

**North Salem Planning Board Minutes**

**July 2, 2014**

**7:30 PM – Annex**

**PRESENT:**            **Cynthia Curtis, Chairwoman**  
                         **Charlotte Harris, Board Member**  
                         **Bernard Sweeney, Board Member**  
                         **Christopher Brockmeyer, Board Member**  
                         **Roland A. Baroni, Town Attorney**  
                         **William Agresta, AICP**

**ABSENT:**            **Gary Jacobi, Board Member**

**ATTENDANTS:**                            **Town Courthouse:**                            **Jim Hahn**

**Chairwoman Cynthia Curtis calls the July 2, 2014 North Salem Planning Board Meeting.**

**REGULAR MEETING:**

**1.        Sprint Nextel Corp.:**                            (property owner – Heziha Sulcevski)  
                 **Site Development Plan**                            (location – 73 Crosby Road)

- Consider Amount of Removal Bond
- Referral to the Town Board

Cynthia states a suggested Removal Bond amount was reviewed by our Town Engineer and he came back with a slightly higher amount which is now acceptable to the client. Cynthia states that Douglas Warden from Snyder and Snyder is here tonight and asks him if he has any questions about the amount. Mr. Warden states no. Cynthia reads the Draft Resolution whereas it states “Resolved, that the North Salem Planning Board hereby recommends to the Town Board that a Removal Bond for Modifications to the Existing Facility at 73 Crosby Road be posted in the amount of \$6,600.00 for Sprint Nextel Corp., based on a recommendation, see attached, by the Planning Board’s Consulting Engineer, after his review of the Removal Bond Cost Estimate submitted by Jake Shappy of Transcend Wireless”. “This bond would not cover the costs for removal of the pre-existing tower and equipment”.

**Chairwoman motions that the Planning Board Approve the above-mentioned Draft Resolution for Sprint Nextel Corp. Charlotte Harris seconds. All in favor. No opposed.**

After the motion Cynthia states that Mr. Warden should forward the Bond over to Roland for his review and also send a quick memo to Warren Lucas requesting to be on their next Agenda. Cynthia states that the Planning Board will also send the Resolution over to the Town Board. Mr. Warden asks whether they would prepare and submit the Bond after the Town Board approves the amount. Roland states no, usually the Bond would be submitted in advance. Cynthia states it could be done conditionally. Roland asks whether the Town Board is going to approve the amount or the Bond. Cynthia states they would approve the Bond. Roland states that Mr. Warden needs to send him either the original or a copy for his approval and he will see that it is placed on a Town Board Agenda. Mr. Warden states he doesn't think it will be a problem to submit the original.

**2. Town Courthouse: Jim Hahn  
Site Development Plan**

(property owner – Town of North Salem)  
(location – 66 June Road)

- Discussion of Proposed Site Plan

Cynthia states that Jim Hahn is here with us tonight. Cynthia states that we have been waiting for the survey and Jim has one now with topo's. Cynthia states there was one quick meeting between Warren Lucas, Ward Hanaburgh and myself. Cynthia states the biggest thing Jim is trying to work out is the parking. Cynthia states that the parking calculations may be done based on our Code but we also have the advantage of this being a working Campus having Court every Monday night. Cynthia states we may count the cars and talk with the people who work in the Court. Cynthia states the biggest goal is to figure out how many parking spaces we actually need for the present Use and for future Use.

Jim introduces himself and states he doesn't believe he has been before the Board; usually Frank is here. Jim states the Board has two layouts in front of them. Jim states he doesn't have a large copy mounted at 90 degrees on the Board. Jim shows the location of the 60 degree parking that he and Cynthia spoke about. Jim shows the one-way entrance off Route 116, and the exit on June Road. Jim states the main difference between this Plan and the 90 degree Plan is that the 90 degree Plan has approximately 45 spaces. Jim states the 60 degree Plan has approximately 41 spaces. Jim states he believes the 90 degree Plan is much better as far as the number of parking spaces and ease of operation. Jim states he received two comments; one from Warren, and one from Ward. Jim states that Warren does not like cutting into the rock outcrop and feels it will be too much money. Jim states he feels we should move forward and see what that cost will actually be as he doesn't think it will be that much. Jim states that Ward wanted the pull-in lane reduced to 12 feet and an 8 foot-wide section for parallel parking. Jim states he is not sure that is a good idea. Cynthia talks about the handicapped parking going in that area. Jim shows where he is proposing the location of the handicapped parking be. Cynthia states she realizes that. Jim states the handicapped spaces will be wider for parallel parking so people may get in and out of their cars. Cynthia confirms those spaces cannot be in the line of traffic. Jim states there may also be a problem for the Fire Department. Christopher talks about having a drop off area versus actual parking. Jim talks about needing 20 feet instead of 12 feet. Cynthia states if we make it this wide will we have to put no parking signs all over the place or just stripe the ground. Jim states the alternative is to make it 12 feet, or have no parking signs. Cynthia asks whether striping it on the pavement will be sufficient and states it may not work in the winter when it snows. Will talks about the no parking signs and states they do not have to be unattractive Department of Transportation (DOT) signs; they could be mounted on wood. Jim states Cynthia is right; first the parking has to be decided. Jim states that after that there are other issues such as drainage, lighting, and landscaping. Cynthia states she likes the angle parking because she finds it so much easier to back out when someone is backing out from behind. Cynthia states that angle makes more sense. Cynthia states if two people are backing out at the same time is there sufficient room so as to avoid hitting one another if they go halfway out. Cynthia states that sometimes people are so busy looking left and right that they are not necessarily looking behind them. Jim states he could live with the angle parking and likes the 90 degrees better because there would be 5 more cars. Jim states that during the day most of the parking spaces will not be utilized. Cynthia states that is correct; we are talking about Monday nights and darkness during the fall and winter. Will asks Jim what his modular width is for the 90 degrees. Jim states it would be the same 10 by 20. Will asks what the modular width would be from curb to curb. Jim states six feet. The Board talks about there being plenty of room for backing up with the 90 degrees. Christopher asks whether we have looked at and assessed what the traffic is at the current Courthouse on Monday nights in terms of actual counts. Cynthia states we are working on that. Cynthia gives an example of approximately 30 cases, with the addition of the North Salem and the State Police, in addition to an interpreter. Cynthia states the counts are still being worked on, but it is in the range of 40 to 50 spaces on busy nights. Christopher asks whether a traffic counter could be installed. Cynthia states that would include the Library traffic. Cynthia states the best

