

Mr. Rossi states the parking areas are shown on the proposed Site Plan, and they were previously Approved, but never built out. Mr. Rossi states there have been many conversations over the years about the existing access ways. Mr. Rossi states he was the Attorney who represented Craig Brigham when the Site was Brigham's Corners. Mr. Rossi states at that time variances were granted for the Site such as Use Variances, and Area Variances. Mr. Rossi states Mr. Brigham was able to run a garden supply store business, and utilize up to 20% of the Site for outside storage, some of which could be within setback areas, namely for bagged and bur lapped trees and shrubs, otherwise they would have to be out of the setbacks. Mr. Rossi states there was acknowledgement by both the Planning Board and the Zoning Board of Appeals (ZBA) that the business was seasonal. Mr. Rossi states when Christmas Trees came in, they were allowed to be kept outside, but they had to be outside the setbacks. Mr. Rossi states all of those previously approved Uses are items that Ms. Dayton would like to take advantage of, and she would also like to introduce other Uses that are consistent with the recently upgraded Zoning for the area when additional Uses were locked into the NB District. Mr. Rossi states the concept is to have a country market with improvements to the Site in order to make it a great place. Mr. Rossi states that Ms. Dayton will be hands on, as she has left her job at Lime Rock in Connecticut to devote full time efforts to this business. Mr. Rossi states he believes the survey will cover a number of bases from Will's review. Mr. Rossi states they have not been looking at the food Use as a restaurant, so they have not planned for a restaurant Use in doing the Site Plan. Mr. Rossi states what is being planned is more along the lines of a deli. Mr. Rossi states they are not proposing to have waiters and waitresses. Mr. Rossi states people will not be served at a counter. Mr. Rossi states there will basically be convenience seating similar to what they have at 121 Market and in front of Kingsley's. Mr. Rossi states they don't see this proposal fitting into the restaurant Use or the restaurant seasonal outside seating Uses. Cynthia asks Mr. Rossi if there is a problem going that way. Mr. Rossi refers to technical issues with regards to Use Groups. Cynthia states it might work to the Applicant's advantage because the Board could put in a provision for outside seating. Mr. Rossi states for practical purposes, keeping the Health Department aside for now, if the business is called a restaurant, he doesn't think there would be a problem if the restaurant Use is considered as being isolated in the buildings so they do not trigger the need to comply with any of the Use Group (I) setbacks and bulk requirements. Mr. Rossi states he would encourage Ms. Dayton to have as much flexibility as possible, but it may trigger other requirements such as variances, which they would shy away from. Cynthia states the only item it might trigger in her mind that is of importance, and Will can answer specific questions about setbacks, has to do with the parking. Cynthia states if this is going to be a viable business as we all hope it will be, it seems to her that additional parking will be needed that a restaurant type Use would anticipate. Mr. Rossi states that is why they haven't considered the Site to be a restaurant. Mr. Rossi states the Site would render itself to be a good location for another restaurant. Cynthia states she and Will have been wrestling with how the Site would fit into a niche because all of the Definitions are laid out in the Code for what the Board understands the Applicant wants to do. Cynthia states initially Bruce told her that the Applicant wanted to bake her own goods and sell them. Cynthia states now more items are being proposed, such as coffee and chili which is considered to be food. Cynthia states the problem is that our Retail Definition specifically excludes the serving of food which pushes this over to a Restaurant Use. Mr. Rossi states it excludes it under the umbrella of a restaurant serving of food Definition which contemplates that the food is being consumed primarily by people seated at tables. Mr. Rossi states the food is prepared primarily for consumption on the premises by people seated at tables or at a counter and there really is not going to be any of that. Cynthia states that the Applicant does want tables and chairs. Cynthia states that fast food is not allowed, such as going up, getting food, and sitting. Cynthia states that is what the Board is trying to protect so as not to end up with it. Mr. Rossi states someone could pick something up at a grocery store and lean up against the door and eat it. Will states it is not prepared food though. Mr. Rossi states someone could pick up a box of donuts. Mr. Rossi states he does not think preparing food is a problem as the Use specifically provides for baked goods and the like. Will states he believes that is the difference and talks about food being prepared versus pre-packaged. Will states when getting into the preparation of food, even when going to the Health Department, they will look at it differently. Cynthia would like to talk about the fears or the downsides Mr. Rossi has if the Site were to be called a

restaurant, as well as the Use Group and the setbacks question. Will states the setbacks would be an issue because there would need to be a different lot area and width requirement, as well as setbacks. Cynthia states if only one of the Uses were to be there does that mean the whole lot takes on the restaurant Use. Will states no, it would be wherever that is, such as in the back or front of the building.

Gary asks what percentage of the building will be a restaurant. Mr. Rossi states the only place that there would be any seating would be under a covered area and we are only proposing to have a couple of tables. Cynthia talks about when the cold weather comes and asks whether any seats will be moved indoors. Mr. Rossi states no. Cynthia asks whether there will ever be seating indoors for convenience. Ms. Dayton states she thinks there will be seating inside. Ms. Dayton states it depends on whether there is seating there for that purpose, or seating on garden furniture that is for sale. Cynthia states if this business takes off and becomes popular, the seating will get moved inside when it gets cold. Cynthia states the fresh produce section will be narrowed down because there will not be as much produce, and there will be room for more seating inside. Will asks whether the purpose for the seating is so people may eat the food they buy at the store. Mr. Allen states it would be for convenience. Mr. Allen states the customers will not be served, and food will not be brought out to their table. Cynthia states the Board understands that. Will states the problem he has is that the Definition for Retail Business, as Cynthia alluded to, does not include restaurants or other food service (eating and/or drinking establishments of any type). Will states it is limiting and he does not think it was meant for a deli type business. Mr. Rossi states that a deli is not defined. Mr. Rossi states he has been looking at it such as having the sale of baked goods, which would fall under a bakery. Will states that is added on in the Schedule and asks Mr. Rossi to read it. Mr. Rossi refers to the NB Zoning Table which lists "Retail businesses including stores and shops for the sale of baked goods, drugs, dry goods, groceries, fruits, vegetables, meats, liquor, notions, stationery, toilet articles, books and flowers, hardware, gifts, antiques and tack shop goods." Mr. Rossi states he has been looking at this proposal as being something less than a restaurant or food service. Mr. Rossi states this would be something that he feels would be customary and routinely associated with a bakery. Will asks Mr. Rossi whether he thinks Starbucks would fall under this category. Mr. Allen states that Starbucks is not a restaurant. Will states sure it is. Cynthia states yes it is. Mr. Rossi states that a primary part of the business Starbucks gets is people who sit down and hook up their laptops. Cynthia states it is a combination of fast food and takeout with some seating. Will states it is a grey line. Mr. Allen states that this will certainly not be a Starbucks. Mr. Rossi states there certainly is a desire to have coffee, as well as muffins and baked goods that are baked and sold there. Mr. Rossi states there is no real intention to have a significant amount of seats, maybe two to four tables with chairs around them. Cynthia asks what will control the number of seats, and states unless we specify it, the vegetable and the garden portion could go away and the seating and food portion could get bigger.

