

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

LANDS OF THOMAS V. CHIRIANI
(2007-4)

651 Rock Cut Road
Section 11; Block 1; Lot 4.31
AR Zone

----- X

PUBLIC HEARING
TWO-LOT SUBDIVISION

Date: May 17, 2007
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
EDWARD T. O'DONNELL, JR.
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
WILLIAM HAUSER
KAREN ARENT
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

LANDS OF THOMAS V. CHIRIANI

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

2

CHAIRMAN EWASUTYN: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of the 17th of May.

At this time I'll call the meeting officially to order with a roll call vote.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. O'DONNELL: Present.

MR. PROFACI: Here.

CHAIRMAN EWASUTYN: Myself present.

The Planning Board has experts that provide input and advice to the Planning Board in reaching its various SEQRA determinations, and I ask at this time that they introduce themselves.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MR. HAUSER: Bill Hauser, Engineering Consultant.

MR. COCKS: Bryant Cocks, Planning Consultant.

MS. ARENT: Karen Arent, Landscape Architectural Consultant.

MR. WERSTED: Ken Wersted, Creighton,

LANDS OF THOMAS V. CHIRIANI

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

3

Manning Engineering, Traffic Consultant.

CHAIRMAN EWASUTYN: At this point I would like to turn the meeting over to Joe Profaci.

MR. PROFACI: Would you join us as we salute the flag.

(Pledge of Allegiance.)

MR. PROFACI: Please turn off all cell phones.

CHAIRMAN EWASUTYN: This evening the first three items of business are public hearings. Before we officially start the meeting, Mike Donnelly, the Planning Board Attorney, I would ask at this time that he provide the public with information as to the purpose and the meaning of a public hearing.

MR. DONNELLY: Good evening. Planning boards are not always required to hold public hearings but in the case of subdivisions they are, and at times optionally they do so with site plans as well. The purpose of the public hearing is for the Planning Board to learn from you, the members of the public, particularly those who may live in the vicinity of the project, any issues

LANDS OF THOMAS V. CHIRIANI

4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that have not yet been brought to their attention. These applications have been on this agenda before this evening and the various consultants have reviewed them and given reports to the Planning Board, but before the Planning Board takes action on the project they schedule a public hearing in order to hear comments from the public so that new issues that haven't been discussed or analyzed in the past can be brought to the attention of the Board.

In terms of how the hearing proceeds, the applicant will begin with a presentation of the proposal. When that is concluded the Chairman will call upon those that wish to speak to come forward. We would ask when you do so, and that microphone isn't really on, that you come forward so everyone can hear you, particularly with the air conditioning on, that you tell us your name, spell it for our Stenographer so she can get it down correctly, and it would be helpful to tell us where you live so we understand the perspective you bring to the application. Address your comments to the Board. If you have questions the Board will ask one of

LANDS OF THOMAS V. CHIRIANI

5

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the consultants or perhaps the applicant's representative to answer the question if it seems it can be answered relatively quickly.

CHAIRMAN EWASUTYN: Thank you.

The first item of business this evening is the lands of Thomas V. Chiriani. It's a public hearing for a two-lot subdivision located on Rock Cut Road in an AR zone. It's being represented by Jim Raab.

I'll ask Ed O'Donnell to read the notice of hearing.

MR. O'DONNELL: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of Chiriani for a two-lot subdivision on premises 651 Rock Cut Road in the Town of Newburgh, designated on Town tax map as Section 11; Block 1; Lot 4.31. Said hearing will be held on the 17th day of May 2007 at the Town Hall Meeting Room, Route 300 1496, Newburgh, New York at 7:00 p.m. at which time all interested persons will be given an opportunity

LANDS OF THOMAS V. CHIRIANI

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

6

to be heard. By order of the Town of Newburgh
Planning Board. John P. Ewasutyn, Chairman,
Planning Board Town of Newburgh. Dated May 3,
2007. Publish one time only no later than May
12, 2007."

CHAIRMAN EWASUTYN: Thank you.
At this time I'll turn to Mr. Galli.

MR. GALLI: Seven notices were mailed,
seven were returned signed. All the mailings are
in order.

CHAIRMAN EWASUTYN: Mr. Raab, would you
give your presentation.

MR. RAAB: Thank you, Mr. Chairman.
For the record, I'm Jim Raab, I'm with
the engineering firm of Vincent J. Doce
Associates. We're here to represent Thomas
Chiriani in a two-lot subdivision located on Rock
Cut Road, the entrance of which is directly
across from East Rock Cut Road. It's a 4.62 acre
parcel in which we're going to break off 1.6
acres into a flag lot that will share a common
driveway with the driveway that already exists to
Mr. Chiriani's lot.

The lot will be served by individual

LANDS OF THOMAS V. CHIRIANI

7

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

well and septic. It meets all the proper clearances for that.

We did receive comments from the Orange County Department of Public Works. They wish us to -- require us to widen the driveway to a two-car width which I talked with Pat Kennedy this morning about and he said anything that was acceptable to the Planning Board. I figured it would have to be about eighteen feet wide for about fifty feet from the edge of pavement of Rock Cut Road.

CHAIRMAN EWASUTYN: Thank you, Jim.

At this time we'll turn the meeting over to the public for their questions and comments. As Mr. Donnelly had said earlier, if you'd raise your hand and give your name and address.

Please.

MS. WOLFF: My name is Janet Wolff and I live at 265 Rock Cut Road -- 645. I'm sorry. My house is the one right there. The front of our property is very wet. We have a below-ground septic. Then widening the driveway will make more water come towards our front. I'm wondering

LANDS OF THOMAS V. CHIRIANI

8

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

what we're going to do when this happens. What are they going to do to prevent something from happening to my septic system?

In the back lot it's a large dip and I'm concerned about what are they going to do about all the water. When I had my house built I can't tell you how many hundreds of yards of fill I had brought in to have my yard look the way it does right now. I'm very concerned because it is one of the lowest points in the area where water does collect. I mean I even left dips in the front yard so it doesn't -- the water doesn't flow towards the leach field when it rains very bad. I just can't see how it can pass a perk test.

MR. RAAB: The original subdivision in the front, that was originally done by Mercurio, Norton & Tarolli. There was a depression in the front. They had to bring in large amounts of fill. We're towards the back. We're on the side slope of the hill. The soils weren't great but they were good enough to pass for the size septic system we have in there.

As far as the drainage goes, there's a

LANDS OF THOMAS V. CHIRIANI

9

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

drainage ditch that goes all the way down along Rock Cut Road. There's a very deep defined swale that carries the water down and into the Central Hudson drainage easement or Central Hudson easement and down this way like this. This water here is going to come down Mr. Chiriani's driveway just like it does now. Any impact that would happen from us would already be happening to Ms. Wolff's property already.

CHAIRMAN EWASUTYN: Bill Hauser does the technical review.

MR. HAUSER: Define for me how the drainage is going to go from east to west on that proposed driveway where you're going to widen it.

MR. RAAB: We're only going to widen what the County requires us to widen.

MR. HAUSER: I understand, but I'm looking at the topography. How does the water flow from east to west? I don't see that on your plan.

MR. WOLFF: It goes in our front yard.

CHAIRMAN EWASUTYN: Mr. Wolff one person at a time.

MR. RAAB: It comes right down Mr.

LANDS OF THOMAS V. CHIRIANI

1
2 Chiriani's driveway right now.
3 MR. HAUSER: If the driveway is
4 profiled the way the driveway is supposed to be,
5 water is going to go to either side of the
6 driveway.
7 MR. RAAB: Correct.
8 MR. HAUSER: What ends up on the south
9 side of that driveway, how does it flow from east
10 to west?
11 MR. RAAB: Again, there's nothing
12 defined there to make it flow from east to west.
13 There's a fairly large stonewall that separates
14 the two properties in this area right here.
15 MR. HAUSER: Could something be defined
16 on that southern edge of that driveway to move
17 that water from east to west thereby mitigating
18 the effect on Wolff's property? You're Wolff
19 MS. WOLFF yes.
20 MR. RAAB: We can provide a swale along
21 the side of the driveway.
22 MR. HAUSER: You see what I'm talking
23 about?
24 MR. RAAB: Yes, I do. I understand
25 what you're saying.

LANDS OF THOMAS V. CHIRIANI

11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. HAUSER: Because your topo doesn't define it. If you're going to widen this why wouldn't you just swale this to the point where it gets back here and that way on your property you could direct it to the Central Hudson easement and we don't have to worry about the impact to this.

MR. RAAB: We can give you a typical section on that. Not a problem.

MR. O'DONNELL: Did you say yes, Jimmy?

MR. RAAB: Yes.

CHAIRMAN EWASUTYN: Sir.

MR. TUSCANO: My name is Michael Tuscano, I also live at 645 Rock Cut Road. At the present time there's two, big large culvert pipes at the end of my driveway and at the end of Thomas Chiriani's driveway. At the present time when it rains all the water collects in the front of that yard which means he's going to have to build that house -- he's going to have to lift the house up in the air which is going to force all that water through that pipe, and then it comes into our yard and it sits in the front of our yard. It has to go through this pipe to go

LANDS OF THOMAS V. CHIRIANI

1
2 12
3 into a stream which I've been -- had numerous
4 conversations with the County about. They won't
5 come in and clean it. I have to climb into this
6 hole and clean it so that it keeps moving. If
7 they keep putting more water in there it's just
8 going to keep backing up. In the summertime it
9 stinks because it's stagnant. I have to wait for
10 the water to dry up to weed whack it to keep the
11 water moving. This is very time consuming,
12 dangerous work. There's snakes in there and my
13 son is always playing around in it. We're trying
14 to section it off so he can't get to it but you
15 know how kids are. I'm concerned that the water
16 now that sits in Thomas's yard and comes through
17 that culvert pipe which the County is supposed to
18 take care of but they don't, and now if they push
19 the pipe over more closer to our front yard, then
20 the water is going to come through that pipe
21 right into our leach field.

21 CHAIRMAN EWASUTYN: Mike, a response to
22 that. Is the County to maintain what is theirs
23 to maintain?

24 MR. DONNELLY: I assume this is a
25 County drainage improvement. Can you tell, Bill?

LANDS OF THOMAS V. CHIRIANI

13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. HAUSER: If it's the culvert that goes --

MS. WOLFF: That's one of them. There is a culvert that comes under Rock Cut Road.

MR. HAUSER: Under which driveway?

MR. TUSCANO: We have a big culvert pipe under our driveway and Thomas has one at the end of his driveway.

MR. HAUSER: Let me understand where you're talking about.

MR. RAAB: Right about in here. The driveway is just south of that.

MR. HAUSER: You live over here?

MR. RAAB: They live right here.

MR. TUSCANO: We live right here. Where does our driveway --

MR. RAAB: Your driveway comes here.

MR. TUSCANO: Where is Thomas's driveway? Right at the edge of his property.

MR. HAUSER: There's an existing culvert here?

MR. TUSCANO: Ours has one, too. The Central Hudson stream is over here so everything travels this way. We're lower than him. If he

LANDS OF THOMAS V. CHIRIANI

14

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

raises everything up everything is just going to collect in our front yard.

MR. HAUSER: That's why I just indicated here the swale on the south side of the driveway to carry this water, rather than in front of you, down this way behind you on their property to the Central Hudson easement. That's what I just said. I don't know whether I made myself clear.

MR. TUSCANO: Now I understand what you're saying.

MR. HAUSER: What I'm trying to do here is succeed in diverting this water so that it travels on their property behind you to mitigate some of that. In actuality, because they're widening the driveway, we can require that they make that modification.

MR. TUSCANO: Okay.

MS. WOLFF: They are also bringing the driveway over our footing drains. There's also in the back of our house a ditch where the footing drains come out and they're bringing that driveway to the back lot over top of it.

MR. HAUSER: To clarify, your footing

LANDS OF THOMAS V. CHIRIANI

15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

drains are on their property?

MS. WOLFF: They empty out into that area.

MR. TUSCANO: The Central Hudson easement where the water comes through which all of the drainage from our -- also from our footing drains comes out and all ties into one thing which --

MS. WOLFF: And empties out.

MR. TUSCANO: We paid to have a culvert pipe put in all the way to the edge of the property so we could fill it in because it was a hole that was this deep and nothing but -- it was just like a tunnel, a half a tunnel that had water flowing in it all the time. It went straight --

MR. HAUSER: If you're depending upon grade here for your system to work, --

MS. WOLFF: Right.

MR. HAUSER: -- I defer to Mr. Donnelly. If they build this site to build this house you can't discharge water onto their property anyway.

MR. TUSCANO: It was there before we

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

bought the lot.

MR. HAUSER: That may well be. They have a right of ownership.

MR. TUSCANO: Where is the water going to go?

MR. HAUSER: As I say, when they swale this the water is going to come down through here.

MR. TUSCANO: There's an existing stream there that comes out. It comes out into his property. It goes right through our property and comes out onto Tom's property. That was part of the arrangement that they made when they sold the property.

MR. RAAB: There's an old drainage easement.

MR. HAUSER: What are you going to do about this swale?

MR. RAAB: Pick it up.

MR. HAUSER: I think you need to show that. Actually construct a defined swale to an outlet down here. You need to determine what that outlet is. If this is existing, by filling this in, yeah, you will back up onto them.

LANDS OF THOMAS V. CHIRIANI

17

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. RAAB: Which wasn't our intention. Our intention was whatever happened here was going to bring some type of drainage underneath the driveway.

MR. HAUSER: How do you get it out of here. You can't dam this up. You have to create some type of --

MR. RAAB: That makes all the sense in the world. We carry that swale right to where it empties.

MR. DONNELLY: That will then handle that drainage?

MR. RAAB: Yeah, we can handle it.

MR. HAUSER: You'll have to look at the drainage area that they're talking about and size the swale accordingly. We have to see what the final disposition point of that drainage would be.

CHAIRMAN EWASUTYN: Other comments from the public at this time?

(No response.)

CHAIRMAN EWASUTYN: Janet, Michael, would you like to add anything further?

MR. TUSCANO: I just want to say we

LANDS OF THOMAS V. CHIRIANI

18

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

have no problem with Tom doing whatever he needs to do or whatever he wants to do. We just want to make sure that from him doing what he's going to do doesn't create a problem for us that's going to affect us and make us spend an absorbant amount of money trying to move this water along that's been thrown into our property. It's already wet to begin with and I don't know how much more it can take. It needs to be looked at. Like I said, we have no problem with Tom doing whatever he wants. I just want to make sure that our property doesn't get flooded again. We paid a lot of money to have it filled and we don't want it to get back to the same because then we have to pay again to have more fill brought in. I don't want to have to do that.

MR. RAAB: There's no problem with us creating a swale that will separate along this side of the driveway and carry right down to the Central Hudson easement.

MR. HAUSER: We have to ensure that whatever structure is in the Central Hudson easement is going to carry that flow. You're going to have to indicate --

LANDS OF THOMAS V. CHIRIANI

19

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. RAAB: There's nothing down there.

MR. HAUSER: I don't know that. I haven't seen it.

MR. RAAB: There's nothing down there but an open ditch.

MR. HAUSER: For purposes of the Planning Board, they're going to have to see that.

CHAIRMAN EWASUTYN: Okay. Final comments from Board Members. Bryant Cocks, Planning Consultant.

MR. COCKS: We had no further comments. The lots both meet all zoning requirements.

All we're waiting for is the comment letter from the Orange County Planning Department and their thirty days should be up right about now.

CHAIRMAN EWASUTYN: Bill Hauser, would you like to summarize the conversation we had this evening as to what will be required of the applicant prior to signing any plans?

MR. HAUSER: There needs to be a drainage, a defined drainage path extending from what would be the northeast corner of lands now

LANDS OF THOMAS V. CHIRIANI

20

1
2 formally Wolff in a southwesterly direction along
3 the southerly portion or southerly line of the
4 proposed driveway to be widened to approximately
5 -- to outside of the northwest corner of lands of
6 Wolff, then going in a southerly direction to the
7 Central Hudson Gas & Electric easement to an
8 ultimate point of disposal to be reflected on the
9 plan, and a cross section of the swale and
10 construction details to be shown on the plan.

11 MR. RAAB: Do you want to add -- we'll
12 provide a small report with that also.

13 CHAIRMAN EWASUTYN: Okay.

14 MR. HAUSER: Pat is going to have to
15 see this. The swale has to be designed, so Pat
16 is going to have to see the calculations.

17 MR. RAAB: That's correct.

18 CHAIRMAN EWASUTYN: Comments from Board
19 Members. Frank Galli?

20 MR. GALLI: No additional.

21 CHAIRMAN EWASUTYN: Cliff Browne?

22 MR. BROWNE: Nothing more.

23 CHAIRMAN EWASUTYN: Ed O'Donnell?

24 MR. O'DONNELL: The size of the swale,
25 that would be, Mike, part of our resolution?

LANDS OF THOMAS V. CHIRIANI

21

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. DONNELLY: What I was going to suggest is assuming that you act tonight, that we have a condition that says a revised plan showing a widened driveway is required by the Orange County Department of Public Works with provision for drainage diversion satisfactory to the Planning Board engineer must be submitted before the plat is signed and released for filing. That would leave it to Bill and Pat's office to ensure that that was satisfactory. If not it would have to come back here. If you feel you need to see it, then it would have to come back here before you take action. If it's just a technical report, you can leave it up to them.

