

**Philipstown Planning Board
Meeting Minutes
November 18, 2010**

The Philipstown Planning Board held its regular monthly meeting on Thursday, November 18, 2010 at the VFW on Kemble Avenue in Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman.

Present: Anthony Merante, Chairman
 Kim Conner
 Josephine Doherty
 Michael Gibbons
 Michael Leonard
 Kerry Meehan
 Pat Sexton
 Steven Gaba, Counsel
 Ron Gainer, Planner

Approval of Minutes

- *September 16, 2010*

Mr. Leonard made a motion to adopt the minutes. Mr. Gibbons seconded the motion. The minutes were adopted as presented.

- *October 21, 2010*

Ms. Doherty referred to page 24 – discussion regarding Local Law for signs, and said that she knew she prefaced remarks something to the affect that they had several people at the public hearing that night state that it was really the first they had heard about the application – at the public hearing, and at that time in the game, they were kind of half-way along, at least, with the application. Ms. Doherty said that the Board a couple of years ago had sent a letter to the Town Board asking them to see what they could do with the problem. She said that mainly, the Planning Board thought they could enact some legislation, which would provide that when there is an application before the Planning Board, there should be a sign on the property just stating that. Ms. Doherty said that was the preface of the remarks made.

Ms. Sexton made a motion to adopt the minutes as amended. Mr. Leonard seconded the motion. The votes for both sets of minutes were as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Mr. Merante stated that the Board would be holding two public hearings this evening, but before that, he wanted to make a public statement for the record. He said that whatever the issues are before the Town Board and when they're on the

agenda, he did not want people calling him. Mr. Merante said that he had had four or five calls in the last week and a half about items on the agenda. He said that as far as he's concerned – as Chairman, and was not going to speak for every member of the Board, but he thought they should have it within themselves, to not discuss issues outside of the room when the meeting is called. Mr. Merante said that he was not going to answer calls or give information. He said that if there is a question, they should ask the Code Enforcement Officer. Once an application has been submitted, if they want to foil, etc., fine, but they should not come to members of the Planning Board – particularly him. Mr. Merante asked Mr. Gaba if he had any comment.

Mr. Gaba said that Mr. Merante was absolutely right. He said that it is inappropriate for applicants or members of the public to contact individual Board members either to ask them about applications or try to persuade them one way or the other on one. Mr. Gaba said that if you're an applicant, it really creates an appearance of impropriety as far as the process goes, and if you're not the applicant, it's really not fair to the applicant to be conversing with a member of the Board in the absence of that person. So the appropriate venue for questions or comments is at the Planning Board meeting. If there's something that they can't be there for and feel they must submit it prior to a public hearing – a written list of questions or comments would be an avenue that might be pursued, but calling or speaking on the street to individual Board members about matters pending before the Board is inappropriate.

Mr. Merante asked if anyone else had any comment.

There was no comment.

Public Hearing

Garrison Land Holding Co. LLC – Approval of subdivision plat – Route 9D, Garrison: Revised materials wetlands application, discussion

Mr. Watson said that essentially they started off with a flagged lot. He said it's a narrow strip of property that comes back and then widens out to the building site. Mr. Watson said that the second lot was the straight-through piece of property that went from Route 9D to the railroad. He said that the application is to make an adjustment to the lot line that includes more than ten percent of the land, so they require the Planning Board's approval. He said that they want to take the straight-through line that divides the two lots about two hundred feet from the westerly side, turn it ninety degrees so that the lower portion of the property is all owned by the northerly lot and the lot with the existing house gets a little smaller. Mr. Watson said that the Board made the site visit and they responded to issues raised by the Board's engineer with regard to the driveway grade with regard to the guide posts that are really necessary going down the existing driveway. He said that there was an issue raised by the CAC with regard to the small wetlands adjacent to the driveway and the runoff from that. Mr. Watson said that they met with the CAC. He said that they have recommended approval and have asked them to look at

the septic area and swap out the primary area for the reserve area. Mr. Watson said that they are doubtful that they are able to do that because the primary area is significantly better soil than the secondary area, but they are looking at that and dealing with the Health Department on that. He said that other than that, they've responded to all of their concerns and he believed they had a recommendation from them.

Mr. Leonard asked if the map would show the last drawing/line.

Mr. Watson said that it is on the map they submitted. He said that they did put that on the most recent version of the map.

Mr. Merante asked if there was some discussion as to whether there was a stream or intermittent stream.

