

North Salem Planning Board Minutes

May 15, 2013

7:30 PM – Annex

PRESENT: **Cynthia Curtis, Chairwoman**
 Charlotte Harris, Board Member
 Robert Tompkins, Board Member
 Gary Jacobi, Board Member
 William Agresta, AICP

ABSENT: **Roland A. Baroni, Esq. – not required to attend**
 Bernard Sweeney, Board Member

Chairwoman Cynthia Curtis calls the May 15, 2013 North Salem Planning Board Meeting to order.

REGULAR MEETING:

- 1. Sprint Nextel: Adam Moss (owner – Heziha Sulcevski)**
 Cond. Use/Site Dev. Plan (location – 73 Crosby Road)

- Consider Report From Planner Regarding Request for Zoning Exemption From Conditional Use and Site Development Plan Approval

Cynthia states Adam Moss is here tonight to represent Sprint Nextel. Cynthia states this is a request is for an Exemption from Conditional Use and Site Plan Approval for a change out on an existing tower. Cynthia states we have a brief Report from our Planning Consultant. Cynthia states that what has been typical with these renewals is that we often do not receive a bulk calculation. Cynthia confirms with Mr. Moss that he received a copy of the Report. Cynthia states in general we will take a quick overview of what Sprint is proposing to do. Mr. Moss states he would be happy to give the Board a brief report. Mr. Moss states his firm is Snyder & Snyder, LLP. Mr. Moss states he is here tonight on behalf of Sprint. Mr. Moss states this request is in regards to an existing tell tower at 73 Crosby Road. Mr. Moss states that at that Site there is a 155 foot tall guide lattice tower. Mr. Moss states that a lot of carriers currently have their equipment on the tower. Mr. Moss states that Sprint has six antennas at approximately 116 feet. Mr. Moss states that Sprint is proposing to remove the six antennas and go down to only three panel antennas, as well as install small radio heads. Mr. Moss states the radio heads are small at approximately 19 inches by 13 inches. Mr. Moss states they submitted an Application for an Exemption from the Zoning. Mr. Moss states that based on Section 250-77.5(B) of the Zoning Code, where there is an increase in the bulk that is less than 5% of what is existing at the facility, and Zoning isn't required. Mr. Moss states he did receive the MDRA Report which has asked for a bulk calculation. Mr. Moss states he just received the Report yesterday. Mr. Moss states that it is their opinion that when going down from six antennas to three antennas, even though they do not have the bulk calculation yet, they expect the bulk will not be more than 5% of everything that is existing on the tower at this time. Mr. Moss refers to the Code having a provision in regards to going above the existing tower facilities. Mr. Moss states it is their position that with the addition of the three antennas, and six remote radio heads, they will provide calculations that will show it is not more than 5% above everything that is on the tower with all the carriers. Mr. Moss states that based on the calculation, which he will provide for the next Meeting, they believe they will meet the requirement.

Cynthia refers to the equipment on the ground in regards to the change out and asks if the equipment will be stacked, or whether equipment will be added to the left and right. Mr. Moss states the equipment will not be

stacked. Mr. Moss states there are two battery cabinets on the ground which will be removed and replaced, and they will also be adding a third cabinet. There will be a net addition of one battery cabinet. Mr. Moss states the cabinets will not be stacked; they will all be on the ground. Cynthia states she noticed the cabinets are in the middle of the owner's property. Cynthia states the cabinets are not that close to the neighbors, and if they were going to be stacked, she would be concerned. Mr. Moss states the cabinets will be within a fenced in area and will be the same height as the existing cabinets.

Cynthia asks Will if the Applicant comes back with a bulk calculation showing less than 5% whether he will be able to have a Draft Resolution prepared for the next Meeting. Will states yes. Cynthia asks Will whether he has any other issues. Will states no. There is a discussion about having a Draft Resolution at the next Meeting in regards to qualifying for an Exemption.

Mr. Moss states he will be happy to submit the requested information, and if there is an issue, and they are above the 5%, they will report back to the Board.

Cynthia suggests Mr. Moss submit as soon as possible.

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

**2. New Cingular Wireless PSC (AT&T): Anthony Morando (owner – Croton Falls Fire District)
Special Permit/Amended Site Dev. Plan (location – 98 Sun Valley Drive)**

- Consider Report From Planner on Amended Site Development Plan and Conditional Use Permit

Cynthia states Anthony Morando is here tonight from Cuddy and Feder in regards to AT&T's equipment at the Sun Valley Drive tower site. Cynthia states this is a little bit different than the previous Agenda item. Cynthia states that as with the last Agenda item, we need to understand the bulk calculations. Cynthia takes out her set of the Plans that were submitted and asks the Board whether they are familiar with the request. Cynthia refers to Page 2 of the Plan Sheets and states it shows the RRH mounts are going to be on the arm that is coming out from the pole, not the arm that holds the antennas. Cynthia states the last Plan Sheet Page shows a different story, it shows the RRH units all lined up with the antennas, which she hopes is not the case. Cynthia states that there would be a little more of a visual impact. Will states he also understands that a mast is going to be replaced with a longer mast. Cynthia states that was going to be her next question.

Mr. Morando states he is with Cuddy and Feder, and is here on behalf of AT&T. Mr. Morando refers to the RRH units. Mr. Morando states he believes they are attached to the RRH-mounts. Mr. Morando states he will confirm. Mr. Morando refers to the masts and states he doesn't have those dimensions with him, but will confirm it.

