

Philipstown Planning Board  
Meeting Minutes  
January 22, 2009

The Philipstown Planning Board held its regular monthly meeting on Thursday, January 22, 2009 at the VFW Hall on Kemble Avenue in Cold Spring, New York. The meeting was opened at 7:30 by the Chairman, Anthony Merante.

Present: Anthony Merante  
Kim Conner  
Josephine Doherty  
Michael Gibbons  
Kerry Meehan  
Andrew Pidala  
Pat Sexton (arrived at 7:35 p.m.)  
Steve Gaba  
Ron Gainer

**Public Hearing**

**Rodney Weber - Two-lot Subdivision - East Mountain Road South/Horton Road, Cold Spring: Discussion**

Mr. Watson stated that they acquired a right-of-way from the next door neighbor and would like to have it approved as an open area development right-of-way to gain access to a second lot. Forty eight acres are going to be subdivided into twenty acres on the southern lot, and twenty eight acres on the eastern lot. He said that they've had discussion with the Board concerning the access, but this access is over an existing driveway that Mr. Lyons built a number of years ago. Mr. Watson said that their options were to cut through a wetland or come up from what little bit of frontage they have on Horton Road. He said that they felt the most appropriate thing to do was to use this driveway (pointed out), they have made the arrangement with Mr. Lyons, and information regarding that is in the Board's packages. Mr. Watson said there is very little grading, very little change in the right-of-way. It does have to be widened out about anywhere from two to four feet. He said that the extreme end of the property is fairly flat can be easily developed with little difficulty. Mr. Watson said that as the Board has discussed, the driveway that's presently in place and serving the house on the western lot, is fairly steep and has a fairly sharp hairpin turn. He said that the hairpin turn was originally made to avoid a fairly significant oak tree, which has since been struck by lightening and split in half, so they have redesigned the curve so that there's no problem with the radius of the curve and they've flattened the grade down, so they have less than fourteen percent grade. Mr. Watson said that they still have to go over that with the engineer, but basically they think they've solved all the problems that the Board raised concerning this and those comments from the CAC they've responded to as well, and it's something that will be submitted shortly.

Ms. Doherty said that Mr. Watson said that there's no problem with the radius of the curve now.

She asked if that was (did not finish sentence).

Mr. Watson said that as it stands today, it's still sharper than it should be. He said that they've worked out a re-grading that swings it out where the tree was and brings it back onto the alignment. It widens it out and makes the curve easier to negotiate.

Mr. Gibbons asked if that had been inspected by the Fire Chief because the Board got his letter dated the 15<sup>th</sup>.

Mr. Watson said that he didn't know, but the Fire Chief has not seen that plan.

Mr. Merante said to clarify, the date on the letter from the Fire Company was December 15<sup>th</sup> and he just received it the day before yesterday. He said that they've been holding it since then.

Mr. Pidala asked Mr. Watson if they had guide rails.

Mr. Watson said yes, they specified a guide rail along the northern edge in certain spots where it's required.

Mr. Meehan asked what kind of guide rails they were going to put up.

Mr. Watson said with post rail.

Mr. Gibbons said that the Board said the road currently is an existing driveway and they're looking to go to an ODA, which means that they'd be able to subdivide down there. He asked since they're not putting in any more houses along that stretch, why they couldn't leave it as a driveway versus going to an ODA.

Mr. Watson said that there are two reasons. He said that first of all, if they read the easement, they'll see that they have access to only one lot off of the easement. Mr. Watson said that the second reason is that they don't own the ground that the driveway is on. It belongs to Mr. Lyons. It's therefore an easement, and because it's an easement, they have to have it approved for access and the easiest thing to do was to go through the ODA process and put a cul-de-sac at the end of the property.

Mr. Gibbons said o.k., but there is no intent at this time to do any further subdividing on the property.

Mr. Watson said that they haven't any ability to subdivide the property any further at this point. He said that they did have a discussion about that. Mr. Watson referred to the plan, pointed to an area and stated that as long as this is private, they can't subdivide it - period. He said that they do recognize that some time in the future it could be extended, it might be a public road, and something else could happen with the property, and were that to happen, they might feel differently, but they don't see that in the foreseeable future.

Ms. Doherty said that she'd like the Fire Department to have the opportunity to comment on this. She said that she thought it would be easier (inaudible).

Mr. Watson said that he hadn't seen the comment letter.

Mr. Merante said that he would briefly read it into the record and that the Board did not expect him to act on it tonight. He read the letter aloud.

Mr. Watson said that they certainly will address those issue. He said that they will address the turning radius. Mr. Watson said that they already mentioned guide posts. He said that they will consult with them as they go along, but basically it's really a matter of the geometry and they think they've solved that problem.

Mr. Merante referred to the CAC report on the bottom of the second page and read a section of the report aloud. He said that he hoped Mr. Watson had a copy of the report.

Mr. Watson said that he did have a copy of the report.

Mr. Merante said that the CAC and Wetlands Inspector have some serious concerns.

Mr. Watson said yes, they were aware of that and have addressed the drainage issues raised. He said that he knew there was some seeding that simply didn't take hold because it got there too late in the year, but he hadn't looked at whether anything's going on with the silt fencing, as he hadn't been up there since the last meeting.

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

Mr. Gainer said that he thought the intent was to see the applicant respond to the technical issues raised by the Fire Department and the CAC and Wetlands Inspector.

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

Mr. Gaba said no. He said that they've become Lead Agency for SEQRA Review and once the Board closes the public hearing, it can address whatever engineering issues might come up after that, and the Board will then be in a position to renew SEQRA determination and adopt an appropriate Resolution.

The public hearing notice was read aloud.

Mr. Merante asked if there were any questions/comments from the public.

Ms. Sylvia Wallin, resident of Horton Road, introduced herself. She said that several years ago when Harold Lyons permitted the turnaround, it was in exchange for the Philipstown (inaudible) - an old logging road that connected Horton Road to East Mountain Road South.

Mr. Merante asked if it was over the same easement.

Ms. Wallin said it was before Horton Road became (inaudible). It was a logging road that connected Horton with East Mountain. She said that the Town abandoned that road in exchange for Harold Lyons creating the turnaround to facilitate the fire trucks. Ms. Wallin asked if there was any possibility with the current zoning and with this application of having/creating (inaudible) between Horton Road and East Mountain Road South.

Mr. Watson said that he would say the answer to that is no for two reasons. He said that road runs along the westerly line of the property, then veers off, goes along the original westerly line down to what used to be the Pope House, and then it came out to Horton Road right at the very end of it. He said that the road is abandoned so it is not available as frontage. Mr. Watson said that it's probably possible to build it, but it's a pretty steep quarry and in his recollection, it's not something that would be within the Town's regulations regarding Town roads for grade.

Ms. Wallin said Town road.

Mr. Watson said yes.

Ms. Wallin asked if it could feasibly be connecting a private road.

Mr. Watson said in his wildest imagining if everyone gave him every permit that he was after, he guessed you could write a scenario that would say it could happen, but he didn't think so for a couple of reasons. He said that again, the steepness is a real issue - particularly in there. Mr. Watson pointed to a location on the map and said that piece of property, which was formerly part of the property, was conveyed to the neighbors and it is restricted from development, so they've got a section right in here (pointed out) where it's restricted, there's a larger section here (pointed out) that is restricted from development as a consequence as a conveyance of the land between Mr. Weber and the Lowrys.. Mr. Watson said that there are significant wetlands through here (pointed out), so you'd have to overcome all of that permitting. He asked, is it physically possible to build a road up there? Mr. Watson said probably, but he believed that road would have to be steeper than is allowable as a public road in the Town, and probably even steeper than is allowable in a Open Development Area right-of-way.

Ms. Wallin asked how the logging trucks got up through there a few years ago.

Mr. Watson said that it wasn't a logging road. He said that it was an old Town road from the 1800's.