Cynthia states in her mind it all comes down to parking. Cynthia states if people will be coming in for lunch, and the establishment becomes more popular, more parking spaces will be needed, such as a retail-type business would have. Cynthia suggests moving away from the Use discussion for one minute, and states to Mr. Allen that right now, everyone is parking in the front of the building. Cynthia asks if it works to have laid out parking there, and is that where he intends to get the extra spaces from. Mr. Allen states yes. Mr. Allen shows on the Plan where people would park and refers to the 2005 Approval. Cynthia states for that Use, it was supposed to be laid out that way, but it never happened, and people aren't parking there. Cynthia states she is anticipating a vibrant business that will need more parking and that is why she is asking the question.

Cynthia refers to the loading zone in the front and states it is horrible and doesn't go with the Zoning, as you are not supposed to have a loading zone between a building and a street and if we do establish the parking in the front it will require a quick recommendation to the ZBA because parking is not supposed to be in the yard areas. Cynthia states the establishment is there and it has been in business for approximately 10 years with the parking there. Cynthia states that is where she parks every time she goes there because no one is telling her

where to park. Mr. Allen states it is convenient too. Charlotte states yes, especially when loading a car up with plants. Mr. Allen states that obviously Ms. Dayton wants to have a viable business, and hopefully we can fill those parking spaces, but they are not there now. Mr. Allen states the convenient parking is the front and it will be better defined in the total Site Plan. Cynthia asks whether there will be enough parking spaces. Mr. Allen states they believe so, as they have had discussions about it. Cynthia confirms there are 19 spaces and asks how people will be kept from parking in the front. Cynthia asks whether the Board has to request that the macadam be taken out and trees be planted. Mr. Allen states it is a good question. Will asks if the area is all paved. Cynthia states yes. Mr. Rossi states it is also needed for the truck circulation. Charlotte confirms the spaces are not striped. Cynthia states if the first person parked parallel, everyone would have to follow suit. Ms. Dayton states that striping would take away from the charm. Ms. Dayton states that planters have been drawn on the Plan. Mr. Allen talks about setting up planters at each parking space so they are defined. Charlotte states that could be done in the front if extra parking was needed. Mr. Allen refers to the Mobil station in Somers and states people still park in front of the shop, as it is impossible to stop that. Cynthia refers to the two spaces in front of the building and states she has never seen anyone park like that. Cynthia asks whether it is a good idea to have people pulling their cars in right next to where seasonal tables and chairs are being proposed. Mr. Allen states by Zoning they have enough spaces and in accordance with their analysis, the two spaces are required. Mr. Allen states those spaces were on the Approved 2005 Plan. Cynthia states if plants are lined up there when the business opens up in the spring the two spaces will not be available. Ms. Dayton states she is hoping to push the garden aspect more towards the pergola and the greenhouse section. Ms. Dayton states from a marketing/branding aspect having too much in the front makes people think there is nothing more to the business. Ms. Dayton states she would like to have the area open for parking, even though, as Mr. Allen has stated, it may not be used. Ms. Dayton states she will not have merchandise in that area as had been done in the past. Cynthia talks about having the two spaces utilized for handicapped parking. Ms. Dayton states there have been discussions about that which may be a solution. Ms. Dayton refers to the straight line of parking on the left side and states that due to the way the area has been plowed, we have had people parking against that line as a test, and it works really well. Ms. Dayton talks about defining the parking spots with planters. Cynthia states that something has to be done about the area where people are not supposed to park. Cynthia states the Applicant should plan for it, so it is done, and the Board may be able to make a recommendation to the ZBA, or the Board would want something added to the Site Plan in order to keep people from parking there. Mr. Rossi asks if Cynthia is talking about the front part. Cynthia states yes. Mr. Rossi states that one of the things that is difficult about this is that the area is essential for trucks. Cynthia states Ms. Dayton talked about moving the garden merchandise to the back towards the left.

Mr. Rossi refers to the prior reviews and states there were extensive discussions with Westchester County and the State Department of Transportation about the existing access ways. Mr. Rossi talks about trucks trying to pull in and not being able to make the turn coming around and heading into another opening. Cynthia asks why. Charlotte asks if it has to do with the turning radius. Will states that will not work because trucks will be going in opposing lanes. Will states trucks are not supposed to cross the opposing lane of traffic. Mr. Allen states on the prior approval the interior radius was very tight except for off of Route 121. Mr. Allen states any scenario will require the crossing of traffic in order to get into the Site. Cynthia asks why trucks cannot enter from one point and leave from one point with no other choice. Mr. Allen states you cannot predict which side the trucks will come from. Will states he was referring to Route 121 in terms of the trucks crossing into the lane of traffic. Mr. Allen states if they are coming from the north heading south they have to cross a lane. Will states it is not safe or correct to go into the opposing lane of traffic. Will states coming from the north and turning into the first driveway, the Plan showed the back end of the truck going into the opposing lane of traffic. Mr. Allen states yes, slightly and the sight distance is fine. Will states that means drivers need to notice the truck going into the lane and stop which is not safe especially on a State Highway. Mr. Allen states they will defer back to Westchester County and the State Department of Transportation since they both approved the prior Plan back in 2005. Mr. Allen states there is plenty of sight distance, and a lot of

time was spent on this back in 2005 with Craig Brigham. Cynthia asks whether trucks this large will be coming into the Site. Mr. Allen states no, but they were asked to provide for them. Mr. Allen states normally smaller box trucks would be coming into the Site. Mr. Allen states back in 2005 they were asked to provide the largest vehicle that could come in, and that would be a large tractor trailer which is what they demonstrated on the 2005 Plan and the current proposal. Cynthia states if there is parking in the front how would a tractor trailer be able to maneuver there. Mr. Allen states the Plan shows how trucks would get in and out of the Site. Cynthia refers to people who park incorrectly in front of the building. Mr. Rossi states if a tractor trailer truck comes, people will have to move. Mr. Rossi states it is not as if this is a department store. Cynthia states people will not be able to park in front. Cynthia asks how frequently this has happened and suggests that Ms. Dayton speak to Laura or Jackie to find out if this has been an issue since people have been parking in the front. Charlotte states there is room for a truck if people are parked there. Will states it boils down to the area being needed for movement. Will states it becomes a control for the management of the Site in terms of having to chase customers out of parking spaces. Mr. Allen states that Ms. Dayton will have to police it. Mr. Rossi states he does not think the deliveries will occur during high traffic times such as Saturday or Sunday mornings when Mass is getting out. Mr. Rossi states he lives very close to the Site and there have never been issues like this. Cynthia states that now there will be specific times when people will hopefully be attracted to come in for their morning coffee or their lunch, and it could be during delivery time. Mr. Allen talks about having discrete no parking signs and states this is a country setting and they would like it to stay that way. Mr. Allen states he would rather not use traffic cones.