Mr. Morando states he will give a summary to the Board as to their proposal. Mr. Morando states similar to the first Application discussed tonight, they are seeking an Exemption from Planning Board review under Section 250-77.5(B) of the Zoning Ordinance. Mr. Morando states they are seeking the same Exemption to modify an existing facility located on Sun Valley Drive. Mr. Morando states there are six antennas there now on an existing monopole. Mr. Morando states that AT&T is at approximately 74 feet. Mr. Morando states the associated equipment for AT&T is located on an equipment pad and is approximately 11 feet by 11 feet within the existing fenced in compound. Mr. Morando states the proposed upgrade will involve adding three additional antennas for a total of nine, with the remote radio head units already pointed out by the Chairwoman. Mr. Morando states he will confirm whether the antennas will be installed on the RRH mounts.

Mr. Morando states the new antennas will be similar in size and height, and painted the same color as the existing antennas.

Cynthia refers to the last Applicant and states to Will that they are actually increasing the size of the antennas from 53 inches to approximately 73 inches, which may affect the bulk calculations. Cynthia asks Will to double check with her about this.

Mr. Morando states that some carriers are increasing the size of their antennas, but their new antennas will be similar in size. They may be approximately a half an inch larger.

Mr. Morando states they are proposing to stack one cabinet on top of an existing cabinet which is there now. Cynthia states she would like to talk about that. Cynthia states she believes the existing cabinet is seven feet tall. Cynthia states she brought a set of prior mylars with her tonight. Cynthia states she believes that the cabinet that is proposed to be added is approximately another 30 inches high. Cynthia asks whether we are talking about another three feet which will bring it to ten feet. Mr. Morando states he will have to confirm. Mr. Morando states he doesn't believe the existing cabinet is seven feet. Cynthia states the reason she is bringing this up is because when the tower was initially approved the area was all woods. Cynthia states we now have a housing proposal. Cynthia states she believes there wasn't any type of a landscaping requirement. Cynthia states if the cabinet is going from seven feet to ten feet, while she doesn't believe we have to require landscaping now, the Board may make it a Condition, that if a residential proposal moves forward, the Applicant may have to come back before the Board to talk about screening. Mr. Morando states he can't agree to that right out of the gate. Mr. Morando states the problem with that is someone else doing their own proposal outside of ours, and our having to make changes to accommodate them. Cynthia states that variances were obtained and the Applicant is right up against the property line. Cynthia refers to the cabinet and asks how stacking will take place if the top opens. Cynthia asks Mr. Morando to look into this. Mr. Morando states the cabinet that the Chairwoman is talking about may not be the cabinet they are stacking on, it may be the three foot cabinet. Cynthia asks the Board what they think about asking for landscaping. Cynthia states this is an isolated site in the woods, but variances were received for the tower to be located very close to the property line. Cynthia states if the Board doesn't do it now, they will have to think about it at renewal time. Cynthia talks about who should be responsible, the person who constructed the tower, or the carriers. Will states that everyone should be. Mr. Morando states they are not the owner of the Site, or the owner of the compound. Will states that all the carriers have Permits and responsibilities.

Cynthia states that there had been a previous issue in regards to the driveway and the road at this Site, and AT&T had to deal with that, even though it wasn't their road, and they didn't put the tower up. Cynthia states she believes the Board does have the right to look at everything. Cynthia states that one of the questions she had which she forgot to ask the Building Inspector is how the road is holding up, as there were so many issues. Cynthia states she would like a report from the Building Inspector because if there continues to be issues, the Board may have opportunities to request repairs. Mr. Morando states, just to be clear, they do not control the access of the road with respect to repairs and maintenance when the owner of the Site and the Owner of the tower should be responsible. Mr. Morando states they are a tenant of the Site. Will refers to the Lease Agreement which the Applicant has with the Owner.

Cynthia asks Mr. Morando to let the Board know about the cabinets in relation to them being stacked. Cynthia asks for the existing height of the current cabinet, and what the net increase will be. Cynthia states if a very tall structure is being requested, the Board may ask for screening and states a variance may be triggered. Cynthia states if the cabinets are stacked on top, and keep the same footprint, it may not trigger a variance, but if we ask them to put the equipment next to the existing cabinet, that may trigger a variance. Cynthia states if they put the cabinet on the ground, on the same platform, the previous variance may cover it. Will states if

they are in the same compound, they should be fine. Will states if they have to move the fence in order to make it closer to the property line that may trigger a variance. Cynthia states the cabinet should be kept on the platform and potential visual impacts should be considered. Cynthia states Mr. Morando should provide the bulk calculations to the Board.

Mr. Morando states he can't stress enough that this is a very minor Application. Mr. Morando states he understands when they come before the Board, there may be other questions, but the purpose of their request is very minor in nature. Cynthia states if the Application meets the Exemption criteria, it may be minor, but we don't know that yet. Cynthia states the Board always has issues with these towers, especially when there are multiple tenants. Cynthia states the Board is going to raise these questions and consult with their Attorney. Cynthia states if there is an opportunity to fix any existing problems, they will see if they can accomplish that. Cynthia states that Mr. Morando may be right, or he may not be. Cynthia states she recalls when AT&T came on the tower, something was done with the road, which had worked before.

Will states that within the last year the Board hasn't had an abundance of this type of an Application, but for those Applications that have been submitted, there seems to be a decrease in the number of antennas. Will asks Mr. Morando why this isn't the case with AT&T.