thing to do is to visit on a few Monday nights and obtain counts. Will states the trouble with the angle parking is that you are forcing everyone to go at the intersection and also forcing people to potentially come back out on the road if there are no spaces and they are too lazy to go up to the top lot. Jim states they are trying to prove that there isn't a need to go up to the top lot. Jim states there would be four feet of cut dropping down to two feet and then zero. Jim states that going up there will be quite expensive in regards to future parking. Jim suggests trying to find out how much parking will be needed on a busy night and hopefully it will be less than 45 so the other area could be labeled as future parking. Jim states this will also help with the drainage requirements. Cynthia states that we also could eliminate the rock cutting for now. Cynthia refers to the 90 degrees and asks Jim whether there would still be a one-way system or a two-way system. Jim states we would make it one way, as we felt that was a strong suggestion. Christopher refers to the one-way system and talks about having all the Titicus Road traffic dumping onto June Road prior to going up and in. Christopher states that the heavy traffic will really only be one night a week. Will refers to the intersection and states the driveway should not even be there. Cynthia talks about making it two-way. Jim states if it is made at 90 degrees there will be the option in the future to make a change in the future. Cynthia states the parking lot could be two-way. Jim refers to the location of the police car parking. Cynthia states Warren does not want all of the police cars down below. Cynthia states that Warren's goal in the future is to have the extra police cars up above in some type of metal building for security reasons. Cynthia states if it is not feasible to build this now due to all of the rock cutting, she suggested the police cars are left in a specific area because generally they only use two or three at a time. Charlotte asks how many extra police cars they have. Cynthia states she believes they have eight. Jim states he believes they wanted parking for eight. Cynthia states that six could be in one area and the two that are in regular use could be in another area. Cynthia states the Judges may want to have special parking that is closer and asks whether their entrance is at the opposite end. Cynthia states the police will be bringing people in on the southern/left end of the Site and shows the proposed doorway. Cynthia asks whether there will need to be parking in that area. Jim states there is a separate entrance for the Judges and he doesn't remember where it is right now. Cynthia states she believes the Judges come in on the right side of the building and the prisoners come in on the left side. Will states he thought the prisoners have to be escorted in separately from wherever there is public access. Cynthia states yes, that is why they would go in through the back door. Cynthia states it seems to her that the State Police will want one or two spaces on the left in addition to the regular Police. Cynthia states that all of those five spaces will be for Police and reserved spaces. Charlotte refers to an entrance and asks whether it will be kept. Cynthia states there will be an entrance there, but the question is whether it will be one-way or two-way. Cynthia asks the Board how they feel about a one-way versus two-way entrance. Bernard states he prefers a two-way entrance. Charlotte refers to Salem Center and states that people do not pay attention to the one-way. Roland states unless the Court limits its calendar, there will be no way to just have the lower parking, as it will not work. Roland states that 1/3<sup>rd</sup> of the people have attorneys that come so there will be more cars. Jim asks whether the current parking lot gets full. Roland states yes. Christopher states the Library lot is also full down below. Roland states and the driveway as well. Cynthia states that everyone is told to come right at the beginning because they do not know when they will go before the judge. Jim states the other alternative will be expensive because a sidewalk will be needed as well as lighting. Christopher asks whether there is a neighbor next door who would object to a large parking lot. Cynthia states no she doesn't think so. Cynthia shows on the Plan where the house in the front and the cemetery are located. Jim states another problem is the rock and any drainage, lighting, and wiring will be very expensive for that alternative. Cynthia states when Bill Balter's team did their calculations they used a count of 40 or 41 cars. Cynthia asks Jim if he knows where they obtained those numbers. Jim states he doesn't. Jim states it was originally 68 or 70 cars and somehow we are at 40 or 45 cars down below now. Charlotte asks whether any more cars may be squeezed in down below by going back further. Cynthia states the message the Town Board is going to have to give to Court is if they are going to have too many cases they will need to have a second night because there is no place else for people to park. Roland states that people will start parking on the road and at Saint James. Charlotte states crossing the road will be dangerous. Roland asks whether the Office of Court Administration (OCA) has to provide an approval at some point.

Cynthia states that grant money was received so she suspects yes. Roland states even without grant money he believes new Courts have to be approved at the State level as well. Roland states he believes it is another step in the process and they probably get involved with making sure there is sufficient parking. Cynthia tells Jim that they will have to work more on the parking and she will sit down and talk with the Judges. Jim asks Roland if he will find out who they need to speak with at the OCA. Roland states yes. Cynthia states that parking will be a big challenge and the other challenge has to do with the property line when looking across June Road. Cynthia refers to the dots on the Plan and states there is a guardrail there. Cynthia states that Ward has told us there absolutely has to be a strong guardrail there. Cynthia states she was thinking about coming up with a nice design so as lighting is part of it, as well as signage. Cynthia talks with Will about coming up with design ideas to give to Jim. Will states he could provide plenty of ideas, except he is not sure that in terms of engineering, what he comes up with would be liked. Cynthia states that is the challenge; take the strong engineering design and keep it decorative. Will refers to the nice guardrails on the Merritt Parkway and states he isn't sure the Board is familiar with them. Cynthia asks whether it is necessary to have guardrails or can they be bollards. Jim states they probably would have to be guardrails. Cynthia asks whether the posts of the guardrails will be able to support bollard lights. Jim states he believes so or they could be designed as such. Cynthia talks about having plantings on the other side of the guardrails. Jim states the main issues he sees are the parking and the drainage. Cynthia states yes, from an engineering standpoint. Cynthia states from a design standpoint people would not want to see a stark guardrail across there and would want it softened. Jim states they can always do that. Cynthia states we have to recognize that any plantings will probably be on State property because our property line is right there. Jim states that we are actually using three parking spaces on the Department of Transportation (DOT) property. Cynthia refers to the dark line on the Plan across June Road which is the property line and the other line is the guardrail and states there is not enough room for planting. Cynthia states the other question she has for Jim is whether there has to be so much sidewalk. There is a discussion about people walking in the road. Jim states that he doesn't think people should. Jim talks about a portion of the sidewalk going away eventually because people will walk right down the middle of the parking area. Cynthia confirms that the sidewalk may be shown as being done in the future. Will states that the sidewalk in the front will be needed. Jim states there are five entrances. Will asks what the width of the sidewalk is. Jim states approximately five feet.