Cynthia asks whether the two driveways that are closest to the intersection could be closed off. Cynthia states she didn't see any evidence of a variance being received for them. Cynthia states they are not the right distance from an intersection. Cynthia states she doesn't understand why the two driveways are still there as they should have been closed off. Mr. Allen states they are chained off now. Cynthia asks whether they could be permanently closed off and landscaped. Mr. Allen states that would require DOT and County permits due to the right-of-way. Mr. Rossi states the two driveways are not used. Cynthia refers to the grass area and states it may be able to be made bigger. Mr. Allen refers to the line on the Map in terms of DOT property. Cynthia states the driveways look unsightly. Mr. Rossi states that Ms. Dayton does not own the property. Will states the owner is also an Applicant. Mr. Rossi states he isn't saying he cannot ask the owner. Mr. Rossi states he always thought it was convenient to have the two driveways there even though no one uses them. Mr. Rossi states in the event of an emergency and fire trucks were on one side, having another way out might make sense. Cynthia states there are four driveways on one of the smallest Sites in Town. Mr. Rossi states historically, this has been the way the Site has been forever. Mr. Rossi states it used to be a gas station. Mr. Rossi states lord knows what it will end up being down the line and in the future. Mr. Rossi states to him, other than possible aesthetics, there is no need to remove the two driveways, because they are always blocked off. Mr. Rossi states the concept of having planter boxes to ensure people are not using the driveways, versus going through the drastic steps of closing the driveways up should be alright. Mr. Rossi states he doesn't see a need to close the driveways up. Mr. Rossi states this is a corner lot and there are not a lot of landscaping provisions that could be done there. Mr. Rossi refers to the owner and states for him to go and talk to the owner about closing the driveways will be a long process. Mr. Rossi states it was a long process to get to where they are today. Cynthia states she would like to see what will be added to the Plan to ensure that no one parks there, as well as how all the parking will work. Mr. Rossi states the Site looks bigger than it is when looking at the Map. Mr. Rossi talks about extra parking and refers to designating an area for loading and unloading and thought there might even be a way to have a few parallel spots there. Mr. Allen refers to the area and states it is very wide. Mr. Allen states there is room for parallel parking if we want to define it. Mr. Rossi states maybe three more spots. Cynthia talks about listing it as designated potential future parking if needed on the Plan with a provision to go to the ZBA for the waiver. Cynthia states she just doesn't see how it will be policed. Will talks about the issue having more to do with the fact that the parking isn't there today, and people don't park where they should park. Will states there is quite a lot of parking if it all were to be

built. Cynthia talks about building it and getting people to figure out how to use it. Charlotte states people just need to change their habits. Ms. Dayton refers to the four employees parking their cars in a certain way. Cynthia states it will set the pattern. Ms. Dayton states that no one has enforced the parking before and that is really what it comes down too. Ms. Dayton states she wants to embrace this change simply to show people that the business has changed, and it is not the same business it was before.

Cynthia confirms that the Plan will go back to the way the Site Plan was originally approved with a couple of minor variations. Cynthia states there is still a bit of an issue with the Use in terms of how to get around that, the outdoor seasonal seating in the front, and if it will be in the front, is it safe with the flow of traffic or is there anything that should be done to make sure it was a proper seating area. Cynthia states she worries about vehicles driving through and talks about the use of bollards. Mr. Rossi refers to a restaurant having counter seating and states he does not believe Ms. Dayton is interested in changing the dynamic of the establishment to make it a restaurant as he does not think Ms. Dayton wants counter seating. Mr. Rossi states that maybe in the long-term that might change, and they will need to come back before the Board. Mr. Rossi states the Board has the authority to waive parking requirements so that if the seats trigger a great increase they could say they are satisfied with the number of parking spaces. Mr. Rossi states the lot area is the way it is, so we have a pre-existing, non-conforming lot. Will states that doesn't give you the Use. Will states the trouble with the lot area is that it is an exception if it is existing if all the other bulk requirements are complied with. Mr. Rossi asks Mr. Allen if they are going to comply with the seating and asks him what the L Group requirement is. Mr. Allen refers to the memo from Will and states if we go to the Use Group for a restaurant then bulk wise we would be in non-compliance.

Will refers to the building dimensions and states that 25 feet was listed instead of 50 feet. Will asks what the dimension is for the building and the sit down area from the property line. Mr. Allen states he doesn't have the dimension on the Plan. Will states Mr. Allen has a scale. Mr. Allen states at best 15 x 30 feet. Will states he is talking about the distance from the property line. Mr. Allen states approximately 35 feet. Will states that is what comes into play when changing to a restaurant.

Will refers to the food service and asks Ms. Dayton to explain her vision a little bit further. Ms. Dayton states she would like to put in a commercial kitchen so they may prepare food on Site such as coffee, smoothies, tea, small plate breakfast egg sandwiches, small plate lunch sandwiches such as panini's, deli sandwiches, and chili. Ms. Dayton states that bottled beverages and baked goods will most likely come from off site. Ms. Dayton states they may bake on site if they choose to. Ms. Dayton states she is calling the portions small plates because people will not come in and have a waitress take their order, they will come in, pick up coffee and a muffin, and may sit down. Ms. Dayton states when she talks with vendors she uses the term café so they realize it is a small entity. Ms. Dayton states she believes the majority of the people will take everything off site, even though there will be people sitting down as well. Ms. Dayton states she can't really make a complete prediction. Will states to Ms. Dayton that she shouldn't get hung up on the seating because it isn't really just about that. Mr. Allen states it has very little to do about the seating. Will states it is more about the food service and the entanglement with the Definition. Ms. Dayton asks when selling baked goods whether that would encompass preparation on site. Will states there isn't a Definition for baked goods so he can't answer that question. There is a discussion about the meaning in the Code regarding bakeries. Ms. Dayton asks if baking could be done on site. Cynthia states yes. Will states yes, such as cookies, but not hot meals. Charlotte states that Ms. Dayton does not want to limit herself. Cynthia refers to people coming in for breakfast and lunch and states that is what the Board is trying to deal with in terms of what it will be called. Ms. Dayton states the inside will be very much like a market and the outside will be like a garden center. Will states the two quandaries are that the establishment could be defined as a restaurant and have to deal with the zoning issues, or create an allowance in retail so it doesn't have to be called a restaurant, which is probably the way the Town should go. Mr. Rossi talks about calling the establishment a deli. Will states yes, or some

