

Philipstown Planning Board
Meeting Minutes
November 21, 2013

The Philipstown Planning Board held its regular monthly meeting on Thursday, November 13, 2013 at the Butterfield Library in Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman.

Present: Michael Leonard, Chairman
Kim Conner
Kerry Meehan
Anthony Merante
Pat Sexton
Neal Zuckerman
Steve Gaba, Counsel
Ron Gainer, Engineer
Susan Jainchill, Planner (arrived late)

Absent: Mary Ellen Finger

Minutes

- October 17, 2013

Mr. Meehan made a motion to approve the minutes. The motion was seconded by Anthony Merante. The vote was as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Kerry Meehan	-	In favor
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	In favor

**Manitou Properties Co. LLC – Site plan application – 1656 Route 9D, Cold Spring:
Submission of revised materials**

Mr. Watson stated that they made several revisions to the plans and some specific responses to the comments they received at the public hearing and the letter from the Cemetery Association. He said that along the line of the cemetery, they've specified that the picket fence will be taken down and replaced by a new chain linked fence, which is sturdy and not terribly visible. Mr. Watson said that they resigned the entry to two ways after 6:00 at night. He said that he thought Mrs. Olsen suggested it would be beneficial to them not to have the traffic exiting in the evenings along the outer property line to the east, so they have specified that with signage and that will be the direction to the attendees as well. Mr. Watson said that they took a look at Mr. Zenz's letter and as he had acknowledged last month, he does, in fact, have a right-of-way over the driveway for ingress and egress and they have posted a note to that effect on the plan. He said that Mrs. Olsen also asked them that the fence they had proposed be lengthened to provide more screening for her property, so they added about forty-five feet of fence along the property line. Mr. Watson said that Mr. Gainer suggested some traffic signs with regard to warning signs that there would be a school entry, and they posted those four signs. He said that there was a slight modification



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in the drainage in the front of the property. It's been moved slightly to the north – a little further away from the road. Mr. Watson said that they also changed the playground area and submitted to the Board new visuals of the playground equipment that's being chosen. He said that he hadn't seen the proposed Resolution, but wanted to say that they wouldn't want to have to come back to the Planning Board at some point, should the equipment have to be changed out within that area. Mr. Watson said that if they moved the area, he could see it, but if they chose different equipment 5 or 10 years down the road, they don't want to have it specified that they'd have to come back. He said that they've made a couple of other minor changes in the grading and the road of the pathway down to the play area. Mr. Watson said that Architect was present and would be happy to address any questions.

Mr. Meehan asked if Mr. Watson had to increase the width of the front drive.

Mr. Watson said no – it pretty much accommodates two cars. He said that there was a question about lighting and there is no plan to increase the lighting to beyond the present lighting.

Mr. Merante asked how long the picket fence was that was proposed to be replaced.

Mr. Watson said that he didn't remember, but thought it was almost 600 feet.

Ms. Conner asked what color it was.

Mr. Watson said black.

Ms. Conner said that Mr. Watson mentioned at the last meeting there would be break-out doors, but they weren't marked on the plan in front of her.

There was no response.

The Architect stated that there had been some modifications from the last floor plan the Board had seen. He said that they added a direct door to the outside for all of the classrooms and they've reconfigured the corridors to improve the egress. Classroom 3 has a door out to the deck, which is an egress deck. Classroom 1 also has a door to an egress deck. The corridor has two doors to egress decks (north and south). He went over a few of the other areas with the Board. He said that they would note on the plans which doors have panic hardware (a push bar so that you can get out in case of emergencies).

Mr. Meehan asked if the doors would be locked from the outside.

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The Architect said yes.

Mr. Leonard asked about the walk-in cooler door.

The Architect said that the plan at present is to keep the existing walk-in cooler and they will lock that door. He said that it will just be storage.

Mr. Leonard said so a child would not really be able to open the door easily and get stuck inside.

The Architect said no, they would secure the door so no child would get stuck in that room.