MR. O'DONNELL: Thank you.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I have nothing additional.

CHAIRMAN EWASUTYN: Any additional comments from the public at this time?

MR. O'DONNELL: I have another question. Are you satisfied, the Wolfes?

MS. WOLFF: Not really. I'm a little nervous about it.

LANDS OF THOMAS V. CHIRIANI

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. O'DONNELL: It looks like --

MS. WOLFF: As it is right now, when it rains I take my laundry out, so this is -- I mean --

MR. O'DONNELL: This won't make it any worse.

MS. WOLFF: I hope not.

MR. O'DONNELL: These guys are pretty smart at what they do.

MS. WOLFF: It's so wet I can't imagine two more houses.

MR. HAUSER: What we'll probably do in review of the documents submitted, we'll probably visit your site.

MS. WOLFF: I hope so.

MR. HAUSER: We'll make sure we do.

MS. WOLFF: Okay, great. Thanks.

MR. HAUSER: I don't know if that makes you more comfortable.

MR. RAAB: It makes me more comfortable.

MR. O'DONNELL: Make sure you come on a rainy day.

CHAIRMAN EWASUTYN: Any additional

LANDS OF THOMAS V. CHIRIANI

23

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

comments from the Board Members?

(No verbal response.)

CHAIRMAN EWASUTYN: I'll move for a motion to close the public hearing on the two-lot subdivision for the lands of Chiriani.

MR. GALLI: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ed O'Donnell.

Any discussion of the motion?

(No verbal response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself aye. So carried.

At this point I'll turn to Mike Donnelly, Planning Board Attorney, to give us conditions for final approval in the resolution.

MR. DONNELLY: Just one matter. At your March meeting you referred this to the

LANDS OF THOMAS V. CHIRIANI

24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Orange County Planning Department. I assume more than thirty days have passed now, otherwise they don't have jurisdiction.

CHAIRMAN EWASUTYN: The 29th of March.

MR. DONNELLY: That's when you voted to send it. I assume it went out shortly after that. We should be all right.

The conditions then, it's subject to the Orange County Department of Public Works. I know we must have a letter from them but we'll keep it in there. The condition I just mentioned regarding a satisfactory widening and drainage diversion plan will be signed off on by McGoey, Hauser & Edsall. A common driveway easement and maintenance agreement satisfactory to the Planning Board Attorney. Payment of parkland fees.

MR. RAAB: You already approved it.

MR. DONNELLY: I'll keep the condition in.

MR. RAAB: Okay.

CHAIRMAN EWASUTYN: Having heard the conditions for final approval for the lands of Chiriani, I'll move for that motion.

LANDS OF THOMAS V. CHIRIANI

1 25
2 MR. GALLI: So moved.
3 MR. PROFACI: Second.
4 CHAIRMAN EWASUTYN: I have a motion by
5 Frank Galli. I have a second by Joe Profaci.
6 Any discussion of the motion?
7 (No verbal response.)
8 CHAIRMAN EWASUTYN: I'll move for a
9 roll call vote starting with Frank Galli.
10 MR. GALLI: Aye.
11 MR. BROWNE: Aye.
12 MR. O'DONNELL: Aye.
13 MR. PROFACI: Aye.
14 CHAIRMAN EWASUTYN: Myself yes. So
15 carried.
16 MR. RAAB: Thank you very much.
17 MR. HAUSER: Mr. Chairman, can I just
18 get Wolff's phone number?
19 MS. WOLFF: 566-9317.
20 MR. HAUSER: Thank you.
21
22 (Time noted: 7:22 p.m.)
23
24
25

CERTIFICATION

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: June 1, 2007

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

LANDS OF DAVID & GAIL KINTZER
(2007-8)

20 Distillery Path
Section 17; Block 3; Lot 26
AR Zone

----- X

PUBLIC HEARING
TWO-LOT SUBDIVISION

Date: May 17, 2007
Time: 7:23 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
EDWARD T. O'DONNELL, JR.
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
WILLIAM HAUSER
KAREN ARENT
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

LANDS OF DAVID & GAIL KINTZER

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: The next item of business we have is the lands of David and Gail Kintzer. It's a public hearing for a two-lot subdivision located on Distillery Path. It's in an AR zone. It's being represented by Jim Raab.

I'll ask Mr. O'Donnell to read the notice of hearing.

MR. O'DONNELL: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of lands of Kintzer for a two-lot subdivision on premises Distillery Path off Frozen Ridge Road in the Town of Newburgh, designated on Town map as Section 17; Block 3; Lot 26. Said hearing will be held on the 17th day of May 2007 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7:00 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of

LANDS OF DAVID & GAIL KINTZER

29

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Newburgh. Dated April 23, 2007. To be published one time only no later than May 12, 2007."

CHAIRMAN EWASUTYN: Thank you.
Mr. Galli.

MR. GALLI: There's twenty-two mailed and twenty-one green cards were returned signed. All the mailings are in order.

CHAIRMAN EWASUTYN: Thank you.
Jim, would you give your presentation please.

MR. RAAB: Thank you, Mr. Chairman. This is a 6 acre parcel, as stated in the notice of hearing, located on Distillery Path which is an existing private road which extends from Frozen Ridge Road in a westerly direction.

The Kintzer property is the 6 acres that's at the end of Distillery Path and it's the last of the parcels that have been -- that will be able to be subdivided in the original subdivision that was done for Charles Catenzaro back in the '80s.

Again, this is a two-lot subdivision. It will be accessed by a common driveway along the existing driveway that exists to Mr.

LANDS OF DAVID & GAIL KINTZER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

30

Kintzer's house. There will be a 30-foot right-of-way.

It will be an individual well and septic system. In this case it's an Elgin system. There was some data that needed to be added to the septic design that was requested by the Planning Board's engineer at the last meeting. That has been added.

Corrections to some issues there as far as the contours were concerned, that's also been addressed. That's it.

CHAIRMAN EWASUTYN: As we did earlier in the evening, are there any comments from the public on the presentation that Mr. Raab gave for the two-lot subdivision for Kintzer?

(No response.)

CHAIRMAN EWASUTYN: If there are no comments I'll turn to our consultants for their final review. Bill Hauser.

MR. HAUSER: We've got three comments, Mr. Chairman. One, the sand specification for the Elgin system needs to be shown on the plan.

The modification to the proposed distribution box on the detail sheet should be

LANDS OF DAVID & GAIL KINTZER

31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

shown.

The 520 contour needs to be revised.

MR. RAAB: That was all done.

CHAIRMAN EWASUTYN: Thank you.

MR. HAUSER: That's all I have, Mr.

Chairman.

CHAIRMAN EWASUTYN: Bryant Cocks,
Planning Consultant.

MR. COCKS: The only outstanding issue
from the last Planning Board meeting was the
applicant was going to have a turn-around area.

MR. RAAB: It's not a possible
situation. It's too sheer of a slope. We're
right on top of the wetlands with a sheer slope
on the other side. What it is is that -- what
Mr. Kintzer did tell me is that there is the
ability of the turn around up at the top of the
driveway. I mean there is that possibility an
emergency vehicle has to turn around, it has the
ability to do so at the top of the existing
driveway. The truck that delivered his log cabin
turned around in it, so there is that ability to
turn.

MR. COCKS: That was our only

LANDS OF DAVID & GAIL KINTZER

32

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

outstanding issue.

CHAIRMAN EWASUTYN: Thank you.

Comments from Boards Members. Frank

Galli?

MR. GALLI: No additional.

MR. BROWNE: Nothing.

MR. O'DONNELL: No.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: If there are no
comments from the public at this time, I'll move
for a motion to close the public hearing for the
two-lot subdivision for the lands of Kintzer.

MR. PROFACI: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by
Joe Profaci. I have a second by Frank Galli.

Any discussion of the motion?

(No verbal response.)

CHAIRMAN EWASUTYN: I'll move for a
roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

LANDS OF DAVID & GAIL KINTZER

33

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: Myself. So carried.

I'll turn to Mike Donnelly, Planning Board Attorney, to give us conditions for approval in the resolution for the two-lot subdivision of Kintzer.

MR. DONNELLY: There are three. The first is a sign-off letter from McGoey, Hauser & Edsall on the issues Bill just raised. Secondly, the submission of a satisfactory common driveway easement and maintenance agreement. It has been submitted, I have reviewed it, it is satisfactory and I'll send out a letter. Thirdly, the payment of parkland fees.

CHAIRMAN EWASUTYN: Having heard the conditions for final approval for the two-lot subdivision of Kintzer, I'll move for that motion.

MR. O'DONNELL: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ed O'Donnell. I have a second by Joe Profaci. Any discussion of the motion?

(No verbal response.)

LANDS OF DAVID & GAIL KINTZER

34

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: And myself yes. So carried.

MR. RAAB: Thank you very much.

(Time noted: 7:28 p.m.)

CERTIFICATION

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: May 31, 2007

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

LANDS OF SCATTURO
(2006-13)

Old Post Road
Section 8; Block 1; Lots 97 & 34.1
AR Zone

----- X

PUBLIC HEARING
EIGHT-LOT SUBDIVISION & LOT LINE CHANGE

Date: May 17, 2007
Time: 7:29 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
EDWARD T. O'DONNELL, JR.
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
WILLIAM HAUSER
KAREN ARENT
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JONATHAN CELLA

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

LANDS OF SCATTURO

37

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: The final item of business this evening is the lands of Scatturo. It's a public hearing for an eight-lot subdivision and lot line change located on Old Post Road. It's in an AR zone and it's being represented by Jonathan Cella.

MR. O'DONNELL: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of lands of Scatturo for an eight-lot subdivision on premises Old Post Road near the corner of River Road in the Town of Newburgh, designated on Town tax map as Section 8; Block 1; Lots 97 and 34.1. Said hearing will be held on the 17th of May 2007 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7:00 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated April 23, 2007. To be published one time only no later than May 12,

LANDS OF SCATTURO

38

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

2007."

MR. GALLI: John, there were thirty-two notices mailed out, twenty-two were returned signed. All the notices and mailing are in order.

CHAIRMAN EWASUTYN: Thank you. John, would you give your presentation.

MR. CELLA: I'm Jonathan Cella of Taconic Design Engineering. The proposal is for a combination of a lot line change and subdivision of a total of 29.1 acres. We'll create eight new building lots which will be served by a 1,100 linear foot private road.

The subdivision is just east of Old Post Road, just east of the intersection with River Road.

All the lots will be serviced by individual wells and septic. We've designed adequate drainage to meet Town and DEC requirements. We won't impact any off-site areas.

There's one existing residence on the lot in the middle which is a 1/2 acre parcel and we'll make that a 1 acre parcel. The rest of the

LANDS OF SCATTURO

1 39
2 lots will range in size from 1.3 acres to over
3 5 acres with an average of 3 acres.
4 I believe there will be three ponds,
5 one in the north, one in the northeast and one in
6 the southern corner of the property. The runoff
7 will be collected by an on-site stormwater
8 collection system and discharged throughout these
9 three ponds.
10 That will be the project.
11 CHAIRMAN EWASUTYN: As said earlier,
12 we'll receive comments and questions from the
13 public at this time.
14 Sir.
15 MR. SCOTT: My name is Robert Scott. I
16 own the adjacent lands on the south side. The
17 proposed driveway that's shown here borders my
18 land. This is my house. Behind my house I have
19 a swimming pool. The distance from the swimming
20 pool to the stonewall here is approximately fifty
21 feet. On the stonewall and -- on both my side,
22 in the stonewall and on the other side are these
23 huge trees, black walnut trees seventy feet high.
24 My concern is that this road is too
25 close to my property, number one, for privacy.

LANDS OF SCATTURO

1 40

2 The length of it in this section here is
3 150 feet.

4 The second concern I have is with the
5 trees. If they run the road right up to the
6 stonewall those trees will be damaged, the root
7 system will be damaged, and at some time in the
8 future I will experience the problem of these
9 trees falling perhaps towards my pool which is
10 within the height of the trees. That's my first
11 concern.

12 My second concern is -- so I think this
13 road should be moved further back an additional
14 thirty feet or so.

15 My second concern is with drainage.
16 Currently the drainage that is seen here comes in
17 this direction such that the property over
18 here -- I don't know if the other people are here
19 that have that concern but Middlehope Fire
20 Company every spring pumps it towards Old Post
21 Road. They have to lay out three hundred feet of
22 pipe -- of hosing to get it back on Old Post. So
23 the question I have is is that problem going to
24 be corrected from the proposed modifications to
25 the drainage?

LANDS OF SCATTURO

41

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. CELLA: The drainage issue definitely will be corrected. In existing conditions there's approximately 10 acres of land draining that way. In the proposed conditions with the on-site stormwater system we've decreased that to approximately 1 1/2 acres. It's mainly off-site lands coming from a peak over here and it includes all this area over here which will come down and funnel through up the existing topography. We do have a storm drainage system in here which increases the area substantially going there. We also produced a report that shows that we decreased the amount of runoff going there by approximately eighty percent per a hundred-year storm and about seventy-five percent for a ten-year storm. We just experienced a twenty-five year storm, and we decreased that by approximately seventy-five percent also.

CHAIRMAN EWASUTYN: Is there a possibility of relocating the road at all?

MR. CELLA: With the existing grades we really had a hard time getting the road in there. This area is mainly fill. We're filling this,

LANDS OF SCATTURO

1
2 that part of the road. It's not really a cut
3 section.
4 MR. SCOTT: You're going to put it over
5 top of the roots of the trees. Is that what
6 you're saying?
7 MR. CELLA: We're not going to cut the
8 grade with any machinery. We'll be adding fill
9 in that area so we won't be cutting the root
10 system, no. We'll be filling over top of it.
11 MR. SCOTT: How high will that be?
12 MR. CELLA: Just approximately a foot.
13 There's approximately a foot of fill in that area
14 of the roadway.
15 MR. SCOTT: So you're not taking any
16 trees along that hundred and fifty feet?
17 MR. CELLA: We're taking trees out but
18 we're not cutting the existing grade.
19 MR. SCOTT: That's a concern because if
20 you take the trees out then my root system is
21 going to be affected. That's why I'm asking if
22 you're bringing the road back an additional
23 thirty feet.
24 The guardrail system that's shown there
25 is approximately how many feet from the

LANDS OF SCATTURO

43

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

stonewall?

MR. CELLA: The guardrail system is five feet from the stonewall.

MR. SCOTT: Five feet?

MR. CELLA: Five to ten feet from the stonewall.

MR. SCOTT: That's my point.

MR. CELLA: Approximately ten feet.

MR. SCOTT: Those trees are going to be dead.

MR. CELLA: Ten to fifteen feet.

CHAIRMAN EWASUTYN: Pat, the design of the roadway -- excuse me. Bill Hauser.

MR. HAUSER: Where are these black walnut trees? On your 50 scale plan where are these trees? Are they identified or not?

MS. ARENT: They're along the stonewall.

MR. HAUSER: Where is the stonewall?

MS. ARENT: It's right along the property line.

MR. SCOTT: Right along the side of the road.

MR. HAUSER: That's what this line is

LANDS OF SCATTURO

44

1
2 here? Your property line goes right through the
3 stonewall?
4 MR. SCOTT: Yes.
5 MR. HAUSER: Where then are these
6 trees?
7 MR. SCOTT: The trees are on my side,
8 they are in the stonewall and they're on the
9 other side of the stonewall.
10 MR. HAUSER: Okay. And they're not
11 identified on here? I'm asking the engineer.
12 MR. SCOTT: No.
13 MR. CELLA: No.
14 MR. SCOTT: No, they are not. They are
15 huge trees.
16 MR. HAUSER: Wouldn't the Planning
17 Board consider these significant trees?
18 MS. ARENT: I'll take a look at the
19 trees. They should be located. If we can work
20 around them we should work around them.
21 MR. HAUSER: If they're that close,
22 even putting a foot of fill is going to come up
23 on the trunk of the tree. Cutting them isn't the
24 only issue. You fill around the trees and you
25 choke them as well.

LANDS OF SCATTURO

45

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. ARENT: The trees should be located in that area and the road should be -- you should try to move the road over to preserve the trees.

MR. HAUSER: Is your grade that close that you need to --

MR. CELLA: Yeah. We're pretty steep on the road. We meet Town requirements but we are I believe thirteen percent and we're only allowed fifteen.

MR. HAUSER: I'm just looking at the contour lines.

MR. SCOTT: The contours permit that. You could move it further to the north and still satisfy those requirements.

CHAIRMAN EWASUTYN: Karen, you'll prepare to do a field inspection.

MS. ARENT: Yes. I'll take a look at the trees. If you could locate mark, them on the survey where they are.

MR. SCOTT: We'll mark the trees. My phone number is 561-2106.

