The Applicant is supposed to certify what the conditions are for the renewal in regards to whether there have been any changes. Cynthia states she will follow-up with the Applicant in regards to the renewal bond if she does not hear from them. Bernard refers to the Application the Board received for a tower proposal at this location and asks whether they have submitted any additional documents. Cynthia states no, not for a new tower. This request has to do with the three foot antennas that are on the building, as well the equipment that is on the ground. Charlotte wonders why they never came back. Cynthia states she does not know. Technology is changing so quickly, maybe they have another tower proposal somewhere else, or maybe the deal fell through.

WORK SESSION:

3. Discussion Regarding Chapter 189 Sand & Gravel/Tree Removal

Cynthia states that Bruce Thompson is going to join us, however, he is going to be a little late. Cynthia states she and Bruce had a long conversation about tree removal, stormwater work, and wetlands work all in relation to farming operations. Cynthia was interested in speaking with Bruce to find out how the process actually works under a lot of different scenarios. Cynthia states she and Bruce are both going to do a little more homework on the issue of start-up farms. Cynthia gives the example of someone who has an existing farming operation in the Town wanting to extend a pasture, and states it is pretty easy, as they are exempt from all of our Permits, whether it is Wetlands, Stormwater, or Tree Removal. Cynthia spoke with Bruce about someone having a 10 to 15 acre woodland parcel coming in because they are interested in starting a farm. That person would have to take down a significant number of trees. Cynthia states how would we actually know what this person is going to do? They may take down all of the trees and not do what they said they were going to do. Cynthia states that Bruce is going to speak with the Westchester Agricultural Council to see if there is something we may grab onto that gives us assurances that there is a plan and real commitment, and they are going to do exactly what they have proposed to do. Cynthia states she has a concern with farming operations starting from fresh. Robert states there has been a history in Town in regards to this type of issue. Cynthia asks how it worked. Robert refers to a parcel on Finch Road where Lawrence Fink bought the parcel and tore it down. Robert states there were 10 or 11 acres. The house was torn down, but the plans were never followed through with. Cynthia states that was the previous owner. Robert talks about the possibility of having restrictions or an escrow in order to ensure that people do what they say they are going to do and states it would be a very interesting legal question to ask. Cynthia states that Bruce thought that in a lot of instances there would be some type of Building Permit associated with the proposal, such as a barn, or other facilities. Cynthia asked Bruce about someone taking down trees in order to start a haying operation. Robert states they would need a barn for the hay. Cynthia states that someone may propose to use a barn at a friend's house down the road. Cynthia states that Bruce thought it would be a good idea for someone to submit a plan and make a commitment showing how their proposal would work as well as financing. Charlotte states that is hard to do. Cynthia states she agrees. Robert states a more appropriate person to reach out to would be Bob Somers. Cynthia states Bruce talks to Mr. Somers all the time. Robert states a concern with taking someone's freedoms away. Bernard asks whether someone would need to have an Agricultural Exemption before doing this work. Cynthia states no, that is the whole key here. Robert states if it is not a tax issue, an exemption may never be requested. Robert asks whether we would deny someone the right to do what is legal under the law just because there are trees in the way, and states that would be a very difficult question. Will states that the farming operation is exempt, but not necessarily the removal of the trees. Cynthia refers to the term "start-up", and states according to the interpretation from Bruce of the way the State Ag and Markets Law is written, start-up operations for farms are supposed to be exempt from the Tree Ordinance. Will talks about the need for someone to have a two year money operation. Robert states that is for the tax abatement, not for the existence of a farm. Robert refers to Chapter 305 of the State Ag and Markets Law. Robert states that someone does not have to be in business for two years and show a profit anymore in certain instances for certain farming operations such as orchards and vineyards. Robert states that some of the regulations have

