

North Salem Planning Board Minutes

April 6, 2016

7:30 PM – Town Meeting Hall

PRESENT:

**Cynthia Curtis, Chairwoman
Charlotte Harris, Board Member
Christopher Brockmeyer, Board Member
Gary Jacobi, Board Member
Bernard Sweeney, Board Member
Roland Baroni, Town Attorney
William Agresta, AICP
Joseph Bridges, Wetlands Inspector
Frank Annunziata, Town Engineer**

ATTENDANTS:

Gizzi:

**William Kenny
Jeremy Clark
Marilyn Gizzi
John Gizzi**

Hawley Woods Subdivision:

**Peter Gregory
Alan Pilch
Steve Bliss
Patrick Bliss
Kevin McKenna**

**Hayfields Market:
Palaia Subdivision**

**Renea Dayton
Matt Gironda
Daniel Hollis**

Verizon Wireless/Homeland:

Michael Sheridan

T-Mobile/Crown Atlantic:

Michael Sheridan

Conservation Advisory Council:

**Lori Tripoli
Pam Pooley**

Chairwoman Cynthia Curtis calls the April 6, 2016 North Salem Planning Board Meeting.

PUBLIC HEARINGS:

- 1. Fuelco/BP (Getty):** (owner – Joseph Bryson)
Amended Site Development Plan (location – 2 Fields Lane and Hardscrabble Road)
 - Carryover of Public Hearing

Cynthia states the Representatives for Fuelco have asked to be carried over to the next Meeting and we are waiting for another Submission.

2. **Railyard (former Lakeland Lumber):** Ed Delaney (owner – Rylan West Realty, Inc.)
Site Development Plan (location – 621 Route 22)

- Carryover of Public Hearing

Cynthia states this matter is also being carried over. Cynthia states she had a call from the Owner and he is making a few minor modifications to his Plans. Cynthia states when they make the next Submission we will continue the Public Hearing.

3. **Gizzi:** William Kenny (owners – Marilyn & John Gizzi)
Chapter 189 Permit, Wetlands Permit (location – 886 Peach Lake Road)

- Open Public Hearing
- Consider Report From Planning Consultant and Wetlands Inspector
- Consider Report From Town Engineer

Cynthia states this Public Hearing is being opened tonight, and asks the Secretary if she has proof that the Public Hearing Notice was published in the newspaper. Dawn states yes. Cynthia asks Dawn whether proof of mailing has been received. Dawn states no she did not receive the proof of mailing. Cynthia states that means we can open the Public Hearing but it has to be kept open until the next Meeting.

Cynthia states William Kenny is here with us tonight. Cynthia asks Mr. Kenny to come up and give a brief overview of the Project, and if there is anyone else here with him, to please introduce them. Cynthia states in the meantime she will introduce the Town's three Consultants who are here with us tonight. Cynthia states we have William Agresta our Planner, and Frank Annunziata our Engineer. Cynthia states for this Application she asked Joe Bridges, our Wetlands Consultant, to also come tonight. Cynthia refers to the screen and states she will put up a Plan Sheet which shows the location of Peach Lake Road and the edges of the Peach Lake Community. Cynthia refers to a blue section on the Plan and states it is Peach Lake. Cynthia points out the Gizzi property, their home, and the area of the Application. Cynthia refers to the screen and states we are now at a point where the actual area of the Application is this dotted line. Cynthia states Mr. Kenny will talk about a wall that is being proposed on the other side.

Mr. Kenny states he is the Principal of William Kenny Associates in Fairfield, Connecticut, and he is a Professional Wetlands Scientist and Soil Scientist having a Degree in Environmental Management from the Yale School of Forestry. Mr. Kenny states he is also a registered Landscape Architect. Mr. Kenny states he is here this evening on behalf of Marilyn and John Gizzi who are with us in the audience. Mr. Kenny states Jeremy Clark is also with us, and he is a Forester who helped with the preparation of the documents. Mr. Kenny states they are here for this Public Hearing to discuss their request for two Approvals; a Tree Removal Permit and an Approval for Wetland Activity Permit. Mr. Kenny states there are two primary activities that are being proposed. Mr. Kenny states the major activity that is being proposed is an Environmental Enhancement Project. Mr. Kenny refers to the screen and states the property is approximately 20 acres in size and they are asking this evening to be allowed to remove an extensive amount of invasive plants that exist in an area just off to the right of the driveway. Mr. Kenny refers to the screen and states Peach Lake Road is at the bottom of the stream and the Gizzi home is at the top of the stream. Mr. Kenny refers to the screen and states there is an existing driveway that runs up through the center. Mr. Kenny refers to the screen and states to the right is a forest, and the green areas are areas of wetlands that have been mapped on the property. Mr. Kenny states the wetlands are sloping wetlands that are seasonally wet. Mr. Kenny states in the realm of wetlands they are relatively dry having saturated soils primarily only for a short period of time, mainly this time of year. Mr. Kenny states through the summer and the fall most of the soils are going to be quite dry.

Mr. Kenny states the adjacent upland areas are very similar because of that so the species composition of trees, shrubs, and herbs, are similar in both the wetland and non-wetland areas. Mr. Kenny states the understory that exists is very thickly vegetated with Japanese Barberry which is a very aggressive community and dense community. Mr. Kenny states you cannot walk through the growth that is there. Mr. Kenny states the Barberry is growing five to six feet tall and very dense. Mr. Kenny states a path had to be cut through this area several years ago with permission from the Town Building Inspector to allow them to get into the property to take a look at the existing conditions. Mr. Kenny states this evening they are asking to be able to get permission to remove the Barberry and some other invasive species such as Oriental Bittersweet Vine growing on other shrubs and trees impacting their growth. Mr. Kenny refers to the screen and states the second part of the habitat enhancement proposal is to do some thinning of the trees that exist, which is primarily a Red Maple community. Mr. Kenny states it is a relatively young woodland. Mr. Kenny states most of the trees are between six to eight inches in diameter. Mr. Kenny states there is a very high density of trees growing there due to its age, so the idea is to come in and thin out a percentage of those trees and that is all documented on the drawings and in the Forest Management Plan that was prepared by Mr. Clark. Mr. Kenny states the other species that they want to keep, as well as the Red Maples, will have room to grow. Mr. Kenny states they will remove some of the smaller less desirable trees that either have disease or insect problems, or are just crowding out a tree nearby that is of higher quality. Mr. Kenny states this will be very carefully and thoughtfully done to enhance the forest in this area. Mr. Kenny states in some areas they will be removing an invasive shrub layer and invasive vines and enhancing the tree layer through a very selective thinning. Mr. Kenny states the second activity they are proposing this evening comes down to marking the property line along the streetscape. Mr. Kenny refers to the screen and states they are proposing to install a wall just inside the property line between the property line and the wetlands that runs along the west of the road. Mr. Kenny refers to the screen and states it will be a freestanding wall which will start just to the left of the driveway, about 30 or 40 feet in off the road where existing gates and columns exist today. Mr. Kenny refers to the screen and states it will connect to the column on the left and loop around for a very short section where it crosses the wetland. Mr. Kenny states there will be less than a few hundred square feet of disturbance and there is a small intermittent watercourse that flows from the left to the right. Mr. Kenny states they would provide an opening so the flow of water in that watercourse is not interrupted. Mr. Kenny states the streambed will not be disturbed and they are going to put a half arch over it so none of the soil will be disturbed. Mr. Kenny states the wall will curve out to the property line and run parallel with the property line several hundred feet to the left down to the bottom left hand corner of their drawing. Mr. Kenny states there is a second drawing that has details and additional information for the wall. Mr. Kenny states it is going to be four feet high and about two feet wide. Mr. Kenny states there is an enlargement Plan on the drawing that deals with the construction methodology for installing the wall where it crosses with the wetland. Mr. Kenny states also on this drawing are specifications and sequencing regarding the forest management activities and the removal of the invasive species and thinning of the forest as well as construction sequencing for the proposed wall.

Cynthia states she would like to go back to the removal of the invasive species and the removal of the trees. Cynthia states it is her general understanding that the Barberry will be cut and treated, but it may need to be treated two or three times with an herbicide to make sure that it doesn't grow back. Mr. Kenny states that is correct. Cynthia asks whether trees will start to be removed in between the first cut and first treatment of the Barberry. Mr. Kenny states no. Cynthia asks what the sequence between the Barberry and the tree removal will be. Mr. Kenny states assuming they have permission to start within the next month or so, they would do the initial cutting towards the end of this spring or early summer and the tree removal would only occur during the winter. Mr. Kenny states they would do the cutting and spraying during the summer and by the end of the summer or early fall at the latest they would do the last application, and then the tree removal work would not occur until after November. Cynthia asks whether a machine such as a Brush Hog will be used to cut all of the Barberry. Mr. Kenny states that is correct, they will use either a walk behind Brush Hog or a streamline trimmer that has a steel blade on it. Cynthia asks whether the cuttings will be mulched and left there. Mr.