Mr. Watson said that that was the whole point of meeting with the CAC. He said that up until a couple of months ago, they understood this (pointed out on plan) to be runoff from the road. Mr. Watson said that when the Board referred the matter to the CAC, they took a closer look and found a spring within the area of the small wetlands that's just to the northeast. He said that is filling the wetland area now, which was really created by the driveway installed several years ago. It runs through a pipe and then runs down the gully and goes down to the river. Mr. Watson referred to the plan and said that they applied for the pipe into the stream, which would reduce the distance they had to stay away from the stream because it's in a pipe and that allowed them to take advantage of the better soil and move the proposed septic within a hundred feet of the stream. So the permit they applied for was to install the septic system within a hundred feet of the stream to make a crossing with the septic force main in a pipe that would capture the water that's running across the surface and give them a reduced distance requirement. Mr. Watson said that that was all discussed with the Board.

Ms. Conner asked if the primary area was already cleared.

Mr. Watson said no.

Mr. Gainer said that the hearing was continued this month to move along the wetlands permit and seek receipt of the County referral that's now in hand. As a result, there are draft SEQRA documents for the Board's consideration, as well as a draft Lot Line Adjustment approval. He said that the approval document does incorporate the CAC recommendations.

Mr. Merante asked if the public had any comment.

There was no comment.

Ms. Doherty made a motion to close the public hearing. Mr. Gibbons seconded the motion. The vote was as follows:

Anthony Merante - In favor

Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Ms. Conner made a motion to adopt a Negative Declaration (attached). Ms. Sexton seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Mr. Merante asked Mr. Gainer if he had any comment on the Resolution (attached).

Mr. Gainer said no, but as stated, they incorporated the comments received by the CAC. He said that “Condition B” was raised at the site walk...that they sought to have the applicant pursue whether there were any building restrictions related to the proximity of the railroad. Mr. Gainer said that’s just identified as a condition, but that should be investigated.

Ms. Doherty made a motion to adopt the Resolution. Mr. Leonard seconded the motion.

The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Constance Bakall – Approval of three-lot subdivision – 1212 East Mountain Road South, Cold Spring: Revised map, discussion

Mr. Watson said that the application for Constance Bakall was there, as the notice stated, to subdivide her property into three lots. He said that it is the last parcel in Philipstown – it’s at the most northeasterly corner of the Town. It’s bounded on the north by the Dutchess County line and, in fact, a small portion of the property is in the Town of Kent. Mr. Watson said that none of the Town of Kent’s property is being subdivided. He said that the Board made its site inspection. Mr. Watson said that Ms. Bakall tonight reminded him that she doesn’t want the middle lot to be as big as it is, so they are probably going to seek to adjust that lot line – not any of the disturbance or improved area, so that she can have a bigger lot with the house.

Mr. Merante asked Mr. Watson if he would say that where the orange line was (on plan), that was the total amount in the Town of Kent.

Mr. Watson said the small sliver of land, yes, and he actually disagreed with that. He said that he thought the Town of Kent line was five hundred feet to the east.

Mr. Merante asked if the Board had any comment.

There was no comment.

Mr. Merante asked if Mr. Gainer had any comment.

Mr. Gainer said that since the last meeting, a site inspection was conducted and the Board saw no significant environment concerns. He said that the most significant issue raised was the desire to make sure that the Town Highway Superintendent had an opportunity to comment on the proposed access and that the only other item of note was to seek to get the referral back from the County, which is now at hand.

Mr. Merante asked if the Board received comments from the Highway Superintendent.

Mr. Gainer said not yet, to his knowledge.

Mr. Merante asked Mr. Gainer if there was a time frame on that.

Mr. Gainer said there is no specific requirement. He said that at the Chairman's direction, they had the environmental documents and a draft subdivision approval Resolution.

Mr. Merante asked if the public had any comment.

There was no comment.

Ms. Sexton asked if the lot line adjustment they were talking about...(did not finish sentence).

Mr. Watson said this line (referred to plan) is going to move over.

Ms. Sexton asked if he was going to do that now.

Mr. Watson said yes, he was going to do that now.

Mr. Leonard said, so he was going to be readjusting the design.

Mr. Watson said no. He referred to the plan and said that this line is going closer to the house than Mrs. Bakall wants it, so they'll move it over.

Mr. Merante asked if Mr. Watson had an idea of the difference in the square footage of the lots from where it is now to where it will be.

Mr. Watson said that to be perfectly honest, he was reminded that he was supposed to make the lot smaller tonight, so he didn't really have an idea, but it would certainly be in excess of the minimum.

Mr. Gainer asked if the Board should await action on any Resolution of Approval. He said that the Board could at least resolve the environmental review and may wish to wait until it gets a final plat.

Mr. Gibbons said that they're not infringing on the 6,000 square foot.