Ms. Wallin said five or six years ago, the logging that took place up there involved trucks, she understood, going from Horton through to East Mountain.

Mr. Watson said that he was not aware of that. He said that he had no knowledge of that.

Mr. Richard Nairn, resident of Horton Road, stated that he does a lot of hunting up in that area and has seen a lot of water come off of the mountain - like a river. He said that he didn't think people realize how important the wetlands are up in there. Mr. Nairn said that they are vital. He said that the Board remembered Horton Road washed out back in the 90's. Mr. Nairn said that they keep taking these wetlands and it is not good.

Mr. Watson said that he thought they would see if they looked in the application package, that the wetlands were mapped, and with the exception of the work they have to do to improve the driveway to bring it up to a passable standard, there is no activity in place or proposed in the wetland. He said that if the constraints that are being talked about - the steep slopes and more particularly, the wetlands were not an issue, this wouldn't be a two-lot subdivision on forty-eight acres.

Mr. Nairn said that they could put in all the drainage they wanted to divert water from the site, but the water still has to go somewhere. He said that there is no drainage on East Mountain Road South. It all washes right on down and when it rains, a lot of water comes down through that area.

Mr. Merante said that the public hearing on this application will be continued at the next monthly meeting, which will take place on the third Thursday of next month.

### **Philipstown Square - Site Plan Approval - Site Plan Approval - Route 9, Cold Spring: Discussion**

Mr. Warren Smith, architect introduced himself and Larry Paggi, engineer. He presented the plan to the Board. Mr. Smith said that the thought of the owners, present this evening, is to upgrade the facility to make it more attractive - both to attract the tenants and also attract the use of the facility. He said that their plan was to give the building a new facade and to re-arrange the site parking. Mr. Smith said that there were three entries to the parking, all of which were unpaved and people would cut back and forth across Route 9 to get in and out of there. He said that it is not good planning to have lots of access point to the site. Mr. Smith said that there have already been (inaudible) just north of this property, which was done by the DOT to try to improve circulation of traffic there. He said that sort of following that, to try to improve safety along the road, the plan was to re-configure it and have one center entrance to the site in and out to channel the traffic and sort of control the access, speed and ability there, to delineate parking by actually paving the parking, and to maintain access around the building to the back for service and fire trucks and for employee parking. The north building has had office space upstairs and remains as office space upstairs. But the intent was to try to squeeze a little bit more retail space out of the property by filling in between the north and south buildings, so there's a new in-fill building that connects the two. He said that they're actually giving up square footage upstairs in the office area, so there's no net increase of rentable or usable square footage of the property. It is just the same as it always was - just configured differently. Mr. Smith presented the plan and pointed out to the Board the front facade of the building, the north building, the in-fill building and the south building. He said that the intent was to re-use some of the brick that was on the

original construction and unify the facade, but also give it some variety to break it up - particularly in terms of roof line. He pointed out the second floor office space and stated that the rest were not second floor spaces, but windows set into the structure to allow light down into the first floor spaces. Mr. Smith said that there is no usable square footage upstairs, they just didn't want it to look like a two-story and then a one-story building. He said that they added an arcade on the first floor to give covered access to the various shops and allow opportunities for signage at the entrances for the different businesses that would be in there. Mr. Smith said that opposite the entry drive there is a (inaudible) tower with a sign for the project as a whole.

Mr. Meehan asked if they had a lighting plan or landscape plan.

Mr. Smith said that in the Board's packages, there was both landscaping and (inaudible). He said that the landscaping was fairly straight forward.

Mr. Meehan said that he thought CAC had some comment about the vegetation along Clove Creek.

Mr. Smith said that he had not seen that.

Mr. Meehan said that he was a little disappointed with regard to the buffer. He said that they had the perfect opportunity to bury all the (inaudible) and should have done that.

Mr. Gibbons asked if the telephone/utility poles were going to remain on the property.

Mr. Scanga said that all the light poles along Route 9 are coming down. He said that he gave the Board specs for the new light poles that were put in there and they can show that on the lighting plan.

Mr. Gibbons said so the utility poles that are coming out are going to be replaced by the applicant. He asked what type of lighting (did not finish sentence).

Mr. Merante said that it is in the packet somewhere.

Mr. Meehan asked who was going to park in the back.

Mr. Paggi said that would be the employees.

Mr. Meehan said, so there wouldn't be people who park there and would have to walk around. Mr. Paggi said no.

Mr. Meehan asked if they were going to have some sort of light back there.

Mr. Paggi said no decorative fixtures back there. He said that basically they have building mounted lights at the doors for security.

Mr. Gibbons said that they have neighbors back there and he and Mr. Meehan didn't want them being disturbed by any light. He said that his concern is that it does say it's a temporary inlet stop. Mr. Gibbons said that they have a gas station next door that is part of the complex as well.

Mr. Paggi said no. He said that is during construction - it's an erosion sediment control...that's all that is.

Mr. Gibbons said because right now, they've eliminated the access from the plaza to the gas station, where people now have to come out on Route 9, go seventy-five feet, and then turn back in. He said that he really didn't want to see that.

Mr. Paggi referred to the plan and said that this (pointed out) is going to be permanently closed. He said that was part of the intention of this whole plan - to prevent that kind of traffic. Mr. Paggi said what was happening was that tractor trailers basically came in and blocked off the access to the plaza, so having that type of movement between these particular sites first of all, wasn't meeting any of the regulations as far as providing turning radiuses and parking areas, etc. Mr. Paggi said that his understanding was that the intention is to try to increase the functionality of the plaza and to create a safe ingress and egress to and from the site and actually prevent the kind of mismanagement of circulation that was kind of just happening along the entire front of both properties. He said that he knew people were used to that, but it's certainly not a safe condition.

Mr. Gibbons said that they, as a Planning Board, feel that they should have access. He said that they've done other projects where site to site you wouldn't even have applicants having to use an entrance and an exit on two different properties because they want the free flow.

Mr. Paggi said that he would agree, but not with a service station. He said that if you have a parking area connected to a parking area, where you had small vehicles coming and going and you could avoid...but that's not really what was happening.

Ms. Conner said that what's happening now though is that the way it is set up, there are tractor trailers parking on both sides of the street. She said that she lives right there and it is really dangerous.

Ms. Doherty said that if you even have a delivery truck - not even a tractor trailer, and another vehicle, it's very difficult.

Mr. Paggi said that's exactly the intention.

Mr. Gibbons said that a safety hazard is what they're creating.

Mr. Scanga said that the answer to the Board's question as to him going to the DOT, is that you can't tell them what you want. He said this is what they told them and this is what they gave him a permit to do, so that's what they did. Mr. Scanga said that he wanted to leave the other

entrance open and they wanted it closed up.

Ms. Sexton said that as a matter of safety, there's not another entrance into this place. She said that you have the front entrance and if there's an accident there, you can't get a fire truck, ambulance or emergency vehicle there. Ms. Sexton said that when they were first building the place, there was a place that allowed cars, but right now, people have to turn into that plaza when a pepsi-cola truck is making a delivery and it's a disaster. She said that it is unsafe and maybe DOT told the applicant that, but maybe the Board could talk with DOT. Ms. Sexton said that they could ask the people who frequent it - the Deli or the hairdresser, etc., what a disaster it is. It's so narrow that you can't see coming out and if somebody's coming in and there's no way you can turn a box truck in there practically, when it's coming north - never mind a tractor trailer.

Mr. Paggi said that they did provide a (inaudible).

Ms. Sexton said that she'd like to see them actually do it without having to cross the double line.

Ms. Doherty agreed. She said that when it comes in, it goes on the other side of the entrance. Ms. Doherty said that when you come around, it looks like it's on the adjoining property.

Mr. Paggi said that it is. He said that there is no barrier in the area because you have such close proximity to the property line for both buildings.

Ms. Doherty said that she thought what they were doing looks very attractive and it is going to be a big improvement, but she really would like to see something going at the entrance.