Kenny states the Brush Hog will run over the branches and mulch them. Cynthia asks whether the mulch will be left in place. Mr. Kenny states that is right. Cynthia confirms that when they come back and spray, they will be spraying the base of the system, so it will be a small area. Mr. Kenny states the whole idea is to keep the use of the herbicide very minimal and spot controlled with minimal use. Mr. Kenny states by cutting first, they are not spraying five or six feet into the air throughout the area. Mr. Kenny states they will let it grow a couple of feet and then spray the stems. Cynthia refers to the tree removal and states generally speaking there are over 300 trees and approximately 100 of them will be removed which will help the trees that are staying to fill out and grow better. Cynthia refers to the trees being removed and asks whether limbs will be left behind. Cynthia states when she looked at the Forest Management Plan initially she was under the impression that some of the limbs would rot in place, but she thought that didn't make sense, since the Applicant is going through the trouble of taking out the Barberry to let the natural plants grow up. Cynthia asks Mr. Kenny to explain what will happen to all of the trunks and the limbs and whether they will stay or be removed. Mr. Kenny states a certain percentage will stay to provide habitat value. Mr. Kenny refers to the tops of the trees and states they will be cut up into smaller lengths so they end up laying quite flat in areas where they will be left. Mr. Kenny refers to the Plan and states he believes they have spelled out percentages. Mr. Kenny refers to Plan Sheet 2 where it states that small limbs and logs shall be left on ground surface and shall cover no more than 30% of the ground surface of the management area and approximately 25% to 30% of the area will be covered with small limbs and approximately 2% to 4% of the area shall be covered with logs. Mr. Kenny states there will be smaller wood as well as larger wood. Cynthia asks Mr. Kenny whether any logs or limbs will be removed. Mr. Kenny states yes, they will be dragging out some logs and the trees that they are cutting will be in the six inch diameter range. Cynthia asks whether any machinery will be needed to remove the logs or whether they will be carried out or wheeled out in wheelbarrows. Mr. Kenny states they may use a small tractor such as one that would be utilized for lawn mowing. Cynthia asks whether the tractor would ride on the path or all over the wetlands. Mr. Kenny states it would be strategically done during times when the soils are not saturated. Cynthia confirms this will take place during the winter when the ground is frozen and states a small piece of machinery may be used for the removal of the logs. Cynthia confirms that no trucks will be utilized. Cynthia confirms that long pieces of timber will not be cut and hauled out. Mr. Kenny states this is not being done for the sale of logs.

Cynthia asks the Board whether they have any questions. Cynthia states she did receive a phone call from Supervisor Warren Lucas and his only concern was whatever herbicide that would be used would not harm the fish in Peach Lake. Cynthia would like to know what the procedures are for the use of the herbicide, where it will be prepared, and where the equipment will be refilled and states that should be spelled out or addressed so we are sure someone will not walk into the woods with buckets and refill somewhere in the woods. Cynthia talks about there being a controlled space near the equipment on the driveway. Cynthia states mainly a spill would be a concern. Mr. Kenny states the mixing would occur outside the 100 foot wetland buffer area. Cynthia states the other communication they received was from the New York City Department of Environmental Protection (NYCDEP), and she believes Mr. Kenny received a copy. Cynthia states at some point the Board would like Mr. Kenny to address the issues the NYCDEP raised, which basically had to do with the extent of wood products to remain, the depth of the chips being proposed, as well as an appropriate seed mix for soil stabilization. Cynthia asks Mr. Kenny if he would care to address those comments now or at a later time. Mr. Kenny states he could provide a quick response. Mr. Kenny states he thinks the NYCDEP concern is not valid because they are just going to utilize the wood chips on the access paths which are very narrow. Cynthia states she believes the NYCDEP had the same confusion she had in terms of not knowing how much chipping would be done and whether the chips would be scattered all over the place, or just on the pathway that has already been defined. Mr. Kenny states they are defined and the access ways are fairly limited into the work area. Cynthia refers to the screen and points out the circular path area. Charlotte states it is the path they utilized during the Site Walk. Mr. Kenny states there are points of access at two locations along the driveway. Cynthia asks whether those will be lined with chips. Mr. Kenny states yes, as needed if

they find the soil has the potential to erode. Mr. Kenny states he has referenced a Note on the drawing that deals with the amount of wood. Cynthia states we could be talking about 120 or so trees that are between 6 to 8 inches in diameter and all of their limbs cut up and spread all over. Cynthia asks Mr. Kenny to repeat the percentages. Mr. Kenny states about 30% of the ground surface will be covered with limbs, and 2% to 4% with logs. Mr. Kenny states some of the wood will be used for firewood.

Cynthia asks Dawn whether any other comments were received. Dawn states the New York State Department of Transportation (NYSDOT) sent an e-mail. Cynthia states that the NYSDOT has confirmed that the wall may be four feet away. Dawn states the Conservation Advisory Council (CAC) will also be preparing comments. Cynthia states she was just getting to that, as we have Pam Pooley and Lori Tripoli, the two Co-Chairs from the CAC with us tonight. Cynthia states the CAC will be meeting next week and have asked for additional time to submit comments. Cynthia states given that we didn't receive the Green Cards from the Certified Mailing, the Public Hearing will stay open. Cynthia asks for the CAC comments to come in as soon as possible and states they will be very helpful. Cynthia states at the next Meeting, in addition to closing the Public Hearing, we will be able to keep this Application moving.

Cynthia states Joe Bridges our Wetlands Inspector is here with us tonight and he has been out to the property a few times. Cynthia asks Joe to give the Board a comfort level in regards to the herbicide application and asks if it is pretty common so that the Board shouldn't worry too much about it. Joe states the herbicide that is proposed for use is called Glyphosate 41 and it, along with other similar formulations like Roundup, Rodeo and Accord are all derived from the simplest of the amino acids and a naturally amino acid called Glyphshime. It is chemically treated to produce these various forms of Glyphosate compounds. Joe states it is a relatively benign herbicide for application not only in terrestrial habitats, but also on aquatic emergent weeds, so it can be used near water. Joe states it has a very high affinity for binding with soil particles and so it is not readily mobilized into the groundwater. Joe states it is a fairly soluble compound having a low toxicity to fish. Joe refers to the herbicide that had originally been proposed and states it is rather toxic to fish and it also doesn't bind very well with soil particles, which makes it mobilize more readily into the water. Joe states the Glyphosate does have a specimen label which is available as a pdf which indicates all of its various properties including its toxicity to a variety of animals including rats. Joe states it takes a fair amount of feeding Glyphosate to rats in order to induce harm. Joe states approximately 200 milligrams per kilogram of body weight would need to be consumed in order to get a toxicity effect on a rat. Christopher asks Joe whether it is his opinion that the use of this herbicide on this property is as good as anything that is out there. Joe states he believes it would be the herbicide of choice. Joe states the New York State Department of Environmental Conservation (NYSDEC) routinely uses Roundup and Rodeo for spraying and controlling aquatic weeds, and they are a Glyphosate compound. Cynthia states the alternative method of removal would be to hand shovel the root system of each of these plants out, and given the quantity in the woods, we understand why the Applicant is considering going the direction of the cutting and the application, because in some areas there would be a fair amount of soil disturbance to pull the plants out.