become relaxed regarding specific agricultural businesses. Robert states he can't recall the specifics. Robert refers to the gross income over a two year period and states it has to average \$10,000.00. Cynthia states she sees people using this as an excuse to clear four or five acres. They may tell us this is being done to have a place for their horse to graze. Charlotte states that is what Ryann McCarthy did. Cynthia states a concern she had about this in regards to the McCarthy property. Cynthia refers to the term start-up operation and states that Mr. McCarthy, believing he had the proper amount of acreage, may have decided to get a horse, and start a farm. Mr. McCarthy may have wondered why he would have had to come before the Planning Board. Cynthia asks whether Mr. McCarthy would have qualified, under the definition Robert has been talking about, if he had four acres. Robert refers to our definition specifying four acres, and states he would have qualified. Cynthia asks how that is fair. Robert states it could have been stated that the land was bought for a purpose. Robert states he does not like what Mr. McCarthy did. Robert states that most practical people wouldn't start up an operation by looking for a piece of property that couldn't be cultivated until they spent \$100,000.00. Cynthia states she received an inquiry from someone who wanted to clear an entire lot because they were thinking of having a horse. They inquired as to whether a Permit would be required in order to take down all of the trees and create a pasture. Robert states that would be considered recreation. There is discussion about the keeping of horses and livery or boarding stables as being part of the farming operation definition for exemption purposes. Will states he thought it was tied to the time period and the money earned. Robert states horse boarding requires a minimum of 10 horses. Cynthia states that our definition, which we are using in every one of our Codes talks about a farming operation and or the raising of livestock, poultry, dairy, raising of fur-bearing animals, the keeping of horses and livery or boarding stables. Robert states one way to tighten it up would be to distinguish between the recreational backyard activity, and between someone who qualifies for the definition of a commercial horse boarding operation, which is a minimum of 10. Cynthia asks if it should be changed to the keeping of 10 or more horses. Robert states that would make it easier. Bruce states that Ag and Markets have been changing their definitions. Bruce states that we decided to drop riding academies from our definition and Ag and Markets has decided to include riding academies as a farming operation just within this last year. Bruce talks about being consistent. Bruce suggests we may want to consider modeling ourselves after Ag and Markets. Will refers to riding academies and asks whether it has been codified as he could not find specific language. Bruce states he has seen it only within the last year. Bruce states he will look for it. Cynthia states the reason she brought this up was in regards to her prior conversation with Bruce. Cynthia talks about the difference between an existing farming operation wishing to expand, versus a start-up operation starting with a fresh piece of property. Cynthia talks about how we would know whether the start-up would qualify as a farming operation because it is not a farm yet, they would be creating a farm. Cynthia states that Bruce mentioned getting in touch with the Watershed Agricultural Council (WAC). Bruce states he will call WAC, he just hasn't had time. Cynthia states that is alright, there is time. Cynthia states maybe Bruce could also speak with Mr. Somers. Bruce states he will. Cynthia talks about the possibility of having the definition separate existing farms from start-ups. Cynthia talks about obtaining something such as a plan or a commitment in writing, so as if something isn't done, Bruce would have the ability to make sure either the work is complete or the land is secured. Will talks about farms that may not be active which may have someone taking it on and asks whether that would be considered a re-start-up. Will states it is difficult. That may be why Ag and Markets does it the way they do. Cynthia states clearly the issue would be if someone were to take down a forest of trees, not finish the job, and not stabilize the land. Robert refers to a property on Hardscrabble when a whole back ridge was cut. Cynthia states that was a selective tree cutting permit process. Robert asks whether that came in under Ag and Markets. Cynthia states no, it came in under Chapter 189. Cynthia states it went smoothly because the Applicant worked with WAC and used their Best Management Practices. That gave us a level of comfort so that someone was overseeing the process and a plan was being followed. Will states he believes the Applicant received relief for some of the permitting process. Robert gives an example of someone clear cutting a four acre parcel close to a neighbor's property for a new start-up use, utilizing WAC and their Best Management Practices. Cynthia states if they followed Best Management Practices under the auspices of WAC, she would feel good about that. Robert states he wouldn't have a problem with it. Will talks about someone clearing 10 acres for 3

horses. Robert states we are talking about regulating what a person wants to do on their own personal property and refers to regulating tree cutting as well as prohibiting in regards to the six inch caliper. Cynthia states it is not prohibiting, it is going through a process to make sure that environmental considerations are taken care of. Bernard refers to the environmental considerations and asks if there should be a difference between the average person, and the agricultural people. Cynthia states we are trying to sort it out. Bernard states we are talking about private property. Bernard states just because someone has Permits or Exemptions, that does not make it okay for the environment. Bernard states he does not see it that way. Bernard states he has a great problem with the exceptions as far as some people receiving them and others not. Bruce refers to Snow Ball Farm and states that they have cleared trees four times to create additional pastures. Bruce states each time WAC has been there to oversee the entire operation. Bruce states he would like to correct what could be construed as a misconception, such as if someone is exempt, they don't have to do anything. Bruce states he has not seen it work that way. Cynthia states if farms are exempt, how is the process regulated. Bruce states if they are following the Best Management Practices, they have a farm plan. Cynthia asks what about the next person that comes along without a farm plan. Bruce does not see how they wouldn't, since they file for an exemption as a farm. Bruce talks about making a requirement that farms are required to follow the Best Management Practices. Cynthia states that would be a question for Bruce to ask WAC, such as whether language may be added for farms to be exempt, but have to follow either a Best Management Plan or a WAC Plan. Robert states he is going over to WAC tomorrow. Bernard states he does not have a problem with that requirement. Bernard states he has a concern in regards to what makes the trees on a farm any more valuable than his trees from an environmental standpoint. Either way, someone is taking down trees. Bruce states WAC was created to interface between agricultural pursuits and the DEC and DEP. Everything done here locally starts with Permits from DEC and DEP. Bruce states the Charter was fulfilling the objectives of DEC and DEP. They are doing it with fewer restrictions, but the tradeoff is the advantages that come from the agricultural use make up for the changes in land use. Cynthia states in both cases, they are achieving the same thing. The DEC and DEP are trying to make sure that the runoff, stormwater, and water supply are not polluted. Cynthia states it is a permissive regulation. The individuals will be allowed to get to the end product, but we want to make sure it is done in such a way so that the environment and water is protected. This is the same thing we are doing here. Cynthia states the argument that the State has with local regulation is to not to overburden the farms. Cynthia states she has no problem exempting the farms, but wishes a statement could be added in regards to them being overseen by or following the Best Management Practices. Bruce states he would be surprised if we couldn't do that. Cynthia states that would be great. Cynthia suggests Bruce speak with Bob Somers first in order to make sure this thought process will not be an issue. Gary asks how that would happen. Cynthia states that Ag and Markets could reject it. Robert states that Mr. Somers is the mediator of all disputes between the municipalities in the State and the Ag and Markets community. Robert states he is a very reasonable fellow. Gary confirms that Mr. Somers has the final say. Gary states we should get something in writing. Cynthia states that is why we have asked Bruce to talk with Mr. Somers. Bruce states Mr. Somers has given us something in writing before. Robert states he is very helpful to people on both sides.