MS. ARENT: I'll mark the trees on their side of the property line and they'll locate them on the drawing. We'll see what can

LANDS OF SCATTURO

1 46
2 be done to design around them.
3 Your name again, please?
4 MR. SCOTT: Bob Scott, S-C-O-T-T.
5 CHAIRMAN EWASUTYN: Additional comments
6 from the public?
7 MR. ANTHONY SCATTURO: I'm Anthony
8 Scatturo on behalf of Frank Scatturo. I think
9 you referenced the parcel of land that has a
10 house on it. You mentioned something about
11 deeding that property to make it a 1 acre.
12 MR. CELLA: Yeah. We're doing a lot
13 line change.
14 MR. ANTHONY SCATTURO: I also noticed
15 on the map there was some location of an easement
16 that services that lot of land. How is that
17 going to be accomplished?
18 MR. CELLA: They'll have direct
19 frontage on the private road now, so that
20 easement won't be required any longer.
21 MR. ANTHONY SCATTURO: It's deeded in
22 the land. You're going to have to approach us
23 about that and talk to us about releasing that.
24 MR. CELLA: I believe so.
25 MR. ANTHONY SCATTURO: Okay. Then the

LANDS OF SCATTURO

47

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

road, is there going to be a roadway maintenance agreement?

MR. CELLA: There will be a private roadway maintenance agreement.

MR. ANTHONY SCATTURO: By the remaining lot holders?

MR. CELLA: Correct.

MR. ANTHONY SCATTURO: Okay. I think we'd like to see obviously a copy of the proposed maintenance agreement, or at least have access to it. We need to also talk about how we're going to abandon that easement. He has a deeded right-of-way. I think we should discuss that before we go further.

CHAIRMAN EWASUTYN: Mike, do you want to comment on that?

MR. DONNELLY: Certainly we're going to need a roadway easement and maintenance agreement.

As far as the deed issue, that's purely private. It isn't our concern. We will want to see a private roadway easement and maintenance agreement. If you can bring the rest of it to our attention --

LANDS OF SCATTURO

48

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. ANTHONY SCATTURO: I guess what I'm saying is if in fact the 1/2 acre parcel of land is not willing to give that up and it's deeded in the property, which it looks like it is, that would affect I think the pond, et cetera it looks like. I took a brief look at the map.

MR. DONNELLY: It certainly affects the applicant. It doesn't affect the Planning Board because we're told in the law to ignore those private restrictions and easements of record. Certainly the applicant can't.

UNIDENTIFIED SPEAKER: I'm taking care of that.

CHAIRMAN EWASUTYN: Your name?

MR. VINCENT SCATTURO: Vincent Scatturo. I just want to let Mr. Scatturo know that I already have -- we already submitted to the attorney the paperwork for that.

MR. DONNELLY: There is a common driveway easement and maintenance agreement but I don't know that there's a private roadway agreement. I'll have to look at it. They are here, you're correct. I don't know that they're going to cover everything. I'll have to look at

LANDS OF SCATTURO

49

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

it.

CHAIRMAN EWASUTYN: Thank you, Vincent.
Additional comments from the public?

MR. MUZIAC: My name is Frank Muziac.

I have several questions. The concern is as far as approvals in the Town of Newburgh. You know, you've got the Orchard Hills condominium which is 250 units; Lenar Housing, an additional eighty units there. Part of the problem is as far as the school district in Marlboro not having enough additional space for the students. They're three hundred students, roughly, above capacity now.

I'm just wondering as far as have any traffic studies been done? We're in desperate need of a light going out to 9W. You can't get out there in the morning. We have a lot of oil trucks going to and from Roseton that access over there. It's a very bad site because there's a lot of accidents there. It's like a yield where that proposed access road would be. That would have to be looked at. If anybody is familiar with that area, I mean if you stop and go you're right out on 9W. I don't know if they could put up a traffic light at 9W.

LANDS OF SCATTURO

50

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: I think I'll have Ken Wersted address your concerns, he's our Traffic Consultant, as far as warrants and issues associated with what you're talking about.

Ken Wersted.

MR. MUZIAC: Has any environmental impact statement been done?

CHAIRMAN EWASUTYN: I'm trying to address your comments as you raise them to the Board.

Ken, do you want to discuss traffic?

MR. WERSTED: Sure. I think there was a light envisioned at that intersection of Old Post Road and Route 9W years ago as part of I believe the Dynergy project down the hill. My understanding is that the project didn't go through and the light was never installed there. For a subdivision of this size it's not going to warrant the installation of a light based on this.

MR. MUZIAC: At this point one additional family -- you're talking about eight units. We have bridges down there in Marlboro. There's some issues as far as access in and out,

LANDS OF SCATTURO

1
2 additional traffic from the Central Hudson
3 workforce and the amount of traffic by the Hess.
4 That's just one issue.
5 The access to and from the site, that
6 corner is very bad. There's a lot of accidents
7 there. I would like to see if there's any
8 traffic studies being completed there with regard
9 to this project.
10 MR. WERSTED: A subdivision of this
11 size doesn't necessarily warrant a traffic study
12 because it is very -- in terms of traffic, very
13 small. So in that respect the trip generation
14 from the project, in our professional opinion,
15 isn't going to be an issue in terms of the number
16 of cars coming in and out of it. That doesn't
17 necessarily mean that there isn't an issue
18 getting on and off Old Post Road to 9W.
19 MR. MUZIAC: It's a very sharp
20 intersection there.
21 MR. WERSTED: Correct.
22 MR. MUZIAC: We live over on Livingston
23 Heights, Cedar Court. One of the concerns are as
24 far as, you know, the trees also, a buffer zone,
25 that the trees will be left. This year we

LANDS OF SCATTURO

52

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

experienced a lot of flooding over at the Gogerty residence and it impacted several homes over there. So the main concern is water, you know, as far as coming from that site and further impacting our area.

CHAIRMAN EWASUTYN: Okay. Bill Hauser, a drainage report has been provided on this?

MR. HAUSER: It has been. We have asked for -- one of our comments is we have to see what the discharge from that dry swale as indicated on the plan is going to be, and that still remains to be addressed.

CHAIRMAN EWASUTYN: Thank you.

MR. HAUSER: That's one of our comments. I assume you're talking about the property now Gogerty?

MR. MUZIAC: Yeah.

MR. HAUSER: I have a tax lot. Gilberto, Gogerty and then another Gogerty.

MR. MUZIAC: It's on that side, yup. Is there any plan as far as opening up the cul-de-sac down Livingston Heights, Cedar Court?

CHAIRMAN EWASUTYN: John, you can

LANDS OF SCATTURO

53

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

answer that question.

MR. CELLA: Yeah. This is a private road. There's no connections to any other roads other than Old Post Road.

MR. MUZIAC: Any intentions of blasting?

MR. CELLA: No.

MR. MUZIAC: You feel that you can put a foundation back there? Further back to the west there's a lot of rock outcropping, not only shale but granite.

MR. CELLA: It should be okay.

CHAIRMAN EWASUTYN: Right now the floor is to Frank. When he's done then what I'll do is poll the rest of the Board for comments and then we'll go back to Mr. Scott.

Frank.

MR. MUZIAC: Any environmental surveys? Since it was a farm there's a lot of -- it's unfortunate that a lot of the agricultural property in that community is being turned into residential, you know, as far as it's really a shame. I was just wondering have you looked at any kind of environmental survey?

LANDS OF SCATTURO

54

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: Mike, do you want to address that please?

MR. DONNELLY: Yes. There was an environmental assessment form as required under SEQRA submitted to the Board. This application has been here since April of 2006. The Board, after examining that EAF, issued a negative declaration in March of this year.

MR. MUZIAC: Who did the survey? Was it a --

MR. DONNELLY: I think the EAF was prepared by the applicant's engineer as I remember it.

MR. MUZIAC: I was just wondering if there was another independent party that actually oversaw that?

MR. DONNELLY: The Planning Board and the consultants for the Planning Board reviewed the EAF. Based upon it and the application the Board reached the conclusion that there were no environmental impacts that will flow from this property and issued a negative declaration. The EAF covered most of the issues that you're raising tonight as well as those that you raised

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

in your earlier letter.

MR. MUZIAC: I was just wondering the group or professional builder, whether they were environmentalists or biologists or just basically going out in form?

MR. DONNELLY: The Town, whenever it feels it needs an expert of a particular discipline, and it does this with some degree of frequency for substantial projects, brings in someone with that level of discipline. As part of the regular team we have a civil engineer, a planner, a landscape architect and a traffic engineer. As needed the Board brings in additional consultants. Using the consultant team, the EAF and the application packet, the Board reached the conclusion that there will be no significant adverse environmental impacts and issued a negative declaration.

MR. MUZIAC: I would like to see that. Other than that, I don't know how -- you know, who can come up with that conclusion.

MR. DONNELLY: You would have to file a --

MR. MUZIAC: You know --

LANDS OF SCATTURO

56

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. DONNELLY: The file is of course publicly available. You have to go to the Town Hall and file the paperwork to examine it.

MR. MUZIAC: And your retention ponds would go which way, the water?

MR. CELLA: There will be one here discharging north, one in the northeast discharging in the same direction, and then one at the corner of -- on the corner of the property discharging towards the existing drainage swale on Old Post Road.

MR. MUZIAC: I thought maybe Mill Creek by the golf course, it would be going that way. That's not acceptable? Not acceptable.

As far as the approvals as far as drainage, you're going to impact the residents that are there now.

The Town Board seems like they're just doing these approvals. I don't know. Maybe you have to re-evaluate your master plan.

MR. CELLA: The ponds are designed to hold and retain water and let that out over a long period of time.

MR. MUZIAC: You know the problem with

LANDS OF SCATTURO

57

1
2 the retention ponds, if you go out in the field,
3 whether it's in Dutchess County or here, nine out
4 of ten retention ponds, after it rains it goes
5 every place except the retention pond. Proven
6 fact.

7 CHAIRMAN EWASUTYN: Thank you.

8 MR. MUZIAC: And the retention pond too
9 is just a haven for mosquitoes. Sorry.

10 CHAIRMAN EWASUTYN: Further comments
11 from the public?

12 Mr. Scott, let me continue. You had the
13 opportunity of the floor. Let me give the
14 opportunity to others who haven't had a chance to
15 speak and then we'll come back.

16 MS. BERETTA: My name is Ms. Beretta
17 and I live --

18 CHAIRMAN EWASUTYN: Can you give the
19 spelling of your name?

20 MS. BERETTA: B-E-R-E-T-T-A. I live
21 there for forty years. This year when we had
22 that big storm -- it happened so often in the
23 last maybe four to five years. I find that my
24 backyard is getting filled with water. It's like
25 a pond. This year I had a cellar full of water.

LANDS OF SCATTURO

1 58
2 I get all the water coming from Livingston
3 Heights, from whatever up the road is coming down
4 right across the road from us. It goes down
5 maybe a hundred feet. They put a nice tubing
6 across the road discharging into Central Hudson.
7 I am neighbors of Central Hudson so the water
8 goes from Central Hudson over to my backyard and
9 into my cellar.
10 Now Livingston Heights, like somebody
11 said the fireman put a big pump because somebody
12 had a problem up there. They discharge them into
13 the side of the road and they come down and
14 follow down to past my house.
15 They built two more homes over my house
16 and they discharge over across from me into the
17 Central Hudson field.
18 I never had a drop of water in my
19 cellar for forty years. This year I throw carpet
20 out, I throw furniture out. It was just a mess.
21 Me and my sister next door.
22 CHAIRMAN EWASUTYN: Bill Hauser, there
23 are two standards, the DEC standard for
24 stormwater management and what the Town has. Can
25 you discuss that with the public at this time?

LANDS OF SCATTURO

59

1
2 MR. HAUSER: The way the DEC new
3 stormwater management regulations are, this
4 entire subdivision is not allowed to discharge
5 stormwater in excess of what discharges there
6 today off the same piece of property. They are
7 limited to provide -- they're required to provide
8 detention and treatment facilities that, number
9 one, provide what's called first flush treatment
10 or biological treatment to the stormwater before
11 discharging it; and number two, detain that water
12 to the extent that the off-site discharge,
13 wherever it may go, does not exceed what happens
14 today. That's the way the DEC regs operate.
15 That's the requirement. The Town adopts those
16 regulations, and they're mandated to do so. Any
17 applicant, any developer with a disturbance area
18 for subdivision of greater than 5 acres is
19 mandated to provide that. They have to prepare
20 what's called a stormwater prevention plan. That
21 goes through all of the engineering calculations
22 that substantiate today's runoff versus the
23 post-development runoff and the facilities that
24 are provided to detain or swage those impacts.
25 I have several comments which I'll go

LANDS OF SCATTURO

60

1
2 through for the Board. We still need some
3 additional information to convince us that the
4 storm drainage system is adequate. This came
5 down from the Federal Government under the Clean
6 Water Act and the State. That's how we got here.

7 CHAIRMAN EWASUTYN: Additional comments
8 from the public?

9 MS. SCOTT: My name is Ruth Scott. In
10 reference to the blasting, you can see that's a
11 450 foot property line that we have. The New
12 York aqueduct goes through our property because
13 there's a plate right in the front lawn
14 indicating that. So any blasting I don't think
15 would be -- I don't know if you found it but it's
16 down by the road. It says the New York State or
17 the --

18 MR. SCOTT: NYC.

19 MS. SCOTT: -- NYC aqueduct. If you're
20 even considering blasting -- I know when we had
21 our pool put in twenty-five years ago they --
22 because of the rock, there was so much rock they
23 had to shift directions in order to get that pool
24 in. We had to wait until the next year and they
25 did have to blast. Anyway --

LANDS OF SCATTURO

61

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. SCOTT: There was a rock splitter.
No blasting.

MS. SCOTT: I'm letting you know that
aqueduct has to be taken into consideration, too.

CHAIRMAN EWASUTYN: Thank you, Ms.
Scott.

The gentleman in the back.

MR. ASCH: Hi. My name is Timothy Asch,
I live at 50 Old Post Road in the Town of
Newburgh which is right across the street from
this development. I would like to start with the
blasting. I would like to ask the question is
there going to be blasting, yes or no?

MR. CELLA: No.

MR. ASCH: No. Okay. I would like to
know how many units it's going to be?

MR. CELLA: Eight units.

MR. ASCH: Eight units. What type of
units?

MR. CELLA: It's single-family
residential.

MR. ASCH: And they're all going to
have their own septic?

MR. CELLA: Yeah. Septic and well.

LANDS OF SCATTURO

1
2 MR. ASCH: And well. There's an
3 existing house. Are all of the units going to be
4 behind this existing house or are you going to
5 put one in front of the house, the existing house
6 that's up on the hill from Old Post Road?
7 MR. CELLA: That's here. The plan now
8 has a building envelop. The building envelop is
9 for each lot. The placement of the houses we
10 show here. This is the existing home here and
11 then this is Old Post Road down here. You said
12 you're over here I believe. That's probably your
13 house right there.
14 MR. ASCH: Yes.
15 MR. CELLA: So here we have three homes
16 here, one and then --
17 MR. ASCH: You're going to put a home
18 right here?
19 MR. CELLA: Yup.
20 MR. ASCH: Where is the driveway going
21 to go?
22 MR. CELLA: This is their new road.
23 MR. ASCH: Where is the existing
24 driveway right now?
25 MR. CELLA: It comes through here. It

LANDS OF SCATTURO

63

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

comes down right through here.

MR. ASCH: So this driveway is going to be directly opposite the triangle or -- the triangle is right here. So this driveway here is going to be directly across from my driveway?

MR. CELLA: Correct.

MR. ASCH: And what about like the rain? Everything comes in this direction. Now everyone is talking about the direction of the rain. Everything comes off of Old Post and River Road and runs all across all of our properties. My house is right in front of your driveway, the driveway that's going to come down, and your pond which I'll get to later. There's going to be a house here. So all the water that's going to come down the driveway -- you're going to eliminate that culvert?

MR. CELLA: We're leaving the culvert in there.

MR. ASCH: You're going to drive over the culvert?

MR. CELLA: That's correct.

MR. ASCH: What happens to the water coming down the driveway and straight across the

LANDS OF SCATTURO

64

1
2 culvert? I don't have a culvert in front of my
3 property.

4 MR. CELLA: We have a --

5 MR. ASCH: Now you're going to put a
6 driveway across the existing culvert so all that
7 water is going to come straight across and
8 straight onto my property and continue down onto
9 all of my neighbors' properties, plus the
10 vehicles coming down here in snow or bad weather,
11 if something happens they're going to continue
12 across onto my property. Just two days ago we
13 had an accident right around the corner, right
14 across the street, right in the back of my house
15 on River Road. Our road, River Road, is used as
16 a shortcut to get around the police on 9W. So we
17 have all drunk drivers come flying around. Now I
18 have to worry about the drunk drivers plus people
19 coming out of your complex.

20 So you're going to put a driveway right
21 across from my driveway. Now I'm going to risk
22 cars coming onto my property. I have four
23 children, a six-year old, four-year old, three-
24 year old and one-and-a-half year old. You can't
25 tell me that one day, some day, one of these cars

LANDS OF SCATTURO

65

1
2 are going to come across onto my property because
3 it just happened two days ago where a car came
4 onto my property, crashed and the people took
5 off. Who is to say somebody in this complex is
6 not going to do the same thing.

