

Philipstown Planning Board
Meeting Minutes
April 19, 2012

The Philipstown Planning Board held its regular monthly meeting on Thursday, April 19, 2012 at the VFW Hall on Kemble Avenue in Cold Spring, New York. The meeting was opened by the Chairman at 7:30 p.m.

Present: Michael Leonard, Chairman
Kim Conner
Mary Ellen Finger
Kerry Meehan
Anthony Merante
Pat Sexton
Neal Zuckerman
Steve Gaba, Counsel
Ron Gainer, Engineer
Susan Jainchill, Planner

Approval of Minutes

- February 16, 2012

Mr. Meehan made a motion to accept the minutes. Mr. Merante seconded the motion.

- March 15, 2012

Mr. Merante made a motion to adopt the minutes. Mr. Meehan seconded the motion.

The votes were as follows:

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

Public Hearing

- Mary Ellen Finger/Entergy

Dr. Finger recused herself and left the table.

Mr. Watson stated that this was a dual application and combined public hearing. He said that Dr. Finger's property is a working farm that encompasses twenty acres of industrial property. The same property was the subject of a five-lot subdivision, which would have involved a town road of approximately six to seven hundred feet and a total of five lots. Mr. Watson said that the entire subdivision has preliminary approval – three of the lots were given final approval and filed in the County Clerk's office. The subdivision application is to re-align the entire property into three lots – a residential lot in the rear of property, which would be accessed by a private road, the farm lot, which takes up the bulk of the center of the property and the front lot, which is the lot on which Entergy plans to build its emergency operations facility. Mr. Watson said that they have

submitted the Part 3 EAF for the Board's consideration. He said that the subdivision has many of the same drainage features as before and the disturbance is less. Mr. Watson said that essentially it's a five-lot subdivision, is going to become a three-lot subdivision and it will accommodate the site plan proposed by Entergy. He introduced Don Mayer and stated that he would give the Board an overview of what happens at the facility.

Mr. Mayer stated that he was overall responsible for the planning, design and construction of the proposed facility. He said that it is a single level occasional-use commercial building whose purpose will be to assist emergency management of an event at Indian Point where central coordination is required. Mr. Mayer said that it is an emergency response facility. He said that an off-site location is best suited to achieve their goals for a newly constructed modernized building and the Horsemen's Trail location was ultimately chosen as their top location after they assessed various other opportunities in the surrounding counties. Mr. Mayer said that the building itself is basically an information and communications and support center hub that they would use for training drills and exercises so that they maintain readiness for an actual event that could require a facility manning. Training drills and exercises occur periodically as was described in the submittal, generally on a quarterly basis. Mr. Mayer said that the building will not contain radioactive material, nor does it have any control connections back the actual power plant. All plant operating controls are at the plant. He said that this building only receives vague communications from the plant so that they can perform assessments and conduct communications with the facility. Mr. Mayer said that to their existing facility that they have at their station right now, it meets all the regulatory requirements and as a result of that the new facility, has no relationship or ongoing license renewal process since it would continue to meet those same requirements after license renewal. Mr. Mayer said from a business view, they look at this as a long-term worthwhile capital investment that will provide them with an upgraded facility.

Mr. O'Donnell stated that he wanted to talk to the Board about what was on the site outside the building. He said that the site is not too big and fits the orientation of what Entergy is trying to achieve for the use of the building. They have a configuration of two parking lots - one parking lot would be mostly for the employees of the building and the rear parking lot would be overflow parking in case of its actual use. He said that members of the media would park in the rear. The entrance to the site would be off of Route 9. Mr. O'Donnell said that there are two stormwater watersheds that cross the site. The stormwater is achieved with three basins and they're all underground. He said that it does not use parking lot infiltration, but does move stormwater through inlets to the underground system where it then percs underground and then recharges the aquifer below. Mr. O'Donnell said that they have some landscaping on the site.

Mr. Merante asked if they had done any preliminary studies on how much water they could expect at the site in a worst-case scenario.

Mr. O'Donnell said yes. He said that they've analyzed the one year, ten year and hundred year twenty-four hour storms and even off-site, and in the one and ten year case, no water actually leaves the site. It's all infiltrated inside. Mr. O'Donnell said that in

reality, he didn't expect any water to ever leave the infiltration basin that's underneath the parking lot because the soil percs so well. He presented drawings to the Board.