Ms. Sexton said that from the beginning, she's still concerned about the access and egress. She said that she'd like to know what the estimated cost of the sprinkler system was.

The Architect said that he was not sure they had that information.

Ms. Sexton asked if in other words, they never had an estimate for a sprinkler system.

The Architect said that they are looking into it. He said their intent was to meet the code and if not, exceed it.

Ms. Sexton asked if the doors could be opened by a pre-k child.

The Architect said that they will meet the code – yes. He said a teacher would be able to open the doors as well.

Mr. Merante said that the boys' room and girls' room have doors pushing in rather than out. He said that they said the library with doors removed is the same space as the blocked creative play classroom and finds that a bit of a stretch. Mr. Merante said that the science prep area room doesn't lead outside directly anywhere even though the door is removed. He said that he sees at least four rooms that do not have direct access and two of them with doors that he thought opened in the wrong direction.

The Architect said that the boys' and girls' rooms are the bathrooms and you cannot have them open outside and basically create an issue with the egress into the corridor, so typically the doors open in.

Mr. Merante said that he understood that, but four spaces do not have direct access to the outside, which is the point he was making. He said that the Board was told last month that every space

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would have access to the outside.

The Architect said that every classroom has direct access to the outside.

Mr. Meehan asked if there were alarms in all of the rooms in the building.

The Architect said yes. He said that there will be an alarm system and speaker strobes/flashing lights in the rooms that require it, and they'll be sound throughout the school, which they'll be able to hear, so the alarm system will go throughout the building.

Mr. Leonard said that the Board removed an email from Mr. Gordon Casement, neighbor, who still feels there's a strong concern regarding the traffic safety. He said that Mr. Casement believes the faculty is really 15 – not 6. Pedestrian traffic was also a concern. Mr. Leonard went over several other points made by Mr. Casement in his email (copy on file at Town Hall).

Mr. Gainer said that the Board has a draft Resolution of approval for its consideration – SEQRA Declaration and site plan approval.

Ms. Sexton requested the applicants get an estimate for a sprinkler system and elevator.

Ms. Camille Linson, attorney for applicant introduced herself and stated that she had heard a lot of concern regarding fire safety issues. She said that the applicant certainly shared the concerns to create the property in the most secure way for the kids and to be proactive in not only meeting the fire safety code, but exceeding it. Ms. Linson said that the code specifies issues that the Board is allowed to take into consideration in reaching its determination whether or not to approve the site plan. Fire safety is not one of them. She said that if it is a matter of whether the vote hinges on that or not, she wanted to point out it is not a criteria that falls within the Board's jurisdiction. Ms. Linson stated that because fire safety is not one of the elements addressed in the site plan, it doesn't fall within the things the Board can permissibly raise as a condition.

Mr. Merante said that they are not talking about a subdivision here. He said that the site plan is fine. However, they are talking about a building that for a hundred years, has been a restaurant. It's an old wooden building. Mr. Merante said that now they're talking about putting 75 children in there – from pre-k through 6th grade with fifteen staff. He said that with pre-k being three and four years old, they are going to have significant problems getting kids outdoors and directing them. Mr. Merante said that with all the trials and practices that the Fire Company may offer is not sufficient cause for the Board to feel relieved that the 75 children will be safe at all costs. He said that the traffic study was one thing as far as site plan review, but thought it was flawed, and starting out negatively toward anybody who may want to work on staff who's handicapped. Mr.

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Merante said that these are three major issues. He said that they may not fall within the State's guidelines, but New York State leaves a lot to be desired, as far as he's concerned, when it comes to an old wooden building and 75 very young children. Mr. Merante said that the Planning Board has always dealt with safety when it comes to roads or anything else on the site plan. He said they can't afford an elevator and can't afford a sprinkler system.

Ms. Linson said that in no way are they seeking to say that the Board's concern about fire safety is misguided. She said that they share that concern.

Mr. Merante said that they don't share it enough to spend some money on it.