7 Plus there's a stop sign right at the
8 end of the triangle. Any given day you can come
9 down there -- this is a 40 mile-an-hour road.
10 People do 60 miles-an-hour. They don't even slow
11 down for the stop sign. You can watch them and
12 they don't even hit their brakes. They race the
13 trucks coming around the corner in both
14 directions. Or if they're coming off Old Post
15 Road onto the triangle, the people coming out of
16 this complex, they're not going to be able to be
17 seen because there's trees here. Unless you're
18 contemplating on taking down all these trees
19 also. Where that driveway is right across from
20 mine there's about six walnut trees. So those
21 are coming down also. All right.

22 So that's what you're saying, you're
23 going to put the driveway right across from my
24 house and there's nothing I can do about the
25 water coming across?

LANDS OF SCATTURO

66

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. CELLA: We designed the stormwater management system to DEC standards and we are decreasing peak flows from existing conditions to proposed conditions.

What we're doing with the drainage system, there's a drainage system up here. There's a lot of stormwater coming from off site coming through our land, coming down through here and going down that way. We're collecting it and bringing it out towards the back. There's a stormwater pond here and here. We have a drainage system here that will intercept the water and bring it that way. We are decreasing the amount of water discharging towards Old Post Road.

MR. ASCH: You said you're going to be putting a pond here also?

MR. CELLA: Yes. Just a smaller pond.

MR. ASCH: Okay. Again like I said, I have four small children. What kind of protection are you going to have?

MR. CELLA: We have fences around it. We're putting a stonewall along the road also. There's going to be a split rail fence on the

LANDS OF SCATTURO

67

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

high side of it.

MR. ASCH: And how big is this going to be, this pond, and how much water is it going to hold?

MR. CELLA: I believe it's four feet deep.

MR. ASCH: How much water does it hold?

MR. CELLA: Gallons is --

MR. ASCH: You said this whole thing is going to decrease the water by eighty percent, or someone had said that.

MR. CELLA: Yeah. That's how we --

MR. ASCH: If you say it's eighty percent, eighty percent of what? Tell me how much water is going to be in each one of these ponds. Four feet is big enough.

CHAIRMAN EWASUTYN: Timothy, Timothy.

MR. ASCH: I'm sorry.

MR. HAUSER: The amount of water held in those ponds is directly proportioned to the rainfall. DEC has mandated under the Clean Water Act, promulgated by the Federal Government, to detain water on the site. These are intended and under the new stormwater regs are required by law

LANDS OF SCATTURO

68

1
2 to be wet ponds. They have to remain wet ponds.
3 They depend upon seepage into the ground for part
4 of it, and then on an overflow event it cannot
5 discharge water at a rate greater than what would
6 be discharged today in the pre-development case.

7 In this case if you notice about
8 probably close to ninety feet back from the edge
9 of Old Post Road there's a series of catch basins
10 that are going to intercept water coming down the
11 roadway. That will never get to Old Post Road.
12 It's diverted into that wet pond which is
13 intended for treatment and detention and meading
14 it out to the disposition point at a rate, in
15 this case, equal to or less than the
16 pre-development rate. The stormwater management
17 report reflects in addition -- by the addition of
18 this pond you're now going to trap this water and
19 mead it out at a much lesser rate. You won't see
20 the same amount of water coming down there that
21 you do today.

22 MR. ASCH: Right now I don't have any
23 water coming down over here because the driveway
24 is over here. That's all it is is one driveway
25 and the culvert sits right in front of it.

LANDS OF SCATTURO

69

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: One more time explain to Timothy the purpose of a catch basin and how they would capture any sheet flow that will not go to --

MR. HAUSER: The water will no longer sheet flow off that site to Old Post Road. It won't come down the old driveway. It's going to be intercepted in these catch basins and diverted into that wet pond.

MR. ASCH: So right here, that goes across the driveway. There's going to be some sort of catch basin also?

MR. HAUSER: The catch basin is above that.

MR. ASCH: How about for the snow. Which way are they going to be pushing the snow? This is private. Are they going to be pushing it back in here or are they going to be pushing it out?

MR. HAUSER: Unfortunately I can't answer that question because I don't plow snow.

MR. ASCH: They can just push it anywhere they want?

MR. HAUSER: They have to meet specific

LANDS OF SCATTURO

70

1
2 requirements. You can't push snow out onto the
3 Town road. That's against the law.

4 MR. ASCH: All right. Thank you.

5 MR. HAUSER: You can't obstruct a
6 public travel way. Even you plowing your
7 driveway, you can't plow it out on the Town road.
8 The same thing applies here. That private road
9 has the same restrictions as driveways.

10 MR. ASCH: Now as far as this pond is
11 concerned, it's pretty much a cesspool, isn't it?

12 MR. HAUSER: No, it is not. This is a
13 very common misconception.

14 UNIDENTIFIED SPEAKER: It's treated.

15 CHAIRMAN EWASUTYN: Okay. I want to
16 maintain order. Timothy has the floor. Bill
17 Hauser, Drainage Consultant, is trying to give
18 him information. Mr. and Mrs. Scatturo, you have
19 an opportunity to speak when you'd like but again
20 we have to maintain order to the meeting.

21 MR. HAUSER: There is a very specific
22 requirement. In fact, it's a whole series of
23 requirements. It's in a book about four inches
24 thick that tells a developer, a designer, an
25 engineer exactly what they have to do to mitigate

LANDS OF SCATTURO

71

1
2 drainage. It includes both settling treatment
3 which is to settle the sediment out to the bottom
4 of the pond, it provides also a level of
5 biological treatment because the water is allowed
6 to sit there and percolate into the ground, and
7 it also then is required to mead that water out
8 to a receiving stream or receiving area at a rate
9 less than the pre-development level. Those are
10 very specific requirements. The Town doesn't
11 have any right to vary them. The engineer
12 doesn't have any right to vary them. These are
13 mandates.

14 The impact by creating these drainage
15 ponds is that the water, yes indeed, will be
16 impounded in there. No question about it.
17 Unfortunately there's many people that disagree
18 with the Department of Environmental Conservation
19 and EPA and the Federal Government as to whether
20 a wet pond is a good idea or not. Ten years ago
21 you remember everybody was crabbing about having
22 spare tires in your backyard with water because
23 they're going to breed mosquitoes. The whole
24 scheme changed under the Clean Water Act. Now
25 all of a sudden a wet pond is okay. There are

LANDS OF SCATTURO

72

1
2 studies, whether I agree with them or anybody
3 else, that say they do not end up as breeding
4 grounds. I'm not an expert in anthropology so I
5 can't tell you. My point here is the ultimate
6 impact of the drainage coming down this driveway
7 is going to be less than what it is today. It's
8 mandated by law. This is the document that
9 substantiates it. The only thing we have to do
10 is to review the capacity of this and the ones in
11 the other two corners. It's a clear calculation
12 that can be done to calculate exactly the amount
13 of water that comes off here in a ten-year,
14 twenty-five and hundred-year storm.

15 MR. ASCH: Okay.

16 MR. HAUSER: I understand your point,
17 you don't want to see any more water in your
18 yard.

19 MR. ASCH: Right. I'm also concerned
20 how deep this is going to be, plus mosquitoes,
21 plus the aesthetics of having this stonewall with
22 fences and having a pond that's just a breeding
23 ground for mosquitoes across from my property.

24 CHAIRMAN EWASUTYN: Timothy, I think
25 what we're going to have to do now is get off the

LANDS OF SCATTURO

73

1
2 issue of mosquitoes. We were very kind to
3 explain to you the Federal and State regulations
4 and the design criteria for them. In your
5 opinion they're going to be breeding mosquitoes,
6 but it's just your opinion. If you'd like to
7 discuss the design guidelines, the standard for
8 the pond, the Town does have that, we'll discuss
9 that.

10 MR. ASCH: Yes.

11 CHAIRMAN EWASUTYN: And we'll do that
12 now.

13 MR. ASCH: Okay.

14 CHAIRMAN EWASUTYN: It's a long evening
15 and I want to sort of direct this based upon your
16 questioning. If you allow me the opportunity
17 we'll listen to you and we'll respond to your
18 questions.

19 MR. ASCH: I understand.

20 CHAIRMAN EWASUTYN: Okay. Karen Arent,
21 Landscape Architect, would you discuss with us
22 the fencing, the design of the stormwater
23 detention pond?

24 MS. ARENT: One of my comments was to
25 -- well, they are showing a stonewall in the

LANDS OF SCATTURO

74

1
2 front of the property so that you don't see all
3 the --

4 MR. ASCH: How high is the stonewall?

5 MS. ARENT: Three feet high. That will
6 be one of the ways that will keep, you know, your
7 children out. There's also going to be a ranch
8 style fence with chicken wire around it.

9 Another comment that I had was for them
10 to add more landscaping to make this whole
11 entrance look a lot nicer than what they have
12 now. They haven't done that yet. I think they
13 were waiting for the public hearing. Before the
14 plans are signed we'll make sure this entrance
15 looks as good as it can look.

16 MR. ASCH: Okay. And there are also
17 walnut trees where they are planning on putting
18 that driveway.

19 MS. ARENT: Yes. We'll look at that
20 and see if there's any -- I don't think that we
21 can preserve the walnut trees along the road but
22 perhaps we'll plant new walnut trees to try to
23 compensate.

24 MR. ASCH: As far as where the driveway
25 is located, it's right across from my driveway.

LANDS OF SCATTURO

75

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

When they're doing construction is this going to be the main in and out of what they are going to be doing?

MS. ARENT: Yes.

MR. CELLA: Yes.

MR. ASCH: And what assurances do I have that my access or my leaving my property or something is going to --

MS. ARENT: There are strict guidelines for erosion control. They have to adhere to that. Mr. Hauser's company monitors that on a weekly basis.

MR. HAUSER: As far as access, their construction activities by, I think it's the V&T law if I'm not mistaken, you can only obstruct roadway access for specific periods. The same as any construction site. They can't limit your access out of your driveway because they can't limit your access to Old Post Road. I'm not saying there won't be a dump truck pulling out when you want to pull out, but that's --

MR. ASCH: This is going to be a lot. All right.

With the pond or ponds, you said there

LANDS OF SCATTURO

76

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

were supposed to be percolation tests?

MR. HAUSER: That's not what I said.

MR. ASCH: No. Okay.

MR. HAUSER: The ponds function to perk some of the water into the ground. That's the intention of having a wet pond. It provides biological treatment and settlement treatment or primary treatment. I didn't say anything about percolation tests being run. There are values for the simulated value, the ability of the ground to absorb water. Some of it will perk into the ground by definition. Whether it perks fast or perks slow -- in actuality, under the DEC and Clean Water Act guidelines you can't have it perk too fast because you don't have the biological treatment. That's why they're now mandating the design of wet ponds versus the old scheme which was to make it drain out as fast as possible. Now they are intended to be wet ponds.

MR. ASCH: And there's no chance of this overflowing at any time since it's the only one that's downhill?

MR. HAUSER: It has overflow capabilities to discharge downstream, but it's

LANDS OF SCATTURO

77

1
2 the -- they're designed for a hundred-year storm.
3 I'm not telling you if we get a hundred and ten
4 year storm it's not going to overtax the drainage
5 system. We don't have any control over mother
6 nature. The design guidelines are specific and
7 you have to design for that level of storm.

8 MR. ASCH: Were there any studies done
9 on the actual road? Like I said, it's a 50
10 mile-an-hour road. You're going to have people
11 coming out of -- a lot more than just one or two
12 families coming in or out of this piece of
13 property. This is going to be a one-lane
14 driveway or is it going to be a two-lane?

15 MR. CELLA: It's a private road.
16 There's both directions.

17 MR. GALLI: Explain what a private road
18 is.

19 MR. ASCH: It is 40 miles-an-hour.
20 Like I said, people don't slow down for that stop
21 sign. People driving in and out of here -- I
22 mean whoever lives there now knows that you can
23 barely slow down to pull into your driveway as it
24 is now. Pulling out of your driveway, I mean
25 people don't even stop. Is there any kind of

LANDS OF SCATTURO

78

1
2 studies done on that specific location for the
3 driveway?

4 MR. WERSTED: If there are traffic
5 control issues in terms of people obeying the
6 speed limit, enforcement of the stop sign and so
7 forth, I think that's an issue the Town police
8 need to address. It's outside of the control of
9 the applicant to force people to slow down.

10 MR. ASCH: Okay. Thank you.

11 CHAIRMAN EWASUTYN: Additional comments
12 from the public?

13 MR. MUZIAC. In back of Gogerty's
14 residence on lot 11, tax map 11, it looks like
15 that area is going to be pretty well clearcut.
16 I'm just wondering how much acreage is going to
17 actually be clearcut? Are we actually going to
18 have a buffer behind Gogerty's? It's showing
19 here there isn't any buffer and through there
20 there's a stonewall. We were wondering if the
21 stonewall was going to be displaced?

22 MR. CELLA: We're not going to disturb
23 the stonewall.

24 MR. MUZIAC: So as far as the buffer,
25 how much footage of trees, tree wise, is going to

LANDS OF SCATTURO

79

1
2 be available between like the lots on tax map 11,
3 that whole line that is adjacent to the Scatturo
4 development?

5 MR. CELLA: By the lands of Gogerty we
6 have a good twenty feet. Twenty to thirty feet.

7 MR. MUZIAC: You know this will disturb
8 the peace and tranquility. We've been in this
9 area for all our lives but the peace and
10 tranquility we've known for years will definitely
11 be impacted by the project.

12 CHAIRMAN EWASUTYN: Thank you.

13 MR. MUZIAC: I have additional
14 comments. Some of our neighbors were on
15 vacation. They are interested as far as
16 comments. When will the official comment section
17 be closed? Can they mail it within the next
18 week?

19 CHAIRMAN EWASUTYN: I think what will
20 happen tonight is the Board will make a decision
21 to close the public hearing, to ask the applicant
22 to waive the sixty-two day decision time, and
23 that they'll review -- our consultants will
24 review the drainage, Karen Arent will go out in
25 the field and look at the issues relating to

LANDS OF SCATTURO

1 80
2 trees and the location of the well. The final
3 plans will be designed based upon the
4 professional comments from our consultants. So
5 once we close the public hearing I don't believe
6 at this time we'll be asking for written comment.
7 We'll be closing it based upon the people who are
8 here this evening.
9 MR. MUZIAC: You did receive additional
10 comments from James Beretta with his concerns?
11 CHAIRMAN EWASUTYN: Yes, we did.
12 MR. MUZIAC: A few other people might
13 have sent some issues in.
14 CHAIRMAN EWASUTYN: Yes, we did.
15 MR. MUZIAC: I know in that area a lot
16 of wells, they had to go down like 350 feet to
17 hit water. I'm just wondering about the
18 prospective water availability, the aquifer and
19 the impact on residential.
20 CHAIRMAN EWASUTYN: I think when it's
21 ten lots or greater the Health Department
22 requires they put in a test well. In this
23 particular case it's not a requirement.
24 Bill Hauser.
25 MR. HAUSER: This applicant has been to

LANDS OF SCATTURO

1 81
2 the Health Department and back. If the Health
3 Department did not require a test well so far it
4 will not be required. Obviously they cannot --
5 if they go out and drill a well and they can't
6 guarantee or produce five gallons a minute to a
7 resident, they have to take additional
8 precautions before they can be issued a
9 certificate of occupancy on the dwelling.
10 MR. MUZIAC: Is there any precautions
11 as far as the well as being driven impacting the
12 aquifers from other wells or if that happens it
13 happens?
14 MR. DONNELLY: With a single-family
15 home every owner has the right to take water out
16 of the ground that's sufficient for their routine
17 domestic use.
18 MR. MUZIAC: These lots vary from 2
19 acres to 3 acres or so?
20 MR. CELLA: 1.3 to over 5.
21 MR. MUZIAC: And some of the houses are
22 going to be back way in the west section towards
23 the ridge line?
24 MR. CELLA: Yeah. They'll be in the --
25 this is going downhill.

LANDS OF SCATTURO

82

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. MUZIAC: And some of the slopes in the back, I'm not sure if you can put something in. They're fifteen percent or greater on the slopes.

MR. CELLA: We place all the houses on areas less than fifteen percent.

MR. MUZIAC: And they're all fifteen percent or less?

MR. CELLA: Yup.

MR. MUZIAC: Okay. Has any study been done as far as the effect on community services like I mentioned before, like the school system?

CHAIRMAN EWASUTYN: Mike, do you want to address that as far as the school issue?

MR. DONNELLY: Again two things. The Board, based upon the environmental assessment form, issued a negative declaration that said no further studies were required. Moreover, when it comes to school district needs, we keep in continuous contact with the various school districts that serve areas of the Town letting them know at all times the number of the applications that are before us and when approvals occur so they can factor it into their

LANDS OF SCATTURO

83

1
2 planning and capital requirements for building
3 new schools. School districts cannot build new
4 schools or classrooms until there are students or
5 the reasonable probability of students. They can
6 only go out to, I think it's a five-year time
7 period for planning. So the idea is to keep them
8 apprised of what is occurring so that they can
9 make their planning decisions on the State-
10 mandated timetable. We keep in touch with them.