Mr. Zuckerman said that the drawing doesn't convey an increase in coverage with regard to landscaping and he couldn't tell if there were more trees along Horsemen's than there were the last time, that they were planning on planting. He asked that Mr. O'Donnell give the Board an idea of what they're doing to obscure the view.

Mr. O'Donnell said that they've added about a dozen more trees out in the front area and landscaping in several areas (pointed out to the Board).

Mr. Zuckerman asked if it would obscure it over time or in the short term.

Mr. O'Donnell said that the close-by landscaping would be short term, but the trees would need some time to grow. He said that the trees would not be saplings - they were somewhere in the range of five to ten gallon size.

Ms. Conner asked if they were evergreens.

Mr. O'Donnell said no, they were oak and maple trees.

Mr. Meehan said that he didn't give the Board a sense of what the place looked like from Route 9 and asked if he was going to get to that.

Mr. O'Donnell said yes.

Mr. Meehan asked if they anticipated a lot of runoff from the farm and if they used fertilizer.

Mr. O'Donnell said that he could not answer whether they use fertilizer or not. He pointed out on the plan the peak and low spot and showed the direction of the water shed on the site. Mr. O'Donnell explained to the Board how the water would pass through the system. He said that the Entergy site really never sees any stormwater from the farm itself.

Mr. Zuckerman referred to section 175-65, page 210, number 2, letter B and asked if one of the consultants would let the Board know if this were applicable.

Mr. Gaba looked at the Code and explained the different sections. He read aloud the section of landscaping and said that he thought it was only talking about if you had an HC or an OC district, abutting or residential district - the idea being that there would be a more dense buffer. Mr. Gaba said that there looked like there was also a provision for really narrow lots, but he was not sure of the applicability of that. He said that it certainly wouldn't apply here though.

Ms. Conner said, so it wouldn't affect the back either.

Mr. O'Donnell said that the zoning is all the same. He said that as a courtesy to each other, they added very close to the definition of the landscape screening buffer between the two properties.

Mr. Gaba said that if the Board would like to see evergreens as opposed to maples and can articulate a basis as to what it is (did not finish sentence).

Mr. Zuckerman said that he was trying to stay within the spirit of screening the building from the road as much as possible.

Ms. Jainchill suggested that the applicant maybe look toward more native shrubs and (inaudible) that would grow in layers so it would do the screening – if not immediately, then overtime. She said more park-like, rather than campus-like.

Mr. O'Donnell said that they could entertain that. He asked if there was something about the building that they would need to screen and if there was a requirement for screening. Mr. O'Donnell said that the idea was to break up the view – not essentially screen, which he believed was the Board's comment from the beginning. He said at the Board's request, they added several trees and further, they added the vertical landscaping in the front of the building. He said that short of making it a forest, he was trying to achieve the Board's original question.

Ms. Sexton said that you're going to see it in the winter. It's not going to screen anything. She said that the screening in front of the building is nicer. Ms. Sexton said that to screen that size building from Route 9 you would need a forest. She said that maybe they could throw some more evergreens in. Ms. Sexton said that it is a huge building, it's steel and is sort of out of sorts for the area.

Mr. O'Donnell asked how the Board felt about replacing a few of the maples with evergreens.

Ms. Sexton said that it might break it up better, but it was not going to be screened from Route 9 no matter what they did.

Ms. Conner said especially because it's high.

Mr. O'Donnell said that it is not as high as they think. He said that there is a slight rise, but then there's a large berm in front of the building and from the street, you won't be able to see half of the building.

Ms. Conner asked if the excavating is done behind the berm and would not remove the berm.

Mr. O'Donnell said that's correct.

Ms. Conner said that when the Board was on the site, they discussed how much would have to be excavated.

Mr. O'Donnell said that the contour map shows that when driving up to the building, to the left, you'd see a berm, which would probably be eight or nine feet right there, and significantly shields the building look.

Mr. Gainer asked if they developed any cross sections to the site to better illustrate that.

Mr. O'Donnell said yes. He referred to sheet C-9 and it said it showed swell plan profiles and cross sections. Mr. O'Donnell said that it's basically cut and fill.

Mr. Meehan asked what was going to be on top of the building and what the neighbors would see when they looked down.

Mr. O'Donnell said that they'll see a screen and some mechanical units.

Mr. Meehan said that they wouldn't be shiny or silvery.