Cynthia asks whether anyone in the audience has questions. Mrs. Pooley states we did hear from the NYCDEP about the seasonal seed mix and asks Mr. Kenny if that is what will go on the ground after the invasive material comes out, or will there be woodchips. Mr. Kenny states they will use a seed mix. Mrs. Pooley asks whether there will be any new shrubbery or plantings. Mr. Kenny states no, their proposal is to enhance the existing trees. Mr. Kenny states areas of soil that become disturbed will be reseeded with an appropriate woodland native seed mix that is appropriate to the different drainage conditions. Charlotte confirms that the idea is to let the natural plants come back, and to only use the seed mix where there is a worry about erosion. Cynthia talks about after the cutting and the application this summer into fall and the trees being cut during the winter and asks whether it will be necessary for any more Barberry spraying to take place. Mr. Kenny states usually with the two rounds they have very good success. Mr. Kenny refers to the

screen and states there has been a seed bank there for many years and talks about the possibility of having to cut when a new seedling emerges as a way to keep everything under control. Mr. Kenny states there may be one more herbicide treatment. Cynthia refers to going forward two to four years out and states more vegetation may come up and asks Mr. Kenny whether he wants to build in some type of a long range program to sustain the efforts that are being done. Cynthia states we never discussed this before now, and it just occurred to her. Cynthia states in ten years everything may grow back from new seeds. Mr. Kenny refers to the Management Sequence, Item 3, which should be Item 2, whereas it talks about long term maintenance beyond year one. Mr. Kenny talks about annually assessing the forest management area to determine the existence and prevalence of invasive vegetation and to determine the overall success of the management activities and control invasive vegetation and complete other forest management activities in accordance with the methods and schedule of year one. Cynthia states we should build in some kind of communication that could continue with the Property Owner and our Wetlands Inspector that would sustain this for a while. Cynthia states this is a first for the Board and it would be nice to know that we could put together a Program that does work, is sustainable, and the Barberry will not start to pop back up in three years. Mr. Kenny states there will be very minimal activity once it is under control. Mr. Kenny talks about going through once a year to pull out or mow down the seedlings. Mr. Kenny refers to formal reporting and states the Property Owner very much wants to minimize it to the greatest extent practical. Mr. Kenny refers to other Applications that may come before the Board where typically someone may be building a new home and doing this activity as mitigation or a tradeoff and states his clients are doing this for the good of the property and a great society and environmental benefit. Mr. Kenny states they would like to limit the formal reporting to the end of the first year. Cynthia states she understands and we will talk about that. Cynthia states maybe it would be nice, if with permission, our CAC could just go in and observe as part of an Educational Program to see how well and effective the whole Program will work. Cynthia states she understands what Mr. Kenny is talking about in terms of the formal reporting. Cynthia states maybe we all can benefit from this Pilot Program. Mrs. Pooley states the CAC has already commented in support of this Project and they are very happy it is being done. Mrs. Pooley states this is wonderful for the habitat and it would be neat for everyone else to see this good example. Mrs. Pooley states they are also working on wetland recommendations for the Town for folks who don't know as much about this as the Applicants do. Mrs. Pooley states the Applicants have done their due diligence, and a lot of people go into this without a lot of research. Mrs. Pooley states the information we get from this Project will be helpful.

Will asks Mr. Kenny if it is still the intent, if the process is successful in the first area, to move into other parts of the property. Mr. Kenny states he thinks so, although they haven't discussed it lately. Will states the Approval will only be Permitting this specific portion of the property. Will states if the Property Owner decides to move into the other areas where additional Permitting would be required it should go much easier. Mr. Kenny states that would be very much appreciated. Cynthia states that was the goal of the Board, to flush everything out with this Pilot Program and make it a lot easier, quicker, and simpler for the additional areas. Cynthia states that the amount of work Mr. Kenny has may be just as much, but the review process wouldn't have to be as in depth as the initial one.

Mrs. Tripoli refers to the stone wall and asks Mr. Kenny whether he anticipates it to be a separate Project. Mrs. Tripoli states it looks to her, from seeing the correspondence between the Planning Board and the Wetlands Inspector, that the Fish and Wildlife Service input may be necessary in some way before the Project may move forward. Will states he actually has a follow up to that question and states the other work is being done in a wetland and asks Mr. Kenny if there is any component to that because when he goes for the Army Corp. Permit relative to the stone wall, they may want to look at the other work. Mr. Kenny states at the Army Corp. level Permits are required for building in a wetland. Will states he understands that. Will states nothing will be triggered there. Will asks Joe if he concurs. Joe states his only concern, which will certainly be looked into, is the recent discovery of the Long-Eared Bat that has, distance-wise, the potential to be found on the

Site, as the habitat is suitable. Joe states if Mr. Kenny applies for an Army Corp. Permit, there is a chance that the U.S. Fish and Wildlife Service may issue a letter about the Long-Eared Bat. Mr. Kenny states there may be some correspondence back and forth in terms of the nature of the proposed activity, in terms of when they may cut trees, and how many trees will be cut. Mr. Kenny states Mr. Clark has been speaking with the Fish and Wildlife Division at the State level, where there are similar concerns in regards to the bats. Mr. Kenny refers to trees that provide a habitat for roosting mostly during the growing season and states they tend to be larger trees with very flaky bark that form cavities where the bats go. Mr. Kenny states due to the type of habitat on the property, it is not a habitat for bats. Mr. Kenny states they were told that if they do their cutting after October 31st and before March 31st they would be in good shape and that works perfectly well with the timing that has been discussed with the Board. Will states it works out fine in regards to the cutting. Will states if there is no other connection to the Army Corp. relative to the invasive species removal, he envisioned this would be segmented into Parts A and B, because Mr. Kenny would like to begin on the invasive activities, and the Army Corp. may take a little longer, which may hold everything up. Will states the Approval may need to be written as two separate Projects, which makes sense, because they are not really related to each other. Cynthia talks about there being two separate Phases for one Project. Will states they could be concurring. Mr. Kenny states the Condition of Approval that references the Army Corp. is specific just to the wall.

Cynthia asks whether there are any more questions. Cynthia states we will hold the Public Hearing open until the next Meeting. Cynthia talks to Will and states assuming we do not receive any new comments, is there sufficient information to try to bring this to a conclusion at the next Meeting. Bernard states absolutely, he would like to get it going. Cynthia states we all would, she just wants to make sure procedurally we can still move forward. Cynthia asks Mr. Kenny if he is anticipating one more Submission, or may we go on what has been received so far. Will asks Mr. Kenny if he had a chance to look at the Memo to see if he has any questions. Mr. Kenny states he looked at it and it seems very minor. Cynthia talks about continuing to the Work Session and close the Public Hearing then. Will states a lot of the changes are editorial in nature. Mr. Kenny refers to the changing of wording and numbering. Will states he thinks the Board understands the issue with the trees and talks about making it a Condition timing wise, and the same thing with the Army Corp. Cynthia states if there is not going to be another Submission and we hold the Public Hearing open until the Work Session in two weeks, we could close and conclude at that point, so long as the CAC can get their Report in by the end of next week. Mrs. Pooley states yes, they are meeting on Monday. Will states he will not be able to attend the Work Session next week. Cynthia states we haven't discussed the dates yet, but she wanted to double check to see if it is possible if there is a Work Session between now and the next Regular Meeting. Mr. Kenny states they would greatly appreciate it. Mr. Kenny asks about receiving the draft recommended conditions in advance for review. Cynthia states if there is a Memo with outstanding items or missing details Mr. Kenny would receive that. Cynthia states the Board usually sends out the Draft Resolutions the afternoon of the Meeting so Mr. Kenny would see it before that. Cynthia states it is a Board Resolution. Cynthia states she thinks the Board is in good shape in terms of what is needed for the Monitoring Program. Cynthia states we will let Mr. Kenny know if there is another Meeting between now and May 4th Meeting, which we will not know that until the end of this Meeting.

Mr. Clark states the Board had talked about utilizing other Projects such as this one as a learning tool, and in planning for this Project he reached out to a bunch of land trusts in the area and most of them have implemented some form of procedure similar to this Project, although maybe not as intensive. Mr. Clark states that is another opportunity if the Board is interested. The Board thanks Mr. Clark.

**4. Hawley Woods: Peter Gregory
Subdivision**

(owner – Hawley Woods, Ltd.)
(location – 396 – 404 Hawley Road)

- Continuation of Public Hearing
- Consider Report From Planning Consultant
- Consider Report From Town Engineer