Mr. Paggi said that if you open up the entrance, you're going to encourage larger vehicles to come in.

Ms. Doherty said that she wants to make sure it is big enough for her car and a pepsi truck.

Mr. Paggi said that it is.

Mr. Merante said that he would tell them a couple problems he reviewed yesterday with the Board's planner. He said that whole area was complicated by Putnam County and their infinite wisdom to let that road out - Highway 10 - within a few feet of the applicant. Mr. Merante said that at the service area where Putnam Tire is, they have an entrance right there, then you go down the road and have the gas station. He said that he did not understand why DOT limited Mr. Scanga to just one entrance. He said he could have an in and out just like the Philipstown Farm Market. Mr. Merante said that he went by there yesterday and counted entrances and there are at least three commercial enterprises on Route 9 with two entrances - an in and an out, and they're marked so. He said that the entire Board is petrified of what's going to happen there one of these days. Mr. Merante said that he thought it was incumbent upon the Board to do something with DOT.



Mr. Scanga said that he is going to have to disagree with the Board. He said that he is in and out of the plaza. He's there five, six, ten times a day and he's come up against the delivery truck. If the entrance is used properly, there is no problem with that entrance. He said that he thought the problem is that everyone is just used to having a wide open entrance.

Mr. Merante said that he is not talking about one large entrance. He's talking about two entrances the size Mr. Scanga has now.

Mr. Scanga said that if the entrance is used properly - the way it should be used and not have cars pulling up, exiting the entrance, and in the middle of the exit. He said that it's not supposed to be used that way.

Mr. Merante said that's the problem though - the average layman is going to do that.

Mr. Scanga said that once you get out closer to Route 9, it opens up wide enough that you can get two trucks into that entrance.

Mr. Pidala said that once they figure out where the handicap parking is going to be, the whole (inaudible) will go in easier. He said that right now, people are parking there.

Mr. Paggi said that his office is on Route 9 - a little north, and he has the exact same arrangement as this. He said that he's in a twenty thousand square foot building and there's an old postal facility behind him that's now used by contractors and they have tractor trailers and dump trucks all day long. He said that it is the same size entrance. Mr. Paggi said that the Guardian Storage just to the north of him has the same size entrance. He said that up and down Route 9, you're going to see the same type of arrangement and that he has to agree with Mr. Scanga in that the Board is not accustomed to that because it was wide open. He said that he doubted the Board would convince the DOT that anything other than this is appropriate, because this is standard.

Mr. Merante said that he didn't understand because DOT also had control of the Philipstown Farm Market and gave them an entrance and an exit.

Ms. Conner asked how many businesses would be in there.

Mr. Scanga said that there are twelve stores.

Ms. Conner said because right now, they're used to having two. She said that they are going to have a lot more cars. Ms. Conner said that the Board is really serious about this.

Mr. Paggi said that it should be as it is a safety issue. He said that he thinks that this is not the first time an issue like this has been brought up in front of the DOT. Mr. Paggi said that is the standard.

Mr. Gainer said that he thought the basic issue is that the Board is put in a very difficult position

because discussion of the plaza was well underway before the Board was able to get the applicant to appear. He said that if this came in, in the process of a normal site plan application, the Board would have had these issues very readily expressed. Mr. Gainer said that if they looked at the turning radius that was presented on the design drawings, the issue would have been raised, the concerns would have been raised. He said that the Board would have raised concern over that and had an easy ability to see it if alternate access could be considered or a wider access could be considered.

Mr. Paggi said that again he thought the Board had to be somewhat understanding of the fact that the applicant doesn't want the large truck traffic in there, as it would hurt their business. He said that he can't survive with two tenants.

Mr. Merante said that the concern is, as Ms. Conner said, when they get ten or twelve businesses going, they are going to have far more traffic. There will be delivery trucks, peps trucks, etc., in and out. Mr. Merante said that nobody is saying that they want to go back to the way it was. He said that the Board is really pushing for an entrance and an exit, just like the farm market.

Mr. Gainer said or an ability to connect the adjacent sites so that the same...(did not finish sentence).

Mr. Paggi asked, do you really see that working though?

Mr. Gibbons said that it's worked for years.

Ms. Doherty agreed.

Mr. Gibbons said that it's worked since he's moved into the community.

Mr. Paggi asked, for who?

Mr. Gibbons said for all the people who have utilized it.

Mr. Paggi asked, for the two tenants?

Mr. Merante said that's what they have now. Hopefully, they'll have twelve tenants.

Mr. Paggi said that the purpose of blocking that off is to try to attract everybody.

Mr. Gibbons said that the purpose of blocking that off is to try to attract them.

Mr. Paggi said absolutly. He said that what's happening is that the people from the other site are utilizing property.

Mr. Merante said that the fact is that if County Road 10 had not been moved, it would be much less of a problem.

Mr. Paggi said that the one thing he'll say with regard to increased traffic is that the applicant is trying to develop his passenger vehicles and if they've got to have smaller delivery trucks coming into the site, they'll arrange that. They are not going to want to have tractor trailers coming in. He said that they're demonstrating a tractor trailer, because every now and then, they may have to get an emergency vehicle in there. Mr. Paggi asked, "Is somebody going to try to get in there with a tractor trailer?" He said that they might, but hopefully they'll do it once and not again.

Mr. Gibbons asked the applicant to show the Board the truck traffic and how they expected their peps truck to maneuver around.

Mr. Paggi referred to the plan and said that it is a tractor trailer truck.

Mr. Gibbons said that he was looking for loading and unloading spots. He asked the applicant to show the Board how they're getting in and out and where they were going to have the truck stopping.

Mr. Scanga did so.

Mr. Gibbons said that they were inferring it was going to be a one-way all the way around.

Mr. Paggi referred to the plan, pointed to an area and stated that he was actually anticipating that they were going to have smaller vehicles come back in here, deliver, back up and exit.

Mr. Gibbons said that Mr. Smith indicated they were going to have possible front and back entryways. He said that the place looks wonderful, but he was concerned with the traffic in particular. Mr. Gibbons said that the applicant is expecting twelve businesses and was sure they've done the calculation for parking spaces. He asked if the parking spaces shown were the required amount of parking spaces for this project.

Mr. Scanga said that they have the required amount of parking spaces.

Mr. Gibbons asked if he had excess spaces.

Mr. Scanga responded (inaudible).

Mr. Gibbons asked if they lost a front entrance because of the parking spaces required for this.

Mr. Scanga said if that were the case, maybe two spots.

Mr. Meehan said that most people probably aren't going to have much trouble, but the guy from New Jersey won't know from nothing. He said that if there were two entrances, he'd probably go in the "out" entrance, and that's the guy you have to worry about.

Mr. Gibbons said that the second story was all office spaces, but he did not see any bathrooms.

Mr. Smith said that there were two - a women's and men's room, and they are still there.

A person (unidentified) asked if it was handicap access to the second floor.

Mr. Smith said that there wasn't - just the stair entry and then two exit stairs and they haven't changed the footprint. He said that they discussed an elevator (inaudible).

Ms. Sexton asked if they go further, since all the offices were insulated up there with all that space

Mr. Paggi asked all what space?

Ms. Sexton said that it is actually not designed to be offices.

Mr. Gibbons said that they are showing offices galore.

Mr. Smith said that is all the north building - that is what's already there.

Mr. Gibbons said but that is what they're discussing - bathrooms, handicap access.

Mr. Smith said that the second floor of the north building (inaudible).

Mr. Meehan asked if the northeast corner was going to be all offices.

Mr. Smith said no, the storage is basically the trade-off for the new retail space on the first floor.

Mr. Meehan asked if the Fire Company looked at it.

Mr. Smith said they did.

Ms. Conner said it looked like they have more impervious surface now than they originally did.

Mr. Paggi said that they can't go there. He said that they can't go there with stormwater.

Mr. Smith said that he thought they had a .01 reduction.