limited food service within retail which would be a legislative change, which he believes the Town would be open too. Will states it would be a different path. Mr. Rossi states if we call the establishment a restaurant, we could have a lot more flexibility in the Use to accommodate what Ms. Dayton is planning, but we would have to get area variances from the ZBA. Will states that parking would have to be looked at in terms of the effects. Mr. Rossi states if the establishment is called a restaurant then the Use would be permitted in the District, but the introduction of the restaurant Use on the Site requires compliance with various area requirements such as setbacks. Mr. Rossi states practically speaking it could take two months. Will states there is one more wrinkle with the restaurant and that is the outdoor seating does not come in the District. Mr. Rossi asks whether outdoor seating is an Accessory Use to a restaurant. Will asks if Mr. Rossi is referring to the NB District. Will states that is only in the Parking Standard, but it is not in the NB list like it is in the other Districts. Mr. Rossi refers to the serving of foods. Cynthia states when the Planning Board sent these Amendments over to the Town Board, it was Peter Kamenstein who asked for a restaurant there so it was added in. Cynthia states that what was missed in the other two Zones is that with a restaurant we added seasonal outdoor seating as a Special Permit of the Town Board. Cynthia states that was not added to the NB District. Will shows Mr. Rossi the GB District Table and states the parking didn't get added into the ZBA list. Charlotte asks how hard it is to fix it. Cynthia states she already has it on the to-do list. Ms. Dayton asks how other markets are doing this in terms of serving food. Cynthia states that some of them predate and go back a long time, and others she is not quite sure. Cynthia suggests Ms. Dayton ask the Building Inspector how establishments have morphed into tables and chairs. Mr. Rossi states that people just put tables and chairs out and nobody said anything. Ms. Dayton asks whether she should just put tables and chairs out and hope no one says anything. Ms. Dayton states she is just a little confused with the inconsistencies. Mr. Rossi states to Ms. Dayton that she doesn't want to do business that way. Ms. Dayton states she definitely doesn't. Will asks whether sending something to the Town Board would take a couple of months. Cynthia asks if Will is talking about adding the word deli. Will states yes, to kind of clean up this item that fell through the cracks. Cynthia states if Will can tell the Board how deli would work, while staying away from the potential for fast food, she thinks it would go very easily. Will talks about adding the word deli along with a minimal percentage so the food part is an Accessory, not a Principal Use. Will states it could easily be crafted. Cynthia states this would be done in GB and NB because those are the two Districts where there are retail establishments that are multi-purpose, selling fresh vegetables, drinks, and breads as an example. Cynthia states that most of them have a counter where people may buy sliced meat. Will states it would be highly liked because restaurants were added to the District and this proposal is for something much less. Mr. Rossi states he believes in the NB District the introduction of the other retail Uses have been looked at as great improvements because of the issues over the years. Cynthia states that people were obtaining Use Variances in order to get in. Mr. Rossi states for this proposal, since Ms. Dayton is anxious to get up and running as soon as possible, it would be a lengthy process with a lot more variables if they were to try to effectuate a Zoning Code Amendment as opposed to having some relief from the ZBA which may be obtained in one Meeting. Mr. Rossi states they are still talking about a delay of a couple of months because they would have to go from the Planning Board to the ZBA and their process takes a month. Cynthia states if people will not be served at tables, the establishment really wouldn't be a restaurant. Cynthia states the Board is working on a set of Amendments and will be moving very quickly. Mr. Allen talks about pulling the seats for now, and then coming back in the future. Mr. Allen confirms that Ms. Dayton would like to start working on the inside. Mr. Allen states the seats are an asset but not an immediate necessity. Will states that the seats couldn't be used for at least two months anyway given the winter we are having. Mr. Allen talks about coming back before the Board for the seats, then the restaurant would be taken off the table, as well as the whole Use Group. Cynthia asks what Use Group the commercial kitchen will fall under. Mr. Allen states it would be retail. Cynthia states this sounds like fast food which is where she doesn't want the proposal to be. Cynthia states that is what she is being very careful about. Will states there would still be limitations on the food output that is done, but it would come inline fairly quickly in terms of when the business opens, maybe with the next couple of months. Charlotte asks if the word "deli" would be added in the meanwhile. Cynthia states yes. Will states he believes going to

the Town Board for the Zoning Amendment is the cleanest and fastest way to do it. Cynthia states absolutely. Mr. Rossi asks whether the commercial kitchen may go in now. Mr. Allen states that is part of the retail and as-of-right. Mr. Rossi states meat and baked goods will be cooked so it is a commercial kitchen. Cynthia states it will be a deli counter. Mr. Rossi asks if he goes into a specialty food store and buys a baked ham whether that is considered to be a deli with a commercial kitchen on site. Mr. Rossi asks if that isn't a retail sale of meats. Cynthia states she knows this has been in the works for so many months and it frustrates her that this is being done at the eleventh hour. Cynthia states she wishes the Applicant had come in during the fall. Mr. Rossi states that he looks at the seats as being accessory and customary to bakery and other types of establishments that sell food. Cynthia states we do not have that in the Code. Will states it is not only about the seats, it is about the type of food. Will states the approval could be crafted in such a way so as to have limitations from the start, and before the Planning Board is at the point of an approval, the Applicant will be diligently into a process with the Town Board, so it is not as if the Planning Board will be waiting for the Applicant to start that process. Will states there shouldn't be so much of a lag. Will states if Ms. Dayton had an approval in a month, how soon would she open. Ms. Dayton states she is going to open with or without the kitchen because there is no way that she can miss the spring gardening season. Will asks when that would start? Ms. Dayton states the soft opening would start on March 28th, and the true gardening season begins the end of April into May. Ms. Dayton states she doesn't want to just paint the walls and put a name up as that has already happened three times now. Ms. Dayton states that adding a kitchen is truly a game changer to the business allowing people to realize that this business has now elevated and it is something people will want in this Town. Ms. Dayton states to have the commercial kitchen is huge and if it is in process and she can get a Building Permit to start the building process while the business is being used she will take that. Ms. Dayton states she would hate to have to wait until May for a Building Permit. Gary states he doesn't see a problem putting this on the list of zoning changes.

Bernard talks about the parking issues that 121 Market has. Bernard asks what the difference is between what is there already across the street at 121 Market and states to him that is a deli and market. Bernard talks about duplication of establishments. Ms. Dayton states she is not following the conversation. Cynthia states that Bernard is referring to the fact that a similar business is across the street. Bernard asks how the business Ms. Dayton is proposing to have will differ from 121 Market when she has talked about having a deli. Ms. Dayton states she has been using the word café, not deli. Ms. Dayton states she is not going to have deli cases of food. Ms. Dayton states the only relation to a deli would be sandwiches. Cynthia states if we are talking about a café, will a liquor license be obtained. Mr. Rossi refers to the question Mr. Sweeney had and states the food aspects of this will be one component to the Site. Mr. Rossi states he looks at the business as more of a general store, having landscaping, gardening materials, and gifts. Gary refers to a business at Exit 3 in Armonk and states it is a high end nursery/restaurant. Mr. Allen states that is a huge facility. Gary states that is the concept Ms. Dayton has and it is working and it is nice there. Mr. Allen states yes, but on a huge scale. Mr. Rossi talks about a general store concept. Mr. Allen states yes, Little House on the Prairie. Mr. Rossi states the gardening aspect will be a major component of the Site. Cynthia states that is very seasonal, and when it slows down other aspects of the business will perk up. Mr. Rossi states that Christmas season will be an active time, as well as Halloween. Cynthia states that is why she believes the outdoor seating will move indoors. Cynthia states there will be space inside and people will be looking for a place to sit down. Mr. Rossi states there still will be retail areas inside. Mr. Rossi talks about this being a seasonal retail business. Cynthia asks what will happen to the café. Mr. Rossi states he has never anticipated seats being inside; only outside seasonal seating. Mr. Rossi refers to the tables and chairs outside of Kingsley's. Cynthia states all of the other places have indoor seating. Mr. Allen states that 121 Market puts seasonal tables outside and there are only one or two tables on the inside. Mr. Rossi states it is more in line with what the Peach Lake Market used to be. Cynthia states she is still trying to understand the kitchen aspect as she is hearing the terms café and deli. Ms. Dayton states she doesn't know what other term to use and states she guesses she could use the term market. Ms. Dayton states when people ask her what type of food she will have, maybe she should be