Ms. Linson said that's not the case. She said that the applicant has even said that as they move through the process, if there are enhancements that can be made as they make sense, they seek to pursue them. But if the Board is dissatisfied with New York State law, she would suggest lobbying the legislature, etc. Ms. Linson said that with regard to the applicant preventing certain individuals from working at the site, that is not the case. She said that they are moving forward seeking to apply with all applicable rules and to continue to enhance the site over time.

Mr. Merante said that the applicant's insistence on following State minimum standards he thought shows (did not finish sentence).

Ms. Linson said that it is not that at all. She said that the discussion is hand is, have they satisfied all applicable requirements? Ms. Linson said that is the point of the discussion. She said that in her view, the applicant has met the standards and exceeded them. Ms. Linson said that they've come back a fourth time tonight – each time making a change to the plan to address concerns that were voiced. She said that the role of the Planning Board is to apply town code to determine whether or not a given site plan has satisfied the requirements. Ms. Linson said that that code does not permit the Board to impose conditions related to fire safety or handicapped access, as valid as those concerns might be.

Ms. Sexton said that it still doesn't satisfy...the fact that it's a wooden building over a hundred years old and will have 75 children to start, and more. She said that to her, it is irresponsible not to have even considered the sprinkler system. They didn't even price it out. Ms. Sexton said that does not show they are meeting/exceeding standards. They didn't even look into it after the Board asked about it.

Mr. Leonard said that the Board discussed this with the Building Inspector and because of the Board's concerns, he looked into a lot more on sprinklers and without a doubt overall, it is clearly felt that sprinkler systems are the best fire protection process. He said that it is a

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consideration for the applicant to think about, especially for a wooden building such as this. Mr. Leonard said that he would appeal to the applicant because he did not believe they were actually required to do this, but there are a lot of things in fire safety that they could do that would really not be costly at all, but would take a little effort on their part. He said that they could do fire loads for rooms (which he has done). Mr. Leonard explained to the applicant what that entailed and said that it could really enhance the fire protection program.

Mr. Roger Grogaria said that he thought they were comfortable going ahead with the sprinkler system. He said that they haven't out-ruled it or cost it out as the reality is that they don't own the property today and so the access has been very limited. But given everyone's concern and because it sounds like this is the outstanding issue, he said that he would propose they would agree to put in a sprinkler system, but would like to work that out with the Building Inspector and then move the project forward.

Mr. Gaba said the New York State Fire Safety and Building Code is one set of regulations and the Planning Board has no jurisdiction over that. He said that all applicants have to comply with the New York State Fire Safety and Building Code, but to say on site plan approval, the Board has no consideration of fire safety is, he thought, a bit of an overstatement. Mr. Gaba said that all of the site plans are supposed to be consistent with public health, safety and welfare here in the town. He said that the applicant's voluntarily agreeing to put sprinklers in and should certainly be noted in any Resolution of approval. Mr. Gaba said that Americans With Disabilities Act is a little different as far as that goes. Generally speaking, absent unusual circumstances, it's pretty much the end of the story. He said that those two issues having been addressed, he thought the Board was in a position to go forward certainly with SEQRA determination and if the wording is appropriate, probably with Approval Resolution tonight.

Mr. Gainer said that the draft Resolutions provided to the Board did incorporate his conditions – the open technical issues and the Board members have seen those. So if they could resolve the last few conditions, the Board may consider an action.

Ms. Watson said that with regard to Ms. Jainchill's suggestion, they revised the play area and made it a little more "elegant" as she put it.

Mr. Merante said that he wanted to know how the applicant's statement about installing the sprinkler system would affect the Resolution now and if the Board would vote on adopting the Resolution and write it in.

Mr. Gaba said that they voluntarily agreed to incorporate it into their plans. So the Board could wait and see a detail saying it's going to be sprinklered or just write it into the Resolution – there

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are a lot of ways it could be done. Mr. Gaba said that if they've represented that it is part of the application and get the approval based on that, they're required to do it. He said that they could come back later on and say they've changed their minds, but he would take them at their word they're going to go forward with it and if things change later on, they change later on. Mr. Gaba said that they don't get their certificate of occupancy unless they comply with the site plan.