11 MR. MUZIAC: As you know, the Marlboro
12 School District had two bond issues that were not
13 approved. They are just basically approving the
14 infrastructure. Unfortunately with the approvals
15 of the Town of Newburgh, especially the Orchard
16 Hills development which 250 units are coming in,
17 a lot of construction in Middlehope and now this,
18 they are going to be several hundreds over
19 capacity. So the main question is where are we
20 going to put the students?

21 MR. DONNELLY: The school district will
22 have to find a solution to that.

23 MR. MUZIAC: Fortunately the Newburgh
24 School District has the magnet where you can bus
25 the students from one school to another.

LANDS OF SCATTURO

84

1
2 Marlboro doesn't have that capability. There's a
3 high school, middle school and elementary. Thank
4 you.

5 CHAIRMAN EWASUTYN: Any additional
6 comments from the public?

7 (No response.)

8 CHAIRMAN EWASUTYN: There being no
9 further comments from the public, I'll move to
10 our consultants for their final review. Bill
11 Hauser.

12 MR. HAUSER: The issues regarding the
13 vertical and horizontal alignment of the road
14 have been answered and understood.

15 Stormwater runoff for the first 150
16 feet of road, they still have to address that.
17 That's the area above that. I think I made
18 reference to 90 feet before but I misspoke. We
19 still have to know where that water is going and
20 to have an adequate disposal point. It does not
21 impact the downstream receptor.

22 There's an additional catch basin that
23 has to be discharged to the detention pond. For
24 the specificities give Pat a call in the office.
25 I don't see it offhand but Pat would know.

LANDS OF SCATTURO

85

1
2 I mentioned before the discharge from
3 the dry swale onto the adjoining properties. You
4 still have to address that. You need a level
5 spreader on the discharge to return to sheet
6 flow. You can't just concentrate that flow.

7 The stormwater management report needs
8 to be further clarified as it relates to the
9 actual type of the pond you're proposing.

10 Obviously we know it's a pond but you have to
11 clearly define that as required in the stormwater
12 management regs.

13 CHAIRMAN EWASUTYN: Karen Arent,
14 Landscape Architect.

15 MS. ARENT: I will visit the site and
16 mark any trees that are large and worthy of
17 saving along the entire property line with the
18 rock wall where there is potential grading
19 impacts and request that the consultant locate
20 these trees on the map and try to work around
21 them.

22 I will look also at the aesthetic
23 issues of the front entrance to make sure that
24 they -- the entrance is as aesthetically pleasing
25 and possible. Right now they do show a rock wall

LANDS OF SCATTURO

86

1
2 and some landscaping. I have asked for more and
3 I will review the plans to make sure there is
4 more landscaping.

5 The existing trees, they propose tree
6 protection fencing around the trees. If the
7 neighbors notice there's work being done within
8 that orange fencing, just give the building
9 department a call and they'll call me and I will
10 make sure that that fencing is sufficient. It's
11 very important to save any of the trees we're
12 trying to save. That's it.

13 CHAIRMAN EWASUTYN: Bryant Cocks,
14 Planning Consultant.

15 MR. COCKS: To answer the previous
16 question about snowplowing, the applicant is
17 providing for a couple snow storage easements at
18 certain points along the road going up to the
19 cul-de-sac. So there will be room for the plows
20 to dump the snow.

21 We're going to need a surveyor's seal
22 and signature and owner's consent note signed on
23 the plans for final approval.

24 All easements will have to be filed
25 with Mike Donnelly.

LANDS OF SCATTURO

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

87

The lots now meet all zoning requirements. No variances are needed.

We have no planning comments at this time.

CHAIRMAN EWASUTYN: Ken Wersted, Traffic Consultant.

MR. WERSTED: Our only outstanding comments have to do with the proposed guide rail. There's DOT item numbers that just need to be modified on the notes on sheet 4. Some of the item numbers and descriptions need to be modified, and those are on our notes that we forwarded to the applicant.

CHAIRMAN EWASUTYN: Okay. Comments from the Board Members. Frank Galli?

MR. GALLI: Just concerning the one gentleman had a comment about the private road. Any private road that's built in the Town has to conform to Town road specifications and they have to build it to a Town road so that if they ever want to turn it over to the Town for future use it's already built and done the way they would build a Town road. It will be wide enough and all that stuff. That will already be done.

LANDS OF SCATTURO

88

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Concerning the 9W issue with the traffic light, we as a Board have had a concern with traffic on 9W since day one. Traffic on 9W is horrendous. The DOT, which is the State Department, has control over all traffic lights on 9W. To get a traffic light out of the State of New York is like pulling teeth. Unless something drastic happens it's almost totally impossible to get a traffic light.

CHAIRMAN EWASUTYN: Thank you.

MR. GALLI: Those are the only two comments I have.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: There was a comment about an aqueduct going through an adjacent property. I think it would be prudent if we knew where that was to make sure there's no impact. I have no idea where that is. I think it would be good if it was somehow put on your map.

MR. SCOTT: It's the one that goes under the Hudson River and it goes through our property.

MR. HAUSER: It's the Delaware Aqueduct.

LANDS OF SCATTURO

89

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. SCOTT: Yes.

MR. CELLA: We checked the U.S.G.S. maps and it's not on our property.

CHAIRMAN EWASUTYN: Hold on. I have a question.

Mike, I'll just question, are we responsible for locating --

MR. DONNELLY: I think our regulations talk about certain things within certain distances from the perimeter. I don't know if it's a hundred feet or five hundred. Different regulations read different ways. I think we should double check and perhaps in the abundance of caution, just for construction vehicle purposes if nothing else, get some idea of where it is. I'm sure that's a matter of public record and easy enough to do.

CHAIRMAN EWASUTYN: You'll make note of that on your revised plans.

MR. DONNELLY: If it doesn't show up at all in the area map, just give us a note to that effect.

MR. CELLA: Okay.

MR. BROWNE: There were also several

LANDS OF SCATTURO

1 90
2 comments about the buffers. Residential to
3 residential does not require any buffers to my
4 knowledge. Is that correct?
5 MR. DONNELLY: Not residential to
6 residential.
7 MR. BROWNE: Okay.
8 CHAIRMAN EWASUTYN: Ed O'Donnell?
9 MR. O'DONNELL: Even though it's not
10 required it may not be a bad idea to have a
11 buffer.
12 John, what do you think? Did you say
13 you were going to do that?
14 CHAIRMAN EWASUTYN: What are we
15 buffering?
16 MR. O'DONNELL: The new neighbors.
17 CHAIRMAN EWASUTYN: Are they offset
18 from the existing homes? There may be a lot or
19 two identified but what's the closest residence
20 to them?
21 MR. CELLA: That would be in this area
22 here. The rest around the perimeter we're
23 leaving pretty undisturbed. Just this one area
24 here.
25 MR. O'DONNELL: You did say you were

LANDS OF SCATTURO

91

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

going to do that?

CHAIRMAN EWASUTYN: When Karen goes out in the field she'll make a recommendation.

MS. ARENT: We should think about buffering the road because I think that has a lot more impact on the adjacent properties than the houses, especially going downhill there will be lights shining. We should think about buffering the road from the adjacent properties.

MR. CELLA: We are providing street trees. We'll provide more.

MS. ARENT: That's not really a buffer. We'll have to look at how to buffer the road impacts. That will impact on the adjacent property because you'll have headlights that will shine into their property. So we have to look at that.

MR. O'DONNELL: Karen, you're going to go out and mark all the trees?

MS. ARENT: Along that stonewall property line. If there's anything valuable worthy of saving we'll try to save.

MR. O'DONNELL: I'm not going to go through this whole list. There's a lot of things

LANDS OF SCATTURO

92

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

here. It looks like you're going to be a busy young man.

Now, I would expect, by the way, upon your return that we will have a favorable resolution to these issues. Right?

MR. CELLA: Yes.

MR. O'DONNELL: Good. I'm done.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: It's all been covered. Thank you.

MR. HAUSER: Mr. Chairman, can I make one additional comment?

CHAIRMAN EWASUTYN: Yes.

MR. HAUSER: In view of the comments received tonight, particularly related to what would be your southwest exposure to the adjoiners right there, and then also to -- not totally your southeast but probably south/southeast, I think that was Mr. Asch's property right there.

MR. CELLA: By the pond?

MR. HAUSER: Yeah. I'd like you to particularly pay attention to and talk with Pat about the impacts of the drainage in those two areas in particular.

LANDS OF SCATTURO

93

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. CELLA: Okay.

MR. HAUSER: Not that I want to ignore the other ones but I want to make sure you clearly address those impact points because Pat did have a specific question about the end of the roadway. I'll pass that on to Pat as well.

MR. CELLA: Thank you.

CHAIRMAN EWASUTYN: We did receive a letter from James L. Beretta, B-E-R-E-T-T-A, and Doreen A. Tignanelli, T-I-G-N-A-N-E-L-L-I, located at 29 Colburn Drive, Poughkeepsie, New York dated May 16, 2007. That letter was distributed to all Planning Board Members and Consultants. They have had an opportunity to look at that. I'll give a copy of that to Michelle to make that part of the record.

At this point I'm going to move for a motion to close the public hearing conditioned upon the applicant waiving the sixty-two day decision time.

MR. CELLA: We'll waive that.

CHAIRMAN EWASUTYN: At this time I'll move for a motion to close the public hearing on the eight-lot subdivision and lot line change for

LANDS OF SCATTURO

1 94
2 the lands of Scatturo subject to the applicant
3 waiving the sixty-two day time period.
4 MR. GALLI: So moved.
5 MR. O'DONNELL: Second.
6 CHAIRMAN EWASUTYN: I have a motion by
7 Frank Galli. I have a second by Ed O'Donnell.
8 Any discussion of the motion?
9 (No verbal response.)
10 CHAIRMAN EWASUTYN: I'll move for a
11 roll call vote starting with Frank Galli.
12 MR. GALLI: Aye.
13 MR. BROWNE: Aye.
14 MR. O'DONNELL: Aye.
15 MR. PROFACI: Aye.
16 CHAIRMAN EWASUTYN: Myself yes. So
17 carried.
18 I'll move for a motion to set this up
19 for the next available date for a work session so
20 that we have a clear understanding as to the
21 areas of concern and what has to be addressed.
22 MR. PROFACI: So moved.
23 MR. O'DONNELL: Second.
24 CHAIRMAN EWASUTYN: I have a motion by
25 Joe Profaci. I have a second by Ed O'Donnell.

LANDS OF SCATTURO

1 95
2 Any discussion of the motion?
3 (No verbal response.)
4 CHAIRMAN EWASUTYN: I'll move for a
5 roll call vote starting with Frank Galli.
6 MR. GALLI: Aye.
7 MR. BROWNE: Aye.
8 MR. O'DONNELL: Aye.
9 MR. PROFACI: Aye.
10 CHAIRMAN EWASUTYN: Myself yes. So
11 carried.
12 Thank you.
13 MR. COCKS: The work session is on the
14 29th.
15 MR. CELLA: Okay.
16
17 (Time noted: 8:30 p.m.)
18
19
20
21
22
23
24
25

CERTIFICATION

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: May 31, 2007

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

LANDS OF ESPOSITO & MOBLEY
(2006-22)

343, 345 & 347 Quaker Street
Section 4; Block 1; Lots 19.1 & 7.1
AR Zone

----- X

TWO-LOT SUBDIVISION
LOT LINE CHANGE

Date: May 17, 2007
Time: 8:31 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
EDWARD T. O'DONNELL, JR.
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
WILLIAM HAUSER
KAREN ARENT
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: HOWARD WEEDEN

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

LANDS OF ESPOSITO & MOBLEY

98

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: The following item of business we have this evening is the lands of Esposito and Mobley. It's a two-lot subdivision and a lot line change located on Quaker Street in an AR Zone. It's being represented by Howard Weeden.

Howard, I guess what we're talking about is what's going to happen with the trailer. That's where we left off on this.

MR. WEEDEN: At the last meeting we were going to move this line over. Mr. Esposito is taking this to the ZBA to see if we can get approval to have this trailer remain there after final approval by the Planning Board, and then to have it there while he's building his house. That's basically why --

CHAIRMAN EWASUTYN: The meeting is still continuing. Thank you.

MR. WEEDEN: That's basically it.

CHAIRMAN EWASUTYN: I didn't hear what you were saying.

MR. WEEDEN: Mr. Esposito is taking this back to the Zoning Board of Appeals to see if we can get a variance on the side yard for the

LANDS OF ESPOSITO & MOBLEY

99

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

trailer, and also to have the trailer remain while the new house is being constructed.

CHAIRMAN EWASUTYN: Are we referring you to the ZBA? Who is referring you to the ZBA?

MR. WEEDEN: If you can refer us to the ZBA.

MR. DONNELLY: They'll have to make application but I can send them a letter.

MR. WEEDEN: Mr. Schisano is the attorney that's doing that.

CHAIRMAN EWASUTYN: We're looking for an area variance or --

MR. DONNELLY: The issue is that if the subdivision is filed the trailer will no longer comply with the side yard. If they get a side yard variance there's no problem and it can stay while they build the house on the other. I don't know whether it can stay while you build a house on that lot. I think the proposal is to build a house on the other lot; right?

MR. WEEDEN: No. The existing trailer is right here. The proposed dwelling is going to be right behind it. It would be on the same lot as the trailer.

LANDS OF ESPOSITO & MOBLEY

100

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. DONNELLY: All right. We'll ask the Zoning Board both. You may need to involve -- you may need to appeal from a denial by the building department but I'll include mention of it in the letter.

CHAIRMAN EWASUTYN: Should we make a motion then to refer it to the ZBA for an area variance?

MR. DONNELLY: Yes.

CHAIRMAN EWASUTYN: I'll move for a motion to refer the lands of Esposito and Mobley to the Zoning Board of Appeals for an area variance.

MR. PROFACI: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have motion by Joe Profaci. I have a second by Frank Galli. Any discussion of the motion?

(No verbal response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. O'DONNELL: Aye.

LANDS OF ESPOSITO & MOBLEY

101

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried. Thank you.

MR. WEEDEN: Mr. Chairman, do we have to waive our sixty-two day requirement or did we do that already?

MR. DONNELLY: It was waived last month.

MR. WEEDEN: Thank you.

(Time noted: 8:35 p.m.)

CERTIFICATION

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: May 31, 2007

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

NEWBURGH PLAZA/PETSMART

(2005-35)

Route 300, Old Little Britain Road/Unity Place

Section 97; Block 2; Lot 22.2

IB Zone

----- X

AMENDED SITE PLAN

Date: May 17, 2007

Time: 8:35 p.m.

Place: Town of Newburgh

Town Hall

1496 Route 300

Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
EDWARD T. O'DONNELL, JR.
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
WILLIAM HAUSER
KAREN ARENT
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JOHN CAPPELLO

----- X

MICHELLE L. CONERO

10 Westview Drive

Walkkill, New York 12589

(845)895-3018

NEWBURGH PLAZA/PETSMART

104

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: The next item of business we have is the Newburgh Plaza PetSmart. It's an amended site plan located on Route 300 and Old Little Britain Road and Unity Place. It's in an IB Zone and it's being represented by John Cappello.

MR. CAPPELLO: Good evening. I'm here on behalf of Newburgh Plaza, L.L.C. and PetSmart. I believe my cavalry is coming in. I'm here with Joseph Korn. Mr. Korn is the principal and representative of Newburgh Plaza, L.L.C. I also have Lea Orr who is from Banfield Pet Veterinarian Services who has space and works with PetSmart, and also Dr. Lisa Montemarano who will be the veterinarian on staff at the PetSmart store here in Newburgh.

I'm going to start by letting you know PetSmart is going to have a sale on frogs to eat the mosquitoes that will be in the drainage ditches.

Really what we're here for is -- I'm sure you recall the long process of Newburgh Plaza is the Kohl's and PetSmart that the Board approved for the site plan approval last year.

NEWBURGH PLAZA/PETSMART

105

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

When we were before the Board the question was raised as to whether we would have veterinarian services at the facility. I believe at that time based upon our knowledge we said there would be a veterinarian present but the veterinarian would only be present on weekends. Subsequent to that, when the final leases were signed and the building was about to open, the representatives from PetSmart contacted the Town and asked about the approval of the use and said it would be a full-time use that would be there during all hours of operation of the PetSmart. A question arose then as to whether veterinarian use was permitted. Veterinarian hospitals is a special permit use but it's only permitted in agricultural/residential zoning districts although all your veterinarian hospitals in the Town are located outside that district.

What we're proposing here and what we're before the Board is as part of your approval authority during original site plan you recognized that veterinarian services on a limited basis and grooming services were accessory to a pet store. What this is is really

NEWBURGH PLAZA/PETSMART

1 106
2 not a veterinarian hospital where there's
3 overnight boarding of animals. This will be a
4 service that will be available to provide
5 spaying, neutering, shots, veterinarian service if
6 there's an illness. If there's ever an illness
7 that requires an overnight stay or convalescing
8 of an animal, the representatives of Banfield
9 Hospital who work with PetSmart and is located
10 within the store will contact one of the local
11 veterinarian hospitals to do that procedure and
12 take that animal.