Mr. O'Donnell said that typically, a factory color is a very matte color finish, so no. He said that it would probably blend into the roof.

Someone (unidentified) asked if they had a screened fence.

Mr. O'Donnell said that they have a screen that matches the sign color.

Mr. Watson said that they obviously have a little difference philosophically, but he wanted to point out that the zoning law and most of the town has a 250-foot area for screening. He said that they specifically left it out of the commercial areas because people want to be seen from Route 9. Mr. Watson said that the whole idea was that it was purposely left out of the zoning and they are trying to soften it. He said that as he said at the last meeting, they are really not interested in hiding it so that it is invisible and they do not understand why in this district with the uses that are surrounding it, it is an important item. Mr. Watson said that they are trying to have some visibility and a softened look and don't find that contrary to what's in the zoning or what was discussed at the zoning committee meetings. He presented to the Board several photos that were taken from Route 9. Mr. Watson said that on a day-to-day basis, there would be maybe two or three employees who arrive for maintenance and that may not even happen on a daily basis – it may be a weekly basis. On a quarterly basis, there would be a training session of roughly sixty people who would come for the day, do training and leave. If there were an all-out event, 180 people would come. Mr. Watson said that the police would be called and there would be traffic control from the sheriff's office. He said that on the last set of plans, they made a change in response to the traffic situation. There was some discussion about putting a no left-hand turn sign at the intersection of Horsemen's Trail and Route 9 and if the Planning Board wants them to do that, they would be happy to do that.

Mr. Merante asked how visible the site was from the trailer park.

Mr. Watson said that he did not believe there was a place in the trailer park that would see this, as you have the junkyard, the gas station and then the trailer park.

Mr. Merante asked where the two remaining residential lots were.

Mr. Watson said that one of the residential lots is the house that Dr. Finger lives in now and the second residential lot is quite a bit further back and higher up.

Mr. Merante said they are going from five to three and this is going to take one of those lots.

Mr. Watson said yes. He said that the two lots in the front have been merged into one and the two lots in the back are merged into one.

Mr. Leonard asked if the public had any comment.

Mr. Charlie Caputo introduced himself, stated that he has been living in Philipstown and because of the high taxes, cost of living, and the fact that he would like to retire in Philipstown, he would appreciate this project being approved to help the tax burden.

Mr. Richard Sporbert introduced himself and stated that he built a house on Knollwood Lane forty years ago, which is between five and six hundred yards from the proposed facility. He said that he worked for both Con Edison and Entergy and those companies have shown in the communities they have become involved in that they are extremely good friends to the community and good citizens. They will build a quality building, they will maintain the grounds impeccably and they will provide a very good asset to our community. Mr. Sporbert said that this is the perfect fix for what he thinks they need in this community and it would help offset the taxes.

A gentleman (unidentified, as tape was changed), stated that they're putting dirt on the other side to balance it out, so would they be raising up or increasing the slope that's going to come down to Horsemen's Trail itself and they're creating a greater slope of the northern eastern section because they're raising it up. He asked what the impact of water runoff on the other side would be and if that had been taken into consideration.

Mr. O'Donnell pointed out the watershed for each basin. He said that any water that falls on the slope, hits the swale and comes across the property.

The gentleman asked if the signs that were requested to be put up were legal signs or they were just suggestions.

Mr. O'Donnell said they were recommendations of their traffic consultant.

The gentleman said, but they have no true impact on the person and they can do what they like. He asked if that was correct.

Mr. Watson said that he did not know the answer to the direct question, but would tell him that if you ever work for Entergy and break one of their rules, you're in big trouble.

The gentleman said that unfortunately there is no absolute you can say to that. He said that when you think of long term, they're saying four or five events a year. The gentleman asked what would happen in time, and if they would want to use it additionally and expand the use, and what the recourse would be for him and others.

Mr. Watson said that the applicants submit a Statement of Use. If they violate the site plan approval, they're subject to violation of their site plan approval. He said that if someone was affected and wanted to complain about it, they'd go to the Building Inspector and he'd issue an appearance ticket and they'd have to correct it before they could even apply to add the use to their new business plan.

The gentlemen said that Mr. Watson was saying that they're going to be limited specifically to four or five events a year. He asked if they exceed that, they receive a violation, and they'd have to stop using the building before they could continue on.