Cynthia refers to the antennas and states they should find out from the Police whether the antennas will be coming or something else. There is a discussion about the antennas being located up above the building. Will asks whether there were any on the Highway Building. Cynthia states she doesn't know but there is a pole up above and maybe something was on that. Cynthia states it would not be attractive to see the antennas stuck on the roof of a beautiful building.

Jim states they haven't done an estimate, but it would cost approximately \$3,000 to \$5,000 to chip out four feet of rock and grade. Jim states that rescheduling would be a heck of a lot cheaper than trying to get up there.

Cynthia states the building will be finished this fall and Warren wants people to occupy it so we have to approach it in two steps. Cynthia states that Warren does not want rock chipping.

Cynthia states with the 90 degree parking we will get more spaces. Cynthia talks about handicapped parallel parking along the guardrail and states that would be additional parking. Will states he doesn't think that will comply with requirements. Charlotte states how about having regular parking along the guardrail. Cynthia states that was going to be her next question. Cynthia states if there was a one-way design people could possibly park along the guardrail. Cynthia states she is just trying to find more parking spaces. Cynthia asks whether there is appropriate width. Cynthia states it looks as if eight or nine spaces could go there. Will states the road width is 20 feet wide and cars would take up 9 feet which would only leave 11 feet. Christopher

states there is parking there now. Cynthia states the building has been pushed up. Jim states the building will come out 15 feet. Cynthia states the bump-out is there now, but there has to be a sidewalk and landscaping. Will states if the upper lot isn't done a few more spaces may be obtained. Cynthia asks if we had the sidewalk right against the building near the bump-out addition how many feet would we pick up; possibly three or four? Jim states we would probably pick up a little more than that. Jim states he will look at it but he doesn't think it will help. Christopher mentions that Will has stated that five more spaces could be picked up if we go all the way to the edge of the property. Christopher states that would be fifty spaces. Will states if it gets really crowded maybe a shuttle could be considered. Jim states the road going up is only 12 feet and we are putting in a 20 foot road which will cause additional cost. Will asks what the road grade is. Jim states it starts out at 20 feet where the 4 foot cuts are. Jim states the problem is that it is all very hard rock. Will states there is a 14% slope. Jim states right now it is 20%. Cynthia states we are trying to make it 14%. Cynthia states that 12% is our design standards for driveways and we could allow it to be 14%. Will states isn't that for houses. Cynthia states correct. Cynthia states that the initial discussions were to only have the police cars up there; not for public access. Cynthia states if there may be overflow public parking up there she doesn't know how to bring it down below 14%. Cynthia asks if it is safe and acceptable for employees. Will states they could do it, it is just not recommended. Cynthia talks with Jim and states she thought the area would be scooped out more because Ward had said there is fill over there. Jim states he believes it was looked at and for some reason it didn't work. Cynthia talks about making the curve wider. Will talks about chasing the grade and having to go deeper. Jim states if there is fill, we need to know what kind, as that may be a potential problem. Cynthia states it is probably chunks of concrete.

Cynthia states there are challenges and we have to move quickly. Cynthia states if anyone has questions or ideas, in this instance, please email them because she would like to forward them to Jim.

Charlotte talks about the location of the entrances. Cynthia states we are locked into the entrances due to the Court regulations as they are very strict in terms of an entrance for the Judges and an entrance for the public. Charlotte refers to another area on the Plan and states maybe more parking spaces could be picked up. Cynthia states Charlotte is talking about cutting off one of the entrances. Will states if you have an entrance you need to have a turn around to get out. Cynthia asks why there are no spaces opposite the area where the five police cars will park. Jim refers to the entrance coming in and states he doesn't believe it is possible to get any parking in there. Jim states he will look into it though. Cynthia states that people are parking there now. Jim states he knows but it is the Highway Department, not public parking access. Jim states they put their parking templates on this and it didn't work. Roland talks about the spaces being reserved for only police cars. Jim states they looked at that and believes if they could have put parking there they would have. Cynthia asks if the parking on the other side is going deeper toward the sidewalk now. Cynthia states she has parked on either side a lot and it seems to work. Cynthia asks Jim to take another look at it. Jim refers to the access road and talks about not being able to swing out to the west and then back. Cynthia states if it is a one-way the opening may be narrowed down. Jim asks if the Board is back to a one-way design. Cynthia states that is what she thought. Cynthia asks what the sight distance is. Jim states he and Ward looked at it and it is not bad and even the sight distance to the north is not bad. Jim states he believes it was approximately 300 or 400 feet without actually measuring it. Cynthia talks about a lot of people coming and going as well as the dangerous intersection. Jim asks if there is a history of accidents in this area. Cynthia states yes that is why the blinking red light is there. Jim asks if there is an accident history since the light went in. Charlotte states yes. Christopher states it is just a flashing light and doesn't solve anything. Cynthia states the light has been knocked down from accidents. Christopher refers to having a one way and talks about all of the traffic being pushed out onto June Road and states the problem with that intersection is that all the traffic is going north and south there. Christopher states there will be more traffic in that area. Cynthia states it would only be during Monday nights. Cynthia states that every day there would be approximately eight employees so we are not worried about the commuting hours. Cynthia states that Court starts at 6:00 p.m. on Monday nights during

commuting hours. Jim states the good thing he hadn't thought about the 90 degrees is that you can open it at 90 degrees one way or two ways and then manipulate it. Cynthia states she agrees with the 90 degrees. The question is whether the access should be one way or two ways. Christopher asks what would be gained by having it one way. Cynthia states to her the intersection would be safer. Will talks about the enforcement issue. Christopher talks about whether people would violate the parking rules when they are going to a Courthouse. Cynthia states she believes the State Police will be parked along the rail. There is a discussion about pushing the sidewalk back. Will states it could be done, but would not be safe. Cynthia states that yesterday there was a State Police car parked right on the grass at the Town Hall Campus.