Cynthia loads the Plan up on the screen and states this is a continuation of a Public Hearing on Hawley Woods which is a three-lot subdivision off of Hawley Road. Cynthia states we have Peter Gregory here with us tonight and asks him to reintroduce the members of the Team who might be speaking tonight. Mr. Gregory states he is here tonight with Alan Pilch from Evans Associates who has helped them with their Mitigation Plan for the Project. Mr. Gregory states Steve Bliss and Kevin McKenna from Hawley Woods are here with him tonight, as well as Patrick Bliss their Counsel. Mr. Gregory states the last time they were before the Board they had presented typical road cross sections that would help to have a good feeling and understanding as to what would be involved in terms of the excavation for the road, based on rock that had been encountered in borings that were performed along the entrance of the Hawley Road driveway. Mr. Gregory states at that time, those sections incorporated a rock face with some benching and those rock faces ranged in size at a lower level from four feet to nine feet, with benching that would allow them to mitigate with landscaping to soften some of the rock. Mr. Gregory states their upper level excavations or rock face is estimated to be anywhere between 11 to 15 or 18 feet in height. Mr. Gregory states at the Meeting they discussed whether it was appropriate to utilize benching or possibly just have a sheer face for the excavation utilizing the rock to help for retaining. Mr. Gregory states they went back and are now looking at sections that utilize a less steep excavation. Mr. Gregory states they are going two foot vertical for every one foot horizontal rather than four foot having a steeper cut. Mr. Gregory refers to the screen and states they provided notes indicating what the exposed rock faces would be all along the roadway on each side to help understand what the depths would be. Mr. Gregory refers to the screen and states along their typical sections they were showing what those depths would be. Mr. Gregory states along Hawley Road there was a concern at the entrance. Mr. Gregory states they would have a four foot rock face on Hawley Road, prior to coming into the Site, and then as they turn into the property, those rock cuts, which would be a sheer single face, ranging from 8 to 10 feet when you first come in, and increase up to 20 feet for a small portion, about 50 feet in length, before the cut reduces down to nothing. Mr. Gregory refers to the screen and points out where there will not be significant exposed rock. Mr. Gregory refers to the screen and points out a high point of 14 feet when approaching the driveway to Lot 1. Mr. Gregory states on the lower side they will just be re-grading the earth. Mr. Gregory states there will not be any exposed rock face or cuts in this area. Mr. Gregory refers to the screen and points out where they will have the effect of the rock cuts on both sides. Mr. Gregory states as they start to approach the entrance to Lot 1 they are going to encounter a rock cut on both sides, but on their most recent set of Plans that rock face is less steep than was originally shown. Mr. Gregory states based on utilizing one sheer cut they will be able to minimize the disturbance significantly from what had been shown on the original Plans where they had demonstrated retaining walls and re-grading of earth. Mr. Gregory states the current Plan indicates what the original extent of their disturbance was. Mr. Gregory refers to a dash line and states it shows the original extent of the disturbance to be associated with the grading when they were utilizing retaining walls and earth re-grading. Mr. Gregory refers to the other side and states it was approximately 55,000 square feet. Mr. Gregory states as a result of eliminating the benches and utilizing the one to two slopes, they were able to reduce the disturbance by approximately 21,000 square feet, and in doing so, they were able to show on the Plan, that approximately 35 trees that were within that area will be able to remain. Mr. Gregory states this will create a buffer or an area that offers some space for a Mitigation Plan that Mr. Pilch has prepared to supplement what is there now and help soften it by separating their drainage basins from the roadway. Mr. Gregory states similar to the front entrance, this will give them more room and earth to work in to provide landscaping. Cynthia states there will be more tunneling now. Mr. Gregory states they are not

going to use the word tunnel any more. Mr. Gregory states they have tried to come up with a way to soften the slope a little bit and he believes it is not as severe as what had been shown initially. Mr. Gregory states there had been discussion about providing the volume of rock and they did calculate it, but maybe failed to show it on the Plan. Mr. Gregory refers to the Plan with the benching and one to four slopes and states they calculated approximately 6,500 yards of rock that would have to be removed along the corridor. Mr. Gregory states as a result of eliminating the benches and reducing the disturbance, they are able to reduce the number by 500 yards of material. Mr. Gregory states there is a savings in disturbance and less rock, as well as saving more trees. Mr. Gregory states overall this gives them more room to work in terms of mitigation and flexibility.

Cynthia refers to the screen and asks Mr. Gregory if Section 1 is the beginning. Mr. Gregory states yes, Section 1 is the entrance. Mr. Gregory refers to the screen and states he thinks they have six sections in all within the 600 feet, which are the critical areas. Mr. Gregory refers to the screen and points out the existing grade and where the rock surface was encountered based on the borings that were performed in the fall, and states as a result of their cross section they were able to calculate what the volume of rock would be down to below their proposed grades for the roadway and shoulders being proposed. Mr. Gregory states in their previous Plan they had incorporated a steeper slope with a bench to help offset or minimize having the sheer cut, but he believes they can reduce the impact by just having the sheer cut and not disturbing further up. Cynthia states her only experience with rock cutting is what the Town just encountered behind this building. Cynthia refers to freezing and thawing during the winter and asks at what point would there be a worry that there will be more rock breaking away and falling down. Cynthia asks how a rock slope such as what is being proposed is sustainable and will be protected. Mr. Gregory states he thinks they are going to find out a lot about this once the rock has been removed in terms of what type of rock there is and what the formations are. Cynthia states she sees what happens along the sides of highways and commercial properties when rock starts to give and move. Cynthia states they either come in with gabion mats which are ugly or utilize wire mesh. Cynthia states she realizes this will be a Private Road and that might not be done, but the alternative is having rock that continues to break away and fall. Mr. Gregory states they are providing larger shoulder areas and some of them are being utilized for the purposes of drainage to carry runoff. Mr. Gregory states off the edges of their pavement there will be oversized shoulders which would give some area for safety. Cynthia states she doesn't want to put Frank on the spot, but asks whether we should be looking at something that has more disturbances and is more gradual or looking at something that is sharper with fewer disturbances. Cynthia states the Board is trying to weigh what the better approach would be. Frank states what Mr. Gregory said is correct, as they are providing a shoulder on the side. Frank states in two places the cut is a bit high. Frank states even in the worst case it will weather slowly over the years and some rocks may fall onto the shoulders. Frank states he doubts it will come out onto the road. Frank states it does have to be maintained and he is sure the homeowners will have to do that. Frank states beyond that, it is really up to what we know about the soundness of the rock. Cynthia states if it is really hard and sound rock it should be okay, but if it is the type of rock that will keep breaking away, we might want it redesigned due to the type of rock presenting a problem in the future. Frank states if it is at all sound he believes they could go with the one horizontal and four vertical. Frank states if we don't have enough faith, Mr. Gregory has shown the one horizontal and two vertical which is less steep. Christopher states from a Planning Board prospective he likes less disturbance, but as a homeowner he isn't sure what he might think. Christopher states fewer trees being cut make more sense. Christopher states the greatest concern he has and isn't sure if it was addressed at the last Public Hearing, is what will happen at the top of what is essentially a cliff that will be created in terms of the safety of other people/children who may wonder to an approximate 20 foot drop over a 50 foot expanse. Mr. Gregory states he would like Mr. Pilch to talk about what is being proposed as treatment along the top of the area. Mr. Gregory states if they encounter soil and loose stone near the surface they have the area available to taper it back. Mr. Gregory states they are showing some areas where there was earth that they are going within two to one grading in terms of slope. Mr. Gregory states there was rock at the surface in some locations but in some areas they did encounter an earth layer of approximately four to six feet. Mr. Gregory states there were some

areas that will have to be tapered back with earth re-grading. Cynthia states the other thing to consider is how long it will take to do this and she believes Mr. Gregory touched upon this when he stated the chipping could go on for a very long time, if that was the chosen way, and blasting would be much quicker. Cynthia talks about weighing chipping versus blasting and everything that should be considered. Cynthia states she knows what chipping is all about and it is horrific and can go on for a very long time. Cynthia states that the neighborhood that Bernard lives in was subjected to that over one or two summers and it just seemed to never end. Cynthia asks Mr. Gregory how long the chipping would take, such as a month or six months. Mr. Gregory states it would probably take several weeks. Mr. Gregory states it would probably take a couple of days if they were to remove the rock via blasting. Mr. Gregory states the operation would involve removing the rock and handling it rather than trying to hammer it for that timeframe. Cynthia states blasting also has its issues. Cynthia states when the City did the blasting for the Dam her house shook. Cynthia states the Dam was quite a distance away. Cynthia states it may all depend on what the makeup is of the ground all around. Cynthia states if we assume it is all rock, she wonders if it is more likely everyone will be impacted. Cynthia states this is something that needs to be understood a little bit more. Cynthia states she does not know whether the CAC has ever dealt with issues like this in terms of rock chipping versus blasting. Frank states they will have to obtain a Blasting Permit and there will be conditions in there for seismographic monitoring although that is after pre-construction surveys have been done of the structures within at least 1,000 feet. Frank states the Applicant is supposed to come up with a Blasting Plan to limit the velocity of the blasts and the seismographs are there to monitor that. Frank states theoretically if they keep to that plan there should be no adverse impacts. Frank states they should know right away in terms of impacts because they are monitoring each blast. Frank states Bruce just dealt with this in Town and he believes it went smoothly. Frank states if it is done well, it could speed the process along. Cynthia states she knows the chipping is horrific and that is what we hear the most complaints about. Mr. Pilch states they have contacted a blaster and the removal of rock basically would take a total of two weeks, doing two blasts per day. Cynthia asks how many truckloads of debris will be carted off the Site. Mr. Pilch states that is different, as the discussions tonight have been about doing blasts to loosen the rock. Cynthia states if all of the rock has to be blasted, how much of it stays on the Site and what percentage of it has to be removed from the Site. Cynthia states Mr. Gregory mentioned 6,000 yards of rock earlier in terms of removal and asks whether some it will be used on the Site. Mr. Gregory states he believes a lot of can be used on the Site. Mr. Gregory states there are several areas that are going to require filling in some of the individual lots and house sites and the idea was, as part of the Plan, to demonstrate where the staging area would be for the material to be removed and deposited prior to spreading it around. Mr. Gregory refers to Lot 1 where there will be a courtyard and house location that will need fill and states the material closest to it can go in that location. Mr. Gregory states they would need to go back and check on the amount of truckloads. Mr. Gregory states they had done an analysis very early on, but now the amount has been reduced. Cynthia asks whether the rock would be broken down further to utilize it for the road. Cynthia asks when the rock is chipped and on the Site whether it will be broken down more. Mr. Gregory states it could be processed as there are portable machines that would do that. Mr. Gregory talks about picking a location where it could be used and bring the rock to that point for processing prior to placement. Cynthia states she is not encouraging this, but wants to know what the potential impacts are. Cynthia states the blasting may be quick, but the processing could take a month or two, and the Board needs to know the whole picture in terms of how many truck trips on and off the Site, how much would stay on the Site, would it be further processed, and in what quantities. Frank asks whether the volume includes any blasting that would be done for the driveways or house pads. Mr. Gregory states no, they are talking about the study that was done in the entranceway, of approximately 400 or 600 feet, which was one of the more critical areas coming into the property. Mr. Gregory states they didn't look at what would be involved for the individual lots when doing this study. Frank states the placement of the material will be required as fill, and not replacing soil that is already there.