Mr. Leonard said that there are different sprinkler systems, so there is a difference.

The applicant said that they would ask the Board that they work it out themselves.

Mr. Gaba said it would be a full sprinkler system.

The applicant said that he thought they would commit to a proper solution that keep the kids safe and will work with the Building Inspector to put that in place. He said without having done any work on it yet, he could not really commit to the Board exactly what it would look like. He said that he didn't think that was fair.

Mr. Gaba said that then the Board would have to hold off on the approval.

Mr. Leonard agreed, as there were concerns and he had read a lot about it with regard to making a significant difference – full versus partial.

The applicant asked if they agreed to doing the whole building would that be sufficient.

Mr. Gaba and Mr. Leonard said yes.

Mr. Leonard explained that the applicant is going forward with a commitment to pursue the full sprinkler system throughout the building.

Ms. Sexton asked if that was part of the site plan or part of the Resolution.

Mr. Gaba said that the Board could require a note be placed on the site plan or just keep it in the Resolution or both.

Ms. Sexton said that the Board could do both.

Mr. Gaba said that they could add a "WHEREAS" in the Resolution (second to last paragraph) that would state, "WHEREAS the applicant has agreed and represented that the main building will be fully equipped with an appropriate sprinkler system".

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Mr. Ron said that they would put a condition that a note has to be added to the plan – that the applicant shall incorporate by notation on the site plan drawings a note to indicate the entire building will be sprinklered. He said that it would be in addition to the note. Mr. Gainer said that Mr. Gaba had identified a “WHEREAS” clause to identify the applicant’s voluntary offer to provide a sprinkler system throughout the building, so they could make those two modifications to the draft Resolution the Board has before it.

Mr. Gaba said and then it will be in the Resolution and there will be a note on the approved site plan.

Ms. Conner made a motion to adopt SEQRA Negative Declaration. Mr. Zimmerman seconded the motion.

Mr. Zuckerman made a motion to grant site plan approval. Ms. Conner seconded the motion. The votes were as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Kerry Meehan	-	In favor
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	In favor

**Olspan, LLC (Cyberchron Building) – Site plan application, 2700 Route 9, Cold Spring:
New submission**

Mr. Tim Miller introduced himself. He stated that this property was the subject of a five-acre, two-lot subdivision earlier this year. Mr. Miller said that on the site is an existing light manufacturing building – about 10,800 square feet in area and has paved parking areas, loading areas, etc. There is also a residence on the property. The entire site drains to the west. A state wetland is located to the north of and partly on the property. Mr. Miller said that the applicant is proposing an addition of about 8700 square feet of new space to the site. He referred to Mr. Watson’s plan and pointed out the specifics to the Board. Mr. Miller said that it was anticipated that the improvements will take place entirely within the existing disturbance area of the site. The area where the proposed addition is located is presently paved. The proposal includes twenty surface parking spaces and a loading space. Mr. Miller said that they are not proposing any changes to the utility system. He said there are two septic systems on the property and a single well. Mr. Miller said that they have submitted a site plan application, an environmental assessment form, and an application for a wetland permit. He said that the 100 foot buffer

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actually extends into the area of the existing building and pavement. Mr. Miller said that they are not proposing any significant disturbance to any natural area of the buffer. He said he thought they had about 850 square feet of activity in the buffer that will require a permit from the Planning Board as well as the New York State DEC.

Ms. Conner asked if there would be any additional energy use.

Mr. Miller said that there is no change in the systems – it will still be electricity and fuel oil.

Ms. Conner said that it stated there were no prior hazardous materials used within the existing building and asked if that was correct, as she did not know what was manufactured there.

Mr. Miller said that the activities there were basically making computer systems, (inaudible) for use in military equipment, trucks, tanks, etc. He said that they did a Phase I site assessment on the site and nothing showed up in the database that would suggest that there was any hazardous material on the site.