Mr. Morando states in his opinion, this proposal is consistent with the Original Approval for the Site and the existing carriers on the Site with respect to the design and shape of the facilities. Mr. Morando states they are seeking an Exemption from the Planning Board under the Section he referenced earlier in the Code. Mr. Morando states that Section authorizes the Planning Board to grant an Exemption whereas the proposal is consistent with the Original Approval. Cynthia states she is not sure about that. Mr. Morando states he would like to finish. Mr. Morando states the Section does refer to the language "Original Approval". Mr. Morando states by way of background, in 2004, AT&T's Approval was granted for 12 antennas. Mr. Morando states in 2007 the Approval was updated or modified, but the fact that the Approval was modified to account for six antennas at the time, doesn't negate the fact that this proposal at 12 antennas had already been evaluated, contemplated, and approved by this Board and the Town. Mr. Morando refers to the Exemption language in the Code where it states "Original Approval". Mr. Morando refers to the 2007 Approval and states it was for the purposes of recording field changes and existing conditions, not what this Board originally approved. Mr. Morando states he would argue that for the purposes of the Exemption, the Planning Board should really look at the 2004 Approval as contemplated.

Will states if we were to revisit 2007 Approval he believes we will find that the Applicant didn't do something they were supposed to do.

Cynthia states the Board is trying to work with Mr. Morando. Cynthia states the Board does recognize that these requests are happening in regards to a lot of the towers. Cynthia states for the most part, they are not an impact, but the Board views this as an opportunity to make sure everything is in order.

Cynthia asks Mr. Morando to provide the bulk calculations, as well as the information in regards to the equipment cabinets. Cynthia states the Board will confer with the Town Attorney, as he will be at the next Meeting. Cynthia states if the Bulk Calculations come in under the requirement, and if it is confirmed that the RRH's are on the arm, as well as the equipment cabinet confirmation, she doesn't see an issue having this on the June 5th Agenda. Will states to Mr. Morando that it would be helpful to clean up the items that were brought up tonight so they are all consistent. Will states that height information has been submitted in regards to the tower, but not in regards to the ground equipment. Will refers to the details in regards to the antenna mountings and states there is a mast on the horizontal, but then the detail shows a vertical mast. Cynthia states she thought the mount was going to be longer, but she didn't see that on the Plans and asks if it was in the

cover letter. Will states it is confusing. Mr. Morando will confirm and asks if it is alright with the Board if he reaches out directly to the Planner if there are any further questions. Cynthia states no, Mr. Morando should reach out to her.

Cynthia states she is going to check with the Building Inspector to make sure the whole Site is functional because every user on the tower should be aware that we have had major issues with the access road, which is used by all of them. Cynthia states if it is determined that the access road isn't functioning, she is not saying that this current Applicant is responsible for it, but it will be brought to their attention. Cynthia states it may be a good opportunity for the Applicant to confer with the other carriers. Will states that all of the carriers are responsible, and it may boil down to them speaking with the owner.

Mr. Morando refers to resolving all of the outstanding items in terms of being able to move forward. Mr. Morando states there are timing concerns. Mr. Morando states they did file their Application awhile back. Mr. Morando talks about coming back before the Board at the June 5th Meeting. Cynthia states that if Mr. Morando provides answers before the next Meeting, a Draft Resolution may be considered that night. Cynthia states the Board is trying to go in that direction. Cynthia states if there is something that triggers a problem, Mr. Morando will be notified. Cynthia states that Mr. Morando should also do that as well. Mr. Morando states they did file an Application with for a Building Permit the end of February for this Site. Mr. Morando states that for AT&T, it is very important to move quickly. Cynthia asks Mr. Morando if when he filed the Application for the Building Permit he received a sign-off from the Fire Commissioner's on their Application and APRL Form. Mr. Morando states he would have to check. Cynthia states the Planning Board Office went through that process for the Applicant, and a signature was not obtained until this week. Cynthia states we are helping Mr. Morando. Mr. Morando states they filed and didn't hear anything from the Building Department in 35 days or so. Cynthia states this type of Application is new to both Departments, and we are trying to catch up quickly as far as the procedures. Will asks Mr. Morando what the urgency is. Mr. Morando states there is a whole regional plan of turning on the new technology for AT&T, and they have deadlines to reach for each site and location in order to serve the customers in the areas. Mr. Morando states they can't just install certain antennas at one location and have them work; they have to be installed in regional areas.

Cynthia states we are all moving as quickly as we can, but the Applicant has to help by providing information in a timely fashion. Will asks Mr. Morando how long it will take for him to provide the additional items. Mr. Morando asks if he has to submit revised drawings. Cynthia states the revised drawings may be a Condition of Approval. Mr. Morando states he may be able to have the information by the end of this week or Monday.

WORK SESSION:

3. Discussion of Proposed Zoning Amendments

Cynthia states that Lori Tripoli, our new CAC Co-Chair is here with us tonight. Cynthia introduces Lori to the Board, and Will.

Cynthia states we are going to talk about the post changes she believes the Planning Board feels comfortable with, which may possibly be sent over to the Town Board. Cynthia states she didn't want to separate them, but thinks the Board needed a little more time to work on the Standards and Zoning Use changes. Cynthia states she did alert Supervisor Lucas that we would be sending over one set first and leaving it up to the Town Board as to whether they want to hold off on the Public Hearing and adoption until we send over the second set of Amendments which will be the Uses, Bulk Use Tables, and Standards. Cynthia states they will start with the Draft Memo which Will put together which summarizes the changes. Cynthia states there is a new item listed in the Memo which involves something that the Comprehensive Plan Committee suggested. Cynthia states

that at some point Bruce will be joining us and then we will then jump to Sections where we have questions for him.