Cynthia asks Mr. Gregory what he needs from the Board in order to move forward and asks whether they need to weigh in on one design versus the other. Mr. Gregory states he believes at the last Meeting this is the direction they were going to go in such as providing the sheer cut without the benches. Mr. Gregory states taking this into consider with the mitigation, it isn't as severe as the steeper cut. Cynthia asks Mr. Gregory if he has the computer capabilities to give the Board a better rendition of what the first 600 feet of the road is going to look like visually. Mr. Gregory states he is not able to do that from his office in terms of providing a rendering of the roadway. Cynthia asks Mr. Gregory to look into whether or not it is possible to supply a rendering to the Board. Cynthia states she is hoping, with the CAC here tonight, for them to give this a little attention, and try to give the Board some guidance on this. Cynthia states this is major and what everyone is going to see due to the entrance from Hawley Road. Cynthia states we are all going to see this, including the people who are eventually going to live there, and the community. Cynthia refers to the potential impacts in terms of how the Applicant will make this happen. Mr. Pilch refers to the Plan on the screen and states they were hoping the sections would provide the information for the Board. Mr. Pilch refers to the Plan and states on the left hand side there is no rock surface, but on the right hand side there is 12 feet of a 2 to 1 slope and that is what they illustrated, which was the point of doing the six sections, in order to give the Board a representation. Cynthia states you have given us representation in that form, but it is difficult to take a flat piece of paper and turn it into a three dimensional drawing. Cynthia states she knows with computers today some people have the capabilities of doing a three dimensional drawing and it would really help in this case to see a rendition. Mr. Gregory states the other issue here is that they have taken away a lot of the unknowns. Mr. Gregory talks about them coming back in and starting the process again in terms of the entrance concerns and states they weren't sure at that time where they would encounter rock based on the depth of the excavations. Mr. Gregory states knowing where they are now and what is available to them for plantings in certain areas, they have a good representation in terms of what will take place at the entrance as far as working with the rock cut. Cynthia states it would be very helpful if Mr. Gregory could come up with a better visualization of what the entranceway is going to look like. Cynthia states she is not asking for the full 600 feet in, but at least the entranceway. Cynthia asks what the Board thinks. Cynthia refers to doing everything on a flat piece of paper for the Bridleside Project and talks about how different it was when they started cutting and working. Cynthia states it is difficult to take this information from a flat piece of paper and imagine what the end result is going to be. Bernard states he has seen this type of illustration previously and talks about pictures possibly being provided. Mr. Gregory states they did provide an earlier rendering. Cynthia states that is what she was wondering about in terms of doing that again. Mr. Gregory states they are going to find that they will not have walls with excessive heights. Mr. Gregory states they will see a rock face with plantings on top to help screen the upper portion. Cynthia states that is the part she is concerned about and she doesn't know if going from what was originally suggested at the entrance way to this wall is better visually even though it may be better environmentally. Mr. Gregory states that was a concern when first coming in off of Hawley Road and talks about seeing the four feet of exposed rock face. Cynthia asks whether originally they were proposing 2, 12 foot walls. Mr. Gregory states yes, originally. Mr. Gregory refers to the screen and talks about the Plan where they show the depths of the cut and re-grading and states there was a concern in the front when looking at the Site. Mr. Gregory states they have only four feet of exposed rock along the front and it is not until they continue in where they get into 8 to 10 feet. Mr. Gregory states he thought the area in the front was more critical. Cynthia asks Mr. Gregory to see what he can do to give the Board a visualization of the entranceway and states it would be very helpful. Frank asks what the actual proposal is in terms of the rock slope. Mr. Gregory states originally it was one to four, but it has been changed back to one to two in order to soften it up a bit.

Cynthia states there are Reports from the Consultants and asks Will whether he has any questions at this point. Will states he believes Cynthia has raised most of the items he would have raised. Will states he doesn't know whether the Applicant has any questions about what has been written. Mr. Pilch refers to Item 2(c) on Page 2 of the MDRA Memo in regards to a Post-Blasting Conditions Report and asks for a clarification. Will states

the language is very grey as to how the determination will be made in terms of effect and it leaves it open to the developer to decide whether he is going to do anything more. Frank asks whether there is a Post-Blast Survey and states he doesn't know if that is typically done. Will talks about a Pre-Blast Survey being done, and then the blasting takes place, and someone having a complaint. Will states the complaint would need to be checked out and it seems to him that the language is not really spelled out in terms of what it would entail if there was a legitimate claim and what recourse there would be. Cynthia states she didn't pull up the Blasting Ordinance, but maybe it is spelled out better in there. Cynthia states she will take a look at it. Cynthia states if it is not spelled out Will is right and it has to be addressed in terms of the steps.

Charlotte refers to the safety issue and asks what will be done on the steeper cliffs or rock faces to keep children from wondering off them. Charlotte asks whether there will be a fence and planting. Mr. Pilch states there will be planting proposed on both sides and within the 15 foot strip at the top of the wall there is a planting area that is proposed. Mr. Pilch states they could use some of the rock to construct a stone wall in order to make a physical barrier at the highest locations. Charlotte states there are a couple of spots and is concerned about children playing in the woods at night. Mr. McKenna states any of the high areas will be fenced. Mr. Pilch refers to using the stone that will be generated or putting up fencing. Cynthia states if it is not going to be shown on the Plans there should at least be a Note such as a wall or fence being required.

Cynthia states the Board would like to see the rendition and the issues in the Memos addressed. Mr. Gregory asks whether they can keep the rendition to the first 100 feet into the driveway. Cynthia asks Mr. Gregory to point out on the screen where the first 100 feet would be. Cynthia, Charlotte and Christopher agree. Charlotte states driving west on Hawley will be the most visual. Cynthia states it is not as if people will see it for a long part of the drive. Charlotte states it will not be seen when driving the other way on Hawley Road.

REGULAR MEETING:

5. **Hayfields Market:** Renea Dayton (owner – Ralua, LLC)
Amended Site Development Plan (location – 1 Bloomer Road)

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

Cynthia states there are a couple of minor items that have to be cleaned up on the Plans. Cynthia states she was a little surprised by a comment from Tim Allen in regards to the lights. Cynthia states Renea Dayton is here tonight and asks her what the story is with the lights. Mrs. Dayton states she didn't have a chance to see the Plans before they were submitted and she didn't expect that either. Mrs. Dayton confirms they will be detailed to show how they are going to be retrofitted to include appropriate shields to direct their light downward. Cynthia asks Mrs. Dayton if she has any questions in regards to the outstanding items. Mrs. Dayton states no. Cynthia states there is a Draft Resolution of Approval and asks the Board whether they have any questions. The Board has no questions.

Gary Jacobi motions that the Planning Board Adopt the Site Development Plan Amendment Approval Resolution for Hayfields Market. Bernard Sweeney seconds. All in favor. No opposed.

After the motion Cynthia states the Applicant's Consultant has to make the changes on the Plans and submit two paper copies which we will take a quick look to make sure everything is on them that has been asked for. Cynthia states after that, two Mylar's would be submitted for signature prior to proceeding with the Building Inspector.