Mr. Meehan said that was the concern of the CAC with all the stormwater.

Mr. Paggi said that they don't want to mess with that. He said that the site is not going to allow them to do the things that they should do.

Ms. Conner asked if it was their intention to address the concerns of the CAC.

Mr. Paggi said that he hadn't seen them, but yes. (The Clerk handed a copy of CAC's memo to the applicant)

Mr. Merante asked Mr. Gainer if he was aware of the issues brought up by the Wetlands Inspector.

Mr. Gainer said that there's much that has been said at these meetings because again the site plan had been so advanced in construction. He said that it is important to get that information documented and in the file for the record and that would at least get into the issue of water quality and stormwater issues. Mr. Gainer said that should all be documented in some formal manner and in doing that, they'll have an easy time in responding to the Wetland Inspector's comments so it can be put on the record.

Mr. Paggi said, so he was saying in response to the CAC, they'll provide the documentation they are looking for.

Mr. Gainer said that's what he would insist on.

Mr. Paggi said o.k. He said that he thought they'd done all the calculations.

Mr. Gainer said that he did not know it was in the record.

Mr. Meehan said that the CAC also talked about a certain type of filter too, that they're using down at the Appalachian (did not finish sentence).

Mr. Gainer said that's right.

Mr. Merante asked if with the EAF Part 2 (did not finish sentence).

Mr. Gainer said that it is incumbent upon the Board as far as its review of an application to take a hard look at the environmental impacts, again notwithstanding the fact that a lot of construction has been ongoing. He said that the Board directed them to prepare a draft Part 2 of the EAF and he provided it to the Board earlier. Mr. Gainer said that they can talk about the responses to some degree, modify it as the Board sees appropriate, and then seek to get clarification of Part 3 statements again for the record, to understand if the information is appropriate or available for the concerns raised.

Mr. Merante asked if the public had any comment.

Ms. Montgomery introduced herself and asked if the Board would invite the public up to take a look at the plans, since they weren't available to the public beforehand.

Mr. Merante said yes, if someone had a specific question and wanted to go up and address it.

The Board took a five minute break

Ms. Teresa Carlson introduced herself and stated that she was the neighbor in the back. She said that she wanted to clarify one thing. At one of the Town Board meetings, it was mentioned that the property went to the other side of the stream. Ms. Carlson said that her property goes over the stream and abuts their property. She said that she wanted to make sure they knew that the property didn't go over the stream.

Mr. Merante said, so the lines drawn on that were not accurate.

Ms. Carlson said that she saw now that they were on there and it looks o.k. She asked if they were going to have any kind of shrubbery in the back.

Mr. Scanga said that basically it's going to be all grass back there.

Ms. Carlson said that (inaudible) at night.

Mr. Scanga said that they didn't have plans for shrubbery. He said that as far as being brighter, those signs were always there. He said that they might not have been on, but they were always there.

Ms. Paggi said that they could look at making sure that the lights have shields and are downward. He said that they are not doing them any good if they're shining out. Mr. Paggi said that shrubbery would help for vehicle lights, but it wouldn't help lights up in the building.

Mike Leonard asked a question (inaudible).

Mr. Paggi said that the septic system that's configured back there is to accommodate the (inaudible) square footage so regardless of the usage, on the first floor will be retail, and the second floor would be office, and there wouldn't be any change in the septic. He said that if someone came in, they would need permitting from the Health Department.

Ms. Carlson said that the last time for some reason they had outdoor entertainment that went on until four o'clock in the morning. She asked if they would have a curfew.

Mr. Scanga said they are not going to allow that as landlords. He said that they are trying to maintain a certain presence there and there won't be any of that.

Mr. Watson said that with regard to the traffic between the two businesses, he could tell them that their crews go up there every morning. They go in, get their coffee, and go out. He said that he was wondering if that twenty years of uninterrupted passage between those two buildings hasn't ripened into an easement for that passage and whether or not it can be blocked.

Mr. Gainer asked if he meant between the sites.

Mr. Watson said between the sites. He said that the second point is that it appears to him that the sign in the front of the building that's under construction is more than the maximum height of four feet that's allowable under the zoning law. Mr. Watson said that there was an inconsistency with regard to Ms. Sexton's question about the handicap access and would like it explained because maybe he missed something. He said that he heard at the beginning that there was an infill between the two buildings and then he heard the same gentleman say that they hadn't changed the footprint.

Mr. Smith said that they didn't change the net leasible square footage.

Mr. Watson said what he said was the footprint.

Mr. Smith said if he did, he misspoke. He said that the footprint of the north building remains unchanged. They connected the two - an infill, and that square footage (inaudible) on the second floor.

Mr. Watson said that the fact that they didn't change the footprint seemed to be implying that was a reason not to provide handicap access.

Mr. Smith said no, there is full handicap access on all the first floor spaces including the new space. He said that there was never access to the second floor space because they are actually decreasing the second floor space and not proposing to add new access to that.

Ms. Amy Van Zahn of Hiram Road introduced herself. She stated that she loved what the applicant had done and thought it looked great. Ms. Van Zahn said that Ms. Carlson mentioned that she heard that the property ended at the creek. She said that at that point, she looked around a little more and noticed that since then, there's been a temporary barrier. Ms. Van Zahn said that her concern when looking out her back property is that it's almost like a dump truck came and pushed a lot of the materials down toward the creek. She said that there's a very large mound there.

Mr. Scanga said that the mound was there. He said it was existing.

Mr. Paggi said that it is the septic system.

Ms. Van Zahn asked, on the hill?

Mr. Scanga said that they didn't encroach that at all. He said that they've never been back there.

Ms. Van Zahn pointed out on the plan the area she was referring to.

Mr. Scanga said again that they hadn't been there and that it was like that.

Ms. Van Zahn said, which is possible. She said that she noticed it more after she was aware of

the boundary issue, but just wanted to ask the applicant.

Mr. Gainer said that the Board has a desire for the applicant to respond to the Wetland Inspector's issues and asked if they would also investigate this matter and provide something for the record.

Mr. Dennis Cronin of Hiram Road introduced himself. He said that his concern, just as Ms. Carlson's was, was that they had a bar there and they were playing horseshoes every night until two in the morning and he hoped they wouldn't have to face that again. Mr. Cronin said that he heard the applicant's answer though. He said that he likes what everybody is doing, but was concerned with how they would protect the creek, vegetation, the trees on their property because there will be a lot of activity in the back. Mr. Cronin said that he heard tractor trailers and cars back there. He said that he had talked to the original owner of his home, who shared with him that the previous owner had promised to put a line of pine trees there and the Board was involved with that and it never happened. Mr. Cronin said that he wondered if anyone remembered that or if it could happen to protect the things he mentioned.

Mr. Merante said that he guessed one of the things the Board could do is ask for it/insist on it. He said that this property has never been before the Planning Board before, so they really had no hand in anything that's on there now or prior to this.

Mr. Cronin said that with regard to the two entrances, he uses it as he goes to the deli and liquor store. He said that it is too dangerous with Route 9, you can't get away with one entrance, and he doesn't care what DOT says.

Mr. Hans Moeller introduced himself. He said that they regret that they have not yet sent a reply to the Board's request regarding concerns on the project. Mr. Moeller said that first of all, it looks great. He said that when it comes to getting in and out, he talked to the Chairman this evening and told him he was coming to the meeting and he said that one entrance sucks. Mr. Moeller said that they think that the idea of having one entrance into the project and one exit out of the project will allow for (inaudible) entrance and exit and he was fairly certain the Board would be hearing from Mr. Hyatt.

Mr. Gainer said that it would be very good to make that response as timely as possible.

Mr. Moeller said that they will. He said that they have a Chief that's just finishing a term and have a new Chief coming in and he will bring it to his attention by tomorrow.

Mr. Pidala asked why when the applicant got a permit to do his project and was asked to come back to the Planning Board, the Town didn't stop him at that time. He asked why when they watched him put in the entrance, they didn't say something to him.