using the term market, and not café, but she uses that word because it helps outsiders understand a little bit about the food and the atmosphere. Cynthia asks whether there will be a meat counter with the sale of sliced meat. Ms. Dayton states no, they will have a meat slicer in the back in order to make sandwiches. Mr. Rossi states there will be a bakery so people may come in to buy freshly baked muffins. Cynthia states this has a lot of the aspects of take-out food service which is not permitted and that is what she is trying to figure out. Bernard agrees. Cynthia states if all of the food is being made for breakfast and lunch, without people sitting down, does that mean that a McDonalds could go in tomorrow? Cynthia states that is what they do, they make all the food, people go up to the counter and buy it, and either leave or in this case, sit outside if it is nice.

Will states the prior owner received a variance for the size of the establishment, and refers to the other 3,500 square foot cap on the facility. Will refers to calling this a retail establishment, and expand on the food component that is allowed, and make the accessory component clear which we have done in other instances by putting a percentage type limiting number of the overall establishment. Will states even if it was 25% of the 3,500 square feet, we could never have a McDonalds. Will states there are ways to control it, but the only difficulty is that the world is ever changing and fast food restaurants are now going into gas stations. Will states this is happening in high traffic locations. Cynthia talks about Will crafting it so that the multi-retail aspect component is kept in check. Cynthia refers to the customers and states the more seasonal varieties being offered the better. Charlotte asks what percentage it cannot exceed to have the commercial kitchen portion. Will states he doesn't know the exact number and asks Ms. Dayton if she knows how much area that portion of the building would take up in terms of the kitchen and the counter to the kitchen. Cynthia mentions 1/3rd. Ms. Dayton states that is correct. Cynthia states that Ms. Dayton has a drawing that shows the rooms and how they will be used. Ms. Dayton states the kitchen will be in the back room. Will talks about defining fast food in order to make it prohibited. Cynthia states she believes it is prohibited. Will states if fast food is defined that makes 80% or 90% of the fast food restaurants not meet that Standard. Cynthia states if Will can make this work it would be great. Will states he can make it work, and refers to the timing, as there are no guarantees. Mr. Rossi states that is understood, as they appreciate the crafting. Mr. Rossi states they would like to not have the construction aspects held up, as it would be nice to have it done before the operations start happening. Mr. Rossi states as long as everything can go in under the umbrella of the Permitted Uses, he thinks they can move forward and deal with the seating, food service, and consumption on the premises as part of a Code provision. Will states worst case is that the level of food will not be allowed upon opening, and there could be a few months wait for that to be introduced, but the spring season may take place with the gardening aspect. Ms. Dayton asks what level of food she would be allowed to have. Will states that is what they are going to figure out. Will states the small plate items will have to wait. Will states the baked goods would be permitted. Ms. Dayton asks about the coffee. Will states that bottled/packaged items would be allowed. Ms. Dayton confirms that anything pre-packaged, coming off site, and not prepared on Site would be permitted. Mr. Rossi states that breads could be prepared in the commercial kitchen and sold. Will states Ms. Dayton would have to wait for the non-bakery aspects. Ms. Dayton states she would need a list. Ms. Dayton asks if having one table inside would be a good thing or a bad thing. Will states he believes the Draft will be crafted in order to allow for seating. Charlotte states that is part of the Zoning Amendment. Ms. Dayton talks about not going to the ZBA. Will states Ms. Dayton technically does not have the ability the way the Code is written today unless there is an Amendment. Ms. Dayton confirms there is nothing written in the Code for a situation like this, it is either a restaurant where people are sitting down being served, or retail. Cynthia states there is no in between. Will states we will fill that gap. Ms. Dayton states people are currently doing this. Will states they may be grandfathered in, or some of them do what they do and no one goes after them. Mr. Rossi states when that happens and they want to sell to someone who wants to use the establishment for the same Uses, there will not be backup documentation.

Will refers to the outside seating and asks how many are being proposed. Ms. Dayton states approximately 10 to 20 people under the awning, and there was talk about putting garden furniture in the back for sale that

people may sit down on. Ms. Dayton states she thinks the seating will be mainly at picnic tables. Ms. Dayton states having 20 people sitting down at the same time could happen if a promotional event were going on. Gary states that a lot of bikers travel through there during the summer. Will states to make this work there have to be some limitations to keep it at a small accessory scale so it doesn't become the Use. Gary states this is so perverse. Mr. Rossi states he understands, but that is for the food aspect. Will states that no one wants to keep this business from being successful, the trouble is that when going to a Restaurant Use there are different Standards which this Site doesn't accommodate so well. Mr. Rossi states the overall benefit of having prohibitions on fast food for the Town is the other component that has to be weighed in on this. Charlotte states this business will not have fast food, but the next one could. Ms. Dayton asks what the Definition for fast food is. Cynthia states when someone isn't served at a table. Gary states it is primarily takeout. Cynthia states no, that is when someone isn't served at a table. Ms. Dayton asks if that is when it is the primary/sole business. Cynthia states it doesn't matter because someone may have multiple Uses on a Site. Mr. Rossi states that is what Will was referring to in terms of possible percentages. Mr. Rossi refers to the Dunkin Donuts on Route 6 and states there are no seats there, it is 100% fast food. Ms. Dayton states maybe there is a way to define it in terms of being a franchise. Mr. Allen states he has been through this in Lewisboro and unfortunately there have been a couple of lawsuits. Will states that Lewisboro has fast food.