Cynthia refers to Page 1 in the Memo in regards to Underground Storage Tanks and Setback Exemptions. Cynthia states Will has now revised it with what we believe is in accordance with what the Building Inspector has asked for. Cynthia states the Underground Water Storage will also be 10 feet from any property line. Cynthia asks Will if that is what he believes Bruce asked for. Will states yes, it makes sense. Robert asks if there is any minimum distance from the structure. Will states for a water tank, no. Robert asks about propane tanks. Cynthia states we should ask Bruce about that when he gets here. Cynthia states that for the purpose of Zoning, she doesn't think we have to worry about that, as it wouldn't trigger a variance.

Gary refers to Page 1 and states that Will has made a reference to liquid propane and inquires about gas. Will states we could take out the word liquid and just list it as propane. Gary states he doesn't know, and that is his question. The Board confirms to take the word liquid out. Gary refers to the 1,000 gallons or less capacity on Page 2, No. 2 and states that for some of the properties in Purdy's and Croton Falls, that is a pretty big tank for such small properties. Cynthia states they will be underground. Gary asks if we want some type of tank size limitation based on the size of the house or property. Cynthia states no, because even some of the small lots may have large homes. Cynthia states there may be rental properties that need 1,000 gallon tanks. Cynthia states if the Fire Code allows it, and the Uniform Fire Protection Building Code allows up to 1,000 gallon tanks, she doesn't see an issue. Will states that people won't necessarily put in a tank larger than they will need. Will talks about the tanks being buried. Cynthia states this was a recommendation from Bruce. Robert states that when someone has a house, swimming pool, and an accessory use, a larger tank may be needed. Cynthia refers to No. 3 on Page 2 and states Will made revisions based on comments from the Board. Cynthia states she assumes the Board feels comfortable with them.

Cynthia refers to No. 4 on Page 2 and states that changes were made based on something the Code Company picked up. Cynthia states there was one instance where we forgot to change out the word "dwelling" with the word "unit". Cynthia states neither she nor Will felt they had the right to make the change because that change would not have been part of the Public Hearing process. Cynthia states instead the change will be made now per request from the Code Company.

Cynthia refers to No. 5 on Page 2 and states that Will had mentioned he would move all the Exterior Lighting and Landscaping requirements to one Section so the language doesn't have to be repeated in every Standard for the commercial uses. Cynthia states this is the wording the Board felt comfortable with. Cynthia asks the Board whether they have any questions.

Gary refers to 4(d) on Page 2 asks if an independent-living unit may have multiple rooms. Will states yes. Gary states if an independent-living unit has four rooms, for every seven units, there could be one guest house. Will states no. Will states that would be the PD-CCRC Zone and the independent-living unit would be within the building and could have a bathroom, bedroom, and a living room. Will states there could be one or two bedroom suites. Gary asks if it should be listed as one unit per 30 rooms. Cynthia reads 4(d) which states "additional staff housing and guest accommodations may be provided at an aggregate maximum density of one unit per 30 independent-living units or assisted-living rooms". Gary states the way it reads is one unit per 30 rooms. Will states if there are 30 independent-living units each one of those units could have multiple rooms, but only one staff house for the 30. Gary states he understands the intention, but that is not how it reads. Cynthia states in assisted-living facilities, people may have one room. Will states some might, but some might not. Gary is not sure why we are going back and forth between unit and room. Will states the independent-living units are different than assisted-living rooms. They are two different types of accommodations in the same complex. Will states that if there are more than 30 of any combination, one staff house would be

allowed. Cynthia states she thinks Gary is saying that the 1 to 30 ratio, when it is independent, we are talking about a unit, but because we are using the word rooms when it comes to assisted-living, it is not 1 to 30 people, it is rooms. Will states that in an assisted-living room, one person may live in that room, and an independent-living unit it is more likely to have one or two people. Will states people who live in independent-living units need less care and less staff. So if there are more people there, they don't necessarily generate as much staff use as does the assisted-living rooms. Will states that if there are 15 independent-living units and 15 assisted-living units, one staff house would be allowed. Gary asks if a person may have multiple assisted-living rooms so as to be in an assisted-living facility having a bathroom, bedroom and living room. Will states he believes they have units like that and states he will go back and look at the definition. Gary is not sure why we are making this change. Will states we are not changing anything. In this instance the language wasn't correct. Will states this will not change the 1 to 30 ratio. Gary states we are changing it because the word "units" is crossed out. Will states when looking at the Ordinance, the result of the calculation will show that there will not be any more staff housing because of the wording. Gary states he disagrees.

Cynthia refers to Section 5 in regards to Exterior Lighting and Landscaping and asks the Board whether they have any questions. Gary asks what an interior illuminated sign is. Cynthia states it would be a sign with interior lights. Charlotte states it would glow. Cynthia states the sign would be lit up from the inside.