Mr. Mayer said that as they discussed, the facility's purpose and intent is for training and exercise preparation in the event of emergency at the plant. It's an occasional use facility, which means there could be fifteen people show up, but that's periodic. Mr. Mayer said that there's no other purpose for the building other than that. He said from a regulatory point of view, they have to maintain that purpose. They can't do anything else with the building to make it more significantly utilized.

Mr. Gaba said that obviously the Board hasn't made a decision one way or the other on it, but he would anticipate in the course of going through SEQRA review that a condition would be imposed that if there's any change in the nature or intensity of the use and particularly with regard to traffic, an application for amended site plan approval would have to be required. Mr. Gaba said that he did not think it was the type of thing they'd have to worry about, as legally it would be part of any approval.

The gentleman said that with regard to traffic, he knew a traffic study was done and they just looked at Polhemus and Entergy. Nothing was taken into consideration for senior housing and whether that had any impact on traffic. He said that also, when you look at the volume, the volume is large and the amount of cars in an evening, going northbound could conceivably be over a thousand.

Ms. O'Green introduced herself and said that she was the Environmental Director for Hudson River Sloop Clearwater in Beacon, serves on the Town Board in the Town of Rosendale, and is the Liaison to the Planning Board. She said that as a councilwoman she appreciated the concern for ratables and the need for taxes, but she did not understand given the size of the property that Entergy has in Buchanan, why they didn't just build

the facility there. She said that she also wanted to suggest that in this day and age, building things like renewable energy, geothermal, even more green infrastructure than has been put into place and a company like Entergy could really set a very good example. Ms. O'Green asked why they called this a good business investment. She said that she heard the gentleman who spoke before her said that Entergy might or might not be re-licensed. In either case, Entergy is not just a nuclear energy generating facility. They are also a radioactive waste storage facility – they have to store the waste on site. So whether or not they get re-licensed, emergency planning is critical. Ms. O'Green said that she wanted the Board to consider the fact that they have very serious concerns about the viability of evacuation. She asked if the potential risks outweighed the benefits.

Mr. Chmar introduced himself and asked if they would explain the lighting plan for the facility including the parking and the building.

Mr. O'Donnell presented the lighting plan and explained the lighting system to the Board.

Mr. Chmar asked how tall the poles were.

Mr. O'Donnell said that they were twenty feet with fifteen feet on the building.

Ms. Nancy Montgomery introduced herself and said that her question was with regard to the roof. She said that right now in that area, they have 20,000 square feet of flat roof that exists with the Scanga lot, 20,000 more proposed with their approved new building and now 20,000 square feet of flat roof. Ms. Montgomery said that there are neighbors above them and a whole community south of the applicant who she thought had a view of this area. She asked if there were any opportunities for a green building/roof. Ms. Montgomery said that they are putting their mechanicals on the roof and asked if there was any opportunity for them not to do that.

Mr. O'Donnell said that they extensively explored so many opportunities. He said that this building is just off of a lead building, so it has a lot of green features inside of it. Mr. O'Donnell said that it is not going to be a registered building, so it will be shy a few points, but there's a lot of green aspects in the building. He said that this building is going to be considered basically, if it's in operation, a critical facility and one of the risks with a green roof is leakage. Mr. O'Donnell said that he knew there were plenty of ways to try to prevent that, but the best thing for Entergy is to not have the potential since there will be an unmanned space or basically a lights out facility. He said that if a leak were to occur, to get into their equipment would be devastating if they needed it the next day. So they did not have the opportunity to explore a green roof. Mr. O'Donnell said that with that said, it's not necessarily a flat roof – it's pitched.

Ms. Montgomery asked if they knew the color of the roof yet.

Mr. O'Donnell said that he did not know the color.

Ms. Montgomery asked if there was an opportunity with regard to the mechanicals, to place them somewhere else other than the roof, as the Board had Scanga do in their application.

Mr. O'Donnell said that they explored placing the units on the back side and they just couldn't get the air flow. He said that they do have a well, a water storage tank, and a generator, didn't have the location to put those, and found they needed to put them on the roof.

Ms. Montgomery said that she also enjoys the streams around there, spending days fishing and hiking through there, and asked if Mr. O'Donnell would explain again the storm water management system, as she understood no water would leave the parking lot. She said that it is 180 parking spaces and a lot of asphalt to run off into their infiltration basin, where they say the water is never going to leave and will evaporate from the basin.