Cynthia states the Board will meet again in two weeks and asks Jim if he could come back. Jim states yes and he will take everything discussed tonight under advisement and see about making it work. Cynthia states she will try to speak with Tom Howley in regards to his needs for Monday night Court. Cynthia states she will forward any information she receives from Tom over to Jim. Roland asks whether the Judges should be consulted. Cynthia states that a set of emails has already gone back and forth to the two employees in the Court. Cynthia states it would be a good idea for Tom or one of his men to know what is happening in regards to the number of vehicles. Roland states it may be a good idea to take a look at the Court calendar. Cynthia states she was advised that there are approximately 30 cases except she is not sure how to translate that into a specific amount of parking spaces. There is a discussion about attorneys also coming to Court. Roland states that it depends on the nature of the cases, and not everyone has their attorney come. Roland states that 1/3 of the people have attorneys come. Jim states a rule of thumb would be to have 2 ½ people per car. Cynthia states that is not our issue, that would be the Building Department's issue. Cynthia states the occupancy will dictate the number of cases. Jim states it would be helpful to obtain a case count on Monday nights for a month or two. Cynthia states she will speak with someone to see how we go about doing that. Cynthia states maybe the Police could do it. Cynthia states we also have to know the nature of what is happening inside in terms of whether it is a night with 30 cases or not.

Jim states it would be a good idea if Cynthia came with him when he meets with the New York City Department of Environmental Protection to discuss drainage and requirements. Cynthia states she will be happy to do that.

Cynthia states on this one case the Board may see emails coming and going. Cynthia states we will not use email to discuss our thoughts, just to share information in a one-way stream. Cynthia states the Board should provide her with questions or thoughts and she will forward them to Will and Jim. Cynthia states she will forward an email to the Board if she hears feedback from the Court.

Cynthia refers to doing SEQR and asks Will if anything has to be done at this point. Cynthia asks Will if this is a Type II Action. Will states it is not a Type II Action; it is Unlisted. Cynthia talks about the review process in terms of the Court being an Involved Agency. Roland states he doesn't know if the OCA would get involved with what is happening with the interior, entrances/exits, or sight issues. Roland states the only sight issue would have to do with the number of parking spaces. Roland states he doesn't think they would be interested in drainage, but they may be interested in lighting. Cynthia states that Jim has already worked out the number of handicapped parking spaces with the Building Department. Cynthia states she believes those spaces are based on the interior occupancy. Jim states they are based on a percentage of the total parking spaces. Cynthia states the Board should run through the exercise to see what the Zoning for the occupancy has to say about the parking because if more is required we will have to deal with that. Cynthia asks Will to run the zoning calculation on parking and send it over to Jim.

Cynthia thanks Jim for coming tonight.

### 3. Financial Report:

- June, 2014

**Chairwoman motions that the Planning Board Approve the June, 2014 Financial Report. Christopher Brockmeyer seconds. All in favor. No opposed.**

### WORK SESSION:

### 4. Zoning Amendments:

- Zoning Amendments Referred by the Town Board

Cynthia states there have been two or three Meetings with the Town Board and everything is moving rather nicely. Cynthia states there are a few minor changes the Town Board will be asking for that will not require a kick back to us. Cynthia refers to the farm stand discussions in terms of the Planning Board leaving the word “temporary” in and states the Town Board would like that word taken out. Cynthia states the Town Board made one significant change which she believes is a good change in the NB District. Cynthia states the Town Board would like to see restaurants in the NB District. Cynthia states she thought the Planning Board had already put them in. Cynthia refers to the second set of Retail Uses in the GB District and states because one or two of the Districts in NB already have those Uses there via Use Variances the Town Board thought that all of the Retail Uses should go in NB as well. Cynthia states there are a few minor items such as wording issues and definitions. Cynthia states when Will pulls it all together she will make sure he provides the Board with a copy. Cynthia states the two big items that came up, and the reason why the Amendments were sent back to the Planning Board, has to do with churches and schools. Cynthia refers to public schools and states that there have been opinions exempting them from everything. Cynthia states the Planning Board had taken the position to take them out because they thought it sent the wrong message that somehow they have a say in where public schools could or could not go. Cynthia states there is no definitive word out there although another school district attorney has told us that there are enough opinions from the Controller’s Office and the Attorney General’s Office. Cynthia states the Board has not seen that documentation yet. Cynthia talks about putting schools back in if it makes everybody happy and states she doesn’t want to confuse people. Cynthia states the question she asked at the last Town Board Meeting which she didn’t get an answer to, as to if we put schools back in, are we putting them back in everywhere, or only where they are allowed right now. Cynthia asks Roland whether he would like to speak about this. Roland states he thinks the Town Board is interested in having schools put back where they currently exist, in the Single Family Residential Zones. Roland states the idea is to not do anything that could be interpreted by a group of residents as being such that they could possibly prevent an expansion or the location of a new school. Roland states it sends a message to a residential group who may not understand Zoning Law all that well that if schools are non-conforming how could they expand. Roland states that someone could also argue that they are exempt so they are not non-conforming but on the face of it they would be made to be non-conforming Uses. Roland states if someone is sitting on a school board it could give them an uneasy feeling of being zoned properly today, but may not be zoned properly in the future. Roland states why complicate it. Christopher refers to the Town Board Meeting and states part of the discussion was focused on a fairly narrow legal question as to whether or not schools are exempt. Roland states there is no Statute. Roland states there are cases. Roland states that case law can always be changed. Roland states if a Court goes in a different direction schools would be non-conforming and why would we want them to be non-conforming. Cynthia states to her they are not non-conforming because what is the relief. Roland states there would be if a Court ruled in the other direction. Cynthia states the Court would also have to specify what the relief is. Will asks what they would be non-conforming of. Roland states if a Court ruled that the immunity is more narrowed than the thinking, then a school would have