6. Gilport Develop. Corp: Peter Gregory (owner – Richard Morgante)
Subdivision (location – Oak Ridge/Overlook Road)

- Consider Report From Planning Consultant
- Consider Report From Town Engineer

Cynthia states the Attorney for the Applicant requested to be removed from our Agenda tonight and asked if there could be a meeting with their Engineer and our Engineer. Cynthia states she said she would ask permission from the Board tonight and set up a meeting at the Planning Board Office. The Board agrees with a meeting. Cynthia states she will let Seth Mandelbaum know that we will set something up as soon as possible. Peter Gregory is still here from the Hawley Woods discussion. Cynthia asks Mr. Gregory if he will attend along with his Engineer or whether their Attorney will be coming too. Mr. Gregory states he and Mr. Pilch will probably be there. Cynthia asks Mr. Gregory to let her know if there is a change. Cynthia states that she and Frank will be there and Dawn will take notes.

7. Palaia: Daniel Hollis (owner – David Palaia & Dawn Didomenico)
Subdivision (location – 1 Wallace Road)

- Consider Report From Planning Consultant and Wetlands Inspector
- Consider Report From Town Engineer

Good evening Madam Chairman Person and Members of the Board. My name is P. Daniel Hollis from the Law Firm of Shamberg, Marwell, Hollis, Andreyck & Laidlaw located at 55 Smith Avenue in Mount Kisco, New York. I am here tonight with Matt Gironda of Insite Engineering. Mr. Hollis states they have received Memos of the Engineer and Planner dated yesterday and they would ask this Board to consider the points he made in his March 14, 2016 letter and feels the time has both come and gone for the Board to circulate its Notice of Intent to be Lead Agency. Mr. Hollis states the 30 day clock won't run before the next Meeting, so the earliest that they could be back before the Board to have any further action after the Circulation of the Notice of Intent would be at the June Meeting. Mr. Hollis states that might work well because under the SEQR Regulations, after the 30 day period is up, then there is a 20 day period within which, as you well know, you are required to make a Determination as to Classification of this proposed action. Cynthia thanks Mr. Hollis and states it is kind of unfortunate that the Applicants did not attend the February Meeting, when this matter was on the Agenda, because at that point, we were going to go through the points of our Consultants Memos to see what information, if any, we needed, in order to take the first step under SEQR. Cynthia states the Applicants chose to pull themselves from that Agenda and make another Submission, so here we are where we could have been in February. Cynthia states the Board needs to talk to their Consultant about his agreement as to whether it is time to Circulate for Lead Agency and also talk about the next important step which is our Recommendation to the Zoning Board of Appeals (ZBA), who is another key Involved Agency in this Application and whether or not we have sufficient information in hand to make that Recommendation. Cynthia states with Will and Roland here we can talk about what is outstanding and what we need sooner rather than later to keep this in motion. Will states he doesn't think the Circulation for Lead Agency is necessarily a stumbling block, and is possibly something that would have been done in February. Will states an adequate EAF is needed, as well as a clear understanding of the roles so the other Agencies know what their jurisdiction is so they can rationally make a Determination as to whether they concur with the Declaration or want to oppose it. Will states when it comes to the ZBA there are clearly the Variances for the Minimum Area Requirement and there may be a little difference of opinion as to what Variances are being asked for, whether relative to the 4.0 acres or relative to Section 250-16, but he thinks the Applicants have come around and acknowledged Section 250-16. Will states the only other issue relative to compliance from a zoning perspective is the issue of the level spreader. Will states if the Applicants are going to go to the ZBA, he

doesn't want them to have to go there and then find out they have to go back. Will states that is something we should resolve to either agree or disagree on. Mr. Hollis believes it is a Building Inspector issue, and if he says it is, then he goes to the ZBA for a Variance, and if the Building Inspector agrees with him, then he doesn't need the Variance. Mr. Hollis states he doesn't think it is a Planning determination. Cynthia states it is pretty simple as it clearly meets our Definition of a structure, and structures have to meet setbacks. Cynthia states she doesn't understand the issue. Cynthia states the Code was amended in relation to gas tanks, including underground gas tanks because it was acknowledged that a structure is an assembly of materials. Cynthia states this could be a quick phone call to the Building Inspector to find out whether he agrees it is a structure. Mr. Hollis states that is what he just said. Cynthia asks whether Mr. Hollis is still going to argue that it is not a structure. Mr. Hollis states he might when he goes in front of the ZBA. Cynthia states the easiest route is to acknowledge it as a structure and let's deal with it or see about getting it out of there. Mr. Hollis states he is a process guy and the process is that the Building Inspector is the person who makes that determination and he either agrees with it or not in which case he would have to apply for a Variance. Roland states to Mr. Hollis that if we can incorporate it all into one process before the ZBA, isn't that easier to manage. Mr. Hollis states sure. Roland talks about Mr. Hollis agreeing that it is a structure at least for the purposes of going to the ZBA. Mr. Hollis states he is not going to agree that it is a structure for the purpose of his making that representation, but solely for the purpose that it is an issue that needs to be determined by the ZBA. Roland states this Board could include that in their Referral Recommendation. Will asks Mr. Hollis what he will be applying for when he goes to the ZBA. Mr. Hollis states Mr. Agresta believes it is a setback issue in regards to the spreader. Will states he isn't asking what he would apply for; he is asking what Mr. Hollis would apply for. Mr. Hollis states what he was going to apply for, very clearly, is the dimensional shortcoming as a result of the fact that he doesn't have the four acres that he needs for each lot. Will states if Mr. Hollis goes to the ZBA with that Application and open up a discussion about an interpretation of the level spreader and they say it is a structure, he will have to go back to the ZBA with a new Application. Mr. Hollis states he just said he is okay with that. Roland states Mr. Hollis may argue when he gets there, but he is going to be applying for the Variance. Will states he gets the interpretation part. Will states Mr. Hollis actually has to apply for the interpretation as well. Cynthia states the ZBA doesn't make a Determination, the Building Inspector does. Roland states you only have an interpretation issue if the Building Inspector issued an opinion. Roland states we are not going that route, as Mr. Hollis is going to apply for a Variance and when he is before the ZBA he can include in his argument that he is not sure it is a structure, but if it is a structure, then he would like the Variance. Cynthia states then he has to start all over with a Public Hearing Notice. Roland states he will have done all of that. Cynthia states that is what we are asking. Roland states that is what Mr. Hollis has said he is willing to do. Will states that is not what he is saying. Mr. Hollis states to Mr. Agresta not to tell him what he said, that is what he said. Cynthia states that is not how she understood it and that is not how Will understood it. Cynthia states let's try it one more time. Mr. Hollis states if Mr. Agresta didn't understand what he said that is one thing. Cynthia states we are trying to help the Applicants move forward, not to have arguments. Cynthia states we are trying to make the process easier so as not to have multiple visits to the ZBA back and forth. Mr. Hollis states he appreciates that. Cynthia suggests Mr. Hollis take this up with the Building Inspector and then at the next Meeting we can either incorporate it or not, instead of waiting until he gets to the ZBA to ask their opinion. Cynthia states she believes Mr. Hollis needs the opinion of the Building Inspector first. Mr. Hollis states he thinks that is what he said five minutes ago. Gary states we are done then. Gary states to Mr. Hollis good luck with the Building Inspector and let the Board know how he makes out.

Cynthia states we also have the issue of the Road Widening Strip and states this Board has always asked for them and that affects these calculations. Cynthia asks Will whether that has to be addressed. Will states if you have a Road Widening Strip and it reduces the land area, it would be no different than if you were building a street which reduces the land area. Cynthia asks whether it will affect the quantity. Will states it does as it comes out of the acreage just the same as a street would. Cynthia states we need to deal with that. Mr. Hollis states he is not sure that is the Law. Cynthia states she thinks it is our Code. Mr. Hollis talks about getting

debited for potential road widening. Cynthia states Mr. Hollis could ask the Planning Board, but she is pretty sure they would all agree that a Road Widening Strip would be asked for in this situation, as they always ask for Road Widening Strips. Cynthia states she is not aware of a case where they haven't. Roland states some communities do it by Easement, so there isn't the issue of reducing the acreage of a parcel. Cynthia asks Roland what that means long term. Roland states it is an Easement for potential road widening that the Town would have. Mr. Hollis states they would agree to that. Will states the Code talks about a Reserve Strip that would be conveyed, it doesn't talk about Easements. Roland states you are conveying the Easement as well. Will states he understands that, but the Code doesn't at all talk about Easements. Roland states it talks about conveyance as an option. Will states the Code talks about conveyance of land in fee. Roland asks whether the Code talks about conveyance of land in fee. Will states he will have to look at the language, but that is definitely what the intention is. Roland asks Will how he knows that is the intention of the Code. Roland states if it doesn't say in fee then a conveyance can also be by Easement. Will states okay. Mr. Hollis states it runs with the land in perpetuity. Gary states if we are comfortable granting an Easement and Roland thinks it will work then we are there. Cynthia states we will double check the Code and if it allows for that we are okay. Mr. Hollis states if the Code doesn't prohibit it that would be the search.