Mr. O'Donnell said infiltrate straight down.

Ms. Montgomery said, into a stream eventually.

Mr. O'Donnell said aquifer.

Ms. Montgomery asked if it was fair to say that with the large amount of asphalt with the water, the temperature of the water flowing into the aquifer is going to be a little hotter than it exists in the aquifer.

Mr. O'Donnell said yes, but the aquifer is much further down, so by the time it flows from the surface all the way down the aquifer, the earth has cooled in temperature. He said that happens within the first few feet. Mr. O'Donnell said that it would cool naturally. He said that based on the 1, 10 and 100 year storm, he thought the calculation was up to three and a half inches of rain would have to happen in 24 hours, before anything comes out the discharge point. Mr. O'Donnell said that it is a very robust design.

Ms. Montgomery said that the parking lot is not going to be used everyday and asked what the issue was with impervious pavement.

Mr. O'Donnell said mostly it's filling of the cracks. He said that regular maintenance is every quarter – they come around with a street sweeper and suck it all up.

Ms. Montgomery asked if all their lighting was down lighting – on the whole property.

Mr. O'Donnell said yes.

Mr. Merante asked what size fuel tank the applicant had to feed the generator and where it was located.

Mr. O'Donnell pointed out on the plan where the generator was.

Mr. Merante asked if the fuel tank was diesel.

Mr. O'Donnell said it's a diesel belly tank.

Mr. Merante asked what the capacity of fuel was.

Mr. O'Donnell said that he'd have to get back to the Board on that. He said it was a 24 hour run.

Mr. Merante said that he'd like to see it on the record. He referred to Mr. Chmar's question and asked if in the winter it would look like one big ball of light.

Mr. O'Donnell said that he couldn't recall the operation of the lighting, but thought it was on all of the time.

Mr. Merante asked if was on even when nobody was there.

Mr. Mayer said that they hadn't thought it through that far. He said that they could make arrangements to alter the lighting, but it has to be illuminated.

Mr. Merante said they said it would mainly be used four or five times a year, and asked what would happen the rest of the time.

Mr. Mayer said that it needed to be running on a 24/7 basis.

Mr. O'Donnell said that on other facilities they do like this around the country, some are on the whole time so that you can navigate around and some are on the building for security, but all the rest are on a "light switch", where if you turn it on, it will go on and off with the dark and light sequence of 24 hours. If it's off, then they're always off. Mr. O'Donnell said that was something Entergy could consider.

Mr. Leonard said as a follow-up question to Mr. Merante's question regarding the diesel generator, he asked if the tank was a double hull to avoid possible leakage.

Mr. O'Donnell said yes, it's above-ground and a double containment.

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

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

Dr. Finger joined the table again.

William and Susan Wood – Approval of three-lot subdivision – 334 East Mountain Road North, Cold Spring: Request for return of escrow

Mr. Gaba said that as far as legal fees go, the matter is done. He asked if there were any outstanding invoices from anyone else.

Ms. Jainchill said that she spoke with the Code Enforcement Office and they are looking for five copies of the final plat that have not been filed with the County yet and once that’s done, there’s no problem giving the escrow back.

Mr. Gaba asked who would verify it was done.

Mr. Leonard said yes, the Board had to leave it open.

Mr. Gaba said that he thought the Board should and someone should write a letter to them.

Mr. Gainer said that he could just call them to tell them that when the plat has been signed by the Chair, the Board needs documentation that it’s been filed with the County.

Mr. Gaba said that would work and the Board could conditionally approve release of the escrow – the condition being that Mr. Gainer would confirm that they actually delivered the copies of the filed plat to the Town, and once the letter comes in, the Chairman could sign a letter to the Town Board saying that they could release the escrow.

Mr. Gaba said that he would directly contact the applicant and the surveyor.

Mr. Meehan made a motion to make the conditional approval to release escrow based upon Mr. Gainer’s follow-up and the Chair’s sign-off. The motion was seconded. The vote was as follows:

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

Gex – Realignment of property line – 24 Hummingbird Lane, Garrison: Request for 90-day extension

Mr. Marconi introduced himself and stated that he and Ms. Gex would like to get an extension. He said that the Putnam County Department of Health is still reviewing the plan and working with their engineer for the septic design, which he understood has been preliminary approved by them. Mr. Marconi asked if they did have to come for another

90-day extension, and they came in 90 days from now and that meeting is July 19th, would they have to come a month before if it's a day before in that month.