Mr. Gainer said that he couldn't offer any inside as to the history and how the project evolved. He said that he knew that the Planning Board early on was trying to get the Building Inspector to



respond to the issue of the need for a site plan approval.

Mr. Pidala said that he wasn't told to stop - he was told to come back to the Planning Board. He said that the Town let him keep on doing the building. Mr. Pidala said that they should have stopped him and said to keep on doing the building - just don't do the front. He said that you can't watch somebody do something and then make them take it back or apart. Mr. Pidala said that he did not think it was right.

Mr. Merante said that they can't speak for the Town Board and he didn't know if anybody brought it to their attention to challenge or anything. He said that they all know that there was a lot of talk about this issue. Mr. Merante said that the work has been going on under a legal building permit. He said that everybody has expressed an appreciation for the project with one very large exception and he said that he thought it was incumbent upon the Planning Board to take a stand when safety is the primary issue, regardless of what money or whatever else has been spent on it. Mr. Merante asked Mr. Gainer and Mr. Gaba if in making contact with the DOT and expressing their displeasure on this, there was a chance of getting some mitigation on it.

Mr. Gainer said that he could not offer any certainty as to how DOT would respond, but he thought in recognizing the concerns raised and reiterated by the public, it was incumbent upon the Board to at least offer that concern to DOT to see if some mitigation can be offered.

Mr. Merante said especially with the fact that a precedent has been set by other businesses up and down the same road.

Mr. Gainer said that should be expressed as well. He said that it may fall on deaf ears, as they are obviously an independent agency, but if the Board has concerns and is being asked to sign off on a site plan approval, it should at least express its concerns.

Ms. Doherty asked if the Planning Board would send a letter to the DOT expressing its concerns. Mr. Gaba said that if that is the way the Board wants to approach it, that's fine. If the Board wants to save the applicant some time and money, it would not make them come up with an alternate drawing showing one way in and one way out and approach the DOT and have the DOT give them a thumbs up or down. What they might want to do is have the DOT contacted and see if they would be receptive to that possibility. If they say no way, then there's no point in sending them on a fools errand, but if they say that there's a chance that if they saw an appropriate design, then the Board would have them re-do those front entrances, approach the DOT with alternate design and see if they could get approval for it.

Ms. Doherty asked if the Planning Board would send a letter.

Mr. Gaba said if it wants to do it that way, yes, let's do it that way. He said that the Board would probably want to have Mr. Gainer follow up the letter with a phone call to local DOT fellows and see if they can get anywhere with it.

Mr. Gibbons said in listening to the audience, if this were coming before the Planning Board ordinarily, this Board has always made sure that the neighbors screening has always been in place. He said that he thought it was incumbent upon the Planning Board to listen to the neighbors and get screening back there. Mr. Gibbons addressed Ms. Van Zahn and asked if she had an issue with this or if it was that the Board put up a picket fence to delineate things or the bushes would be sufficient for her to delineate that boundary.

Ms. Van Zahn said that if there were a bush or hedge or something that could be the boundary. She said that she didn't have an issue and it wasn't a problem, but there is going to be a lot of people. Ms. Van Zahn said that she didn't know what the answer was.

Mr. Gibbons said that he did not know if they could really work on something like that, but he did think that the screening portion needed to be looked at.

Mr. Merante asked if the Board wanted to go over the Part 2.

Mr. Gainer asked if the Board wanted to do it during the public hearing.

Mr. Gaba said that he thought they were going to hold the public hearing open anyway.

Mr. Merante agreed. He said that the Board would continue the public hearing next month.

The Board went through the Part 2 (copy attached).

Mr. Gibbons said that he thought with regard to Impact on Transportation, the blockage between the two sites really needed to be addressed and that personally he would like to see it re-opened.

Mr. Gainer asked Mr. Gibbons which column he wanted checked.

Mr. Gibbons said that he thought it was actually creating a large impact because the cars leave the plaza side, go out onto Route 9 seventy-five feet, and then go into the gas station. He said that worse, is coming out of the gas station and going across the two lanes and that was how he drove under a tractor trailer years ago.

Mr. Gainer said that they would check column two on the first bulleted item.

Mr. Meehan made a motion to adopt the Part 2 as modified. 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
Kerry Meehan	-	In favor

Andrew Pidala- In favor  
Pat Sexton - In favor

Mr. Merante said that this will trigger a Part 3 EAF.

Mr. Gaba said yes - an expanded Part 3 and they'll have to address the identified concerns.

Ms. Doherty asked if the Board would send a letter to DOT.

Mr. Gainer said that he had the sense that he and Mr. Gaba were going to prepare a draft over the Chairman's signature and will distribute it to the Board pretty quickly. He said that hopefully that doesn't wait until the next meeting.

Mr. Gaba said that the Board also suggested that the applicant, likewise, contact the DOT and see if they'd be amenable to alter.

Mr. Merante said that the application would be continued at the February meeting.

Ms. Sexton said that she'd like to ask Tom Monroe to provide the Board with a letter explaining reasons why the project is exempt from the handicapped accessibility to the (inaudible) floor and have him include in that how it's exempt on the (inaudible). She said that this way, it is on record.

Mr. Gaba said that they will look into it and contact Mr. Monroe. He said that one way or another, it will go into the record regarding the handicap accessibility.

Ms. Sexton said also, with regard to the parking spaces, they should really put the zone on the right - on the driver's side.

### **Regular Meeting**

#### **Crane - Subdivision Approval - Lane Gate Road, Cold Spring: Request for return of funds**

Mr. Merante stated that the Board received a letter from the applicant's surveyor. He read the letter aloud.

Ms. Doherty made a motion to return the funds. Mr. Pidala seconded the motion. The vote was as follows:

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

**Lyons Realty Company - Appeal #840 - Route 9, Cold Spring: Referral from ZBA**

Mr. Watson said that it is a couple hundred acre site and about twenty or thirty acres is an application to mine the site. He presented a plan and pointed out Route 9, Horton Road, etc. Mr. Watson said that Lyons Realty bought the property in 1986. He said that most of the property is restricted from mining. There's mining allowed in the industrial zone, which is about a thousand feet back from Route 9.

Mr. Merante asked if there was some equipment already set up there.

Mr. Watson said that Mr. Lyons' daughter has a place there - Moore Cement, and they had a site plan a few years ago and had the silo back there.

Mr. Merante said but it is not part of it.

Mr. Watson said no. He said that actually, they are getting a temporary license from the neighbors to temporarily access this, so that they can work with construction of the entry from the back instead of the front. Mr. Watson said that they have made an application to the Department of Environmental Conservation. He said that they made that the same time as they made the application to the Planning Board. All the material that was sent to the State was sent to the Zoning Board and distributed. Mr. Watson said that he spoke with Mr. Gainer the other day and he asked how he was doing with the State application. Mr. Watson said that he was trying to speak with Mike (inaudible) to find out what was going on and was unable to do that until yesterday. He said that he was promised he would have their first set of comments back within the next week. Mr. Watson said that they had a pre-application meeting with the State about a year and a half ago, where they discussed all of the issues. The two major issues with regard to studies that they're going to be looking for are the noise study - they've engaged someone to make the noise study and provide them with mitigation if necessary for noise impacts, and the other is that they were looking for the visual impacts of this mining operation. Mr. Watson said that the mining operation is a thirty year operation. So they asked them to look at it from the road and from Scofield Ridge over across the way. He said that he thought it was pretty well completed and ready to get rolled into the environmental review when that time comes. Mr. Watson said that all the activity in terms of the mine will take place off of Route 9. He said that the big sales pitch is that right now the guys that are bringing soil into this Town are driving for an hour and a half to get a truck load of soil at four miles to a gallon. He said that's three hours to transport twenty yards of material. Mr. Watson presented Phase I. He said Phase I involves the construction of the entry road and the initial mining area, which will serve as the initial staging area. He said that they'll be coming from the neighbor's property on a temporary basis so that they can access this road from the back.