Mr. Watson said no.

Mr. Gibbons made a motion to close the public hearing. Ms. Sexton seconded the motion. The public hearing was closed. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Mr. Leonard made a motion to adopt the Negative Declaration (attached). Ms. Conner seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Mr. Merante asked the Board if it wanted to hold off on the Resolution.

Mr. Gaba said that the Board could hold off on the Resolution and have them submit revised plans. He said if they wanted to save the applicant a trip back, it could adopt an amended Resolution. It would provide that subject to inclusion of the new last revision date (because the new plans would obviously have a new date) and then under "A", they'd put in an "A-1 - subject to a presentation of a plat with lot line between lots one and two moved westward to the satisfaction of engineer consultant".

Mr. Merante asked how the Board felt.

The Board agreed.

Mr. Watson said that he didn't mind bringing it back. He said that he would like to adopt the Resolution only because he could come back with the Health Department's signature on it and be done with it.

Mr. Merante asked if the Board was satisfied with it.

The Board agreed.

Ms. Doherty made a motion to adopt the amended Resolution (attached). Mr. Gibbons seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Regular Meeting

Philipstown Square - Site Plan Approval – 3166 Route 9, Cold Spring: Amended site plan

John Scanga stated that they are proposing a small addition on the back of one of the southern most stores in the plaza. He said that they are looking to put a small restaurant in the last store. Mr. Scanga said that it would be added to the 1200 square foot store that's there now.

Mr. Merante asked what the space was particularly for.

Mr. Scanga said that right now it is empty.

Mr. Merante asked what was being anticipated.

Mr. Scanga said that they are going to be adding part of the kitchen, bathrooms and walk-in cooler.

Mr. Gainer said that it must have an impact on their water supply or indoor sanitary.

Mr. Scanga said no, prior to the renovation they already had two restaurants, so basically with the Board of Health, they already had forty seats in one, and close to fifty seats in the other. He said with that understanding, that's what they provided for when they renovated and upgraded the septic and everything else.

Mr. Gainer asked Mr. Scanga if he could have his engineer submit a written analysis that he could submit to the Board to explain why it doesn't affect of the existing facilities on the site or any other impacts.

Mr. Scanga said sure.

Mr. Merante said that he wasn't sure about the lines and everything and where the limits of the restaurant would be. He said that it says, "wood fence to be removed" and asked if that was a part of the (did not finish sentence).

Mr. Scanga said that was part of the original site plan. He said that it was removed and all those changes were made. Mr. Scanga said that the only change on the drawing was to show the 510 square foot addition in the southerly building.

Mr. Merante said that for that they needed an amended site plan.

Mr. Gainer said that he checked with Mr. Gaba to understand if there was any ability to waive minor changes to site plan, and there's no way with the provisions in the Code, so it would be moved through the normal process, which normally includes a public hearing and referral to the County.

Mr. Gaba said the Board could waive the public hearing, but that's about as far as it goes.

Mr. Merante asked if they had a recommendation.

Mr. Gainer said that it is for the Board to consider. He said that he would at least like to be sure the Board has in its records some analysis to the potential impacts with the on-site water and sewer system. Mr. Gainer said again, that the applicant should have an engineer submit that calculation to justify there's no impact.

Mr. Scanga said that there wouldn't be any problems. He said that again, when they did the calculations, they already took it into account.

Ms. Doherty asked Mr. Scanga if this would impact the parking requirement and if he would need to have more.

Mr. Scanga said that again, it was all based on prior. He said that there were two restaurants there before they did the renovation. Mr. Scanga said that basically, the two restaurants are being combined into one at this point.

Ms. Sexton asked a question (inaudible).

Mr. Scanga said yes, they know they're not looking to do more than that.

Mr. Merante asked Mr. Gainer if there were any other technical considerations like fire prevention, etc.

Mr. Gainer said that with the site plan review, the Board was just looking at the intended use. He said that the Building Department will get into their own...obviously it will be subject to other permitting from County Health for the restaurant activity and the kitchen.

Mr. Gibbons asked if the 500 square feet was for the restaurant area.

Mr. Scanga said yes.

Mr. Gibbons asked if it was going to be a sit down restaurant and would not have a drive-thru window or anything like that.

Mr. Scanga said that it's going to be a sit-down.

Ms. Conner said that there was a piece in the back before that was taken down and asked if that was right.

Mr. Scanga said that there was some fencing and stuff behind there that they cleaned up.

Mr. Gibbons asked if this was designed so that delivery trucks go in the rear.

Mr. Scanga said yes.

Mr. Gibbons said that he saw (inaudible).