Mr. Allen asks where they are at now. Cynthia asks Mr. Allen if he can take the aspects of the Memo from Will and put it onto a Plan that the Board may approve as an Amended Site Plan based on the discussions tonight. Mr. Allen talks about taking off the seating aspect. Cynthia refers to the Notes that Will is going to help craft that will help define the Use that is being introduced. Mr. Rossi states they will categorically go through the Memo from Will. Cynthia states it sounds as if this will be a minor Amended Site Plan because everything will be created the way it originally was with a few tweaks in terms of structures that are not there, and a tank or two that are not there. Mr. Allen states they have the existing survey. Cynthia states that Mr. Allen may want to take a look at the handicapped parking space and if the two in the front will be kept, make those the handicapped parking spaces. Cynthia states she doesn't know whether one or two will be required. Cynthia states that Mr. Allen will have to assure the Board that the parking will be safe and people will not be able to drive through the building, as there are safety issues that need to be addressed if people will eventually be sitting out there. There is a discussion about substantial planters. Mr. Allen states that is what they were contemplating.

Mr. Rossi states there was an issue with regards to the back left corner fencing. Mr. Rossi states on the original Brigham's Site Plan they used to keep a plow behind the fencing that is back there, outside of the setback. Charlotte states it is like a stockade fence. Cynthia asks whether the garden center will sell bags of mulch and states she remembers a few times when it was in the front yard where it wasn't supposed to be. Cynthia states she thinks it is supposed to be in a designated area. Mr. Rossi states the Brigham's Site came under scrutiny because Mr. Brigham was getting truckloads of palletized mulch and peat moss that he was storing along the back property line near the wall. Cynthia states there were also piles of loose materials. Mr. Rossi states they are not allowed to keep palletized materials in the required yards. Cynthia states that is right. Where will it go, and is there a designated place for it? Mr. Allen states they were approved to have storage materials in the back corner, but not palletized materials. Will states he thought something was going to be built in the back side of the building. Cynthia states she thought it was the front of the building, but not the greenhouse. Will refers to the approved plan and states that sheds or bins were supposed to be constructed. Cynthia refers to the approved Plan whereas it states proposed storage for 20 pallets of material and asks if that will still be the place for it. Ms. Dayton states there is a shed there right now. Mr. Allen states a cooler and a shed.

Will advises not to focus too heavily on the approved Plan other than the salient existence, but Ms. Dayton and Mr. Rossi need to have a discussion so Mr. Allen knows what to put on the Plan. Mr. Allen states he thinks

they have it nailed down and refers to the current survey. Mr. Allen states the bottom line is that from 2005 to now the parking wasn't completed as proposed. Mr. Allen states that Ms. Dayton would like to have a couple of propane tanks to support the kitchen Use, as well as a propane exchange such as is seen at gas stations. Cynthia states that is another outdoor storage item, and it is necessary to see what the ZBA allows. Mr. Allen states an ice machine has also been discussed which they have not listed on the Plan. Mr. Allen states those are the only changes they are talking about from 2005 to now. Cynthia states those are Uses that are specifically not allowed. Cynthia states the Shell Gas Station wanted to do these things and they have to come before us, and will need another variance from the ZBA to allow that. Cynthia states she is referring to the cages that house the propane tanks, as well as a big box for the ice. Ms. Dayton states that is why they are proposing to have them in the very back behind the fence. Cynthia states we will have to look at that. Mr. Allen asks whether that would require a variance. Cynthia states yes, those would be additional outdoor storage/sale items. Cynthia states we only allow items to be stored and sold within a building. Cynthia states that there was a variance for the outdoor storage and sale of garden items, but not the sale of propane and ice which is different. Cynthia states that Mr. Rossi should look into this as she doesn't think those items were previously allowed. Mr. Allen states they will figure it out as they want to make this as easy on Ms. Dayton and the Board as possible. Mr. Allen states if they have to deal with the ZBA legislation they will do that. Cynthia states there is only so much that can be done on one Site like this. Mr. Allen states once the Code changes start then long discussions will occur. Mr. Allen states it is a long process. Will states he disagrees because the Board just went through a very long process of adding a lot of Uses and honestly they couldn't catch everything. Will states the fact that restaurants have been added will make the process take less time. Will states he could be wrong, but believes this will be very welcomed. Mr. Rossi states there is a very limited NB District. Cynthia states this is a pre-existing Use in a lot of places, so it is a matter of capturing it and defining it. Mr. Rossi states they will take a look at some of the Definitions. Mr. Allen refers to completeness and states they went through the check list very carefully and believes they may be able to move forward quickly. Will states the way he would approach this is to take the survey and don't forget about what has already been approved, but pretend that is what you are getting to. Will suggests to prepare the Plan how they want it to be, and make it proposed. Will states the Plan should be in sync. Will states he isn't talking about the parking, he is talking about the storage. Will states that information should be put on the Plan. Will states that drainage is not being done, nor is a topo.

Mr. Rossi refers to procedures and asks whether there will be an uncoordinated review under SEQR. Will states the Board right now is just processing the first part, and in theory the Applicant will need to come back for a quick change to add the second part. Mr. Rossi states yes, when the zoning is taken care of, they will request an Amended Site Plan. Mr. Rossi states he just wants to make sure the first portion keeps moving forward. Mr. Rossi talks about the Planning Board making a recommendation to the Town Board and states it could be two or three months for all systems to be working. Will states if the language is worked out the Planning Board may make their recommendations.

Ms. Dayton asks if it will be two or three months before she can start putting in the kitchen. Mr. Rossi states the idea is to have the kitchen but not use it for the small plate Use that has been discussed until the Zoning Amendment is adopted. Cynthia states the Board is doing the first Draft of that tonight and they hope to wrap it up next month and get it over to the Town Board as they need to hold a Public Hearing. Cynthia states there are four items that are a rush. Cynthia states if the Applicant wants to move ahead faster than that they would have to submit their own Petition. Mr. Allen asks whether a Public Hearing will need to be held. Cynthia states it depends on how the Use will be crafted and whether it will fit in with what is already permitted as there will really be no change. Will states we are talking about a two- step process. Will states the first step is to rectify where the business was so it may open. Mr. Allen states yes, going back to 2005. Will states the second step will be down the road when we get to the zoning.

Ms. Dayton asks how she would confirm with Bruce Thompson that she may obtain a Building Permit for the kitchen. Cynthia states that Ms. Dayton has to come back to the Planning Board for a Resolution of Approval first. Mr. Allen states they will try to come back next month based on what has been discussed tonight. Ms. Dayton asks how long after she receives the Resolution of Approval would Bruce Thompson be able to give her a Building Permit. Cynthia states it will depend on whether there are specific Conditions in the Planning Board Resolution that have to be met. Cynthia states that Building Permit questions should be discussed with Bruce Thompson. Charlotte states that Ms. Dayton should tell Bruce what she is proposing to do. Will states that he assumes Ms. Dayton has already spoken with Bruce. Ms. Dayton states yes, but she isn't allowed to do anything. Will asks whether Bruce has looked at the floor plans. Ms. Dayton states no. Mr. Rossi states that painting has been done. Will states he is not talking about physical work being done, he is talking about Bruce looking at the actual Plan of the proposed alterations in order to check it against the Building Code. Ms. Dayton states she has not done that. Ms. Dayton states she is 99% complete with the Plan. Will states in theory, Bruce can look at the Plan while Ms. Dayton is continuing the process with the Planning Board. Ms. Dayton asks what the schedule is for the Town Board. Mr. Rossi states they will figure all of that out. Will states the Planning Board is in the midst of Amendments and Ms. Dayton may piggy back on that, or apply on her own to the Town Board. Cynthia states if Ms. Dayton applies on her own she will need to come over to the Planning Board as a referral or recommendation from the Town Board. Will talks about the Planning Board completing the four amendments right away. Cynthia states the Planning Board will go through the list she prepared and split it. Cynthia states any items the Board agrees are quick and easy will stay on the list, and items that need more thought will go on Phase 2. Mr. Rossi states he has a feeling he will be sticking around for the next discussion. Cynthia passes a copy of her memo and attachment to Mr. Rossi so he may follow along.