Mr. Meehan asked Mr. Watson how much blasting they were going to do.

Mr. Watson said hopefully, they will do no blasting. He said that you could never say none, because you could hit a spike of something that you've got to deposit around that has to get out

of the way, but they would normally have the operation stop when you hit that. It is unconsolidated material. Mr. Watson continued with his presentation and said that as the mine progresses, the first phase is beginning to be reclaimed, and then the mine moves into the inner part of the mining area. It progresses a little further. The mine progresses forward and the reclamation follows it behind. Mr. Watson said that he wanted to point out that the road is going up a side hill and the mine is actually going to be behind the hill. Essentially, you are going to be looking up from Route 9, you'll see a road, then you'll see the natural grade and the mine is going to fall behind that.

Ms. Doherty said they'll see it from the road.

Mr. Watson said that the first part you'd see from the road and the construction of the road, you would see from the road. He said that once you get into the mine, you're digging behind the wall and leaving the grade and trying to get down this way (pointed out), so that the natural grade will stay there and it is being landscaped. Mr. Watson said the next phase, it moves down and the reclamation moves in behind. That's the final phase. He said that it is all sloping very gently down. Mr. Watson pointed out the stormwater management permanent facility that captures the water and is treated at the very south end. He said that other than the road construction, all the drainage is being directed into the mine, so that it won't be going out toward the road.

Mr. Gibbons asked what the buffer zone was.

Mr. Watson said that the white ground indicates where you have active mining. He pointed to the mine road coming into it. Mr. Watson pointed out the areas that have been landscaped. He said that they are on side hills. Referring to the plan, he stated that the brighter green is going to be basically a fairly flat area and would be grasses, etc.

Mr. Gibbons said that he was concerned with the north end. He said that the little bit of green that seems like it might be fifty feet before it goes brown.

Mr. Watson said that's water. He said that it is being cupped and the water is going to flow this way (shown).

Mr. Gibbons referred to the neighbors to the south and asked if it was a residence.

Mr. Watson said that he did not think there was a residence there, but he would check.

Mr. Gainer asked what buffer there was to that property line or to the disturbance of the mine.

Mr. Watson said that he had to check.

Mr. Merante asked Mr. Watson if he was reclaiming as he goes along.

Mr. Watson said yes, that's what's happening. He said that the reclamation is about a phase

behind basically - maybe a phase and a half. Mr. Watson said that obviously, there's a trucking route that's going to keep going through. He said that the road is a permanent road. Mr. Watson said that one of the objects of a soil mine is to end up with a usable piece of property, so there are two elements to that. First of all, the industrial area will be screened, hidden and relatively flat and developable. He said this was one of those areas that was on the old master plan - it was targeted as a possible development site and it will work because the boring sheets that were provided...they have every expectation to reach a floor, which will have a developable piece of property that is hidden from direct view from the road, so somebody could have a small shopping center in there.

Mr. Meehan asked if it was going to look like Quarry Pond possibly.

Mr. Watson said that Quarry Pond was never reclaimed. He said that it was mined at a point when there wasn't much truth to the mining law in terms of the reclamation. Mr. Watson said this reclamation will be bonded and it has to happen in a definite pattern that's dictated by the State or they'll shut you down.

Mr. Meehan asked if after thirty years, it would be ready for some sort of development.

Mr. Watson said yes, absolutely. He said that it will be a usable piece of property. There's still soil below the floor of the mine. The soils are good soils for septic. Mr. Watson said that the difference between this and the Quarry Pond site is that this is not going to be visible. He said that it is not going to be something where you're going to drive by and look down a hole.

Mr. Merante asked if it would be effectively at the Route 9 level or down below that.

Mr. Watson said no, it's still considerably above Route 9. He said that the floor of the mine is still considerably above Route 9.

Mr. Merante said so it's not going to be a hole in the ground like Quarry Pond.

Mr. Watson said no. He said that if you came in through the woods, you would see it - you'd be coming from on top of it, looking down, but you'd have to go up and over the rim to see down.

Ms. Conner said that it is a fairly steep road coming off of Route 9 into the site. She asked if there were to be a development later, they would have to come through Horton Road.

Mr. Watson said that's a possibility that is within the next couple of slides. He said that it's actually not a very steep road. It's on steep ground, but it's cutting with the contours. He said that he believed it's ten percent, which is not really very steep, especially in Philipstown. Mr. Watson continued with the presentation. He said that he guessed that was the end of the mine. Mr. Watson said it is fully reclaimed.

Mr. Merante said that is just the road being extended. He said that's not a mining...because he

thought the numbers were eleven acres out of the total 136. So that's not a mining spot - it's a continuation of the road.

Mr. Watson said that was correct. He said that there is excess material, which will be trucked off, so in a sense, you could make an argument that it was. Mr. Watson said that hypothetically, it could be connected through and reclaimed.

Mr. Meehan asked what the land looked like on the northeast side of that.

Mr. Watson said that it is very flat and developable property. It gets very steep and rocky over here (pointed out). He said that he did not know exactly where it leveled off.

Mr. Meehan said that there's a lot of potential back there.

Mr. Watson said that he believed there was a deed restriction on the actual development. He said that he would check that. Mr. Watson said that they decided to show the Board this possibility because he could see neighbors objecting because it's another through route. So that's yet to be determined. Mr. Watson said that they are prepared to take it off of the plan - it is not integral to what they're doing, but it's a real possibility.

Mr. Merante asked Mr. Watson if it was seven phases over thirty years.

Mr. Watson said yes.

Mr. Gainer asked Mr. Watson if he indicated there was a deed restriction on portions of the property that prevent mining.

Mr. Watson said yes.

Mr. Gainer asked where that was originated.

Mr. Watson said that the property was owned for years by a Dr. Ulmar. He and his wife left the property to Joan Ellison, who subdivided it into four or five large parcels, of which Mr. Lyons bought three. When Mr. Lyons bought that, Mrs. Ellison imposed the restriction on mining - limiting mining to the industrial area - roughly, it's not exactly on the line. But Mr. Watson said that he thought it was totally within the industrial zone.

Mr. Merante asked if Mr. Gainer would suggest the Board schedule a site visit.

Mr. Gainer said that he was wondering how the Board wishes to progress the application. He said that the Board's obligation is to offer comment for any issues it sees appropriate back to the Zoning Board of Appeals. It's a limit of Planning Board's involvement - it has no SEQRA responsibilities. Mr. Gainer said that his only wonder to the Board was whether it wanted as part of this and appreciating potential impacts that it might want to see litigation for, to conduct a site walk.

Mr. Gaba said that he thought there were a number of considerations the Zoning Board was going to have to look at - in terms of special permit and in terms of site plan. He said the Board's engineering consultant should prepare an appropriate memo for the Board addressing the areas he thinks need to be commented on and circulate that to the Board. Mr. Gaba said then they'll put together a report, which they'll send over to the Zoning Board.

Mr. Gibbons said the Board has thirty day, sixty days.

Mr. Gaba said that he did not think there was a time limit. He said that he believed the DEC was taking Lead Agency for SEQRA Review, so even the Zoning Board is not going to be able to act until they're done with SEQRA on this, which for the size of it should take a fair amount of time.

Mr. Merante asked the Board if it wished to make a site visit.

The Board decided to schedule the site visit for Sunday, February 8<sup>th</sup> at 9:30 a.m.

Mr. Gainer asked where an appropriate place to meet would be.

Mr. Watson said that probably the parking lot behind the building.

Ms. Conner said that Mr. Watson said that there was a deed restriction on the mining on that back property.

Mr. Watson said that he thought there were two deed restrictions, but he'll check it. He said that he did say that and he is absolutely certain that there is a restriction against mining from roughly the industrial district line to the southeast on the rest of the property. Mr. Watson said that he also thought, but was not absolutely certain, that there was a restriction on either the number of lots or the minimum size lot that could be developed on the property, and would check.