Mr. Scanga said that was the intent – he had been to all of the tenants.

Mr. Meehan asked if it was the only restaurant on the site now.

Mr. Scanga said it is the only one they're going to have.

Mr. Meehan asked if they had hours of operation.

Mr. Gainer said that the applicant could just provide some further clarification. He said that the application does require a referral to the CAC. Mr. Gainer said that he thought, as he had identified, there's still some conditions they had placed on the original approval the Board granted over a year ago, that still have to be satisfied, and they should carry them forward to assure they're not forgotten about.

Ms. Doherty asked Mr. Gainer if they needed a Statement of Use for this.

Mr. Gainer said that he anticipated that would come out of this – whatever the Board gets from the applicant's engineer to describe an analysis.

Mr. Merante asked how the Board felt about waiving the public hearing.

Mr. Gibbons said that if the Board agreed, it could send a letter of recommendation to the CAC that the Planning Board is in favor of it.

Mr. Gainer said that the CAC is just an advisory Board to the Planning Board and are only going to provide technical comments and the Planning Board would react to them.

Ms. Doherty said that her recollection, although she could be wrong, was that some of the neighbors from the back had concerns about lighting, screening, and different things like that. She said that she thought in view of that, that the Planning Board should have a public hearing and she did not think that there should be changes to the site without them having an opportunity to hear it.

The Board agreed with Ms. Doherty and decided to schedule a public hearing.

Ms. Conner referred to the back piece and asked a question (inaudible).

Mr. Scanga said no and again, part of it will be rest rooms and part of it will be kitchen.

Ms. Doherty made a motion that the Board declare itself Lead Agency, refer the application to the County (239M) and to the CAC for comment. Mr. Gibbons seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Mr. Merante said that tentatively if the Board holds a December meeting, the date would be December 16, 2010. Otherwise, the Board would meet earlier in January. He said that January 13, 2011 may be a possible date.

Mr. Gaba suggested they say that the Board will hold a public hearing at the next regular meeting Board, since there is no definite date.

Ms. Doherty made a motion that the Board hold a public hearing at the next meeting.

Ms. Sexton seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Lyons/Ulmar Soil Mine – Route 9, Cold Spring: Discussion

Mr. Gainer said that this is a referral from the ZBA – they're the permitting authority on the mine application. He said that Mr. Watson would review the specifics for the application. Mr. Gainer said as a reminder to the Board, since the last meeting, the Board had one more site visit (the Board had been there a year and a half ago) and had received a technical memorandum from him summarizing the comments that were offered at the time, which were mostly to document the expected activities of the mine in terms of extent of disturbance, as well as the overall intent.

Mr. Watson said that what the Board sees in the presentation drawing is the completed mine conditionally anticipated some thirty years down the road. He said that he told the Board last time that they had talked with DEC and they had one issue, which has to do with the visibility of the mine, which he thought he mentioned at the site visit. Mr. Watson said that they thought of another one, so they really have two issues to deal with. He said that off-site, they want them to look at...there's a mountain back to the southeast and there's a potential for timber rattler habitat and they have to address whether or not the mine would impact that. Mr. Watson said that everybody expects that they're o.k. With regard to the visual, they want them to beef it up and they do not have any problem with what they had – they want to see more and that's what they're doing. Mr. Watson said that the mine would initially be accessed through Barbara Moore's land (Nate and Ernie Lyons' sister). In the first phase, they'll build the road back down to Route 9, leaving the berm that's there now in place until the last minute. Mr. Watson said that had a couple of advantages - they will partially hide the activity and the construction runoff and stuff will be trapped at the bottom of the hill. He said that they've altered the drainage and beefed it up. They've put treatment for all of the drainage in the last part of the road. They've captured more of the water and the siltation treatment basin up toward the south of the bend in the road. Mr. Watson said so the first phase is really to build the road and some minor amount of mining in the first part of the mine. He said that as the road is completed, the restoration will begin...as the mine moves deeper and deeper into the property in seven phases...as one mine phase closes, it will be reclaimed, and then there's the next one...and everything is moving to the southwest. Mr. Watson said that you will see the road from Route 9, but there's new landscaping proposed. He said the way they designed it, they've left a bank so the road would come up from behind what used to be the Pemm Corp building, it would be on a shelf going up the hill and then will continue up, top over the hill, and most of the mine will be behind the bank, except at the entry point, which is at the end of the road. There's a permanent siltation basin and treatment basin and when the mine is finished, it would be a permanent basin at the end. He said that by the time they get back here (pointed out), they're confident that it would be well grown in and getting more mature. Mr. Watson said that the Board asked if they submitted to the State, and they gave the Board a copy of it. He said that they are seeking a wetlands permit for the Zoning Board and there are parallel permits for the State...Zoning Board with regard to the activity within a hundred feet and into Clove Creek, where the treated stormwater will eventually be released. Mr. Watson said that they are seeking a mining permit from the Town as well as the State. He said that they are seeking a highway entry permit from the State.