to go to the Zoning Board of Appeals (ZBA) because that would be their only source of relief. Roland asks why the Town would want their schools to have to obtain a Use Variance from Zoning. Cynthia states she doesn't think they would because they would not comply with the Zoning. Cynthia talks about arguing to the other direction and putting them back in in every zone. Cynthia states that someone may take the position that they want to put a school in on Fields Lane and our Zoning doesn't allow it. Roland states that no one is asking for it. Cynthia states no, but they might. Will states he understands what Roland is saying, but talks about the discomfort people may have if they feel they are non-conforming, or do not have the location being the same thing. Will states the public will misunderstand and think that the Town has some authority over the schools because it is in the Zoning Code. Roland states he agrees with the concept that a Town is supposed to protect its schools, not eliminate them in their Zoning Code. Roland states for the purpose of showing protection and promotion of the school system it doesn't make sense to him that the Town would eliminate them. Will refers to the Comprehensive Plan in terms of it going way beyond what the Planning and Zoning Board does. Will states there are also wetlands and we are not protecting them when it comes to schools. Cynthia states the Board was very clear in terms of not saying that schools should not go anywhere. Cynthia states the Board was saying the opposite, that it should be a decision of the school board in terms of where the schools should go and they should take on that responsibility. Cynthia states if the Town Board is going to want schools back, and it is her opinion that they should go back everywhere. If the Town Board wants them put back in the Districts they are in now, that is fine.

Emily Naughton states by not including schools in the Use Table you are not necessarily eliminating them. Mrs. Naughton states to that extent the Town doesn't have jurisdiction, it's statutory. Mrs. Naughton states that it is in the Education Laws and the State Constitution. Mrs. Naughton states that Courts have interpreted that to be the authority for the fact that the Town doesn't really have Zoning discretion over public schools. Mrs. Naughton states to the extent that the Town is trying to assert it by putting it in the Use Table is actually confusing to everyone and the distinction here is that you are not eliminating you are just not including it in a Table of Uses that you are essentially saying the Town has jurisdiction over. Mrs. Naughton refers to having a provision in the Zoning Amendments establishing that there is no elimination and the Town does value Educational Uses. Mrs. Naughton talks about establishing the fact that the Town does not have jurisdiction over public schools.

Cynthia states it is probably safer to just put the schools and back where they are. If we are going to do a correct job, we should look at where they are, but why go there. Christopher states his thinking on this is driven by what he feels is a fairly narrow legal question and he has heard two different opinions on the matter. Christopher states at the end of the day he doesn't know whether that matters as Cynthia has said the Town Board wants schools back in as they were before. Will states the exemption as he understands it is more by interpretation and case law. Will states the MTA actually has language stating they do not have to come before towns. Cynthia states that is the comfort level that some of the attorneys would like to see and she doesn't blame them.

Cynthia states that was the discussion on public schools and we have yet to discuss private schools and churches. Cynthia states the churches have to do with the law that we briefly talked about a few Meetings ago. Cynthia talks about putting the churches back in and whether they should go in as-of-right or a Special Use. Cynthia states she doesn't understand the advantage to putting them in as a Special Use because arguments would be put forth that we can't regulate them differently than other places of assembly even though they are totally different. Cynthia states the way we look at planning and zoning, churches would be very different and would take different standards. Cynthia questions why not put churches in as Conditional Uses; it might be more protective for the Town. Will states at a minimum they could be put in as a Special Permit and apply the General Standards. Cynthia states she believes they were in every Zone except for a couple and we may want to consider putting them in every Zone. Cynthia states that could be a Town Board decision. Cynthia states

they are in the Commercial Zone as-of-right. Cynthia states they are not in the Multi-Family or PDCCRC. Cynthia states they are not in three Zones. Cynthia states the Planning Board did not get a directive from the Town Board as to whether they want churches to be a Conditional Use or not. Cynthia states that Roland had suggested it at the Meeting but as she stopped to think about it she doesn't see how it could be done except as General Standards as Will mentioned. Roland talks about coming up with special Standards that are applicable. Cynthia states yes, special General Standards that would work for all places of assembly whereas we could back it up with very specific reasons why. Roland states the State and County Highway Departments could certainly help in regards to traffic. Will states that is a big change to what the current Code is. Cynthia states yes that would be a big change. Will states churches are allowed in the PDCCRC Zone as an Accessory to the Principal Use. Cynthia states there are chapels in a lot of those places. Charlotte confirms that nothing will be changed for churches or public schools and everything will be restored.

Mrs. Brahmst states that the Board has had a year of Meetings on these Regulations and during the discussions their attorney has acknowledged that there is case law whereas it states "the educational law has reserved the State power over construction of school buildings and by the latter of these two sections the power and authority have been delegated to the Board of Education". Mrs. Brahmst states there is law in her opinion and what upsets her is to hear the Town Board is going to kick it back so let's just ignore our opinion. Mrs. Brahmst states the Town Board are elected officials and if they want to kick it back they can do that. Mrs. Brahmst states that is a working democracy. Mrs. Brahmst states if the Planning Board is saying they feel they shouldn't do it, fine, then don't do it. Mrs. Brahmst talks about having a whereas clause stating "whereas we acknowledge that the State and the Board of Education controls where we put schools, therefore we are not including them in our Districts". Mrs. Brahmst states that to her is a reasonable position and if the law changes to Roland's point that whereas clause is nil. Mrs. Brahmst states that nobody wants to affect public schools in this Town but to go in and make a provision or legislation to leave it where it is because it is the least contentious thing to do with the Town Board, with all do respect, is not what she would like to see our officials doing. Cynthia states she didn't say the Planning Board would be sending a recommendation to put the schools back. Cynthia states it is an acknowledgement that the Town Board is going to put them back. Cynthia states her discussion tonight was to whether or not we simply acknowledge that they are going to put them back the way they are or maybe make a recommendation that if they are going to put them back put them back differently. Cynthia states she was pretty vocal representing the Planning Board. Cynthia states the Planning Board thinks it is not necessary, but the Town Board thinks differently, and may want the comfort level of putting it back. Mrs. Brahmst states she would like to see that discussion go to a public level. Cynthia states the Board is not done yet as there has to be a discussion on private schools. Christopher asks what the Planning Board will be recommending to the Town Board if anything. Cynthia states the recommendation will be for there to not be a change and to undue our deletes. Cynthia states the Planning Board would acknowledge that the Town Board wants them to undue their deletes. Cynthia states she asked the Town Board the question as to whether they want them put back the way it is or to put them back differently. Cynthia states she is not recommending it be done differently on churches. Cynthia states she is raising the question as to whether or not to put public schools back everywhere. Cynthia states the Planning Board has heard Roland's advice and she is sure he will give the same advice to the Town Board. Christopher states if the main concern is that somehow we are slighting or making public school systems in this Town nervous, that we do not like them because we are removing them from the Use Tables, is there some other vehicle in the Zoning documents the Town has that can make a statement assuring them. Cynthia states we don't know that people will feel that way, we only know from the School Board that they think the public is going to feel that way. Cynthia states this has not gone to a Public Hearing yet and no one has written to the Planning Board. Cynthia states the Meetings are public so everyone may watch. Cynthia states the public has not cried out to ask what the Planning Board is doing to their schools. Cynthia states the Planning Board has made it very clear that there is only one reason they are doing it because they don't believe they can regulate and it is misleading. Cynthia states if someone told the Board that they should be regulating the schools, they would