Ms. Conner asked if Mr. Watson knew how big the back piece was.

Mr. Watson said that he probably has that information.

Mr. Gainer asked how big the physical mine was.

Mr. Merante said that he thought it was eleven point some acres approximately.

Mr. Watson said that he thought that was right.

**Garrison Contracting - Site Plan Approval - Route 9 and Diamond Hill Road, Garrison:  
New submission**

Mr. Tim Cronin introduced himself and Mr. Dave Tory, Mr. Jones' representative. He said that this property has an existing building on it and is located in between Route 9 and Diamond Hill



Road. It is a small triangular piece - 40,005 square feet in size. It's located in the B-2 zoning district, and in that district, 40,000 square feet is the minimum size that's necessary to develop, so they're just over that. Mr. Cronin pointed to the building on the plan. He said that the front yard setback is fifty feet, they're down to twelve and that's, in part, due to the fact that Route 9 was widened, which decreased their lot frontage - plus the fact that this building was built sometime in the late 50's, early 60's. Mr. Cronin said that the application is for a used car dealership, which is a use that's allowed with a special permit by the Planning Board. He said that they're showing a total of fifteen spaces, eight of which they're proposing for the actual used cars and they'll be located on this area (pointed out). Mr. Cronin said that seven spaces will be used for the employees and Mr. Jones' operation.

Mr. Gaba asked if they were existed paved spaces.

Mr. Cronin said proposed. He said that right now, there's a little bit of a rock that will have to come out, so they'll have to do some rock removal in the area.

Mr. Gaba asked if that was in the required front yard.

Mr. Cronin said yes, it is.

Mr. Gaba said, so they'll need a variance.

Mr. Cronin said that if they do, they'll seek that from the Zoning Board. He said that the building was built in the late fifties, early sixties and there's an existing septic system or the remnants of a septic system right off the corner of the building. Mr. Cronin said that they are proposing and pursuing getting a permit to construct a new septic system. He said that they've made application to the Putnam County Health Department and they've asked that they contact NYS DEC, which they have and for the purposes of the septic system installation that no permits are necessary from the DEC, they have a copy of that letter, which they could provide to the Board. Mr. Cronin said that was the major issue that was outstanding with Putnam County. He said that he expected that once they submit that information/letter from the DEC to Putnam County, they should be able to get a permit to construct their replacement septic system in short order.

Mr. Merante said that he had a letter from David Klotzle, Wetland Inspector regarding a stop work order on this site. He read part of the letter aloud.

Mr. Cronin asked if there was a date on the letter.

Mr. Merante said January 22, 2009.

Mr. Gainer said that is the notice to the Planning Board. He said that it's an acknowledgment that there's an active stop work order.

Mr. Cronin said that in the past, he knew that Mr. Jones was exploring where the septic system was and also he was installing a new septic tank.

Mr. Jones said that was five years ago.

Mr. Merante addressed Mr. Jones and said that the only other date he had on the letter was February 13, 2006.

Mr. Cronin asked Mr. Jones if that was the time he was putting the septic in.

Mr. Merante read another part of the letter aloud.

Mr. Jones said that he went in front of the Judge in Cold Spring a few years ago and that's been settled.

Mr. Merante said that he was wondering why he sent it to the Board.

Mr. Jones said that he wouldn't know, as that matter was settled two years ago.

Mr. Gainer asked Mr. Jones what he came before the judge for originally.

Mr. Jones said that he didn't remember.

Mr. Cronin asked if the Board would identify what matter they were referring to.

Mr. Merante said Section 93-5B - Freshwater Wetlands Law.

Mr. Gainer said that the Board will provide the applicant with a copy.

Mr. Merante said that if the applicant had a resolution of this issue, he thought they should have it on record also. He said that the Board doesn't know if it's been resolved or not.

Mr. Meehan said that it says, "violation and stop work order still in effect".

Mr. Cronin said that it is an existing site. They are looking to remove some of the rock and park used cars there.

Ms. Doherty asked Mr. Gaba if, with regard to the issue of whether or not they need to go to the ZBA, the Board had any other information on that.

Mr. Gaba said that he didn't know whether new parking spaces in the front yard setback required a variance or not and he would have to look into it. He said that he suspected it did, but the building is existing, and if they are not proposing any changes to the building, they certainly don't need to go for that. He said that the septic they don't need to go for. Mr. Gaba asked the

applicant if there were other site improvements or anything else the Board should know about.

Mr. Cronin said this area (pointed out) is going to be graveled parking area.

Mr. Gaba asked if it was just gravel and not asphalt.

Mr. Cronin said right.

Mr. Merante asked if blasting was going to be involved.

Mr. Jones said probably not. He said that they've been in touch with New York State Department of Transportation, who were very much in favor of it.

Mr. Merante said but they're not sure at the moment whether they need blasting.

Mr. Jones said no.

Mr. Gaba said that it's going to be a much easier application to process if they don't have to go to Zoning Board in terms of SEQRA, site plan and special permit. He said that he would suggest putting it over until next month. The Board can give the applicant their initial consultant's comments on that and give them a copy of the issue it has regarding an outstanding violation. Mr. Gaba said in the meantime, the Board will look into the question on whether they'd need a variance or not and hoped the applicant would give the Board his position on whether he did or not. They'll come back next month and the Board will either give the applicant a referral or go forward with processing it.

Mr. Gainer asked if from the applicant's perspective, there were any other active matters before the Town Board.

Mr. Jones said no.

Mr. Gainer said to his knowledge, the site was bisected by the zoning district.

Mr. Cronin said that he did speak with Mr. Monroe. He went back to the 2000 zoning map and it shows a line, which pretty much follows this line here (pointed out) with the update in (he believed) 2006 or 2007, so something was modified.

Mr. Merante asked, from what zone to what zone.

Mr. Cronin said that he believed it was R-80 to B-2. He said that they feel as though it was the intent of the person drawing the zoning map at that time in 2006...you've got seven potentially possible existing maps and he believed that there was a typographical or drafting mistake made at that time. Mr. Cronin said that he believed Mr. Monroe has concurred with their position.

Mr. Merante asked if the applicant had applied to the Town Board to correct that.

Mr. Jones answered (inaudible).

Mr. Merante asked if they were in the process of it.

Mr. Jones said that they've told him they are in the process of it.

Mr. Merante said that he thought the Planning Board should have some sort of proof of that. He said that Mr. Gainer had recommended scheduling a site visit for this site. The Board agreed to meet for a site visit on Sunday, February 15, 2009 at 9:30 a.m.

Mr. Gibbons asked if the Board could ascertain a letter from the Town or Mr. Monroe that there are no more issues on this property.

Mr. Merante said o.k., the Board can ask Mr. Monroe.

Mr. Gaba said that in regard to non-conforming properties/non-conforming lots, the deal is as long as they meet all the other requirements...non-conforming meets the area, shape and frontage requirements, it's excused. So as long as they can meet everything else, it's irrelevant.