Mr. Meehan asked if that meant the Building Department was going to monitor the activity on this site.

Mr. Watson said that frankly, he didn't know. He said that the State certainly is going to. Mr. Watson said that the same exact site plan has been submitted to the State as to the Town. So the State bonds the reclamation. Mr. Watson said that this is a fairly sizeable mine for Putnam County.

Ms. Doherty asked if the road they were going to cut into was just north of the little bridge.

Mr. Watson said yes. He said that the bridge was right there and that you could see the water running under the road.

Mr. Meehan asked if they took any pictures from Schofield Ridge.

Mr. Watson said that he did not think they took pictures, but they did do a few of the profiles. He said that if somebody gets on the edge of the ridge, they're going to see the mine, but the trails don't come out to the edge of the ridge.

Mr. Gainer said that the Board just has to make a determination as to whether it's prepared to issue a response back to the Zoning Board of Appeals.

Mr. Gibbons said that he thought it should be noted that the Planning Board has been out to this site several times and have gone over everything. He said that it's certainly been looked at.

Ms. Doherty made a motion to direct Mr. Gainer to write a positive recommendation to the ZBA. The motion was seconded. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Evelyn Gex – Re-alignment of property line – 24 Hummingbird, Garrison:

Discussion

Mr. Gainer said that since the last meeting, the Board conducted a site walk and had a memorandum summarizing those discussions. He said that at the site walk, because of the wetlands impacts, the Board directed the applicant to pursue the CAC for comment and then come back to the Board. He said that CAC actually has in the interim, provided written comments to the Board. Mr. Gainer said that the applicant was present just to receive any comments from the Board and if they wished to speak to the comments of the

CAC, that could be done as well. He said that subsequent to tonight, the next matter for the Board to address procedurally is the scheduling of the public hearing.

Mr. Ernie Martin, Engineer for applicant, introduced himself. He stated that the only thing he would add is that one of the concerns the Board had was how the parcel was created. Mr. Martin said that he submitted a copy of the subdivision map that's on file at the County Clerk's office. He said that there was some comment made at one time with regard to over here (pointed out on map) and then it was moved. Mr. Martin said that he was not sure what the basis of that was.

Mr. Gaba said that one of the issues that came up is the interplay between Hummingbird Lane and the pole of the flag lot. He said that he was kind of confused as to what the relationship is. Mr. Gaba said that he guessed there were five lots all together on Hummingbird and he asked if that was correct.

Mr. Martin said that there are existing five lots.

Mr. Gaba asked how the pole relates to Hummingbird Lane. He asked if they were the same.

Mr. Gainer said that Lot Four actually comes out to the Route 9 corridor and asked if that was correct.

Mr. Martin said that this particular lot here (pointed out) is a flagged lot. He pointed out existing Lot Four and the pole and said that they are just kind of moving it along.

Mr. Gaba asked where Hummingbird was.

Mr. Martin said that the driveway is shown (pointed out on map). He said that it kind of crosses back and forth over across a couple of lots.

Mr. Gaba asked if the access to Route 9 coterminous for Hummingbird and the pole, or not.

Mr. Martin said that he thought each of the lots have a pole that goes through Route 9, but the access is the area that's (inaudible).

Mr. Gaba asked how he was going to get in and out of the lot with the pole...just over Hummingbird?

Mr. Martin said over the driving lane itself, yes.

Mr. Gaba asked how the lots closer to Route 9 would be accessed.

Mr. Martin said the same way.

Mr. Gaba asked if there was a deeded easement for Hummingbird and how that worked.

Mr. Martin said that he thought each of the five lots have an easement over that particular driveway.

Mr. Gaba said then why not get rid of the pole then and just make it part of the front lot if they were not going to use it for anything anyway.

Mr. Martin said that it was his experience that when you subdivide property under New York State Law, you were supposed to be on a highway, but you don't necessary have to take access over that portion that comes to the highway.

Mr. Gaba said well, you don't have to, but why not? He asked if he just wanted to keep more acreage and said that it didn't seem like the pole was doing much for the back lot.

Mr. Gainer said that Lot Four is being reduced in size and would not conform.

Mr. Gaba asked if that was the issue.

Mr. Martin said that they didn't really look at it that way – the idea was to continue that frontage on (inaudible).