have had a full discussion as to whether they should be left in the Districts they are in, or put them in more Districts. Bernard does not see why churches should go back in and asks why we are changing our minds. Cynthia states because we created one non-conformity with one church in one of the Zones and they have expressed a concern. Bernard asks if they are exempt right now. Cynthia states not churches. Roland states that church would be rendered non-conforming. Bernard states they would be grandfathered so what is the difference. Roland states no they would be legal non-conforming but if they wanted to make changes or expand they would always have to go for a Use Variance to the ZBA and those Use Standards are hard to comply with. Will states they would claim a foul anyway. Cynthia states they are non-complying as to bulk anyway because the current Ordinance says they have to be on four acres.

Mr. Brahmst asks what the Board has resolved in terms of how they will go back to the Town Board in regards to public schools. Cynthia states when the Board is done with their discussion they will tell her what message they would like to send back. Cynthia states Will may prepare a Memo versus her sending an email to the Town Board. Cynthia states that is up to the Planning Board.

Cynthia states the other issue is private schools and she doesn't think the Town Board had an issue with eliminating private schools but if we were to put any school back in, such as a nursery school, that opens up the door for putting them all back in, but that is only her interpretation of the case law. Cynthia states one of the churches happens to have a private nursery school as part of their Uses and that is how this came up. Cynthia states it is pre-existing and was supposed to be there by Special Permit. Cynthia refers to the current Ordinance and states it is there by a Special Use Permit of the Town Board. Cynthia asks the Board whether they want to revisit private schools. Christopher asks why Cynthia thinks that by permitting day care centers or nursery schools that somehow it opens up an invitation to other private schools. Cynthia states that nursery schools are different than day care centers. Cynthia talks about nursery schools being private and states if we allow one school at one level we have to allow a school at all levels. Will refers to nursery schools and states if someone isn't at kindergarten level or up they are not mandated to go. Cynthia states there may be changes coming in New York in regards to Pre-K and we should be ahead of that. Roland states a nursery school has a Pre-K atmosphere. Roland talks about nursery schools becoming accessories to churches. Cynthia states it would be great if we could just do that. Will asks how a nursery school or Pre-K would be different than a day care center. Will asks whether a Pre-K Program has to have a Child Services License or something from the Board of Education, or both. Cynthia asks if someone wanted to run a nursery school whether they have to obtain something bigger under the day care regulations. Katherine Daniels is here with us tonight and states no. Will states he doesn't understand the question. Cynthia states she thought that by putting day care centers in we covered the base and someone could have a nursery school. Cynthia states she came across documentation which stated that if day care centers offer something the State considers equivalent to their definition of Pre-K, it is fine by them. Will asks whether that will be mandatory by the State. Cynthia states that is her understanding. Mrs. Daniels states to her it is not about the difference between nursery schools and day care. It is about the treatment of Educational Uses in general. Will states no, not from a zoning perspective. Will states from an educational perspective, sure. Will states from a quality of how much it will cost to go there, yes. Will states there are clear differences between schools and day care centers. Mrs. Daniels states she is speaking in general. Will states the Board has to talk about specifics and define them under the law because there are different licensing requirements under the State. Will states there are different laws for schools versus nursery/day care centers. Will states someone may have a day care center that looks like a school and does schooling or have a Tutor Time type of facility where children play with toys. Will states they are under the same licensing requirement by the State. Mrs. Daniels states she does not understand why nursery schools are being deleted. Will states they are not being deleted, they are being redefined as day care. Mrs. Daniels states she wants to make sure they are not being eliminated. Will states that the term "nursery school" is an antiquated term. Mrs. Brahmst states she took two of her children to the North Salem Nursery School where she had to rush to change diapers before dropping them off because they couldn't and