Cynthia states for the Board to take the next step, which she is sure they are going to be asked to do very quickly, is to put together their Recommendation for the ZBA. Cynthia asks Will whether there is any more information he would recommend the Board will need at this point. Cynthia states she was confused because on the one hand, based on the letters from Mr. Hollis, he is telling the Planning Board that they are not supposed to deal with the issues of the ZBA, but on the other hand, the Planning Board has to make their Recommendation to the ZBA. Cynthia states Mr. Hollis presented a whole series of arguments. Cynthia asks whether Mr. Hollis is saying the Planning Board has to deal with it, or doesn't have to deal with it. Mr. Hollis states what you have to deal with are the issues that are within the Planning Board's jurisdiction as to the Site, not as to the meaning of the Code or the Comprehensive Plan, but the planning issues relative to the Site. Mr. Hollis states it is wholly improper to deal with the balancing test and the five criteria with regard to the Variance as that is not under your purview. Mr. Hollis states he cited the Cases that say that over and again. Mr. Hollis states whether or not he meets the balancing test or can satisfy the criteria that he must to make his case under the balancing test is for the quasar judicial board, which is the ZBA. Mr. Hollis talks about the Planning prospective in terms of what concerns they have that either would cause them to not approve or recommend an approval for reasons relative to planning, or whether they do recommend approval without any explanation or with some explanation. Cynthia states one of the documents that they always refer to is the Comprehensive Plan. Cynthia states Mr. Hollis just stated a minute ago that they shouldn't be referring to their Comprehensive Plan. Mr. Hollis states not on the Referral, on their analysis when they return back to the Planning Board hopefully, if they receive the Variance, then whatever the Board wants to talk about within Site Plan review is within their statutory ability to do so. Mr. Hollis states Mr. Agresta is not a lawyer and the arguments in a lot of his Memos have to do with lawyering, and he takes exception to that. Mr. Hollis states he has been doing this for a long time and maybe Mr. Agresta should look at Section 1983 of the Civil Rights Act instead of what he is focusing on. Cynthia states let's not go there. Mr. Hollis states the Recommendation to the ZBA should be based on those elements that are looked at from a planning perspective not what their requirements are to look at under the Town Law that sets forth what the balancing test is and the criteria, as that is not their job. Mr. Hollis states he has cited Cases about that. Cynthia thanks Mr. Hollis and states he has stated it twice now. Roland states if the Board wishes to reference something in the Comprehensive Plan as part of their Recommendation that is fair game. Cynthia states yes, she thinks so. Will states he doesn't think anyone was implying or saying that the Applicant needed to determine the balancing test to the ZBA. Cynthia states of course not. Will states in order to make a Recommendation he would think the Board would need to know what the pedestal is and what it is built upon. Will states that is what we are after and quite frankly that is all part of planning and the Comprehensive Plan is all planning, and everything you need to do has to be consistent with the Comprehensive Plan. Cynthia states she agrees. Mr. Hollis states that is not so.

Cynthia states we are not arguing that now. Mr. Hollis states he is just making a statement so that the record is clear that he doesn't agree with what Mr. Agresta has said. Mr. Hollis states Mr. Agresta is not a lawyer and that is a statement of fact, not a statement of law.

Cynthia states she thinks she is ready to make a motion to circulate for Lead Agency.

Chairwoman motions that the Planning Board Circulate their Intent to be Lead Agency to all the Involved and Interested Agencies for the Proposed Palaia Two Lot Subdivision at 1 Wallace Road. Gary seconds. All in favor. No opposed.

After the motion Cynthia asks Will to communicate with her tomorrow what will make the complete package for circulation and she will prepare the list of Involved and Interested Agencies and send it over to him for review. Will asks Cynthia whether she will prepare the package or whether she would like him to do it. Cynthia states she would like Will to do it with a cover note. Cynthia talks about the Board considering their position at the next Meeting. Roland states he believes the Board until the 30 days has expired. Cynthia states she thought the next Meeting might be 30 days. Mr. Hollis states it is just shy of it. Mr. Hollis talks about coming back before the Board on June 1st and states he thinks that is the date of the Planning Board Meeting. Cynthia states that sounds right. Roland asks if there are any other documents the Board wishes to request from the Applicant in order to be prepared to make their Recommendation since they have almost two months. Cynthia states perhaps we could utilize the next Meeting if discover in the formulation of our Recommendation that we need more information. Mr. Hollis states that is fine. Mr. Hollis talks about coming back before the Board on May 4th for that purpose to talk about any information the Board feels they need and will either agree or try to convince them differently.

8. Verizon Wireless/Homeland Towers: Michael Sheridan (owners – Marilyn & John Gizzi)
Cond. Use/Site Dev. Plan (location – 101 Bloomer Road)

- Discussion of Procedure for Change of Equipment

Cynthia states this Verizon matter concerns her because this is an Application that the Board just approved and the tower is not even built, and now changes are being proposed. Cynthia states the Board also received a similar proposal from T-Mobile/Crown Atlantic for the tower at 40 Sun Valley Drive. Cynthia states the reason she put both of these items on the Agenda was not to have a thorough review of the items submitted, but to understand procedurally, since we have Will here, how both of these changes should be approached. Cynthia states we will start with Verizon proposal.

Michael Sheridan states he is an Attorney with Snyder & Snyder, LLP the Attorneys for New York SMSA Limited Partnership d/b/a Verizon Wireless in connection with Verizon Wireless' Submission regarding changes to their approved facility at 101 Bloomer Road. Mr. Sheridan states the facility was approved with antennas on the tower with additional equipment, RRH's, a shelter on the ground within an approved compound, as well as a generator and a propane tank. Mr. Sheridan states Verizon is now requesting what could be considered Field Changes as the technology has changed slightly as time has proceeded from the Approval back in early 2015 to now. Mr. Sheridan states with the technological changes they are able to remove the shelter and go with a smaller pad, with equipment on it, with a canopy over it, which will be shorter in height from the equipment shelter. Mr. Sheridan states because of the changes they will be able to use a smaller generator and because of the smaller generator a smaller propane tank may be used as well. Mr. Sheridan states these changes reduce the impact on the ground and the compound while keeping everything behind the fence and behind the approved barn façade in the front. Mr. Sheridan states the tower will be a monopine and the antennas will still be within the tree branches as well as the RRH's which are being reduced

from 12 to 9. Mr. Sheridan states there are going to be three surge suppressor/main distribution boxes instead of one which will be located on the pole itself. Mr. Sheridan states they will be behind the tree branches that make up the monopine. Mr. Sheridan states they believe that if the Board looks at the Code this does qualify as an Exemption and would also arguably qualify under the Middle Class Tax Relief Act (TRA) Section 6409 as an eligible facilities request because they are not increasing the size of the tower. Mr. Sheridan states based upon the Code, as well as the TRA, this should be exempt so Verizon may proceed with a Building Permit. Cynthia states to Will that we have had several of these proposals in different shapes and forms and in some cases Applicants have gone through an Amended Site Plan Application which has been fairly quick. Cynthia states the Board has been trying to be consistent with the Code in terms of what triggers them to go the route of Amendments. Cynthia states she believes the Board has done one prior Exemption. Will states technically this proposal isn't like any of the others. Will states technically this is not an existing facility and that is what the Exemption is all about in terms of changes being made to an existing facility that has already been built. Will states this hasn't been built yet and is in the process of being built after just being approved. Will states this really would be an Amendment to the approved Plans. Will states it doesn't have to be a big deal, but he believes it should be processed as an Amendment and the Plans changed out and that is what the Building Permit should be based on. Will states this is not a Field Change and gives an example of someone moving a rock over a few feet. Will states this could be painless but he suggests it be done through the Amendment process so as to have an Amended Approval and Plans so it is clean. Will states it doesn't have to be difficult and doesn't have to take time. Cynthia states she took the time to pull up what the Board originally approved and what has been presented to them tonight and states it is a little difficult to read the wording. Cynthia refers to the screen and states Verizon is on the top and this is showing what the tower would look like under the revised set up. Cynthia refers to the screen and shows the tower that the Board approved. Cynthia states Mr. Sheridan is correct in that visually we are looking at something that did just break the surface of the tree limbs at the top. Cynthia states it doesn't appear to be any further out or higher than the previous tower in terms of the tree. Will states the Board has to remember this visualization of the tree is not really what it is going to look like. Cynthia states she understands and jumps over to the right side of the screen where there is a better comparison because it actually shows the equipment. Cynthia refers to the screen and points out what is being proposed now. Cynthia refers to what had been proposed before and states in looking at it she believes it is very much the same. Cynthia refers to the dimensions and asks Mr. Sheridan if we are looking at the same distances across the bar and the distance from the pole in terms of what had been approved and what is being proposed now. Mr. Sheridan states the difference is that the antennas are going to be smaller on the new proposal. Cynthia refers to the screen and points out the vertical height which had been 72 inches and confirms the new antennas will be 50.9 inches, so they will be smaller. Mr. Sheridan states they are smaller and there will be one less RRH per sector. Christopher states aesthetically it will be an improvement. Mr. Sheridan states it is all going to be inside the branches. Mr. Sheridan states if you drive by one day and then drive by after the changes have been made, you probably wouldn't notice them. Will states he looked at the changes and to him it looked like everything seemed to get smaller. Will states he is just talking about a technical approach. Cynthia refers to the equipment on the ground and states while she understands it is getting smaller, it is different and she wanted to go over this with Mr. Sheridan to make sure the Board understands it. Cynthia refers to the screen and confirms the equipment is no longer within a box. Cynthia states it will be behind an eight foot fence and refers to the corrugated roof line which will be just over the fence line. Mr. Sheridan states it is a little more than nine feet tall. Cynthia refers to the screen and the Golf Course and states it is really the Owner who will see the change. Cynthia refers to the screen and points out Bloomer Road and the pretty barn that will be across the front. Cynthia states from Bloomer Road, presumably looking straight in, this will hide almost everything. Cynthia refers to the screen and points out the Golf Course and states in the corner will be the area where the tank will be changed out and made smaller. Cynthia confirms the structure will no longer be a metal box that was a lot higher than the fence. Cynthia states now there will be open equipment with a corrugated roof, which is what the golfers are going to see. Cynthia states that plantings will be going in the front. Cynthia asks the Board whether they have any issues,