Mr. Gaba said that Mr. Martin was going to need a note on his plan clarifying that “not withstanding the pole, but access is over Hummingbird for the lots”.

Mr. Martin said that it is true – by extending that, it doesn't make that a conforming lot in area.

Mr. Gainer said, so there is no defined right-of-way for Hummingbird Lane. He asked if that was what Mr. Martin was saying, and it's just within the individual lots.

Mr. Martin said yes. He said that he thought that was one reason – if you look at where the particular roadway is, it doesn't stay within one lot.

Mr. Meehan said that the Board has not seen the original site plan.

Mr. Gainer said that they've talked about that. He asked Mr. Martin if he said he filed the original apparent subdivision that he's modifying.

Mr. Martin said yes and he had a copy if the Board wanted to look at it. He said that he thought he sent three copies out. Mr. Martin said that he'd be happy to provide additional copies.

Mr. Merante asked the applicant to supply eleven additional copies.

Mr. Gaba said that Mr. Gainer was correct – a copy of the deed should be submitted for both lots, so that the Board can see the right access.

Mr. Merante said that the Board has no information to go on at this point.

Mr. Gibbons asked if the applicant had the six thousand square feet.

Mr. Gainer said yes.

Mr. Gaba suggested the Board adjourn the application awaiting the submission of additional information.

Mr. Martin asked if the Board would at least set up the public hearing.

Mr. Merante said that the Board had nothing to look at and could never set up a public hearing without having the information ahead of time.

Mr. Martin said that he didn't understand - these are two lots and they are moving a property line - they are not changing the driveway.

Mr. Merante said that the Board has had many of these before and it's the same process. He said that it is what the Board requires.

Mr. Martin said, so the Board needs copies of the subdivision map and the deeds before it can move to set a public hearing.

Mr. Gibbons explained that the public needs to be able to review/foil all of that too.

Healy – Approval of three-lot subdivision – Lane Gate Road, Cold Spring: New submission

Mr. Watson said that the Board approved a two-lot subdivision for Mrs. Healy. He said that as he had explained last time, the Hudson Highland Land Trust controls an easement. Mr. Watson said that this is the main estate parcel. The family home is at the extreme southern end of this particular piece of property and there's a garage with a rental unit up close to the road, right near the main house. He said that there was one building lot allowed left in the easement. Mr. Watson said that they want to reduce the size of the estate parcel down to about six and a half acres by drawing a line at this point (pointed out on plan). He said that the line is significant to Mrs. Healy in that it represents the southeastern boundary of the property that she has under forest management. Mr. Watson pointed out the property that is under a forestry plan and said that the forestry plan did allow for one, two-acre lot. He said that they are asking for approval to identify it as a building lot – it's a two-acre lot, an easement that would remain as the existing driveway so that the main house could continue to use that. Mr. Watson said that they'd also take advantage of that in accessing the new building lot. He said that frankly, it was not something that is in the works to be done immediately. Mr. Watson said that the major lot – Lot Two, which is about 19 acres, is not a building lot and is so labeled. He said

that it is never going to be built on because the building lot will have spent the one house that's left that could be built.

Mr. Merante said, and it's deed restricted.

Mr. Watson said and it's deed restricted – there's a conservation easement on the property. He said that they take advantage of the driveway – both for the new lot and continue its existing use as sort of a back driveway into the main house.

Ms. Doherty said that she noticed he said that it was partially in Nelsonville.

Mr. Watson said that if you look up in the corner (pointed out), they'd see a little tiny triangle where the village line crosses through. So it is in the village.

Mr. Gainer said, but that area is not included in their area calculations in any way.

Mr. Watson said surely. He said that's going to be part of the lot. Mr. Watson said that he did not think that he broke out how much is in Nelsonville, but he could do that.

Mr. Merante said that he'd have to present to the Nelsonville Board as well.

Mr. Watson said that he didn't believe so. He said that he thought it was the same thing as they just did with Bakall.

Mr. Gaba said but it wouldn't count toward lot area because it's in another municipality.

Mr. Watson said no, but it is part of the 19- acre non-building home. He said that he would certainly provide the information and had no objection to doing that at all.

Mr. Gibbons asked who was going to own the non-building area.

Mr. Watson said that Mrs. Healy is going to own it for a while and put it in a trust.

Ms. Conner made a motion to schedule a public hearing on the matter. Ms. Doherty seconded the motion. A public hearing will be scheduled for January 20, 2011. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

The Board agreed to schedule a site visit for Sunday, December 5, 2010 at 9:30.