Cynthia states the Board should start to discuss the draft of the Tree Cutting Ordinance and see whether we may get through it tonight. There is nothing on Page 1 to discuss. Bruce refers to the definition of Farming Operation on Page 2 in regarding to the exclusion of riding academies and states he will check on that.

The Board discusses and agrees with the definition of Tree Removal on Page 3.

Robert refers to Page 4, Item B(5) and asks what we are talking about here. Cynthia states that is in regards to the upgrade of a septic. Robert refers to Page 4, Item 189-6 (B) in regards to the waiver process and asks if the waiver would be requested during a Pre-Application. Will states it could be asked for at any time. Robert states if someone requests a waiver would they still be required to do all the engineering work. Cynthia states it is listed here so people know to go ahead and ask for waivers when they are reasonable before putting time

and money in. Robert states that B(2) is pretty onerous. Robert refers to the Zoning Board of Appeals (ZBA) Hearings and asks whether the notification is 200 feet or 500 feet. Cynthia states the site location map only has to show surrounding parcels within 200 feet. This is not referring to the Public Hearing notification distance. Cynthia refers to Page 7, Item 5(d) and states that is where the Planning Board Public Hearing notification of 500 feet is talked about, as opposed to the ZBA notification being 200 feet.

Bernard refers to Page 5, Item 2 and asks where this language came from. Will states this information was added in after our last discussions. Will states this is in regards to the Applicant telling us what they are doing, and how it is going to have an impact on the environment. Bernard asks how a common person would be able to do this. Will states it depends on the complexity of the project. If someone is proposing to take down 125 trees, the Board should not expect the homeowner would be preparing their own documents. Will states if someone is proposing to take down 10 trees, it is not that hard to articulate the information. It may be necessary for the Board to request additional information. Cynthia states this has to do with receiving a verbal description of what is being proposed and how or how not it may impact the neighbors.

Will refers to Page 7 and states he has a note to change the public hearing notification from 13 business days to 10.

Robert refers to Page 8 and reads Item B(2)(a) and asks how that is to be determined. He states he does not like that at all. Gary states it is very subjective. Cynthia states that language has been in there. Robert asks if this is referring to the owner or the neighbors. Will states there is a way to determine it. The Board talks about taking it out. Will states this is the whole basis of the zoning. Robert states this is an overreach. Robert talks about having to hire appraisers. Robert refers to Page 8, Item (3)(a) and states if someone has approval to go into areas with certain size machineries, on what basis are we limiting the size and type to be utilized. Robert asks whether that should be left up to the people coming in with the applications. Will states this is something that may be done differently depending on the application, based on the conditions, what is being done, and what type of land is being utilized. Will states it is not automatic. Robert talks about exemptions in regards to going through a wetland with motorized equipment. Cynthia states the nice part about putting it here reminds the Board that it is something to think about and consider. Robert refers to Page 8, Item 3(d) and asks if we are regulating where cut trees are going to be moved to. Cynthia states in some cases we might. Cynthia states it is a reminder. We may put a condition on it, or we may not. The important item is to not have disposal in the controlled area of the wetlands. Will states there may be a way for disposal on the site. We would want to know how that is being proposed to be done. Gary states the way it reads it sounds like we could ask someone to take the debris to another State. Robert states someone may have a tree recycling business. Will talks about taking off the request for a specific place and manner of disposal.