Cynthia refers to Section 6 in regards to Communications Towers and Facilities and states the Comprehensive Plan recommended that we not be hard and fast, and strongly recommend co-location because alternatives may be better. Cynthia states that Will has suggested wording to accomplish that. Cynthia states the first suggestion has to do with encouraging the collocation or shared use of proposed and existing tower sites, including multiple shorter towers instead of one higher tower. Cynthia refers to the tower on Sun Valley Drive and states this may have been a better way to go because in that area of Croton Falls, two towers having antennas that stayed closer to the tree line may have been much better versus the visual impact that we have today. Cynthia asks the Board whether they have any questions. Gary states he is fine with point No. 1. Gary refers to Point No. 2 in regards to encouraging collocation or shared use including multiple shorter towers. Gary states that collocation attributed by the definition would require a higher tower. Gary asks if this discussion is about having two towers on one site rather than one taller tower. Cynthia states she would have preferred that versus what we have on Sun Valley Drive. Will states it depends on the site. Gary states the transmission equipment cannot be at the same height, as there has to be a ten foot differential. Will states if they have distance separation, they can be the same height. Cynthia asks how much of a difference would be needed. Will states they would need approximately 10 to 15 feet. Will states this has been done on the Saw Mill River Parkway and I-684. Cynthia states this would provide flexibility in regard to height impacts.

Cynthia refers to Section 7 in regards to Apartments Accessory to Commercial Properties and states the Board had reviewed this in conjunction with requests involving apartments above stores. Cynthia states this has been scrutinized by the Board. Cynthia states the person who originally made the Petition never followed through, but the Board decided it was needed.

Cynthia states that prior to discussing Section 8, since Bruce has arrived, the Board will speak with him in regards to any questions they may have on Underground Storage Tanks. Cynthia refers to the Exemptions and states the first question that came up is that the language is for "underground liquid propane storage tanks" and asks if the word "liquid" should be taken out. Cynthia asks if everything is liquid, or is there a difference. Bruce states the Board might want to leave the oil in there. Bruce talks about the Board having a concern about the fuel oil possibly leaking which could cause contamination. Bruce talks about having more of a buffer. Will talks about the tanks being buried. Bruce talks about specific types of tanks that have double wall protection, as well as special paint. Bruce states they have only done one recently. Gary states he doesn't

think that was the question, the phrase now reads “liquid propane”. Bruce states he thought it was underground storage. Will confirms the language will be changed to “propane”. Robert states the Board put in a quantifiable distance of ten feet off the property line for the burial of the tanks. Robert asks if there is a minimum distance from dwellings that should be added. Bruce states he wouldn’t encourage a distance because possibly there could one day be a conflict with the Code. Robert asks what the Code states. Will asks what the distance is. Robert states septic systems have a 10 foot minimum. Bruce states he believes it may be 20 feet for the tanks. Bruce states he will confirm. Cynthia asks if it would pertain to any structure, or only a structure that is being lived in, such as if a neighbor has a shed right on the property line. Cynthia asks if an Underground Storage Tank would have to be 20 feet from a shed. Bruce states yes, if it is 20, but it could be 10 feet. Property line distances are discussed. Bruce states we are more than well-served by the Building Code.

Cynthia gives Bruce a packet and states that at the last Meeting the Board talked about introducing Indoor Light Industry. Cynthia states that some of the Uses that were dropped from the list were interesting. Cynthia states that one of the reasons they were dropped is because of a concern about what type of chemicals may be used. Cynthia states that apparel and textiles, furniture, electrical manufacturing and metal fabrication were taken out. There was a concern that some of these uses, such as woodworking which we are keeping, may involve chemicals, and the large storage of them. Cynthia states her thought was that between OSHA, Building Codes, and inspections, we should have a comfort level that there wouldn’t be such large quantities of chemicals. Cynthia states we exclude the manufacturing of products involving the use of chemicals. Cynthia states that everyone uses chemicals and asks Bruce to talk to the Board about storage and what other protections there are. Bruce states there are multiple layers of occupancy, as well as other occupancies that are regulated by the Uniform Fire Protection and Building Code which is the legal reference to the Building Code by New York State Legislation, as well as the Legislation that the Town’s adopt. Bruce refers to all the other occupancies and states it is good to know that the Code goes on at great length stating how they may exist safely. Bruce states when he has taken a Codes Class, the Code Book is referred to as a history book of things that go wrong. Bruce states there are Minimum Standards, and if they are observed, reduce the risks. Bruce states all risks cannot be eliminated, but there are reductions such as the likelihood of something happening is very small compared to what it would be if the Minimum Standards were not observed. Bruce states the Minimum Standards apply to literally every occupancy you can think of. Bruce states they are in place at airports, as well as hospitals. Bruce refers to the establishment of fire areas which state there can only be a certain amount of a given chemical or substance which represent a certain class of hazards in an area. Bruce states that as soon as the capacity has been exceeded, another fire area has to be established. Bruce states that by doing this, the consequences of a mishap are reduced. Bruce states there are all types of safety precautions and more and more are being adopted all the time. Bruce states that New York State and virtually every other State in the Nation have been on this move for a long time now into a system of progression whereas every three to four years there are updates to the Code, so they do not become old and stale are being kept up with the times. Bruce states that everyone except one and two family homes are subject to periodic inspections. Bruce states that as a Municipality, the Uniform Fire Protection Building Code requires inspections be conducted and demonstrate that they have been done. Bruce states when Maureen first came she asked him what function they were most behind on in Town. Bruce states his response was the function of the periodic inspections. Bruce talks about identifying every property that qualifies for one and setting up a system whereby the inspections happen on a periodic basis as it is required. Bruce states the most frequent inspection is yearly, so if someone has a hazardous occupancy, they are inspected every year. Gary asks who does the inspections. Bruce states he does. Bruce states that people who have multiple residencies may be inspected once a year, but not any less often than once every three years. Bruce states the more hazardous the occupancy is, the more scrutiny is applied to how the occupancy comes into existence, and how they stay in existence. Cynthia asks whether OSHA, as well as insurance companies would do inspections to make sure that safety and precautions are being adhered to, especially if someone is spraying paint and refers to the