asks if by defining the nursery school as a day care center, will you be eviscerating the school because it cannot live with the day care Standards. Will states they cannot operate if they are not meeting their certifications and licensing requirements. Will states there are strict requirements regarding children. Mrs. Brahmst states not so much as a nursery school versus a day care center. Will states that is what he is trying to understand. Will asks if there is a nursery school that can have children that is not under the Board of Education which currently exists and states he doesn't think so. Mrs. Daniels and Mrs. Brahmst state yes. Will states only a private entity in a church. Mrs. Daniels states the nursery school license is different from the day care center license. Will asks what type of license it is. Mrs. Daniels states she isn't sure and doesn't want to speak out of term. Mrs. Daniels suggests someone from the North Salem Nursery School come and talk to the Board about exactly how that works. Mrs. Brahmst states the North Salem Nursery School is very strict about what they do and don't do. Mrs. Daniels states absolutely, the North Salem Nursery School is very careful and very strict. Will states he needs to know the differences between licensing requirements. Mrs. Daniels states the North Salem Nursery School and St. James would like to have the opportunity to do day care, but they don't want to lose the ability to be just a nursery school ever. Will asks if the nursery school goes beyond the Organization's Parish. Mrs. Brahmst states she is not a member of the Parish except her children did go to the school for about three hours a day and they do not change diapers or serve food. Mrs. Brahmst states it is very old-school which is exquisite as this Town is. Will states there is nothing wrong with that. Will states he has a hard time believing there are kids there, but no license. Mrs. Brahmst states they are very strict at what they do and literally they will not change a diaper. They are clearly complying with laws and restrictions. Will states there are facilities who chose to not take kids in that specific age group. Christopher reads the old language whereas it stated "nursery schools or day care centers in conjunction with permitted churches or other places of worship or public, private, secondary, or elementary schools". Christopher states the Board replaced family day care and group family day care. Cynthia states we introduced those as new Special Permit Uses. Roland states the Board needs to know what the distinction is between day care centers and nursery schools. Cynthia agrees and states the Board will carry this over to the next Meeting. Will asks if there is a contact person at St. James. Cynthia states St. James has a website and the contact person would be Karen Weinstein. Cynthia states that Mrs. Weinstein's information is there on the website. Will states this is something he has trying to grapple with, not just here, but in other municipalities. Cynthia states the question is whether they have a license or whether they don't want to exceed the standard in order to be required to have a day care license. Christopher states the Board started discussing this within the context of not allowing day care centers and/or nursery schools. Cynthia states that day care centers are allowed. Christopher states but potentially not nursery schools. Cynthia states her question was if a nursery school is a school does that mean all private schools have to be allowed. Christopher asks if finding out the answer as to the difference between a nursery school and a day care center is going to answer the question. Cynthia states we have to find out if a nursery school is a school by the same Definition or do they just call themselves a nursery school but is a nursery get together. Will states that a school is a school so if it is a school that opens the door for every school. Cynthia states maybe it is not a school. Maybe it is just what they call themselves which is what we need to find out. Mrs. Naughton states that just calling yourself a school doesn't necessarily mean you are a school. Mrs. Naughton states there are Standards and three-part tests in terms of what makes a school a school and an Educational Use. Mrs. Naughton states even if the Town doesn't have jurisdiction, they are acknowledging that a public school is a good Use within a certain District and there is safety and an infrastructure in a certain area to accommodate that public school Use, the Board will open the door to any other Educational Uses. Mrs. Naughton states that may send the wrong message. Mrs. Naughton talks about looking at it from the other side and states she understands the Board does not want people to get the wrong perception. Mrs. Naughton states there are specific areas where facilities may not be reasonably and safely be accommodated. Cynthia states there are differences and this Board is not making a finding that public schools should be in particular Districts. Cynthia states the Board made a different finding. Cynthia states the Board thought they made a finding for public schools not to be the Zoning because they have no say. Cynthia states if someone told the Board they do have a say, they would have looked at all the Districts. Will states if public schools are kept in,

private schools will want to know why they are excluded. Mrs. Daniels states that is not how the law works. Mrs. Daniels states that you cannot exclude Educational Uses from any District. Mrs. Daniels states that the Town may reasonably regulate, but not exclude. Roland gives an example of a private school donating 50 acres on Keeler Hill and states they would have to come in and justify through the whole review process. Will states he agrees and that is what the problem with the law is about. Will states the Town cannot say what District a public school could go into, they could go anywhere, as we do not regulate them. Roland states that private schools can be regulated. Will talks about taking the position that public schools have the ability to go anywhere and asks how we would make that distinction in case law so that all schools have to be treated relatively the same. There is a discussion about how to regulate private schools. Cynthia states it was her position to take out the public schools because they could not be regulated. Mrs. Daniels states that is not how it works.

Mrs. Naughton states to the extent that you are ever going to be dealing with any other Educational Use, she doesn't think it could be argued that Special Permit Standards are absolutely permissible under New York Law. Cynthia asks if Mrs. Naughton is talking about schools. Mrs. Naughton states for public schools or private schools. Mrs. Naughton talks about traffic conditions, lot suitability, and neighborhood character. Mrs. Naughton states if the Board is contemplating putting anything back in any Zone she would encourage them to think very carefully about the Standards that are put in place to make sure they are reserving the right of the Town to review proposals. Cynthia states that right now all private schools have Special Permits. Roland states public schools may not come before this Board but they do go through a whole cycle with the State Education Department. Roland states it is not that a school will be built in an area whereas wetlands or other items are not considered. Cynthia states that the zoning is not looked at. Roland states they do not look at the zoning, but they look at the site and many of the same issues the Planning Board would look at. Roland refers to the School Board in terms of doing SEQR the same as the Town Board or Planning Board would have to do. Roland states it is not as if public schools do not have any process. Cynthia states the Board knows that public schools have a very rigid process to go through. Roland states that with private schools the review will be at the Planning Board level. Cynthia states that if 25 acres of land on Fields Lane were to be donated to the public schools and they wanted to build fields on it, do you think the fact that it is not zoned that way would stop them. Cynthia states she doesn't think it would stop them at all. Cynthia states she doesn't think the School Board would find that to be an issue at all. Cynthia states it seems to her that if the Town Board is going to put public schools back in then private schools need to be put back in. Cynthia talks about doing it as a Special Use Permit and write Standards. Cynthia states that Standards for university-type schools are very different than Standards for high schools and middle schools. Cynthia states this will take the Board a long time to do. Cynthia states if the Town Board goes that route, she thinks she would recommend to them that the Planning Board would tackle that as the next round of Amendments if they wanted to stick to their deadline of doing this under the Moratorium. Cynthia states if this Board feels very strongly that the Standards should be written now, if that is where the Town Board wants to go, then we will probably have to ask them to extend the Moratorium. Christopher states his opinion is that he doesn't like the piece meal approach. Cynthia states that is what it is turning into. Cynthia states it will take some time. Bernard states the Board is pecking at items and every time we settle on something we change our minds. Bernard states it is too much work. Bernard states we should find out what the law says and then go with the law. Roland states that hopefully we are doing that. Cynthia talks about getting clarity on the law. Will asks Roland if it is clear that if a private secondary level-type school is allowed then a university would have to be allowed. Roland states the impacts are wildly different. Roland states there would have to be different Standards. Will states he understands there would have to be different Standards and states there is work that goes into writing Standards as well as costs. Will states if we don't have to do it, the Town saves money. Will asks if one school is allowed does every school have to be allowed. Roland states he doesn't think there may be a distinction in Zoning between the different classes of schools. Roland states a university is going to require an infrastructure that does not exist in this Town. Will states there could be a college that isn't bigger than a