**Unjoo/Dong Yu - Site Plan Approval - 544 Route 9D, Garrison: New submission**

Mr. Joe Gucci, architect, introduced himself and stated that he was representing Mr. Tom Yu. He said that Mr. Yu is proposing to take a pre-existing building and rehabilitate it. Previously, it has been a delicatessen. It has a garage next to it. Mr. Gucci said that he believed the Board had a copy of the application for site plan approval as well as some maps and photos. He said that it is a pretty simple, straight forward project, and they were not looking to touch the vast majority of the lot. The two existing buildings they are proposing to connect with a link, which is about twelve by fifteen deep and combine that all into a restaurant that is a permitted use subject to site plan approval. He said that it does not require a special use permit. Mr. Gucci said that the road conditions are pre-existing. There are two driveway cuts. There is a paved curb along the side of the road. The existing setbacks are substandard, but they are pre-existing. The existing parking lot is maybe about three feet shallow of what he would consider standard, so they are proposing to cut slightly back into the hill, which begins right about the back of the building to extend the depth of the parking lot, so you have adequate clearance for two rows of spaces and twenty-five feet between. Mr. Gucci said that there is an existing septic system onsite which is on record with the Town and the Department of Health. It has been rehabilitated as recently as 1986. It's a thousand gallon capacity, which is more than adequate for a forty-four seat restaurant. It will be a maximum of forty-four seats and capacity in terms of gallons per day would be seven through ten for patron and it far exceeds that. Water would be supplied by an existing well. Mr. Gucci said that he did not know what the GPD is for that particular well, but will try to find that out. He said that if it is not adequate, they will provide another well on the site. He said that Mr. Yu is planning on doing a Japanese garden on the site. He was thinking perhaps between the rock outcropping and the building of re-creating some type of garden back

there. There is also very limited opportunity for doing anything in the front of the building, but they would like to add some islands where they might be able to put some plantings there. Mr. Gucci said that they are trying to add some flower boxes to the building and give it a little bit of appearance which would be a vast improvement over what's there now. He said that the existing septic system is on file. It was approved by Putnam County Department of Health in 1986. The septic field is a 1200 gallon capacity. Daily water use for the restaurant with toilet facilities is seven to ten gallons per patron per day times forty-four patrons, or about 440 gallons. Mr. Gucci presented a drawing and stated that it was what the building may look like when it is rehabilitated. He presented the floor plan showing an entrance and a new handicapped accessible (inaudible), a patron serving area, and a new kitchen area. He pointed to an area and said that it would be the length between the existing garage and existing building. The lighting on the site would be minimal and would be downward directed so as to create an absolute minimum of glare. As far as noise, he did not think there should be any noise other than normal traffic noise.

Mr. Merante said that according to the Planner's memo to the Board, immediately the non-conforming increases when the applicant has the piece of fill-in between the two buildings. He asked Mr. Gaba if beside that, he was aware of any other issues that needed to go to the ZBA for a variance.

Mr. Gaba said no, that's the one - the building doesn't conform with road setback and he thought there was a residential district setback it didn't conform with either.

Mr. Gucci said that's on the right side. He said that across the road is commercial and to the one side of it is commercial. The other side and behind are R-80. Mr. Gucci said that he did believe that the setback on that side was not within standard.

Mr. Gaba said, but the building is within it, so it's a non-conforming building. He said that they're modifying the non-conforming building, so they have to go to the Zoning Board.

Mr. Gucci said that again, it is a pre-existing condition.

Mr. Gainer said that they are just trying to statutorily understand how the Planning Board's permitted to process the application, so it appears that the first step he needs to take is to resolve the need for variances with the ZBA and then can return to the Planning Board and process the application.

Mr. Gucci said, so they need a ZBA approval in order to go to non-conforming setback.

Mr. Merante said they need a variance for that.

Mr. Gaba said that if they wanted to leave the building alone, they wouldn't need to go to the zoning.

Mr. Merante said yes, they are adding something to the non-conforming.

Mr. Gainer said that if the building, which is pre-existing, was not being modified, they're not worsening the pre-existing condition, which is non-conforming. He said that the fact that you are actually making the non-conformity worse by the infill, which is a good idea and it works for their intended use, that is fine, but statutorily, they have to get permission to do that and then come back to the Planning Board.

Mr. Gucci asked if there were any other issues.

Mr. Merante said that he would ask the Board for any comments right now, but again, that is why they set the second site visit. He said that they could put this on for February 15<sup>th</sup> as the second site visit.

Mr. Pidala asked if they had thirteen spaces for parking for the dining area.

Mr. Gucci said that there is a total of sixteen spaces and that's based on the zoning requirements.

Mr. Pidala asked how many floors they had.

Mr. Gucci said that first of all, you're not going to have all thirteen spaces filled every hour. He said to assume you have three seatings per day and you're filling maybe sixty percent of the seating. That's going to be the number of space you're going to fill, so your twenty-four patrons divided by two will be about twelve spaces. He said that there is also room potentially behind the building if they need to create additional parking, but he went strictly by the requirements that were in the zoning book.

Mr. Pidala said that you have to worry about where the employees are going to park. He said that they can't park on the side of the street.

Mr. Gucci said that there is also a loading area, which is not required.

Mr. Merante asked Mr. Gainer if he had anything else.

Mr. Gainer asked if the Board should formally deny, then let them go to the ZBA or just direct them to go.

Mr. Gaba said that it would be a referral.

Mr. Gucci asked when the ZBA met.

Mr. Merante said the second and fourth Monday of the month.

**Maria & Johan Jung - Petition for change of zoning: Referral from Town Board: Request**

**for informal discussion**

Mr. Jung introduced himself. He said that when Mr. Watson presented, he said that Mr. Jung had intention of selling his property, which was not the case. Mr. Jung said that he never discussed with Mr. Watson that he would sell the property. He said that in reference to expanding the parking lot, he has nine parking spaces and has no intention of making new parking spaces. Mr. Jung said that if the Board wants him to stick to nine parking spaces, he has no problem. With regard to the septic system, he has a tank under the driveway that is 1250 gallons. Down below he has two dry wells. Mr. Jung said that it's been in there for over twenty years and he pumps the tank out every two years and doesn't have any problem with it. He said that with regard to the steepness of the driveway, it is steep, but he never hears anybody complain about it. Mr. Jung said that the driveway of the Stadium in the back he thought was even steeper than his and they have a lot more problems up there. He said that in reference to the privacy over there, the parking lot is right on his living room window. It is actually ten or fifteen feet from his property and everything is right against his property line and the parking lot. He said that kids throw their beer bottles and everything lands on his property and many other things that he has to pick up. Mr. Jung said that he didn't think it was much of a residential property. He said that also they have the (inaudible) up there and it looks like at about eleven o'clock at night, the activity starts to pick up. It gets very loud and very noisy. He said that he brought it to their attention and it's o.k. for a weekend, and then a week later it starts again - especially in the summer.

Mr. Meehan asked why Mr. Jung wanted to change the zoning.

Mr. Jung said that his daughter wanted to have a nail shop there about three years ago. But his wife got sick and then that fell away. Mr. Jung invested over ten thousand dollars, so he didn't want to let it go. He said that his son-in-law is in construction and was interested in putting an office in down there. Mr. Jung said that's why he wants to change it.

Mr. Meehan said that he's going to put a construction office in.

Mr. Merante said that aside from all the issues that the applicant brought up, the Board's primary concern was that if that becomes commercial, they have a real concern as was mentioned earlier, about access from the steep driveway on to Route 9.

Mr. Jung said that his driveway is safer than the one across the street and the Stadium. He said that at the Stadium, you have eighteen wheelers backing in there, which is very dangerous.

Mr. Merante said that the Board knows that and they are not happy, but can't do anything about that.

Mr. Gibbons asked the applicant if the Board had a letter from DOT stating the sight lines were o.k. from his driveway.

Mr. Jung said that the State designed Route 9 and made it a lot safer than it used to be.

Mr. Merante said that a couple of Board members asked for a site visit the last time, and since they'll be doing Garrison Contracting, which is right across the street...he's asking for a recommendation from the Planning Board to the Town Board. Mr. Merante said that he thought the Board absolutely had to look at this.

The Board agreed to look at this site on February 15, 2009.

Mr. Merante said that the Board will look at the property and then make a recommendation to the Town Board.

### **Approval of Minutes**

-January 22, 2009

Mr. Meehan made a motion to adopt the minutes. Mr. Pidala seconded the motion. The vote was as follows:

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

### **Adjourn**

Ms. Doherty made a motion to adjourn the meeting. Mr. Pidala seconded the motion. The meeting ended at 10:10 p.m. The vote was as follows:

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

Respectfully yours,

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: \_\_\_\_\_