wearing of wearing masks for ventilation. Bruce states yes and refers to auto body shops as an example. Bruce states the insurance industry does make their inspections public records. They actually go to various building departments to see how they are set up to enforce and administer the Code. Bruce states the more it may be demonstrated that procedures are being done per the requirements of the Code, actually reflects in the premiums that are charged. Bruce states this is becoming more and more intertwined; it isn't like it was 30 or 40 years ago. Gary states that Bruce indicated this is an area where the Building Department was furthest behind. Bruce states yes, he said that they were furthest behind. Bruce states that thanks to Maureen they now have an inventory list. Bruce states they have 100 inspections that are required over a one to three year period.

Gary asks Bruce how the situation at Dino and Arties went on for so long. Bruce asks when they closed. Cynthia states at least 20 years ago. Gary states the whole time they were there, they were not in compliance. Cynthia states she is not sure that is 100% correct. Cynthia states there were inspections, and she remembers the DEP had conducted dye tests. Cynthia states that most of the problems that were discovered were probably three or four years old, or more. Gary states he doesn't know how long they took to show up, but he does know there were big problems that resulted from that location. Gary states it is hard to go out and see small chemical using sites and know what they are doing. Cynthia states we did have two gas stations, and now we have one. Cynthia states there are some Uses on Field's Lane which are commercial. Cynthia states they have inspections. Cynthia states we cannot avoid the introduction of some of these Uses due to fear that something may happen. Gary states we can, but whether we should or not is another story. Cynthia states it also has to do with the size of the facility and number of occupants. Gary agrees and states that 2 people using chemical striping and painting is more favorable than 200 people. Gary states he doesn't know how the Code may be written to have these limitations. Cynthia refers to the medical industry utilizing materials such as oxygen tanks. Gary states also needles. Cynthia refers to medical and dental clinics. Gary states they throw out a lot of materials that need to be properly disposed of. Bruce states these establishments are watched very carefully. Gary refers to OSHA and states they are usually called in after there is an incident. Cynthia asks who does all of the safety inspections at the Highway Garage, and asks if that is the insurance company. Bruce states probably, as well as workman's compensation. Bruce refers to the healthcare professions, such as Waterview Hills and Salem Hills and states while they would not be an analogy for the Uses the Board is considering, that industry and the industries the Board has talked about tonight are similarly regulated. Bruce states that everything is looked at in terms of what the consequences are. Bruce states the greater the consequences, the more heavily the establishments are scrutinized. Bruce states it is only going to become more so. Cynthia asks the Board if they have any other questions. Charlotte states the Board took out printing and publishing and she isn't sure why they did that because it is a Use that could be a nice Use on Fields Lane. Cynthia asks if it had to do with the inks. Gary states yes, and the solvents, disposal of materials, and drain runoff. Bruce asks where printing and publishing is flourishing today. Cynthia refers to copy centers and states they would have solvents for cleaning their machines. Cynthia states she would be concerned about the materials being stored correctly as well as the amount of materials. Gary talks about the disposal of materials. Cynthia states the disposal should be regulated too. Gary states it is hard to regulate disposal. Will states it all boils down to people doing it right, or there will be problems. Bruce states when people put materials down the drain they are shooting themselves in the foot. Bruce talks about someone taking a property that has value and causing an environmental problem on it. Robert states that there are contracts. Robert states he would certainly have language in a contract in regards to making certain his tenants are responsible if it is their business that is denigrating the area. Robert states he is not opposed to reintroducing some of these Uses on a small basis. Cynthia states she isn't either and that is why she asked Bruce to come and talk with the Board tonight. Cynthia states that some of these Uses could be interesting on Fields Lane. Gary states he is fine with these Uses on a small basis, but would like to know how we define them as small. Robert states there are approximately 16 properties in this Zone, and 9 or 10 of them are under 2 acres, and wouldn't comply. Will states that we can craft limitations. Will states the real question is if we were to have a cap on size, what would that threshold cap be. Will states caps may be done for people, building size, and lot acreage. Defining