13 We brought the Town Board through on a
14 site inspection, you know, of the facility and
15 we've also provided you with some information. I
16 believe there's over seven hundred PetSmarts
17 nationwide that have veterinarian services in the
18 facility. It's part of the ever evolving, you
19 know, economic reality in America. As you know,
20 Wal-Marts have optometrists now located within
21 Wal-Mart as an accessory facility, there's
22 bakeries in grocery stores, there's banks in what
23 used to be grocery stores. This is part of a
24 facility that's an all-encompassing facility to
25 care for your pet. You can buy your pets there,

NEWBURGH PLAZA/PETSMART

107

1
2 you can buy your accessories for your pets, you
3 can groom your pets, you can take care of your
4 pets as long as it doesn't involve overnight
5 convalescing, and you can train your pets. You
6 know, there's a dog training facility. The
7 facility has been extremely crowded. It's one of
8 the best producing PetSmarts in the nation. I
9 think their opening weekend in Newburgh was their
10 highest I was told in the entire nation.

11 When I was there with the Town Board at
12 10:00 a.m. on a Wednesday the place was crowded
13 with people going in. It's doing very well. The
14 services are services that are much needed in
15 this area.

16 Dr. Montemarano, I'm going to allow her
17 to speak to you. She's presently working in the
18 Middletown PetSmart which also has pretty much
19 exactly the same footprint and facility. She
20 will be the veterinarian on staff for the
21 Newburgh facility. She's from the Village of
22 Chester so it's not an outside user, it's a local
23 doctor who will be starting out and building her
24 practice along with Banfield in there.

25 The services will only be offered

NEWBURGH PLAZA/PETSMART

108

1
2 during the time PetSmart is open. You have to go
3 through PetSmart to obtain the facilities. It's
4 self-contained. There's no outside kennels,
5 there's no overnight stay. It will take less
6 than twenty percent of the floor space of the
7 PetSmart therefore it's accessory and a customary
8 accessory use. I also provided you with my
9 handout. I gave to the Board information off the
10 website from Petco, which is a competitor of
11 PetSmart, and similarly sized facilities
12 highlighting they do vaccinations and they have
13 veterinarians on the premises of Petco stores
14 throughout the nation to provide these
15 facilities. So it is a common use and it is the
16 trend with pet stores that, you know, it's one-
17 stop shopping. It's not something that is, you
18 know, highly -- you know, needs a high level of
19 care or convalescing, then you would still use
20 your veterinarian.

21 PetSmart already contacted many of the
22 area veterinarians to come in and take care of
23 the animals that PetSmart has, to help the
24 animals, the birds and other animals. So they do
25 work in consultation with local vets to take care

NEWBURGH PLAZA/PETSMART

109

1
2 of the animals they have at the facilities, some
3 of their exotic animals, and also to refer out
4 some of the more complicated procedures to those
5 veterinarians. It's not I don't believe what
6 would be a full-fledged veterinarian hospital
7 that was considered for your agriculture zones
8 but more likely an ancillary or accessory use to
9 the pet stores and additional service to provide
10 pet owners.

11 I have Ms. Orr here who is a
12 representative from Banfield who works with
13 PetSmart. Every Banfield is located in a
14 PetSmart. Just about every PetSmart has a
15 Banfield. That's how they're related. I also
16 have Dr. Montemarano if you have any questions
17 for them.

18 CHAIRMAN EWASUTYN: We had discussed
19 this during our work session and the Board was of
20 the consensus that they were curious to know if
21 you have any pets.

22 MR. CAPPELLO: Personally? I have a
23 goldfish for five-and-a-half years.

24 CHAIRMAN EWASUTYN: And that seemed to
25 me at that point a major concern.

NEWBURGH PLAZA/PETSMART

110

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. O'DONNELL: You should have said you have a frog.

MR. CAPPELLO: My son won it with a ping-pong ball.

CHAIRMAN EWASUTYN: I'll turn at this point -- I appreciate you having representatives.

Would the Board like to hear from the representatives here this evening?

MR. GALLI: I'm good.

MR. PROFACI: No.

CHAIRMAN EWASUTYN: I'll turn to Mike Donnelly, the Attorney for the Planning Board.

MR. DONNELLY: I think John has pretty much correctly summarized what happened. Let me just review it. In January of 2006 you approved the retail use and you considered the limited veterinarian services that were then proposed to be in the changing nature of what pet stores do, a customary incidental use. What is proposed now is a higher degree of those veterinarian services than what was originally approved. When this applicant first brought it to your attention I think quite some time back, maybe March of 2006, the issue presented was whether or not this level

NEWBURGH PLAZA/PETSMART

111

1
2 of veterinarian services is also permitted as
3 accessory or incidental to the retail use. The
4 applicant has explored other alternatives, some
5 of which remain alive but this seemed to be the
6 one that was worth considering first. If you're
7 inclined to consider the activities that are
8 outlined in the narrative which is included in
9 John Cappello's letter of April 12, 2007 as
10 customarily incidental uses in conjunction with
11 this PetSmart retail use, then my recommendation
12 would be that you act upon a resolution of
13 amended site plan approval and that we attach to
14 that resolution a copy of this narrative which
15 would then constitute the outer limit of the uses
16 that could be conducted within the site absent an
17 amended approval or some other variance or
18 legislation with the Town Board.

19 If you of course do not feel these are
20 consistent or customarily incidental to that
21 retail use that you've already approved, then you
22 would deny the amended site plan.

23 The third alternative would be if you
24 felt you could not make that determination you
25 could refer it to the Zoning Board for an

NEWBURGH PLAZA/PETSMART

1 112
2 interpretation. It is not a black-and-white
3 issue. I gave to you during work session the
4 examples of the changing nature of gasoline
5 service stations and drug stores in terms of what
6 is over time customarily incidental to a given
7 use. I think it's a judgment call for you to
8 make and the evidence can be as before you. If
9 you need further clarification of what's to be
10 carried out, then those persons present might
11 help you with that. If you're satisfied with the
12 narrative, I think you're ready to make a
13 decision.
14 CHAIRMAN EWASUTYN: Frank Galli,
15 discussion?
16 MR. GALLI: I'm fine with it, John.
17 CHAIRMAN EWASUTYN: Cliff Browne?
18 MR. BROWNE: I think between the work
19 session and what was just discussed, I think I'm
20 good.
21 CHAIRMAN EWASUTYN: Ed O'Donnell?
22 MR. O'DONNELL: Having had a pet
23 greater than a goldfish, I have sensitivity to
24 pets. My concern -- I shouldn't say concern.
25 I've got a couple questions. If someone brings

1
2 their pet in to your veterinarian and it requires
3 more sophisticated treatment than you're willing
4 to provide, you would refer that to some local
5 veterinarian. True?

6 MS. ORR: Yes.

7 MR. O'DONNELL: Do you have those
8 agreements in place already?

9 MS. MONTEMARANO: We would be speaking
10 to them on the phone directly when we have cases
11 such as those. I actually will pick up the phone
12 and call to speak to that veterinarian to
13 determine if they are comfortable with the
14 transfer of the case itself.

15 MR. O'DONNELL: Let me ask you this
16 question again. Do you have them in place now?
17 Do you have veterinarians --

18 MS. MONTEMARANO: Yes.

19 MR. O'DONNELL: -- in place to accept
20 your call?

21 MS. MONTEMARANO: Correct. Yes.

22 MR. O'DONNELL: Those arrangements are
23 there. You're going to do diagnostic work I
24 guess. Does that require any equipment that's
25 not there now or will it require any

NEWBURGH PLAZA/PETSMART

114

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

sophisticated equipment that would be housed or have generators outside the building, et cetera?

MS. ORR: No.

MS. MONTEMARANO: No.

MR. O'DONNELL: You're doing good so far. Is the vet going to be there all day, all night? Is it just one or two?

MS. ORR: We actually do not open before the PetSmart and we close several hours generally before the PetSmart closes.

MR. O'DONNELL: The name, because I've been over there to look at your place, it's Banfield Veterinarian Hospital? What's the name?

DR. MONTEMARANO: Banfield Pet Hospital.

MR. O'DONNELL: It says hospital. Someone could think that it would be a full-service bank. I could bring a pet there that could be very ill and you can't work on that pet and now I've got to take it to a referral and on the way there the pet dies and I get awfully, awfully sad. Do you see that happening? I can see that. I mean I don't know. Maybe you ought to change the name from hospital and veterinarian

NEWBURGH PLAZA/PETSMART

115

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

services. I mean hospital means to me I bring my pet there and you're going to fix him.

DR. MONTEMARANO: I can stabilize a pet for transfer and give the client the appropriate tools needed to be able to bring them to a facility that might be more of a twenty-four hour facility at that time.

MR. O'DONNELL: This pet comes in and has convulsions. I mean it needs some really serious type of medicine. You can do that or do you have --

DR. MONTEMARANO: I can stabilize it before I have to refer it, yes.

MR. CAPPELLO: Do you do so in Middletown?

MS. ORR: Mm'hm'.

MR. CAPPELLO: We're not recreating --

MR. O'DONNELL: Well look, I'm not opposed to what you're doing just so you understand. I'm on the side of the pet. I mean I had a Yorkie for sixteen years and she just died two months ago. I took her to my vet, and he could do everything, all right. She still died. I've got a soft spot for that, that's all.

NEWBURGH PLAZA/PETSMART

116

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I would hate like hell to see somebody bring their pet to you and you refer it and that poor pet dies in the car on the way to the referral. I'm sure you feel as well as I do about all that kind of stuff. I just had to give you all that. Okay.

MR. CAPPELLO: I think we do have a full veterinarian. She can perform any services or do the services needed to help that dog.

MR. O'DONNELL: Are all the Banfield places called hospitals?

DR. MONTEMARANO: Yes, sir. They are.

MR. O'DONNELL: I mean I don't really agree with that, but --

MR. CAPPELLO: There are varying levels. I mean there are PetSmart facilities that do have overnight. This one is not one of them.

MR. O'DONNELL: I don't care about that. If you had that it would be all right. I just hate like hell for somebody to bring their pet to you and it would have taken an extra fifteen or twenty-minute trip to the hospital.

MR. KORN: It would be the first place

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

they could get to.

MR. O'DONNELL: You look different. Did you change since the last time you've been here?

MR. KORN: It's been a long aging process.

MR. O'DONNELL: I don't think we did that to you here.

MR. KORN: In all fairness, in the same way if someone has a pet emergency they can get the first level of care at Banfield, and then once Banfield stabilizes them, if they can be stabilized, they can be referred and sent over to a vet who specializes in the situation. It was explained to me because they have exotic pets, not every veterinarian handles ferrets, or snakes, or spiders, or turtles. They already know which vet to send someone to that can handle the special case as it comes up. Actually it will save time because you may go to your vet who says I can't handle this, you have to go to my friend down the road. Actually in that case I think it may save the animal or at least give it a chance because as a licensed vet she can give

NEWBURGH PLAZA/PETSMART

118

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

the first analysis and then figure out where the pet has to go.

MR. CAPPELLO: We did change the name where it said Banfield Hospital of Newburgh. One of the council persons raised that issue. That was changed.

CHAIRMAN EWASUTYN: Why don't you just elaborate. I think you're fragmented. Your signage stated that you've been here since 1956 or something. I've heard it so why don't you complete the story.

MR. CAPPELLO: Banfield has been in existence since 1956. It says Banfield Hospital of Newburgh established in 1956 or something to that effect. We changed it because --

MR. O'DONNELL: The people in Newburgh know you haven't been here since then.

Anyway, you understand my sensitivity to this and I would just like you to keep that in mind. That's all.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: I'm satisfied.

CHAIRMAN EWASUTYN: All right.

MR. HAUSER: Mr. Chairman, I just raise

NEWBURGH PLAZA/PETSMART

119

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

a question.

CHAIRMAN EWASUTYN: Sure.

MR. HAUSER: Putting on my other hat as the engineer for the City of Newburgh, is this going to change the discharge to the sewer system at all?

MR. CAPPELLO: The building is built.

MR. HAUSER: I understand. The hospital is not in operation at this point in time.

MR. KORN: All of the building plans were done based upon them being present when we applied.

MR. HAUSER: I wrote the letter of approval. I just want to make sure --

MR. KORN: It already assumed it was there.

CHAIRMAN EWASUTYN: Any additional comments from our consultants?

MR. O'DONNELL: Do you bill the City of Newburgh for that question?

MR. HAUSER: I wrote that down separately. That's my other hat.

CHAIRMAN EWASUTYN: Having heard

NEWBURGH PLAZA/PETSMART

120

1
2 discussion from John Cappello; having heard
3 discussion from Mike Donnelly, Planning Board
4 Attorney; and also from Board Members, I'm going
5 to move for a motion to approve the amended site
6 plan for Newburgh Plaza.

7 Before I poll for a roll call vote; Mr.
8 Donnelly, we'll be considering this an incidental
9 use as part of a retail development. Would you
10 explain that as part of the record for the
11 motion?

12 MR. DONNELLY: We'll include a findings
13 statement in the resolution and a narrative which
14 would be attached to the resolution that
15 characterizes it as customarily incidental to the
16 retail use. The resolution will then carry over
17 all the terms of the original resolution, and it
18 will include a second provision that limits the
19 uses -- the veterinary uses that may be carried
20 on within the premises to those that are outlined
21 in the narrative without further approval of the
22 Board.

23 CHAIRMAN EWASUTYN: Thank you. Having
24 heard the conditions of approval for the amended
25 site plan for Newburgh Plaza PetSmart, I'd move

NEWBURGH PLAZA/PETSMART

121

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

for that motion.

MR. O'DONNELL: So moved.

MR. PROFACI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ed O'Donnell. I have a second by Joe Profaci. Any discussion of the motion?

(No verbal response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried. Thank you.

MR. CAPPELLO: Thank you very much for your time.

(Time noted: 8:55 p.m.)

CERTIFICATION

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: May 31, 2007

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

THE POLO CLUB
(2006-9)
Route 300
Section 39; Block 1; Lots 78.1, 1 & 2.12
R-3 Zone

----- X

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Date: May 17, 2007
Time: 8:55 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
EDWARD T. O'DONNELL, JR.
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
WILLIAM HAUSER
KAREN ARENT
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JANE DALY

----- X

MICHELLE L. CONERO
10 Westview Drive
Walkkill, New York 12589
(845)895-3018

THE POLO CLUB

124

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: The next item of business this evening is The Polo Club. It's a Draft Environmental Impact Statement, it's located on Route 300 in an R-3 Zone. It's being represented by Jane Daly.

You can take us from there, Ms. Daly.

MS. DALY: My name is Jane Daly, I'm the attorney for the applicant, Meadow Creek Development.

As the Chairman just said, the D.E.I.S. was submitted on April 5th. We're here tonight for your comments on that Draft. We did receive some comments from your consultants. We certainly want to hear from the Board if they have additional comments or if there's any other comments from your consultants at this time.

CHAIRMAN EWASUTYN: Let me start by -- I was going to start with the Board Members. Frank, do you have any comments in reference to this?

MR. GALLI: No. Just quickly, there's some comments that Pat Hines had that I would like to hear some answers to.

CHAIRMAN EWASUTYN: Okay. Cliff

THE POLO CLUB

125

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Browne?

MR. BROWNE: I can't be specific at this point. I don't know.

CHAIRMAN EWASUTYN: Ed O'Donnell?

MR. O'DONNELL: I'm okay right now.

CHAIRMAN EWASUTYN: Joe Profaci?

MR. PROFACI: No.

CHAIRMAN EWASUTYN: I have one or two comments that I think weren't addressed in the overview that there seemed to be a common thread from our consultants. I'll see if I can find them.

There was a letter from the United States Department of Interior Fish & Wildlife dated 1/3/06. Somewhere in my reading I realized that that had to be updated after a year's period of time. I suggest that you update that.

Most of my others are either captured by Pat Hines, Karen Arent or our other consultants. Let me just go through. I'm going to kind of ask when I turn it over to the consultants we go through the design of the project for the major issues.

I'm going to start with the driving

THE POLO CLUB

126

1
2 through the -- driving up to the project based
3 upon the roads, and the impacts, and the
4 improvements that were suggested so we have a
5 clear sense of the project. I'll start with Ken
6 Wersted driving us through the area of the
7 project.

8 MR. WERSTED: Relative to our review of
9 the D.E.I.S., the D.E.I.S. for traffic is very
10 similar to the D.E.I.S. that was prepared for
11 Driscoll. We provided comments on the
12 completeness of Driscoll. With that opportunity,
13 this document was prepared with those comments in
14 mind. The two traffic studies are virtually
15 identical because of the two projects across the
16 street from each other.

17 Relative to the completeness, our
18 review deemed that the traffic was complete.

19 Our only other comment on completeness
20 was when the document is accepted and circulated
21 to involved agencies, that DOT has requested that
22 it get an electronic copy of that.