Ms. Doherty made a motion that the Board declare itself Lead Agency and make a 239M referral to the County. Ms. Conner seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Dean Anderson – Approval of two-lot subdivision – 4 Dale Lane, Garrison: New submission

Mr. Anderson said that he has an application for a two-lot minor subdivision on property that he owns jointly with Joe Libonati. He said that he was requesting it be moved (inaudible) field.

Mr. Gainer said that the applicant had a limited review from the Planning Board. He said that obviously, the subdivision by itself does not conform to all subdivision or zoning requirements. Mr. Gainer said that there are a variety of variances that are needed to process the application. He said that the square on the lot and the issue with environmental restraints have to be addressed. Mr. Gainer said that in the Board's view, it's incomplete for the Planning Board to move forward, but obviously it may wish to just clearly deny it because it doesn't conform now and allow the applicant to pursue the ZBA to see if he's successful with that endeavor.

Mr. Merante asked how the Board felt.

Several Board members agreed.

Mr. Gaba said that the only issue outstanding is that he believed there was another property owner in regard to this, who has not signed off on a proxy. He said that his understanding was that he is reviewing it and that one way or another, the Town was going to be either receiving a yes, he wants to go forward with it or no, he doesn't or there just won't be any comment from him at all, in which case the application is not complete because property owners haven't signed off on it. Mr. Gaba said that he suggested the Board conditionally refer it to the ZBA and if the other property owner signs off in the meantime – great, he can go forward before the ZBA. If he doesn't, then the ZBA will kick it back and say there's no authorization to proceed.

Ms. Sexton asked if it was o.k. to send it incomplete.

Mr. Gaba said that is why it would be conditional.

Mr. Gibbons said that's like passing somebody's dirty laundry off to somebody else to take care of.

Mr. Gaba said if you get two property owners involved and one decides to ratify it down the line, why hold it up if there's a chance that he's going to say "yeah". He asked if Mr. Anderson wanted to address it.

Mr. Anderson said that it is involved in a legal matter right now and it is all getting very involved. But right now, to the other owner of the property, there is actually no negative affect...if it goes to the ZBA, he can always at some point say...he's always got that option. Mr. Anderson said that if it doesn't go to the ZBA, he loses time. He said that this piece of property is actually zoned R-40 and R-80. If the new zoning comes in, (inaudible). He said that he knows that the zoning is five acres on that. It's a much smaller hoop to jump through. Mr. Anderson said that it's just that if it isn't forwarded, it's a tremendous down side to him because it may eliminate the ability to subdivide in the future once the new zoning laws come into affect, whereas there's no down side to the other property owner.

Mr. Merante asked how the Board felt.

Ms. Sexton said that it's understandable. She said that she understood his position.

Mr. Leonard said (inaudible) and then take no action.

Mr. Gaba said that he had spoken to Mr. Anderson, but had not spoken to the other owner.

Mr. Leonard said that the other owner wrote a letter saying the Board should not take any action.

Mr. Gaba said that it's up to the Board. He said that if it felt it was appropriate to hold off, it could hold off.

Mr. Gainer said to recognize the Board has an application before it and it's non-conforming. It can only be denied in its current state, and a conditional referral to assure that the second property owner has to sign off on the ZBA application, seems to satisfy the issue of the two owners.

Mr. Merante said that if the Board sends it to the ZBA and he doesn't sign-off, then it goes nowhere.

Ms. Sexton said, so that's fine.

Mr. Merante said that they will send it to them, but they go and review it if he signs off.

Mr. Gaba said that's exactly right – if he doesn't sign off, the condition's not fulfilled, there's been no referral, so the ZBA can't act.

Mr. Gibbons said that they haven't even received the new zoning for the Board to review yet and it takes place 60 days after the Board gets it. He asked if that was correct.

Mr. Merante said yeah.

Mr. Gibbons said, so you're talking a couple of months.

Mr. Anderson said that with the time these things take, two months...he's had wetlands approval on this piece of property. He spent a lot of money and it was about a year to get wetlands approval from the beginning until he actually got the paper in hand from Dave Klotzle.

Mr. Gibbons said that he thought the Planning Board was getting in the middle of a real battle.

Mr. Anderson said that he thought they had a way of avoiding getting in the middle of it, because the other property owners can say no at any point.

Mr. Merante said he wanted to get a sense from the Board. A vote was taken and went as follows:

Pat Sexton	-	In favor
Michael Gibbons	-	Opposed
Michael Leonard	-	Opposed
Kerry Meehan	-	In favor
Kim Conner	-	In favor

Ms. Conner said that it was her understanding that it doesn't go to the ZBA without the approval of the other owner.