Mr. Merante asked if with the additional space, they anticipated any greater traffic generation into and out of Route 9.

Mr. Miller said that it is going to be a passive warehouse and is basically going to store the personal items of the owners. There will be no employees to speak of. There will be a caretaker who will reside in the home on the site. Mr. Miller said that he did not see it would generate much traffic whatsoever.

Ms. Sexton asked if there would be public access and if people would be coming to the building, etc.

Mr. Miller said that it is not anticipated. He said that the owners will be moving materials in and out from time to time.

Mr. Zuckerman asked what would be stored in the warehouse and for what purpose.

Mr. Miller said that it would be personal goods of the owners.

Mr. Leonard asked if there was going to be a basement.

Mr. Miller said yes.

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Mr. Leonard said that with regard to the construction of that, there would be minimal disturbance, but again it pre-dated the code. He said that his concern is that the building was there before consideration of the wetlands. Mr. Leonard said that the add on is a significant structure change and his concern is stormwater management because you're going from a surface to a roof top, which will drain down at a rapid pace versus runoff on the ground. He asked Mr. Miller if he basically felt the plan adequately deals with that and they wouldn't see any significant disturbance to the wetland itself.

Mr. Miller said that there will be no disturbance whatsoever to the wetland.

Mr. Zuckerman asked if the goods would require any special security system that would be changing the nature of the landscaping. He asked if there would be gates, cameras, etc.

Mr. Miller said that there may be a security gate at the driveway entrance located sufficiently inward to not affect the movement of traffic. He said that the building will be sprinkled, but there will be no other fencing anticipated.

Mr. Gainer asked if there would be significant exterior lighting.

Mr. Miller said no, he thought a half-dozen security lights.

Mr. Miller said they do not. He said that the new addition does meet the setback requirements but the existing building does not.

Ms. Sexton asked how the building would be finished and if the new addition would look similar to the current building.

Mr. Miller said yes, it's expected it will be a comprehensive exterior that will match the existing building – the same sort of color and finish.

Ms. Sexton said that the buildings will sort of match then.

Mr. Miller said yes, it will be finished in a similar fashion. He said that this is not going to be a real visible addition. Mr. Miller said that it would be largely hidden from view of Route 9. He referred to the plan and pointed out what he said was a pretty good vegetated area and said the existing building largely blocks views of the addition as you proceed north on Route 9.

Mr. Gainer said that the Board had received a technical memo from his office. He said that at this point, the Board could initiate mandatory referrals – CAB, Putnam County Planning, etc.

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Mr. Gainer said that it also may be desirable to initiate environmental review. A long form EAF has been filed – both Parts 1 and 2. He said that if the Board wished to conduct a Coordinated Review, the only other involved agency would be DEC. Mr. Gainer said that this could be initiated if the Board wanted to declare its intent to become Lead Agency and create that circulation.

Ms. Jainchill asked if there was any existing signage on the building and is there any future signage.

Mr. Miller said that the name, Cyberchron is the existing signage on the building and he didn't think there was any anticipated future signing other than an identification sign/address.

Ms. Jainchill said that the signage would come down.

Mr. Miller said yes. He stated that he had some photographs and presented them to the Board. He pointed out that one of the pictures showed the parking lot, where the new addition will go.

Mr. Zuckerman asked if the Board had an opportunity to re-visit the screening from the road.

Mr. Gainer said that it was identified in his technical issue, but the Board has every ability to identify that as a concern and offer suggestions for enhanced landscaping or screening for the existing structure.

Mr. Zuckerman said that he would be bringing that up as they go through the process.

Mr. Gainer said that with regard to the building appearance, the applicant is obligated to give the Board elevation plans to illustrate the intent of those building, so the Board will be seeing that through this process.

Mr. Zuckerman made a motion that the Planning Board declare its intent to be Lead Agency and do a Coordinated Review. Mr. Meehan seconded the motion.

Ms. Sexton made a motion that the Board acknowledge the application as a major site plan. Ms. Conner seconded the motion.