Mr. Gaba said they really should. He gave some background on the Gex application and explained that the applicants were now asking for their third 90-day extension. Mr. Gaba said that the town law, up until last year, provided that after you got your conditional approval, you had 180 days in which to get final approval to satisfy the conditions and if you didn't do it within 180 days, the approval expired and you had to start over again. He said that it allowed for two, 90-day extensions to be tacked on to that 180 days, but didn't allow for any more than two. The town code tracked the provisions of the town law. Mr. Gaba said that site plan approvals are a whole different ball game – that you could get unlimited extensions. He said that last November, the State Legislature changed the town law and made a provision saying that you can just as with site plan, get unlimited extensions provided that the Planning Board makes a determination that good cause exists. But the town code was never amended because it was fairly recent. Mr. Gaba said that the Planning Board has consistently taken the position that additional extensions are allowed under the town law and they've routinely granted them notwithstanding the provision in the town code. He said that he and Mr. Doyle have prepared a local law, which will amend the town code to make it consistent with New York State law regarding extensions. Mr. Gaba said that it doesn't really affect Gex as far as that goes, and he thought the Board would still proceed under the town law.

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

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

Scanga Lot 4 Amended Site Plan and Lot 5 Site Plan: Lady Blue Devils Lane, Cold Spring: Request for extension(s)

Mr. Paggi said that they were looking for an extension to buy them some time for some administrative items. He said that he believed they met all of the conditions, but ran out of time at the eleventh hour.

Mr. Gainer said that he believed all conditions had been met.

Ms. Sexton made a motion to grant a 90-day extension for both applications. Ms. Conner seconded the motion. The vote was as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Kerry Meehan	-	In favor

Anthony Merante - In favor
Pat Sexton - In favor
Neal Zuckerman - In favor

**Lausca, LLC – Interpretation Appeal #877: Referral from ZBA
Philipstown Square – Route 9, Cold Spring: Request to consider revisions to plan
and response to ZBA regarding Notice of Violation**

Mr. Paggi stated that the owners of Philipstown Square were served a notice of violation by the Code Enforcement Officer following an incident where a vehicle traveling through the gas station into Philipstown Square struck the curb. The notice of violation states that the curb was not a part of the approved site plan. Mr. Paggi said that they appealed that violation with the ZBA. He said that it is their opinion, and they hoped the Board agreed, that it's very clear that the curb was a part of the approved site plan, although it was not graphically depicted because it was actually laying under the property line...there was a note that clearly said, "twelve foot portion of existing curb to be removed including a six foot taper on either side and a speed bump to be installed". Mr. Paggi said that resolution had similar wording and the Planning Board minutes reflect the same thing. He said that they were in front of the Planning Board because the ZBA asked them to come back and he thought they were looking for a statement that "yes, the curb was a part of the approved site plan". Mr. Paggi said that there is a "part two" to why they're there. He said that the owners acknowledge that there can be some improvements here to assist in the visibility of that opening to try to help avoid people hitting the curb from the other side in the future. Mr. Paggi said that they do still maintain that the curb is appropriate and important because if it weren't there, the vehicles that actually tried to travel through would travel into the area of the parking stalls. He said that was the purpose of the curb to begin with – to try to provide safe access and vehicular movement within the Philipstown Square site. Mr. Paggi said that the current owners have agreed to propose a slight amendment to the site plan that would widen the existing twelve-foot wide speed bump to a total width of thirty feet so it would basically match the back of either side of the parking stalls. He said that the approved site plan showed a similar island opposite that. They're proposing to move that island up against the property line and plant a tree and some holly adjacent to the edge of the opening to clearly delineate. Mr. Paggi said that it's a small modification, and they think it will help with visibility coming through.

Mr. Gainer asked if Mr. Paggi was proposing the thirty-foot to be flat with tapers on it.

Mr. Paggi said the side would be rounded and another side they'd continue to have the six-foot taper coming back, and in the entire length they'd have the speed bump. He said that they're happy to leave it at twelve feet, but they think it's a good faith effort to show that they're willing to try to improve the situation. Mr. Paggi said that the Code Enforcement Officer suggested there might still be an open application with the Board for this site for some revisions that he was not involved with about a year ago, and that plan had not yet been signed. He said that is why they don't have an application in front of the Board for this modification - it would really be an amendment to the existing application prior to it getting signed. Mr. Paggi said if that is the case, they'd rectify it however they need to do that.