small private school. Cynthia refers to the cases that were read and gives an example of Cornell Cooperative Extension deciding to have a campus in North Salem. Roland refers to the Calder Center at Fordham University in Armonk. Roland states it is on 150 acres in the middle of the most prestigious area in Town and there are 12 students. Roland asks why we would want to prevent that type of a facility. Cynthia states if they could all be nice and small it would be fine. Roland talks about writing specific Standards including impacts so that a larger density university would never get approved. Roland states the Board is not saying that it would have to be approved if it is such that the Applicant cannot prove out during their environmental review that they can make it all work. Christopher talks about having the Moratorium extended for several months to write the Standards in order to cover every possible Use that is out there. Mrs. Brahmst refers to the Comprehensive Plan that this Board and other Boards spent a lot of time developing and states they cannot be forgotten in all of these discussions about case law. Cynthia states that is why the Standards would reflect the basic principal of the Comprehensive Plan such as maintaining the rural character, open space, and keeping facilities at a certain size and scope. Cynthia talks about keeping the traffic down. Cynthia states that right now we have the Uses but do not have the Standards to regulate them.

Cynthia states we are not going to resolve anything tonight. Christopher states if we cannot exclude public schools for all the reasons we said then we need to put them back in. Christopher states he thinks the Board needs to go back and think about all the other school Uses and write Standards for them. Cynthia states she wishes Christopher wouldn't use the word "exclude" because we are not excluding them. Cynthia states we are acknowledging that they can be anywhere in Town. Christopher states we removed them because we have no authority over them. Cynthia states yes, and they can be in every Zone. Cynthia states she is a little nervous that if it is left the way it is that would open up a big issue. Cynthia states that Roland has been very vocal at the Town Board Meetings and asks whether he has an opinion as to whether the Board may pick and choose the Zones that public schools are put in. Mrs. Daniels states she does not think the Board may pick and choose Zones for any Educational Use. Mrs. Daniels states she thinks they have to be permitted and then reasonably regulated. Mrs. Daniels states she isn't talking about the public schools because they are regulated by a different entity. Will states right, so why leave them in. Mrs. Daniels states the private schools can be regulated. Cynthia states yes, by a Special Permit. Mrs. Daniels states the way she reads it, they cannot be eliminated from any District. Cynthia states if the Town Board decided to put schools back the way the current Ordinance is, would Mrs. Daniels point out that there would be a problem? Mrs. Daniels states she does not think there would be issues. Mrs. Daniels states the school exists where it exists and the State is going to do what it is going to do. Christopher states that would be worse than taking them out completely because we are acknowledging that we do not have a say over them anyway and will leave them the way they are. Cynthia states the multi-family Zone is the issue if we are saying that a whole bunch of housing should be concentrated in one Zone, but no schools, how do we say that. Mrs. Daniels states she isn't comfortable with them being taken out and believes it sends the wrong message to the public. Mrs. Daniels states they have always been in and now suddenly they disappear. Mrs. Daniels states from a School Board Member's perspective it is a change that could have unintended, very negative consequences. Mrs. Brahmst states as a member of that school public, she has a question for Roland, which he isn't obligated to answer, and that is why couldn't this be settled entirely with a whereas class stating "Whereas we are not approaching public schools because we acknowledge we have no right to regulate them and they are properly regulated by the Department of State". Mrs. Brahmst states that nobody at any board meeting is going to find that objectionable. Mrs. Brahmst doesn't understand why we would ever propose to leave something as it is as good law because nobody is complaining about it. Mrs. Brahmst states we are in 2014 and we need to be rationale with our decision making. Cynthia states we should not resolve this tonight or make an attempt to make a recommendation to the Town Board. Cynthia states she will have another conversation with Mr. Lucas to see what his expectations are from us. Cynthia states she will report back in two weeks and we will be revisiting this. Roland states if we were to extend the Moratorium that decision would have to be made soon because it would require another Public Hearing. Roland states his recollection is that some of the Town

Board Members were not in favor of even having a year Moratorium. Cynthia states the Town Board has to be made aware of how the Planning Board is concerned with this new development and they are not going to get a clear recommendation to do anything differently. Cynthia states if the Town Board directs the Planning Board to put these specific items in and write Standards that would be a better comfort level so we have specific direction. Will states the Town Board would have to make that decision in August. Cynthia states that is why she asked the question at the last Town Board Meeting that if we are putting public schools back are we deleting the deletions and she believes the Town Board has to respond to the Planning Board. Roland states the letter from the School District focused on their existing properties in the R-4 District. Cynthia states why? Cynthia asks why the School District is not thinking out of the box. Roland states if you are a School Board Member would you vote to put a school in a largely Commercial Zone especially as you go into the Town of Southeast. Mrs. Brahmst states if they do the Town cannot control that. Roland states he understands that but rationally School Boards try to work together with Towns that they are in and they are not going to construct a school in a Manufacturing Zone. Cynthia states she thinks they try to locate the schools where people are concentrated. Will states the NYSEG property is a very good example. Will states it is not zoned for that, but it is a suitably sized site with good road access. Cynthia states she doesn't think it is a negative to have a school in a Commercial District if it happens to work. Will states the Town doesn't have any Commercial Districts of any size that a school would fit into. Cynthia states if private schools go back in they should be regulated by Special Use Permits. The Board agrees. Cynthia states the Board would need time to write those Standards. Cynthia states in regards to public schools the Town Board should make a decision based on all the information that has come up recently along with Roland's advice. Cynthia states the same is true for churches. Cynthia states that more homework has to be done with nursery schools.

Cynthia states if Roland can come up with any other cases or opinions, they would be welcomed. Cynthia talks about speaking with Warren about the time schedule in terms of having more time. Christopher states if there really is a legitimate concern from an optical perspective of what this Board and the Town Board is going to decide with respect to education in this Town he believes there are other vehicles to do that. Christopher states he doesn't want to get wrapped up in a pretzel over optics. Christopher states if by removing this Use, for reasons that make perfect sense from a legal perspective, then he believes the optical problem may be solved in other ways without compromising.

**5. Next Meetings:**

- Work Session – July 16, 2014
- Regular Meeting – August 6, 2014

**6. Resolution:**

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