Mr. Merante made a motion that the application be referred to County Planning and Conservation Advisory Board. The motion was seconded by Kim Conner. The vote on the above four motions were as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor

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Mary Ellen Finger	-	Absent
Kerry Meehan	-	In favor
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	In favor

The Board decided to schedule a site visit for Sunday, December 8th at 9:30 a.m.

Mr. Watson asked the Board to schedule a public hearing for the next Planning Board meeting.

The Board agreed.

Mr. Zuckerman asked if the Board had to have one.

Mr. Leonard said that as Mr. Gaba had just said, they don't have to have a hearing for a major site plan.

Mr. Miller said that they have no neighbors in their immediate proximity. He said that would be one criteria he would think of as to how much public interest there might be.

Mr. Leonard said that in all fairness, there is an application in the mix who is a neighbor, and there is also a business across the street off of Lane Gate, so he would say there are some adjoining people around to warrant it.

Mr. Gainer said that he would say the public hearing should be in January even if the Board has a December meeting because the 30-day clout for SEQRA would not have concluded by then.

The Board decided to schedule the public hearing at its January 16, 2014 meeting.

Mountain Trace Subdivision – Subdivision approval – Request for extension

Ms. Conner recused herself and left the table.

Mr. Gaba said that there was some confusion on this and explained that when you get preliminary approval it doesn't expire automatically like a conditional final would if you don't get extensions. Instead, the law says you have six months to get final approval and if you don't get final approval, then the Planning Board could revoke the preliminary approval. Mr. Gaba said that preliminary approval is a really very serious matter in New York – it's almost just like adding the final details to it, so unless there was some really substantial change in circumstances, you would not consider revoking a preliminary approval. He said that this preliminary

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approval's just hit the six-month mark. Mr. Gaba said that he heard from the applicant they're going to keep the Board in the loop and are proceeding with it.

The Board agreed that no action would be taken.

Ms. Conner returned to the table.

Bill and Susan Wood – Approval of 3-lot subdivision, East Mountain Road: Return of escrow funds

Mr. Gainer said that the approval was granted some time ago and the plat's been filed. He said that there has been no recent activity that would warrant any review by the consultants. Mr. Gainer said that they are merely asking for any residual escrow that's not been expended yet, be returned if there would be no further consultant review.

Mr. Merante made a motion to return the escrow funds. Ms. Sexton seconded the motion. The vote was as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Kerry Meehan	-	In favor
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	In favor

Nancy Olnick Spanu – Approval of subdivision plat/approval of site plan, 245 Avery Road, Garrison: Withdrawal of application/return of escrow funds

Ms. Conner made a motion to accept the withdrawal of application and return of escrow funds. Mr. Zuckerman seconded the motion. The vote was as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Kerry Meehan	-	In favor
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	In favor

Old Business/New Business

- Cold Spring Farm

Mr. Leonard said that he wanted the Board to be aware that he and Mr. Gainer would be discussing the Cold Spring Farm application and obviously some comments from the Board

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too. He said that would be meeting with the applicants, because there were good comments raised and they made significant changes.

- Checklist from Susan Jainchill

Mr. Leonard said that Ms. Jainchill will be tracking activities/details with regard to applicants once the pre-application has taken place. She will circulate that as the process moves forward to the Board/consultants.

- December, 2013 Meeting

The Board decided that it would not meet in December, as there were no pressing issues.

Miscellaneous

Mr. Leonard thanked all of the Board members and consultants for their hard work, dedication and support and said that as they knew, he would be moving on to the Town Board as of January 1, 2014. He said that he would join Mr. Merandy, who has been very helpful to him. Mr. Leonard said that he looked forward to working with everyone in the future.

Adjourn

Mr. Merante made a motion to adjourn the meeting. Ms. Sexton seconded the motion. The meeting ended at 9:00 p.m. The vote was as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	Absent
Kerry Meehan	-	In favor
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	In favor

Respectfully submitted,

Ann M. Gallagher

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

Date approved: _____