the thresholds is discussed. Cynthia talks about the size of the containers in terms of defining thresholds. Will states the size of the operation would dictate the tone. Cynthia asks Bruce if there are different standards for different sizes of operations under the Uniform Fire Protection and Building Code? Bruce talks about reducing the consequences based on bringing everything down to something that is manageable so that if there is a problem the response will not result in a loss of life or personal injury. Cynthia asks if the use of elicited discharge allows Bruce to inspect floor drains to see how they work. Will states that floor drains are not allowed. Bruce confirms they are not allowed. Cynthia states if the Board does allow a Use, when the Applicant comes in for Site Plan Review, if it is confirmed that small amounts of chemicals would be involved for the finishing of furniture, maybe the Approval could be subject to the disposal of the chemicals being regularly inspected. Will states the Board may require the Applicant to submit an Operations and Management Plan which would provide details such as the storage of the chemicals. Cynthia talks about the disposal of chemicals being subject to periodic reporting to the Building Department, as well as the submittal of proof. Cynthia states that would be one way for us to try to regulate it by requiring inspections and the submittal of reports. If the Building Inspector isn't receiving the reports, he would go out to the establishment and inquire what is being done with the chemicals. Bruce states there is a new element to the Code and for certain occupancies there is the requirement of an Operating Permit which establishes certain parameters that have to be set in order to be in operation. If those parameters are not met, then the establishment is shut down. Robert asks which jurisdiction would take care of that. Bruce states that is in the Uniform Fire Protection Building Code. Bruce states he took a class recently where a discussion was had as far as Municipalities working on which occupancies would qualify. This is being done so as to have consistency with requirements. Bruce states the elements of the Operations Permit cover exactly what the Board has been talking about. Bruce states the Permit is issued on the basis that there are certain standards to be maintained. Bruce states that many times those standards are in the Codes already. Bruce states the Codes are loaded with requirements. Cynthia talks about follow-ups taking place and inspections being done in order to know the standards are being met. Cynthia states that is where the annual inspections would be a requirement. Cynthia states if the Board has specific concerns with a particular Use, they have the power to ask for additional reports, inspections, and safety guidelines. Cynthia states this will create more work for Bruce, however, the Board does have concerns, especially if they are going to allow new Uses. Cynthia states this may be a way for allowing some of the new Uses to happen. Gary refers to the disposing of materials and states it is one thing if someone has a 5 gallon container of something toxic, but it is another thing if it is a 50 gallon container, or if someone has 10 50 gallon containers. Gary asks if there is a way to limit the amounts that may be brought in, used, and stored. Will asks Bruce if there are limitations in regards to the use of chemicals. Bruce states absolutely. Gary asks what the limitations are based on. Gary asks if they would be based on the square footage of the plant. Gary states that DuPont must have millions of gallons of materials. Bruce refers to windshield washer fluid and states if we were to go into an automotive shop, it will be showed in gallon drums. Bruce states we will not see it in 50 gallon drums. Bruce talks about how the materials are stored and states he can only give the Board as much comfort as they are open to receive. Bruce states there is a lot of ammunition in the Codes in regards to regulations.

Cynthia states the Board is talking about new Uses, and regulations need to be followed from the get go. There is a discussion about fines.

Charlotte states it may be a good idea to speak with Bruce about some of the Uses they talked about taking out in order to obtain his opinion. Cynthia states the Uses taken out were; apparel and other textile products, furniture and fixtures, electrical and electronic machinery and equipment, as well as metal fabrication and machine shops. Cynthia states that printing and publishing had been taken off as well. Bruce states he could help the Board more if they could tell him their concerns about some of these Uses. Gary states it has to do with the chemical storage use and disposal. Gary talks about the smells, combustibility, and toxic storage and disposal of the chemicals. Gary states we were trying to avoid materials that have significant quantities of

chemicals which we don't want around. Gary also states a concern with the environment. Cynthia states that three of the Board Members would like to revisit the list and maybe put some of the Uses back, and two of the Board Members were concerned. Cynthia states it would be most helpful if Bruce could shed some light in regards to the concerns talked about tonight. Bruce asks if the Board needs a response tonight. Cynthia states no, the Board understands this is the first time he is seeing this. Gary states it would be helpful if Bruce could give the Board ways to possibly have some of these Uses, and also provide them with restrictions. It is not whether we should or should not allow a Use; it is more like if we are going to allow them, here are some conditions to think about. Bruce states these have come up as possible Uses based on the Comprehensive Plan. Bruce asks if the Comprehensive Plan Committee defined these Uses. Cynthia states the Comprehensive Plan Committee didn't define what they were looking for. They talked in general terms about adding flexible Uses on Fields Lane so that the buildings may be utilized. Cynthia states they recognized there would be a lot of new Uses because there are still a lot of properties that are not developed. Cynthia states that some of the lots are small, but a good point was made about the possibility of lots being combined, which could create a 10,000 to 50,000 square foot facility. Cynthia states that this is the only place in Town where we are suggesting Indoor Light Industry. Cynthia talks about the Board introducing standards, conditions, and ways to control these Uses to make sure there are no problems. There is a discussion about the types of chemicals, quantities, and inspections. Bruce states he suggests the Board use the Code as a tool. Bruce states the Code has different hazard classifications and chemicals are grouped. Will refers to jewelry stores in terms of utilizing chemicals. Bruce states the Code doesn't look at jewelry stores as a hazardous Use. Bruce states it would be based on the quantity of materials. Will asks Bruce if the classification is by the chemical or the quantity of it. Bruce states it is both. Gary states he doesn't have a problem with a quart of toxic materials; he has a problem with 50 gallon containers. Cynthia states in writing the Zoning, we don't have to state in every instance that the Uniform Fire Protection Building Code has to be followed because the Town has already adopted that. Will talks about breaking it down by listing certain classifications of chemicals not wanted.