Robert refers to Page 12 in regards to violations and fines. Cynthia states she asked the Town Attorney about setting a minimum fine and his response was absolutely not. Cynthia states all we can do is go for the maximum. Robert refers to \$2.00 per tree and states it does not make sense. Why have a law if we can't enforce it. Robert talks about following Town Law in regards to there being set limits as to what someone may be penalized for and states the remediation is where the penalty should be. Robert talks about accepting a remediation where someone cuts down a 100 foot tree and replaces it with a 6 foot tree and states to him that is not remediation. Robert states he will be happy if there is a way to enforce this. Bernard asks if this would be by Law rather than a violation and states he doesn't know whether we can put language like this in the Ordinance. Cynthia states that Roland wrote this Section. Robert states it certainly will scare people. Charlotte states if someone has a huge project, it might not scare them. Charlotte states it is a lot cheaper for people to take down the trees and then pay the fine. Bernard states the language in this Section talks about a fine not exceeding \$1,000. Cynthia states that is the maximum. Cynthia states by State Law, this is the maximum we may charge. Robert refers to Page 12, Item F(2) where it states "any person, partnership or corporation convicted of violating any of the provisions of this chapter shall be required to restore the site to

the condition existing prior to the commission of the violation to the extent possible”. Robert asks what if it can’t be done. Robert states he does not like the way this is written. Cynthia states the Board should look at the intent before figuring out how to word it. Cynthia states in some cases we may not require the replanting. Charlotte refers to the Good’s property and states they didn’t want trees planted back because they knew they wouldn’t grow. Cynthia is not following why we would want an absolute restoration, when if someone had gone through the process, we may have given our permission to take down the trees anyway. Charlotte states maybe just to discourage people from doing it. Charlotte talks about someone thinking they may get away with it by having to pay a fine, versus someone getting away it and having to put it back the way it was. Gary states he does not think anyone is happy with it, but it doesn’t look like anyone can come up with something better. Robert refers to the McCarthy property and states he does not believe it was deemed appropriate by anyone on the Planning Board. Cynthia states we had talked at previous Meetings about the field on the side where the trees were cut and the stumps were left. We talked about what should be done. It was the general consensus that we were not going to require the replanting of all the trees. Cynthia states if the Board wanted all of the trees to be replanted, they should have spoken up then. There is a discussion about the Board speaking up earlier in the process.

Gary goes back to Page 1, Item 189-2(A) and states the word “indiscriminate” should come out.

Cynthia states this Draft may be packaged up and sent over to the Town Board. We would let them know we are working on the definition of farming, and once that is resolved, the change will be made across the board. Cynthia states this Law and the Fill Law are ready to go unless the Board feels the need to continue reviewing. Bernard refers to someone being allowed to take a tree down within so many feet of a house if it is a danger to it. Cynthia refers to the exceptions on Page 4 and states we now have language regarding the removal of dead or diseased trees. Bruce states why does it have to be dead or diseased and suggests we change the language to any tree. Gary states if it is healthy, it should not come down. Bruce states it could be healthy and still be close to the house. Will states the language is “Removal of a dead or diseased tree as certified by an arborist or the Building Inspector, and/or that poses a hazard to the safety of persons, the property, or the safety of the public”. Page 11, Item (B)(3) is discussed in regards to the Building Inspector keeping records of all identifiable complaints of any violations of this Chapter, as well as filing with the North Salem Town Clerk a copy of each Order or Decision rendered by him. Bruce states this Section has nothing to do with dead or diseased trees. Cynthia states that is correct, and refers back to Page 4. Cynthia asks Will to read that portion again. Will re-reads No. 4 on Page 4. Cynthia talks about the Board making a referral of the Tree and Fill Ordinance over to the Town Board. Will asks the Board whether they want to take another look at the Fill portion since it has been a while.

Chairwoman motions that the Planning Board Refer Chapters 189 and 89 to the Town Board Subject to Updates by the Planning Consultant on Terminology Regarding the Definitions. Gary Jacobi seconds. All in favor, except Bernard Sweeney opposes.

After the motion Bernard states he is not happy with the Ordinance in regards to the effects on private property. Cynthia states if the Board didn’t do this, we would have a stricter Ordinance in place. Cynthia states we are trying to make it a little bit easier for people to do more activities on their property without regulations. Charlotte states the prior Ordinance was strict. Will states that 95% of the people that wanted to take down trees would have had to come in. Cynthia states she is happy the Board passed this item tonight because next month the Board will only have the Regular Meeting on November 7th. There will not be a Work Session on November 21st due to Thanksgiving being the next day.

4. Next Meetings:

- Regular Meeting – November 7, 2012

- Work Session – November 21, 2012

5. Resolution:

Chairwoman motions to adjourn the Planning Board Meeting. Charlotte Harris seconds. All in favor. No opposed.