Mr. Merante said that it doesn't get reviewed.

Ms. Conner asked what the difference was between it going and not getting reviewed.

Mr. Merante said that essentially, it's the same thing.

Mr. Gaba said that if there's not letter from the other property owner saying, "I've signed off, I've given a proxy, I'm o.k. with it", before the ZBA meeting, the ZBA will pull it from its agenda and will not consider the application.

Ms. Doherty asked if that would include a letter from the Planning Board just re-stating it.

Mr. Gaba said that it would be a conditional referral and they will list them.

Ms. Doherty said very plain.

Mr. Gaba said absolutely.

Ms. Doherty said then she'd be in favor.

Josephine Doherty	-	In favor
Anthony Merante	-	In favor

Ms. Sexton made a motion that the Planning Board conditionally refer the application to the ZBA – the condition being the other property owner's consent to the application. Ms. Doherty seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	Opposed
Michael Leonard	-	Opposed
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Juan Montoya – Approval of three-lot subdivision – 236 Old Albany Post Road, Garrison – 90 day extension

Mr. Watson said that he actually had a plat for Mr. Merante's signature, so he did not need the extension.

Miscellaneous

- **Training Process “Workshop”**

Mr. Merante said that the Board has been trying to get the training process going and needed to schedule a workshop. He said that in Ms. Doherty's email, she essentially suggested one way to do it was to review the process almost from beginning to end.

Ms. Doherty said that there are a lot of questions as you go along – from the very beginning to the very end.

Mr. Merante said that they were probably looking at a four hour meeting, with both gentlemen (Mr. Gaba and Mr. Gainer) at that meeting. He asked that they try to set up a date that's convenient for all and stated that it wouldn't be an official meeting, but would be strictly a workshop. The Board decided to settle on a date sometime the first week January 2011.

- **December 2010 Meeting**

Mr. Merante said that the Board had one pending public hearing and nothing burning otherwise.

The Board agreed not to hold a December meeting discussed the possibility of moving the January meeting up to the 13th.

Ms. Doherty said that instead of the December meeting, the Board could hold the Training Session. It would be held at the VFW Hall.

Ms. Conner asked if the Board could start earlier in the evening.

The Board decided to hold the workshop on December 16, 2010 at 6:00 p.m.

Juan Montoya (cont'd)

Mr. Watson said that Mr. Gainer just reminded him that Mr. Montoya had not submitted the recreation fees, so he would like the 90-day extension.

Ms. Conner made a motion to grant the 90-day extension. Mr. Gibbons seconded the motion. The vote was as follows:

- Anthony Merante - In favor
- Kim Conner - In favor
- Josephine Doherty - In favor
- Michael Gibbons - In favor
- Michael Leonard - In favor
- Kerry Meehan - In favor
- Pat Sexton - In favor

The Board made the decision to hold the January meeting on January 13, 2011.

Mountain Trace Subdivision

Mr. Gainer said that the Board has been to a site walk over the summer and requested that the wetlands on the adjacent parcel - Galler's parcel, be better defined because on the mapping that was provided, the date obviously was inaccurate. Mr. Gainer said that's now been submitted to both himself and Mr. Klotzle. They've actually been to the site and have more or less endorsed the latest layout of the wetlands watercourse configuration that's shown on the latest survey that's been filed. Mr. Gainer said that he had prepared a technical memorandum including comments he and Mr. Klotzle had based on the site walk. He said that Mr. Klotzle is of the opinion and they had previously discussed that it may be desirable to consider what density could be permitted to allow the exiting path into the site for development purposes. Mr. Gainer said that Mr. Klotzle strongly supports that to minimize site disturbance and to allow them to get to the upper portions of the site. He said that he had informally discussed that with Debbie Santucci and she seems to understand the desire for a lesser density than the four or five lot project, so she is going to evaluate what that means to her in terms of what they can do to try to get back on the old alignment and avoid the very significant disturbance that's been proposed to date from the beginning of their application. Mr. Gainer said that he anticipated they'd have some plan evolved and fully expect they'd want an informal meeting with the Chair and himself just to identify whether they can support the concept of going to some light density in the hope of trying to get through this process.

Adjourn

Mr. Gibbons made a motion to adjourn the meeting. Ms. Sexton seconded the motion. The meeting ended at 9:15 p.m. The vote was as follows:

- Anthony Merante - In favor
- Kim Conner - In favor
- Josephine Doherty - In favor

Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Respectfully submitted,

Ann M. Gallagher

Note: These minutes were prepared for the Philipstown Planning Board and are subject to review, comment, emendation and approval thereupon.

Date approved: _____