Bruce talks about the definition of a structure and asks what the Board considers septic fields to be. Bruce asks the Board whether they consider septic fields to be structures. There is a discussion about whether the structure is above or below the ground. Bruce refers to structures already in setback areas and talks about the Board restricting their use and installation, which may cause a problem. There is a discussion about Exemptions, such as propane tanks having up to 1,000 gallons. Bruce states a septic tank is a tank also, and septic fields and stormwater systems have infiltration systems. Cynthia asks Bruce what the potential impact is if they fail. Bruce states if a septic system were to fail, it would be reported and repaired. Bruce states there is a means of dealing with this. Cynthia asks why we would want a new system so close to a neighbor so if it does fail, it bubbles up on the neighbor's property and states it happened to her. Cynthia states she didn't understand why the system was so close to her property. Bruce states that the Board of Health Standards do not allow a field closer than 10 feet to a property line. Bruce asks the Board to think about this in terms of septic and stormwater systems. Cynthia talks about considering Exceptions based on distances. Robert talks about eliminating the piece of the definition so as not to consider these as structures and states that may keep it simpler. Cynthia states there could be Exceptions. Minimum distances are discussed. Cynthia states if a stormwater system requires maintenance which the owner doesn't do, if something were to happen, why would we want it close enough to impact the neighbor. Cynthia states we need guidance on what minimum distance there should be in order to protect the neighbors. There is a discussion about failures, such as septic, stormwater, and tanks. Bruce states the stormwater failures are a lot different than the septic failures. Bruce states there are tools that may be utilized in regards to septic failures. Bruce states he has told people that they have to vacate their houses due to septic failures. Cynthia asks if there is a provision for the soils on the neighbor's property to be dug up in order to have clean soils put in. Bruce states with a lot of septic failures they are cleaned up in time with the leaching process. Bruce states that if septic systems are dealt with the way they should be, they are addressed thoroughly and promptly. Bruce states that stormwater is a lot different because the infiltration process is a cleaning process. Bruce states the problems occur in a storm surge. Bruce

states the systems cannot always handle the capacity. There is a discussion about overflows. Bruce states the water has to exit somewhere. Bruce refers to property lines and states that level spreaders have been installed which have been effective. Lot sizes are discussed as well as the levels of exemptions in regards to setbacks.

Cynthia asks the Board whether they have any questions on the other two Use Groups. Cynthia states that at the next Meeting the Board will revisit Indoor Light Industry after they hear back from Bruce in regards to his suggestions. Cynthia states that hopefully we will have a re-write of some of the other Sections we talked about tonight. Cynthia states the Board should go back to the summary memo and states if the Board is comfortable with it, they should discuss moving it over to the Town Board.

Gary talks about underground storage tanks and asks whether the Board should discuss oil tanks. Robert states people do not bury oil tanks anymore. Gary states they can if they have a double wall. Cynthia talks about taking out the words “liquid propane” and just list “underground storage tanks”. Cynthia talks about leaving the word “propane” and if someone wants to have an oil tank, they may have to go for a variance. Cynthia asks why someone would want one next to their neighbor’s property.

Will suggests not sending the Definitions to the Town Board at this point only because the Planning Board is still working on the Standards as they go together. Cynthia asks the Board if they are comfortable doing that. Gary confirms that Section 8 will be taken out for the moment. Cynthia confirms the Definitions will go along with the Use Tables and Standards. Cynthia asks the Board if they have a consensus to send over Sections 2 through 7 to the Town Board. The Board agrees. Cynthia states the only change is that the word “liquid” will be deleted wherever it appears.

Chairwoman motions that the Planning Board Refer the Proposed Zoning Code Amendments Enumerated as Item No’s. through 7 in the Draft Memo From MDRA to the Town Board as Amended Above. Gary Jacobi seconds. All in favor. No opposed.

After the motion, Cynthia states that Mr. Kamenstein approached her last week in regards to introducing restaurants in the NB District. Cynthia states she told him the Board was considering introducing restaurants in the PO District. Cynthia states Mr. Kamenstein asked us to consider the NB District. Cynthia asks the Board to take a look at their Zoning Map and familiarize themselves with where the NB District is, and the Board will discuss this again.

Cynthia states she is willing to work more on the Definitions. Robert and Charlotte state they are too. Gary states he has to leave.

Charlotte refers to Page 10 in regards to the last sentence under the Medical Office or Dental Office Definition in regards to clinics. Will states that will be taken out. Charlotte refers to the Definition of Personal Service Business and states the word “hair” is listed twice. The word “nail” should be added. Charlotte refers to Page 11 under the Definition of Veterinarian’s Office and states the words “sick or injured” should be deleted.

Robert refers to the Tradesman Offices Standards which talk about a 50 foot property line limitation. Robert asks if the materials are fully contained and screened, why can’t they be within the 50 foot property line? Cynthia talks about people requesting a variance. Cynthia talks about having the neighbors weigh in. Will states the Board should look at the map and take a look at the dimensions to see what is left.

Cynthia states if the Board gets through Indoor Light Industry and Recreation Camps at the next Meeting, whether they feel comfortable about moving this over to the Town Board within the next month or two. Robert believes so. Charlotte states camps will be the hardest to write. Robert states he is very happy with

what Bruce said tonight because it may have made Gary more comfortable that there are standards and regulations as well as someone responsible. Robert states he doesn't have any problems with the woodworking or publishing Uses. Robert states it would be a function of size which Roland may be able to help us with. Charlotte talks about the classifications of the chemicals. Robert talks about maintaining flexibility that offers as many Uses that people may take advantage of.

4. Comments From the Chair:

Cynthia states to Lori Tripoli that the DSEIS for Highgate/Woodlands was circulated today and lets her know that the CAC were all down on the list to access the documents via the Town Website. Cynthia states she believes all of the documents will be posted on the Town Website. Cynthia states that disks were given to Janice Will and asks Lori to let her know if they need more. Cynthia states this may be the first time that most of the CAC will be reviewing a DSEIS. Cynthia states the Town Board will look forward to hearing the CAC's comments at the June 25th Public Hearing.

5. Next Meetings:

- Regular Meeting – June 5, 2013
- Work Session – June 19, 2013

6. Resolution:

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