otherwise we would ask Will to prepare an Amendment. Christopher states aesthetically it seems as if it is an improvement over what had been previously approved, and seems fairly straight forward. Charlotte asks whether construction has to stop while the Board goes through this process. Cynthia states they are a long way from this corner of the Site. Charlotte confirms nothing has to stop. Cynthia states Homeland Towers and Verizon have approvals to do everything else. Gary states he doesn't see a problem with it. Cynthia states assuming when Will sits down and reviews the proposal more closely, and prepares the Amendment, if he doesn't come up with anything, we could have something prepared for the next Meeting. Mr. Sheridan asks whether the Board needs anything else from him at this point. Gary states Will might. Will states he has a full set of the Plans. Mr. Sheridan confirms that if the tower had been built he would be able to obtain an Exemption, but because it hasn't been built he has to go through this process. Will states yes. Will states what is the purpose of having the Planning Board approve something so the Building Inspector can change it. Mr. Sheridan states he will be back next month. Cynthia states if there is an issue she will call him.

**9. T-Mobile/Crown Atlantic: Michael Sheridan (owner – Croton Falls Fire District)
Cond. Use/Site Dev. Plan (location – 40 Sun Valley Drive)**

- Discussion of Procedure for Change of Equipment

Cynthia brings the Plan up on the screen. Christopher asks if it is new technology that has come about which has caused these changes. Cynthia states we have done quite a few of these proposals and refers to the roof at the old Frawley building. Christopher refers to the shrinking. Cynthia states they have been going from 6 to 12 antennas and back down to 6. Mr. Sheridan states this is another proposal that falls under Section 6409 of the Federal Middle Class Tax Relief Act (TRA), which requires a municipality to grant a request to modify an existing base station or existing tower. Mr. Sheridan states with this Application the facility does exist, and the proposal is to replace antennas and equipment. Mr. Sheridan states equipment on the ground will be changed and antennas will be added to the tower. Mr. Sheridan states they are requesting approval based on the TRA, as well as the regulations under the Code. Cynthia refers to the screen and asks whether the antennas that will be added to the tower will protrude more, and whether there will be more mass there. Mr. Sheridan states it is his understanding they are going from three antennas to six antennas on the tower, so there will be additional antennas. Mr. Sheridan states this will not increase the height of the tower. Cynthia states we have a Condition in our Code about Bulk and that is one of the reasons we looked at some of the other proposals more closely. Will states that is correct. Will refers to the Local Law which talks about a 5% increase in Bulk and states we have required an understanding of the Bulk Calculation based on the Exemption criteria to determine whether Applicants meet the Exemption criteria or not. Will points to specific antennas on the screen and asks Mr. Sheridan whether they are going to be completely new. Mr. Sheridan states no. Cynthia refers to the screen and the existing arrangement and states she thought the corners were existing. Mr. Sheridan states there are three antennas and they would like to go to six antennas, and the platform will be replaced. Will confirms there are three antennas which will be taken off and six added for a net increase of three. Will confirms that the new platform will replace the old platform. Will states the antennas have some net change and asks whether the new antennas will be smaller. Mr. Sheridan states he is not positive about that. Mr. Sheridan states relative to the 5% the argument on their side would go back to the TRA Federal Law which requires approval in 60 days, which is what they are here for. Mr. Sheridan states if the Board requests additional information he will get it to them. Will states what we have done in the past is to ask for the calculation. Will states at the very beginning someone tried to do it and didn't do it right, and since then everyone has more or less accepted the Amendment. Will states he is not suggesting Mr. Sheridan has to do it, but that is the past history. Mr. Sheridan states if he submits the calculation will he also be able to receive an Amendment when he returns for the matter previously discussed. Will states if Mr. Sheridan thinks it is no big deal, he will write it as an Amendment, or if he wants to provide the calculation and go for the Exemption it would take the same amount of time. Mr. Sheridan talks about not doing the calculation and receiving an

Amendment at the next Meeting. Gary states he is not sure the Board has much choice. Charlotte states she was going to say that the Board has to amend it. Will states if Mr. Sheridan provides the calculations and is under the 5% he would be eligible for the Exemption. Charlotte states that might be easier. Mr. Sheridan refers to the possibility of not being able to show calculations under 5%. Will states that is why in the past everyone has gone the Amendment route. Charlotte states the Exemption may be better. Mr. Sheridan states he just wants to get an Approval for his client so they may proceed and replace the equipment. Cynthia refers to the platform bars and asks whether they exist now, or are there bars with something on the tips there now. Cynthia states if the bars and the bulk are being added then it does concern her versus if they are already there and the panels are being changed out. Cynthia states she doesn't understand the change in the platform. Mr. Sheridan states they are changing the platform so it can hold the additional antennas. Will states the question would be whether it is the replacement of an existing platform, or the addition of a platform that will be bigger than it is today. Mr. Sheridan states they are replacing the existing platform to accommodate the new equipment. Cynthia states the height of them cannot change because it is a tight space to begin with. Gary states the new boxes can't be bigger than the old boxes. Cynthia refers to the equipment on the ground and asks whether more will be added. Mr. Sheridan states they are adding one equipment cabinet to an existing concrete pad and two equipment cabinets to a proposed 30 square foot concrete pad, all within the existing compound. Cynthia states this is a Site that has no landscaping around it. Cynthia refers to the Highgate Project and states when the houses are built the people may be concerned about the lack of landscaping around the tower. Will states the compound equipment is fine as long as it is in it and does not rise above the fencing. Christopher asks where the new 30 foot pad will be. Cynthia points it out on the screen. Christopher asks whether we are asking Mr. Sheridan to calculate the Bulk and states it is not clear to him. Will asks the Board whether they are comfortable with the changes Mr. Sheridan has articulated. Will asks the Board if they would see any reason not to grant an Approval. The Board states no. Will states we can forgo the Bulk Calculation and do an Amended Approval, as that seems to be the most expedient process. Will asks Mr. Sheridan if he agrees. Mr. Sheridan states he thinks so. Charlotte states the Amendment as opposed to an Exemption. Will is going to prepare a Draft Resolution.

10. Financial Report:

- March, 2016

Chairwoman motions that the Planning Board Approve the March, 2016 Financial Report. Gary Jacobi seconds. All in favor. No opposed.

11. Next Meetings:

- Work Session – April 20, 2016
- Regular Meeting – May 4, 2016

The Board has a discussion as to whether the next Meeting will be on May 4th or whether they will meet in between. Gary asks whether the Board will meet on April 20th. Cynthia states that is the question. Cynthia states we will not have Will. Cynthia states we would just be meeting for Gizzi. Cynthia states we will not have Will to answer any questions on the Draft Resolutions for the Gizzi Project. Charlotte states the Board should meet for the Gizzi Project. Christopher states it is on his calendar. Gary states Will is going to prepare the Draft Resolution so he assumes Will is going to be comfortable with it. Cynthia states the CAC is meeting Monday or Tuesday so the earliest we would have their Report would be Friday of next week. Cynthia asks Will if he is leaving Town then. Will states he is not leaving Town, he has something to attend. Cynthia states we will meet on April 20th and have the Gizzi Project on the Agenda.

12. Resolution:

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