23 Relative to the traffic in and around
24 the site, traffic is primarily coming from the
25 south. The intersections to the north, including

1
2 the intersection of Route 300 and Route 32 which
3 has recently been improved by DOT, is going to
4 operate at an adequate level of service. The
5 intersection of Route 300 and Gardnertown Road,
6 currently that intersection is right outside the
7 corner of the Town Hall and that intersection is
8 going to operate generally at adequate levels of
9 service, however in the p.m. peak hours there are
10 going to be delays in the northbound direction.

11 The improvements that are proposed for
12 there include a fair share contribution and the
13 installation of a northbound left-turn lane which
14 accommodates the change in access that occurs at
15 the Union Avenue/Route 300 intersection in which
16 northbound left turns are now prohibited. The
17 northbound traffic to turn left into that
18 neighborhood must come up to the traffic signal
19 now. That increase has obviously increased the
20 number of left turns. There are no turn lanes
21 there so through traffic on Route 300 northbound
22 must wait behind the left-turning vehicles.

23 The improvements proposed in the
24 documents also included a westbound right-turn
25 lane which I don't believe is mentioned in any of

1
2 the documents. We just need to be clear on
3 whether that's a proposed improvement or if it
4 was added as an oversight. We need to get that
5 clarified.

6 With the widening proposed in the
7 northbound direction, I think it makes sense that
8 the southbound direction also have a left-turn
9 lane that mirrors the northbound left- turn lane.

10 With those improvements it would improve the
11 traffic flow through this adjacent signal.

12 The other improvements noted in the
13 area are at the intersection of Route 300 and
14 Route 52. At that location we have the five-lane
15 section of Route 300 coming out of the Newburgh
16 Mall area and I-84 narrowing down to essentially
17 a two-lane road as it heads north through Route
18 52. At that location there are northbound and
19 southbound left-turn lanes. The proposed
20 improvement is consistent with other projects and
21 other studies that have gone on in the area.
22 They include left-turn lanes on the east and
23 westbound movements of Route 52 in addition to an
24 eastbound right turn on Route 52 right in front
25 of the Dairy Queen. The applicant is proposing a

THE POLO CLUB

129

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

fair share contribution to those.

There are no other improvements proposed in the study area.

CHAIRMAN EWASUTYN: So we identified the adverse impacts as far as traffic and they're providing us with proposed mitigation measures for them?

MR. WERSTED: Correct.

CHAIRMAN EWASUTYN: Karen, we're now entering the site. Take us through the site. You discussed some things as far as the entryway, some things as it relates to the property line. Take us through some things that may have to be discussed later on.

MS. ARENT: As you enter the site or as you drive up to the site going north on Route 300 there's a stormwater management basin. I was suggesting perhaps a stonewall or something that would screen that basin from view as well as landscaping.

As you travel further north there's a big forty plus inch Sugar Maple that's proposed to be removed so they can put a berm in. It doesn't make sense to do that. Save that tree.

THE POLO CLUB

130

1
2 There's also a stonewall that exists right in
3 front of that existing house with a slight berm.
4 That should be preserved and if possible expanded
5 on so that we can raise the grade at the
6 stonewall and the roadside. Be careful not to
7 damage -- there's a big Spruce you should save,
8 too. There's a lot of existing vegetation that's
9 in great condition that should be marked on your
10 plans and saved and added to.

11 As you travel along the property line
12 shared with the industrial park, there's not
13 enough screening proposed at all on the plans. A
14 fence isn't high enough to screen the buildings
15 and the trucks. In some areas you should locate
16 any of the large existing trees and try to
17 preserve those wherever possible. In other areas
18 you need to add trees to make a thick buffer in
19 accordance with the buffer regulations.

20 As you go into the site from the access
21 on Route 300, it would be nice to do some kind of
22 entryway and incorporate that with your gazebo as
23 well as the existing vegetation that's going to
24 be preserved.

25 Within the document I notice that --

THE POLO CLUB

131

1
2 this is something the Planning Board might want
3 to discuss -- the buildings are proposed to be
4 earth tone in color. I'm not sure that that's
5 desirable because there's really no important
6 views in this area to preserve. By screening the
7 property well I think we might give them
8 flexibility to use color inside the complex to
9 create a more dynamic, interesting project. I
10 would think you might want to discuss whether
11 it's necessary to have the buildings in this
12 location be earth tone or not.

13 As far as recreation, I just ask that
14 they include the sidewalk system as part of their
15 recreation package.

16 Then there's other miscellaneous -- the
17 architectural drawings within the documents
18 should look like the ones that are shown on the
19 site plan and coordination things that I
20 mentioned in my review.

21 CHAIRMAN EWASUTYN: Thank you. Bryant
22 Cocks, Planning.

23 MR. COCKS: We had several issues which
24 we listed in regards to the completeness in
25 reference to the scoping document.

THE POLO CLUB

132

1
2 A couple of the main points were
3 providing pedestrian facilities and walking paths
4 around the site including connections to any
5 recreational facilities.

6 Another main issue was sidewalks, any
7 sidewalks that are going to be deeded to the Town
8 eventually and how it's going to be phased out in
9 the construction leading up so that school
10 children will be able to get to the bus stop
11 safely. Until it's deeded over they're going to
12 have to walk to the end of the site. The buses
13 won't go in the site until it's actually deeded
14 to the Town.

15 We also reference parking on site.
16 There's going to be no parking on any of the
17 streets. The applicant has provided a layout,
18 areas which interconnect between buildings so
19 that they are utilizing less curb cuts throughout
20 the site.

21 We talked about recreational
22 facilities. They're going to have recreational
23 facilities for them to use but they're also going
24 to be able to use the Town recreational
25 facilities. We just wanted that mentioned.

THE POLO CLUB

133

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

The site plan, they indicated it was forwarded to the ambulance corp and the fire district for their reviews. I haven't got any letters expressing their concerns. They said they addressed some of them. I just want to see what they actually were.

Also they mention they looked at the Quassaic Creek corridor study that's tributary to this, very close, the Gidneytown Brook. They were looking for the presence of Bob Turtles. They should look for Spotted Salamanders which were spotted further down the Quassaic Creek. We just wanted to make sure that didn't come up at a later point. That's about it.

CHAIRMAN EWASUTYN: Thank you. Bill Hauser.

MR. DALY: Mr. Chairman, just a point of clarification. These roads are proposed to be private so they won't be deeded, as well as the sidewalks.

CHAIRMAN EWASUTYN: Thank you. You did mention on page 2.21 sidewalks, you discussed a width of four feet. I think the Board has normally required a width of five feet.

THE POLO CLUB

134

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. DALY: Okay.

CHAIRMAN EWASUTYN: Bryant, they do have your comment which was discussed on 2.22, the gated and locked emergency access, with the fire department. They'll have to establish how that's going to be managed.

Bill Hauser.

MR. HAUSER: There's a number of comments we have. Some of them are not clearly engineering but I'll just briefly mention them anyway.

Obviously they require a designation of the Army Corp wetlands.

We can remove on page 1-8 a reference to the Town's new buffer and setback requirements law. It should say Town buffer and setback ordinance with the appropriate date.

There's no identification -- this is on page 1-8. You don't refer in the E.I.S. to the equestrian use to the south. It's identified as residential and municipal.

With regard to sanitary services on page 111, you need to identify the need to connect utilities via the Driscoll project.

THE POLO CLUB

135

1
2 There's no mention made in the Driscoll project.
3 What happens if the Driscoll project doesn't
4 proceed. Also the timing between the two
5 projects. What happens if one is in reverse of
6 what it's expected to be.

7 On page 2-26, the top of the page
8 identifies that all areas reaching final grade
9 will be top soiled and seeded within two weeks of
10 being brought to final grade. That's fine but it
11 needs to be mentioned also in your stabilization
12 method. I don't know whether you've done your
13 SWIP yet or not. It will need to be addressed in
14 there.

15 You refer to the stormwater design
16 manual. You refer to October 2001 as the latest
17 revised issue of that. It's recently been
18 revised so you need to update that. Make sure
19 you conform to the latest revisions.

20 On page 3-38 you reference using
21 calcium chloride as fugitive dust control.
22 There's other methods now the DEC is suggesting
23 as opposed to the use of calcium chloride.

24 On page 3-51 you identify a three-inch
25 sewage force main. Elsewhere in the document you

THE POLO CLUB

136

1
2 identify a four-inch. That just needs to be
3 clarified.

4 This project is being reviewed as a
5 site plan, not as a subdivision. That's on page
6 3-52.

7 Figure 3.3 B identifies again the four-
8 inch force main.

9 Potential impacts, fire and several
10 others, are identified in the Cronomer Valley
11 Fire District review letter which would be --
12 would need to be addressed yet.

13 Pat has a comment here, and I'm sure
14 he's speaking not as an engineer but a fire
15 chief, the impacts of fire emergency medical
16 services which are provided by volunteers seem to
17 be mitigated through the use of tax revenue. Tax
18 revenue can support fire and EMS services with
19 regard to equipment. Manpower resources are not
20 addressed in the E.I.S.

21 I think Karen may have identified the
22 visual impacts, but the berms that you're
23 proposing, particularly around your stormwater
24 management, you need to somehow mitigate their
25 appearance. I'll skip a few here.

THE POLO CLUB

137

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I don't know whether these were the same ones the planner identified. I don't even know what these are but a list of species which exist on the site as identified in the table. The Sedge family Cypher something identifies unidentified Sedges which are class II ingenuous species. Pat came out of the forestry school. There are a number of other species and I think those were referred to -- I'm not going to elaborate because it's not my field.

The issue of the Indiana Bat raises its head because you're saying the Quassaic Creek and that's where they live, my comment 29 and 30. You need to include in section 7 under growth inducing impacts discussion of the environmental review for the Plattekill Trunk sewer line which was previously undertaken by the Town.

The sewer main extension report, which is appendix D-2, references appendix B within the report. The location of appendix B should be clarified because rather than appendix B part II of the D.E.I.S. there's a confusion where you're referring to the document.

The fiscal analysis, section B, fire

THE POLO CLUB

138

1
2 protection, in reference to 2 firefighters for
3 every 50 residents is identified. A population
4 of 4,000 to 4,500 residents is identified. The
5 report identifies 42 to 45 active members which
6 is closer to a ratio of 1 to 100, not 2 to 50.
7 You need to clarify your mathematics there.

8 Appendix H should contain an
9 appropriate terrestrial and aquatic ecology
10 analysis as well as flora and fauna reports as
11 part of the D.E.I.S.

12 Appendix G is the geotechnical report.
13 It identifies bedrock in an area that's proposed
14 for stormwater management ponds. We want to know
15 how you're going to build the ponds. If you have
16 to shoot the ponds, that destroys the integrity
17 of the bottom of the ponds. It's no longer a wet
18 pond and if you fracture it.

19 CHAIRMAN EWASUTYN: I think the two
20 issues before the Planning Board to conclude is,
21 one, the phasing plan. It was phase III that you
22 were proposing your recreation. I think as we
23 worked with your office with Brighton Green I
24 think the Board would prefer that phase I --
25 after the completion of phase I we have the

THE POLO CLUB

139

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

recreation in place.

MR. GALLI: I have one comment that I just thought of. Just recently the Newburgh Enlarged School District failed the bond issue proposition 3 which is going to require any residential that happens to go, in your case it's going to be Gardnertown School, that anyone within one mile is going to have to walk to school. They no longer can be bussed. So that's something you might consider checking, what houses are going to be where, if these kids are going to have to walk. I think your back property might come out on Laurie Lane, a piece of it, or through Driscoll maybe a sidewalk going out that way, the back way to Gardnertown Road instead of Union Avenue.

CHAIRMAN EWASUTYN: Is the Board in agreement as far as the building and the completion of phase I we would like to see the recreation area in place?

MR. GALLI: Yes.

MR. BROWNE: Yes.

MR. O'DONNELL: Yes.

MR. PROFACI: Yes.

THE POLO CLUB

140

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: Another issue that was for the Board's decision was the removal of waste, whether we wanted to see curbside pickup of the trash or whether we wanted to see dumpsters set up for that arrangement. What's the Board's position on that?

MR. GALLI: Dumpsters.

MR. BROWNE: Dumpsters.

MR. O'DONNELL: Dumpsters.

MR. PROFACI: Dumpsters.

CHAIRMAN EWASUTYN: At this point, Mike Donnelly, is there anything you would like to add?

MR. DONNELLY: Yes. I spoke to Ross Winglovitz earlier and he alerted me to an issue regarding the other part of the property that's under contract. I think that's called Gardnertown Farms. The gentleman from the farm came here earlier to the meeting and he delivered a letter which essentially reports that there is a disagreement. His contention is that we no longer have authority to review the project, it's on his lands. I told him it was on our agenda. The environmental impact statement must be

THE POLO CLUB

141

1
2 reviewed and ultimately accepted by us. The
3 letter says his attorney is going to contact us.
4 At some point we need clarification or a
5 resolution of this issue.

6 I want to alert you, although I'm sure
7 you know something about it already, to keep us
8 advised as to the status of whatever the
9 disagreement is or what the resolution is.

10 MR. DALY: That's all.

11 CHAIRMAN EWASUTYN: Mike, I think the
12 motion before us now is to deem the D.E.I.S -- -

13 MR. DONNELLY: I think the consultants'
14 reports listed deficiencies.

15 CHAIRMAN EWASUTYN: Right.

16 MR. DONNELLY: A written list of
17 deficiencies with the addition of the few that
18 were added from the Members this evening and ask
19 you to make those changes. I would think at this
20 point just to the pages that need to be changed
21 rather than reproduce the entire document. If
22 those are satisfactory we can redo the whole
23 document and repaginate.

24 CHAIRMAN EWASUTYN: It's incomplete at
25 this point?

THE POLO CLUB

1 142
2 MR. DONNELLY: Right.
3 CHAIRMAN EWASUTYN: Should I move for a
4 motion?
5 MR. DONNELLY: I think it should be
6 done.
7 CHAIRMAN EWASUTYN: I'll move for a
8 motion from the Board to declare the Draft
9 Environmental Impact Statement for The Polo Club
10 as being incomplete at this time.
11 MR. O'DONNELL: So moved.
12 MR. PROFACI: Second.
13 CHAIRMAN EWASUTYN: I have a motion by
14 Ed O'Donnell. I have a second by Joe Profaci.
15 Any discussion of the motion?
16 (No verbal response.)
17 CHAIRMAN EWASUTYN: I'll move for a
18 roll call vote starting with Frank Galli.
19 MR. GALLI: Aye.
20 MR. BROWNE: Aye.
21 MR. O'DONNELL: Aye.
22 MR. PROFACI: Aye.
23 CHAIRMAN EWASUTYN: And myself yes. So
24 carried. Thank you.
25 MR. DALY: Mr. Chairman, if I could

THE POLO CLUB

143

1
2 ask, when we worked on Driscoll it was very
3 helpful to work with Karen on the landscape plan,
4 to actually sit there and work with her to
5 understand what changes she felt were best to be
6 made. If we could be put on a workshop agenda at
7 your convenience, that would be helpful.

8 CHAIRMAN EWASUTYN: Would the Board be
9 in favor of that?

10 MR. GALLI: Yes.

11 CHAIRMAN EWASUTYN: I'll move for a
12 motion to set this up for the next available date
13 for a work session.

14 MR. GALLI: So moved.

15 MR. O'DONNELL: Second.

16 CHAIRMAN EWASUTYN: I have a motion by
17 Frank Galli. I have a second by Ed O'Donnell.
18 I'll move for a roll call vote starting with
19 Frank Galli.

20 MR. GALLI: Aye.

21 MR. BROWNE: Aye.

22 MR. O'DONNELL: Aye.

23 MR. PROFACI: Aye.

24 CHAIRMAN EWASUTYN: Myself yes. So
25 carried.

THE POLO CLUB

144

MR. DALY: Thank you very much.

(Time noted: 9:18 p.m.)

CERTIFICATION

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: May 31, 2007

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

200 STONY BROOK ASSOCIATES
(2007-16)
200 Stony Brook Court
Section 97; Block 1; Lot 49
B Zone

----- X

CONCEPTUAL SITE PLAN

Date: May 17, 2007
Time: 9:18 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
EDWARD T. O'DONNELL, JR.
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
WILLIAM HAUSER
KAREN ARENT

APPLICANT'S REPRESENTATIVE: THOMAS OLLEY

----- X

MICHELLE L. CONERO
10 Westview Drive
Walkkill, New York 12589
(845)895-3018

200 STONY BROOK ASSOC.

146

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: The last item of business we have this evening is 200 Stony Brook Associates. It's a conceptual site plan located on 200 Stony Brook Court in a B Zone. It's being represented by Tom Olley.

MR. OLLEY: And Bill Pendergast. Yes.

Good evening, Mr. Chairman. Thank you. My name is Thomas Olley, I'm the engineer for the project. With me this evening is Bill Pendergast of Pendergast & Terach who is the project architect. We also have Dr. Rubinstein who is the building owner and will be the tenant/occupant when the building renovations are completed.