2. Discussion of Proposed Zoning Amendments

Cynthia refers to her e-mail dated February 16th. Cynthia refers to Tradesman Office and states unfortunately we lost a page in the last set of Amendments. Cynthia states this does not require any thought, we are just going to get the page back in. Cynthia states the missing page lists the Standards for parking, outside storage, and lighting, so it is a critical page. Cynthia refers to Construction Noise and states the Board had talked about this once before. Cynthia states there was a recommendation from the Building Inspector and the CAC and unless anyone has issues with it, we will have Will prepare a Draft Amendment as per the CAC recommendation. Charlotte asks what the e-mail from Bruce was about and what he didn't like. Cynthia states Bruce wrote to the CAC and they ended up doing what he asked them to do. Cynthia states she is meeting with Bruce tomorrow and will double check with him. Cynthia states the e-mail from Bruce didn't really state what he wanted. Charlotte agrees and states that is what she was wondering about as well because it didn't state what he liked or didn't like. Will states he read the e-mail quickly, but his interpretation was that if the Board wanted Bruce to come and speak with them he would do that in case they had any questions. Gary states his interpretation was the same as Will's. Gary states his only comment on the noise is that it is strictly related to construction noise, and not noise that comes from large trucks or machines, such as at a tradesman's office. Cynthia states that is correct as those instances would be handled by the Board during the Site Plan process, and would not be part of the Noise Ordinance. Cynthia asks Will if someone would need to have a Permit to trigger that Section of the Code and refers to someone working in their backyard emanating construction noise that doesn't require a Permit and asks whether that Section in the Code would come into play, or does it only relate to people having Permits. Will states he will look at it and states if someone is conducting construction pursuant to something allowed in the Zoning they would probably be subject to it. Cynthia states that is the only item she would like to look at. Will states the people would also be subject to disturbing the peace. Cynthia refers to the Non-conforming Uses and states this is the Section that required Lakeland Lumber to go to the ZBA. Cynthia states the need for Referrals will be deleted. Cynthia refers to the GB District for multi-family all affordable and states she is going to cross out the words "all affordable",

because when she looked at it she realized that in the GB District we have two classifications for multi-family and one Section is for multi-family, having nothing to do with affordable, and another Section is all affordable multi-family, but both of those provisions in the GB District do not have units per acre so we have to put that in. Will states yes, we will have to clarify this. Cynthia refers to the Recreation set-asides and states this will be put on the delay list. Cynthia states at some point the Board has to take a look at the way they address this and it may require a discussion at a couple of Meetings. Cynthia states she went through the whole Code and some of these items are quick fixes and others may need to go on the second list.

Cynthia refers to her Zoning Review 2015 attachment and states the first item is 250-9 D having to do with massage parlors. Cynthia states she will take this up with Bruce tomorrow, and she is fairly sure that the way the Definition of Professional Office has been crafted, that even if a masseur has a license, they will not fall under the Professional Office Use because the Use is clearly defined now as more of a clerical business operation. Cynthia refers to 250-9 E and states if there is an Amendment to the Uses we want to make it clear that this does not apply. Cynthia states this is something for Will to check the wording on. Will states we are clarifying that if someone exists without having a Special Permit and then the Code changes so it is required, whether a Special Permit will then be needed or whether someone may stay the way they are unless they change, and once they change then they will need to get a Special Permit. Cynthia states 250-13 is very simple, somewhere in the text of the Code we make reference to the list of Prohibitive Uses and say it is not an exhaustive list but when we actually do the list we do not state that this is not an exhaustive list. Cynthia states she would like that sentence to be added in. Cynthia refers to 250-16 and states she had mentioned this already regarding adding a maximum number of units, not lots for multi-family both affordable and non-affordable in the GB District. Cynthia refers to 250-16 B and states it has been a long time since we have actually done a subdivision having frontage on a cul-de-sac and she doesn't know whether the Code has good Standards and Waivers, and she wanted Will to take a look at this. Cynthia states this will go on the second list. Cynthia refers to 250-19.1 H and 250-19.2 C (10) and states both of these will be moved over to the second list. Cynthia refers to 250-22 B regarding awnings and states there is a provision that allows them to extend into yards whether residential or commercial and it occurred to her that some yards are only ten feet wide. Cynthia states it might make sense to have a cap such as not to exceed 50% of the setback. Cynthia states this could be done now, or later. Cynthia refers to 250-22 D and states she doesn't think this is needed. Cynthia states this will go on the second list. Cynthia states when we have lots that go behind other lots and take all different directions sometimes it is not clear what the front, rear, and side yards are. Cynthia states she wanted Will to review this so that it is clear. Cynthia states this will go on the second list. Cynthia refers to 250-25 C and states believe it or not someone may put solar panels on their roof and they may go as high as they would like them to go. Cynthia states that if solar energy is up and coming, we should consider a cap. Cynthia states this will go on the second list. Cynthia refers to 250-26 and states it may not be needed where it is and may be covered somewhere else. Cynthia states this is a house cleaning item and it will go on the second list. Cynthia refers to 250-36 A and states that has to do with parking and yards in regards to combined Uses. Cynthia states this will go on the second list. Cynthia refers to 250-36 A and states this is interesting and needs clarification. Cynthia refers to Hayfields and states when Brigham was before the Board in 2004 it should have been noted that the two accesses no longer met the 75 foot setback requirement from an intersection. Cynthia states that whoever did this used the centerline of the intersection as a measuring point, and our Code clearly states the right of way line is to be used. Cynthia states if this had been discovered a variance would have been needed. Will states the right of way line is the property line. Cynthia states not necessarily. Cynthia states in this case it is, but we have other cases where the right of way line is not the property line. Will states that means there is a property between the right of way and another property. Cynthia refers to all the takings by the Department of Transportation (DOT), such as where the Fuelco Project is, and states the right of way is set at 67 or 70 feet, and they own approximately 100 feet. Will states he will look at this more closely. Cynthia states this will go on the second list. Cynthia refers to 250-49 and states under the list of what the Building Inspector needs to check off we need to make sure that we are receiving an as-built at the end of certain important Projects such as Site Plan Approval. Cynthia refers to 250-58 B (1) (c) [2] and states this where the CAC noise recommendation comes in. Cynthia refers to 250-80 B and