Ms. Jainchill said that she was told the original site plan had an island on it that was not installed and asked if that was correct.

Mr. Paggi said that is correct.

Ms. Jainchill said that would have helped...(did not finish sentence).

Mr. Paggi said that it would have helped delineate it.

Ms. Jainchill said that she believed that was part of the violation too.

Mr. Paggi said that was correct.

Ms. Jainchill said that there are other solutions that might be considered. She said that she was there today and that the new building and walkway is very well done and the rest of the site is pretty well maintained. Ms. Jainchill said that the little edge of the site was sort of neglected with how it looks to the passerby. She said that she was referring to the curb coming down – the two side of the curb tapering. Ms. Jainchill said that it is not a normal thing that you see in the context of what's going on with the rest of the site. She said that perhaps there were other solutions and she distributed a few sketches. Ms. Jainchill said also, with regard to the thirty-foot wide...she did not think from a planning point of view, it's better now.

Mr. Paggi said that he would support any one of the sketches and thought the owners would as well.

Ms. Jainchill suggested putting a textured cobble, which would tell people to slow down.

Mr. Paggi said that the issue was never really a speed bump. He said that the pictures are more aesthetically pleasing and he did not know if the Board would have any objections to them, but the issue was that people were missing the opening all together and just running into the wall.

Ms. Jainchill said she saw that. She said that she sent around her comments this past week. Ms. Jainchill said that another suggestion, although it was beyond what they need to do, would be maybe an evergreen hedge.

Mr. Paggi said that they are willing to take suggestions and that's why the holly was there – it is something that will be pretty all year round.

Ms. Jainchill said that she would suggest using a native holly – it's one that survives in shade and won't take any extra maintenance.

Mr. Leonard asked what the height of the speed bump was.

Mr. Paggi said three inches.

Ms. Jainchill said that she believed the curb height was eight inches on one side and eleven inches on the other.

Mr. Gainer stated that the original Philipstown Square project he thought was approved in 2009 or early 2010. The project actually came before the Board only after it was completely constructed. Mr. Gainer said that there were some discussions between the building department and the Planning Board. Approval was eventually granted with the modifications they spoke about and the formal entrance at the center of the site, the Planning Board mandated that DOT permit be obtained, which was done. Subsequently they came back in later 2010 for a 500 square foot addition to the rear of the southerly building. That also received site plan approval. Mr. Gainer asked if they were saying that was the application that was never signed by the Chair.

Mr. Paggi said that he thought that was what they were referring to, but he was not involved with it.

Mr. Gainer said that they do have it in their records – a Resolution of Approval. He said that the Code Enforcement Officer suggested it hadn't been signed and there's no record of it in the files.

Ms. Conner asked if there were still landscaping items that were supposed to be addressed in the back.

Mr. Gainer said that the site plan approval had a variety of enhancements to put in the rear. The connection between the sites the Board insisted upon came right out of the Code. He said that the provision for landscaping, which apparently was not installed, and the enhancements along the frontage, which are now in place, came out of the first site plan approval.

Mr. Paggi said that he was not aware of that, but the applicants are aware that it is an issue and are in the process of addressing it.

Mr. Gaba said that if it were just a matter of clarifying things for the ZBA, he'd say it could be taken care of with a Resolution. If it were the case where the site plan hadn't been approved, he'd say it could be treated as a modification of that existing application. Mr. Gaba said, but it has been approved and they're proposing changes to the existing site plan. It looks like the island was never installed, so that is something they might want to re-visit too. He said that he thought probably the appropriate thing to do was to treat it as an amended site plan application and it's the type of one you might consider waiving the public hearing on. Mr. Gaba said that the Board should declare itself Lead Agency and make a 239M referral. He said that he did not know if another site visit was needed.

Mr. Gainer asked Mr. Gaba if they required another application.

Mr. Gaba said yes and a short form EAF was fine.

Mr. Gainer told Mr. Paggi if it was a new application, he would start with the Code Enforcement Officer for a pre-application screening.

Mr. Paggi asked if they could accomplish the part with the ZBA so they could go back and take care of their business with them simultaneously.