200 Stony Brook Court is the first building on the right-hand side coming into the Kahn Stony Brook Office Park. It was originally a Pawling Savings Bank branch office and then it became Ellenville Savings Bank. The doctor has since purchased it with the intention of moving his plastic surgery practice from 1200 Stony Brook, which is up on the cul-de-sac, down to this building. He currently occupies the lower floor of 1200. He would occupy this entire

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

building.

While we haven't submitted the plans for architectural review, Bill has brought along some of his preliminary sketches so we can show you. Of course we'll submit those at a subsequent date for the Board's consideration.

What we are proposing to do is to actually enclose -- to take away what currently is the drive-through canopy to the rear of the building and bring the building right out to the setback lines. That would be the examining room, the operatory and treatment rooms. There would also be an addition out the front for a foyer entryway. We would make some modifications to the parking.

One of the things that has come to light since we first submitted the plans is that we originally thought we would have a need for patient access to the rear portion of the building. What we found is that we will not need that. One of the things that we would propose to do is to eliminate this large area of parking here to the rear and just provide a turnaround for the cars to be able to turn safely and come

1
2 back out and get rid of this -- I can't call it a
3 sea of asphalt because it's only about thirty by
4 thirty, thirty by forty, but we could eliminate
5 that and put lawn and landscaping in that area.

6 What I would like to do at this point
7 is turn it over to Bill so he can just go through
8 the architecture. That's more of an issue here
9 to this plan than the site plan itself.

10 MR. PENDERGAST: I have a few smaller
11 versions if that makes it easier than seeing the
12 board. If you want I'll pass a few of these out.
13 It's easier than looking across the room I think.
14 I brought some photographs so if you want to pass
15 these out you can get a general idea of what the
16 building looks like currently.

17 As Tom mentioned, the existing building
18 is this piece here. It was the bank. There was
19 a drive through here. In order to expand the
20 practice for Dr. Rubinstein to meet his needs we
21 felt we needed to add to the building. To do
22 that we have a setback requirement here and here
23 that we have to sort of go against. We've turned
24 this addition out the back to follow the setback
25 line. It doesn't parallel Route 17 but it sort

200 STONY BROOK ASSOC.

149

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

of tucks itself away from 17.

At the front elevation we're adding a vestibule. What we're proposing is roughly an area that we would expand the front entrance of the building because right now if you look at the photographs it's pretty flat, there's really not much of a description to the building. We wanted to add some description to the building to give it a little more presence.

We're proposing to add some brick with a stucco facade. Most of this existing brick would be maintained. We're adding a few windows to balance the building out.

On the Route 17 side this is the existing facade. We're going to add a piece out the back, again trying to represent the architecture of the existing building but not using the same materials. Matching the brick would be a little bit difficult and more expensive. Since it's tucked back we can add some landscaping in front of it now. We feel this would be an appropriate material.

CHAIRMAN EWASUTYN: What is the appropriate material?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PENDERGAST: This would be a stucco material. Again, we blend the colors in. This is sort of preliminary. We really haven't gotten to final colors yet. We'll do something that will keep the historical value of the building because it does have a nice kind of feel to it and more of a traditional element.

The other thing is this roof is really a facade. We're proposing that the area in here -- I'll put it in your packet. There's a flat roof area in here. This is really a false front. Behind it would be a flat roof that would phase out to the parking lot on the side of the building. That would be able to house all the air conditioning units, all the ventilation equipment so we don't have to put anything on the ground, we don't have to screen it all on the ground. It can be more up on the roof. It's more efficient to put it up on the roof, and you can't see it from Stony Brook Court or from 17 by putting this front up. Plus the roof will lend itself to the same kind of character that's on the roof of the building.

We've added some windows in some of the

200 STONY BROOK ASSOC.

1 151
2 exam rooms. The rear of this is an operatory for
3 outpatient care, so we don't have any windows in
4 here. We're not proposing any windows in here.
5 Again, it's more of an operatory area. There's
6 really not a need for windows. We're going to
7 clean up the building, trim out the windows
8 because some of them are kind of beat up and old
9 looking. We'll replace the windows. That's
10 generally it.
11 CHAIRMAN EWASUTYN: Okay. We'll start
12 with Bryant Cocks, our Planning Consultant, his
13 review.
14 Does it meet the buffer regulations?
15 MR. COCKS: It's not adjacent to a
16 residential district. The site up on top that we
17 were reviewing on the back of Stony Brook, that
18 would have to conform. This one doesn't have to
19 because it's not adjacent to a residential
20 district.
21 There are two free-standing signs in
22 the front of the site.
23 MR. PENDERGAST: Yes.
24 MR. COCKS: Are both of those going to
25 stay?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. PENDERGAST: We would propose to just make it one sign and just for that building alone.

MR. COCKS: Okay.

MR. PENDERGAST: There is a sign there right now that points to another building on another site.

MR. COCKS: I asked for Ken Wersted to look at the second entrance just because -- he left but the entrance ends up being really close to one of the drive aisles. If you're going from one side of the parking lot to the other, I was just asking him to look if there should be a yield or stop sign there. If someone is making a quick right in and they're trying to cut across to the other side of the parking lot. I just asked him to look at that.

We agreed with Karen Arent's comments regarding screening the parking on site.

We're going to need a survey sheet with a stamp and signature on it.

A better location map if you guys can put it on there. That one is kind of hard to read. That was about it.

200 STONY BROOK ASSOC.

153

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: Karen Arent.

MS. ARENT: A lot of my questions are addressed by these renderings. It appears that we don't need to screen the building from 17K but just dress it up a little bit with landscaping.

Of course screen the parking from 17K.

When you come before us for architectural review please bring a rendering of the proposed sign.

MR. OLLEY: Yes.

MS. ARENT: That would be important.

We should also review your proposed and existing site lighting.

MR. PENDERGAST: Yes.

MS. ARENT: There are a couple of trees that you should show tree protection fencing around, at least during construction.

Just to plant two more trees in the green space between the parking area and Route 17K. You might add another one. This is going to be all green. That's very nice that it's going to be green. That will be a nice view from the highway. That's it.

CHAIRMAN EWASUTYN: Okay. Bill Hauser,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

is there anything you have?

MR. HAUSER: We have a number of comments. I think you previously addressed the first one, and that is you're going to remove some of the asphalt in the back. Did I understand that correctly?

MR. OLLEY: Yes.

MR. HAUSER: Are you going to landscape that?

MR. OLLEY: Yes, Bill.

MR. HAUSER: Because you're hard surfacing additional area here, what's that going to do to your stormwater?

MR. OLLEY: Actually we're going to be reducing the impervious area. Right now everywhere that -- like in the back where we have the -- where we're showing this parking back here, most of that already is paved to the drive-through of the bank. We're really not increasing the impervious area. By removing this we're going to be reducing it from what it is today.

MR. HAUSER: Put a note on the plan existing impervious area versus planned impervious area. That will define that.

1
2 Section 9 of the stormwater management regs are
3 going to apply. It's a previously developed
4 site. It still shows the existing versus
5 proposed impervious area. That will address
6 that.

7 Comments from the jurisdictional fire
8 department should be received regarding access to
9 the structure.

10 General note number 4 refers to the
11 Town of West Seneca.

12 MR. OLLEY: That actually came from the
13 survey.

14 MR. HAUSER: Analysis of the proposed
15 hydraulic loading. Obviously with a bank before,
16 the existence of the bank pre-existed the 2001
17 intermunicipal sewer agreement. Because this is
18 an expansion of a use within the crossroads sewer
19 district you'll need to get an approval letter
20 from the City of Newburgh.

21 MR. OLLEY: Okay.

22 MR. HAUSER: I happen to know the guy
23 so you better be careful of him.

24 MR. OLLEY: I heard he's a real tough
25 guy.

1
2 MR. HAUSER: We may comment on the
3 traffic pattern only because it just seems a bit
4 squirly. When you're traveling from northeast to
5 southwest along the direction of those one-way
6 arrows, it just seems a little bit confusing when
7 you get to that southerly most driveway. It
8 seems like a car wanting to exit is going to exit
9 in the left-hand lane of that driveway as opposed
10 to crossing over. See what I'm saying? I don't
11 know whether there's anything you can do about
12 that. Maybe relocate or reconfigure that arching
13 in the front so that you don't have a 270-degree
14 turn to get out onto Stony Brook Court.
15 MR. OLLEY: We understand it. It's
16 actually what's out there today.
17 MR. HAUSER: That doesn't make it
18 right.
19 MR. OLLEY: It seems to work fine,
20 though.
21 MR. HAUSER: Continuing wrong doesn't
22 make it right. Just take a look at it.
23 MR. OLLEY: We'll take a look at it. I
24 don't know it is wrong.
25 MR. HAUSER: From a practical

200 STONY BROOK ASSOC.

1 157
2 standpoint if the doctor gets the kind of traffic
3 that we all hope he gets, it might be -- you
4 know, you have a pattern for crossing traffic.
5 That's my concern. I certainly defer to Ken on
6 that issue.
7 Let me see if I had anything else. I
8 think that was it at this point, Mr. Chairman.
9 CHAIRMAN EWASUTYN: I'm going to ask
10 you to send a copy of the plans up to Ken
11 Wersted, our Traffic Consultant, cc'ing us on the
12 letter and asking him to review the concerns that
13 you heard tonight.
14 MR. OLLEY: Okay.
15 CHAIRMAN EWASUTYN: Mike, I notice on
16 the plan, I don't know if it's required and
17 proposed as far as the -- I think it's the front
18 yard setback. He's deficient by two-tenths of a
19 foot.
20 MR. DONNELLY: That's the 43.9?
21 CHAIRMAN EWASUTYN: Required is 43 and
22 provided is 38.9. There's an asterisk there.
23 39.8. Excuse me.
24 MR. DONNELLY: Was the ordinance
25 different then?

200 STONY BROOK ASSOC.

158

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. OLLEY: All I can say to that is that's to the existing building. I don't know exactly at what point the surveyor measured it but that's what the surveyor of record, Charles Seils, told us. It's a measurement from the property line ,so -- -

MR. HAUSER: Can I ask where you're looking?

MR. OLLEY: It's the most northerly corner, Bill.

CHAIRMAN EWASUTYN: Sheet 1.

MR. HAUSER: Sheet 1 conflicts with sheet 2 then.

MR. DONNELLY: From the north corner.

MR. HAUSER: 39.8. Oh, okay. I see where you mean. The setback line.

MR. DONNELLY: Here is the issue, Tom. The Zoning Board has issued an opinion that let's assume this is a protected nonconforming, I suspect it isn't and it was a mistake, but even if it was a protected nonconforming, the protection is lost upon expansion. So I think you're going to need a variance.

MR. OLLEY: Either that or we go out

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

there and knock two-tenths of an inch off the block. I'm not sure.

MR. PENDERGAST: It doesn't overhang there. It's a flat corner.

MR. DONNELLY: If it's a solution such that it's correct, you don't need to go to the surveyor. If it is not correct you do.

MR. HAUSER: You said that jokingly.

MR. GALLI: Is that a current survey?

MR. OLLEY: Yes.

MR. DONNELLY: Maybe you can adjust the property line.

MR. HAUSER: It's the right-of-way line of the road.

CHAIRMAN EWASUTYN: One thing we have to do I believe, Mike, is refer this to the Orange County Planning Department.

MR. DONNELLY: Yes, because it's on a State highway.

CHAIRMAN EWASUTYN: We can't act on it tonight. I don't know if we're going to take the time to debate back and forth what you're chiseling or not chiseling.

MR. DONNELLY: Do you want to be

200 STONY BROOK ASSOC.

160

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

referred to the Zoning Board?

MR. OLLEY: I think that we can address the corner of the building structurally and not go that route. We're going to be working right at that point. We can just do some treatment there on the corner to get it -- if we have to take two inches off we'll take two inches off.

CHAIRMAN EWASUTYN: When you resubmit your plans you have to show us something with a stamped seal certifying that to be the case.

MR. OLLEY: Right.

CHAIRMAN EWASUTYN: On this plan also how do you propose to handle waste? There is no dumpster in the location or anything shown on the site plan.

MR. OLLEY: It's garbage cans.

CHAIRMAN EWASUTYN: I think you ought to show some way of locating the garbage cans and sheltering the garbage cans. It's all part of the site plan review. You're deficient in that manner.

MR. PENDERGAST: Okay.

CHAIRMAN EWASUTYN: I'll move for a motion from the Board to refer this on to the

200 STONY BROOK ASSOC.

161

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Orange County Planning Department.

MR. GALLI: So moved.

MR. O'DONNELL: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ed O'Donnell. I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

If you get a copy of the plans to Bryant, Bryant will circulate them to the Orange County Planning Department.

MR. OLLEY: Okay. Will do.

Just as a procedure John, when we refer this up to Ken how do you want us to get this back to the Board?

CHAIRMAN EWASUTYN: I think whatever he advises you to do based upon that, then you're going to have to reflect that in your revised site plans. Correct?

200 STONY BROOK ASSOC.

162

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. OLLEY: And resubmit the plans showing that corner.

CHAIRMAN EWASUTYN: We can't act on this plan right now. I'm assuming you can do what you have to do with the building. I'm not concerned about that. We can't act on the plan because, number one, we need a referral from the Orange County Planning Department, and more importantly we need an agreement from the City of Newburgh as far as the sewer. So --

MR. OLLEY: Right.

CHAIRMAN EWASUTYN: -- the time that we're not acting on it you could be addressing these issues.

MR. OLLEY: Okay.

CHAIRMAN EWASUTYN: Anything else?

MR. HAUSER: Just as a matter of record, the way you get referral to the City of Newburgh, you write a letter to Jim Osborne and he forwards it.

MR. OLLEY: Yes.

MR. HAUSER: He'll need a project narrative citing the projected flow.

MR. OLLEY: Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Time noted: 9:35 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: May 31, 2007

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

NORTH PLANK ROAD DEVELOPMENT
(2004-30)

Landscape Bond Release in the Amount of \$31,770

----- X

BOARD BUSINESS

Date: May 17, 2007
Time: 9:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
EDWARD T. O'DONNELL, JR.
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
WILLIAM HAUSER
KAREN ARENT

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

NORTH PLANK ROAD DEVELOPMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

165

CHAIRMAN EWASUTYN: We have two short items and we can close the meeting.

Karen, do you want to bring us along on the North Plank Road Development?

MS. ARENT: I inspected the site and it's in good condition so the bond can be released for this project. The bond amount collected was \$31,770.

CHAIRMAN EWASUTYN: I'll move for a motion to release the landscape bond of \$31,770 for North Plank Road Development, our project number 2004-30.

MR. GALLI: So moved.

MR. BROWNE: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Cliff Browne. Any discussion of the motion?

(No verbal response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. O'DONNELL: Aye.

MR. PROFACI: Aye.

NORTH PLANK ROAD DEVELOPMENT

166

CHAIRMAN EWASUTYN: Myself aye. So
carried.

(Time noted: 9:37 p.m.)

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand
Reporter and Notary Public within and for
the State of New York, do hereby certify
that I recorded stenographically the
proceedings herein at the time and place
noted in the heading hereof, and that the
foregoing is an accurate and complete
transcript of same to the best of my
knowledge and belief.

DATED: May 31, 2007

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

ELM FARM SUBDIVISION
(2000-9)

Six-Month Extension of Preliminary Approval

----- X

BOARD BUSINESS

Date: May 17, 2007
Time: 9:36 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
EDWARD T. O'DONNELL, JR.
JOSEPH E. PROFACI

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
WILLIAM HAUSER
KAREN ARENT

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

ELM FARM SUBDIVISION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

168

CHAIRMAN EWASUTYN: We received a letter from Daniel F. Sullivan dated the 11th of May 2007 for the Elm Farm Subdivision looking for a six-month extension which will carry it on to November 21, 2007.

MR. DONNELLY: I think the current one expires in June.

CHAIRMAN EWASUTYN: Thank you. His letter stated current approval expires on May 21st.

MR. DONNELLY: Maybe he's right.

CHAIRMAN EWASUTYN: I'll move for a motion to grant a six-month extension to November 21, 2007.

MR. O'DONNELL: So moved.

MR. PROFACI: Second.

MR. DONNELLY: Your second meeting of that month is the -- never mind. The 21st is fine.

CHAIRMAN EWASUTYN: I have a motion by Ed O'Donnell. I have a second by Joe Profaci. I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. BROWNE: Aye.
MR. O'DONNELL: Aye.
MR. PROFACI: Aye.
CHAIRMAN EWASUTYN: Myself. So
carried.
I'll move for a motion to close the
Planning Board meeting of May 17, 2007.
MR. O'DONNELL: So moved.
MR. PROFACI: Second.
CHAIRMAN EWASUTYN: I have motion by Ed
O'Donnell and I have a second by Joe Profaci.
I'll ask for a roll call vote starting with Frank
Galli.
MR. GALLI: Aye.
MR. BROWNE: Aye.
MR. O'DONNELL: Aye.
MR. PROFACI: Aye.
CHAIRMAN EWASUTYN: Myself aye. So
carried.

(Time noted: 9:40 p.m.)

CERTIFICATION

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: May 31, 2007