states this is the non-conforming Use item we spoke about earlier tonight in regards to deleting the first sentence. Cynthia refers to 250-86 and states there is no mention that the Building Inspector should require a survey. Cynthia states that he does not have to require a survey but in some instances he should, so we are looking at that in terms of whether the list covers something that is sufficient to decide whether or not a variance is needed. Cynthia states there is a hesitation to require a survey because they are expensive. Cynthia states this will go on the second list. Cynthia refers to 250-97 regarding temporary construction trailers and states this is something that was added after the Code was written and it gave all the power to the Building Inspector to allow them on both Subdivisions and Site Plans. Cynthia states she doesn't have a problem with Subdivisions because of the way the language is written, as trailers may go on one lot and move to different lots. Cynthia refers to Site Plans and states if someone needs a construction trailer it should be dealt with as part of the planning process. Cynthia refers to 250-108 D and states this has to do with Special Permits of the Planning Board and it needs a cross reference. Cynthia talks about adding a pointer in so people know. Cynthia states this will go on the second list.

Cynthia states she went back and started to re-read the Definitions and development coverage always confuses her sometimes in terms of what should and should not be included. Cynthia states when she re-read the Definition "natural impervious area" is supposed to be deleted, which would be considered rock. Cynthia states she would like Will to look at this in terms of the development coverage count. Cynthia states she realized there was no Definition of impervious surface. Cynthia states there is one in the Stormwater Regulations. Cynthia also refers to pervious surface in terms of a Definition.

Cynthia states this is her master list. Cynthia states going back to the first page of her memo, there are probably only four or five items that we will be doing. Cynthia states the Restaurant Use needs to be added in the NB District, and Outdoor Accessory Seating as a Special Permit of the ZBA. Cynthia refers to the Tradesman Definition and states she realized that septic haulers and fuel haulers are examples of Uses that are not excluded, and we might want to consider doing that which will tighten up the Definition. Cynthia states the Board should take another look at the Tradesman Definition, as it is pretty broad the way it is written.

Cynthia states the Assistant Building Inspector, Paul Taft had sent her a list of Definitions they use with the Building Code. Cynthia states the Definition of habitable space is everything except, for example, toilets, closets, and hallways. Cynthia states she realized that in the Code, the term habitable is used but it is not defined especially when someone is proposing to have an Accessory Apartment through the ZBA. Cynthia refers to the size of the Accessory Apartment being referred to as habitable area. Cynthia states she knows the ZBA does not discount bathrooms and hallways. Cynthia states the Town was criticized by the State when they came in and looked at our Building Code and compared it to our Zoning Code, and other places where Definitions were. Cynthia states that the State saw inconsistencies with some of the Definitions in terms of some items not being defined. Cynthia suggests wherever we see the word habitable, take it out, and add a different term, such as living space. Will states when talking about habitable space in regards to the Building Code, the instances of bathrooms and closets not being habitable means they cannot be used as sleeping quarters, even though they are part of the habitable space as opposed to an attic. Will states there is a contradiction to what is being translated there. Cynthia talks about putting in a better term. Will talks about adding gross floor area. Cynthia states that Bruce called her today and would like a Definition of building height on the list and he will come and talk to us as he does not like our Definition. Will states it would be good to talk to Bruce in terms of how people are manipulating it. Mr. Rossi states he believes there have been problems on Peach Lake where the front of the house is at the grade of the road and the back of the house is 10 or 15 feet lower. Will states the Definition of building height could be tightened up, or have language added to it. Cynthia states this will go on the second list.

Charlotte refers to the previous deli discussion. Cynthia refers to the term café that was also used. Cynthia states to Mr. Rossi if he knows something his client wants, he should let the Board know. Mr. Rossi states Ms. Dayton would like to have flexibility in order to respond to what the demand is. Mr. Rossi refers deli's

having accessory seating for no more than a certain amount of people, such as Kingsley's. Mr. Rossi states he will look at other Code provisions.

Cynthia states the Board may do a few diagrams to help people to see how measurements should be done or viewed. Cynthia refers to buffers and states if someone requires a buffer, it is to be measured from the lot line in, and then the yard is measured. Cynthia refers to someone having a commercial property with residential property in the back, in terms of how the buffer line is measured and states she doesn't know if people realize how it is supposed to be done. Cynthia states a diagram would be helpful.

Charlotte refers to the commercial noise and asks whether the Board will go over the recommendation. Cynthia states yes. Charlotte refers to Vox Restaurant and asks whether they have any hope of having outdoor weddings again. Cynthia states the Noise Ordinance is only for construction noise. Charlotte states that commercial noise was also mentioned. Cynthia states the only recommendation the Board is thinking about acting on is in our Code. Cynthia refers to the elaborate memo the Board received from the CAC. Cynthia states that Will has told us before that in order to control all the noise, a separate Noise Ordinance should be written. Cynthia states this does not refer to lawn mowers, or leaf blowers. Gary states it is strictly for construction. Cynthia states yes, in addition to the changing of the hours. Cynthia states the hours of which construction is permitted now are from 8 a.m. to sunset, and the CAC recommended a time change such as 7 a.m. to 6 p.m. Gary asks whether we want to list a stopping time, since sunset may come before 6 p.m. Charlotte states yes, it does during the winter. Cynthia suggests adding in the language "whichever comes first". Bernard asks why the 8 a.m. start time was changed to 7 a.m. Cynthia states because most people want to get started earlier. Gary states particular during the hot summer. The Board discusses adding in holidays. Cynthia states not everybody follows the Federal Holidays.

Cynthia asks Will if he has any questions about what is on the list and asks him if he will be able to have a draft turned around in a couple of weeks. Cynthia states that a lot of items have been moved over to the second list. Cynthia suggests that any of the items Will thinks may take more time be moved over to the second list. Will states he will see what he can do.

Will refers to the buffer in terms of Cynthia's interpretation and states it is a weird Definition. Will states the language used is "within the property line and the required yard", which means it falls within that Zone. Will refers to the Use Tables and states the language there states "respective of the distance of the yard". Will states the yard requirements is a setback of the building in regards to structures and parking depending on how the Code is written, but it doesn't give the character of what the land area should be as far as retention, so the buffer is what does that. Will states that the buffer allows for full landscaped screening as opposed to open lawn. Will states if someone has a 50 foot setback and their building cannot be any closer than 50 feet, it doesn't say that the area of the 50 feet cannot be gravel, pavement, or grass. Will states the buffer lets you put in plantings and screening. Cynthia states she didn't pick this up from the Definition. Cynthia states there is another place in the Code that refers to the Definition for a Yard.

3. Next Meetings:

- Regular Meeting – March 4, 2015
- Work Session – March 18, 2015

4. Resolution:

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