Mr. Gaba said that he didn't see why not. He said that he thought it was probably cleaner if they address that in the Resolution granting approval for the site plan, but if they want a separate one and the Board was willing to do it, he didn't see why they couldn't have two resolutions instead of one.

Mr. Paggi asked if it was actually a Resolution that needed to be done to say it was part of the original approval.

Mr. Gaba said if the ZBA wants to be certain. He said that if the Board was comfortable with it, he'd draft a letter and circulate it.

Ms. Sexton said because it absolutely was part of the plan – whether it never made it to paper or not.

Mr. Gaba said that it is mentioned in the Resolution. He said that he thought the ZBA and Building Inspector were looking for something expressly stating, “there isn't a detail on it in the plans, but here are the parameters of what should be there”. Mr. Gaba said that he'd be more comfortable with something in writing if he was representing the ZBA. He asked if there was a hurry to get back to the ZBA and if there was an issue there.

Mr. Paggi said that he didn't know that there is a timing issue. He said they told him to get it clarified and then come back to them.

Ms. Sexton made a motion that a Resolution be drafted. Ms. Conner seconded. The vote was as follows:

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

Mr. Leonard stated that Mr. Zuckerman left the table, but the Board maintained a quorum.

County Line Equities, LLC – Minor site plan amendment application – Route 9 and Travis Corners Road, Garrison: Revised plans

Ms. Smith stated that the zoning was incorrect on her first application and with the incorrect zoning, she also had to make corrections to the calculations for the coverage. She said that she's amended the map for the correct zoning and put the Statement of Use on. Ms. Smith said they had a site visit and they counted forty-one vehicles on the site during the visit. She said that she re-did the calculations and for the amount of coverage she could have sixty vehicles, so she left it as sixty even though the use of the building on the south side is a granite counter top business. They might have trucks and she didn't know if the Town counts a truck as a double parking space. Ms. Smith said that she allowed for any vehicles for the other use. She said that she was only there for the tenant on the north side of the building and he was asked to remediate a violation from Code Enforcement. Ms. Smith said that he doesn't have a lease and has been there twenty years. She said that this is the same use as the use for the original site plan approval.

Mr. Merante said he thought they had talked about the fact that the State had something to do with impounded vehicles on this property too.

Ms. Smith said that's why originally he had about twenty vehicles but when a vehicle is towed, he must keep it until they release it or they come and get it, etc. She said that once he tows the vehicle to his property, he doesn't really have a lot of control over how long it's going to be there. Ms. Smith said that the State makes him keep it and then he has to send notifications and if the people decide they don't want to come and get it, then he has to notify them again, etc.

Mr. Gainer said that the original purpose of the site plan was to address a Notice of Violation she received relative to the amount of vehicles stored on the property. He said that when the Board conducted its January 2012 inspection, the most significant issue was the various construction equipment that was on the site. The site plan does indicate that things are to be removed as they had requested, but the primary purpose they were intending originally was to identify a storage area for those impoundments. Mr. Gainer said that the Board had found cars parked throughout the site.

Ms. Smith said that she had them all lined, but it is all behind the fence. She said that since they're all wrecked vehicles it's better to screen them and so she did talk to him and can get him to pull them in. Ms. Smith said that they do need access to one at a time in case they need to be removed, etc., and they have to remain pretty much in tact.

Mr. Gainer said that the plan currently doesn't indicate the storage that exists on the property now in terms of how they're stored.

Ms. Smith said that's why she came up with this layout and that's how she'd like to propose that he park the vehicles.

Mr. Gainer asked if she was suggesting through the site plan that cars would not be parked elsewhere other than those delineated spots.

Ms. Smith said correct.

Mr. Gainer said that as was indicated, there are far more than the delineated spaces on the current plan.

Ms. Smith said that she could show now forty-one vehicles and on the north side of the building, she added the storage trailer and the Building Inspector suggested it be there and it does meet the criteria for the setback, so it becomes part of the building.

Mr. Gainer said so the layout will satisfy her needs and address the zoning violation.

Ms. Smith said correct.

Ms. Jainchill asked where the planting would be on the site.

Ms. Smith said that there are very large trees along the back property line. She said that this isn't zoned residential. Ms. Smith said that the trees are not uniformly along the property line, so she would have to stagger something in there because she doesn't have a straight line to run a fence. She said that she was thinking evergreens along there, but wasn't sure how they grow with the mature trees she had and it really has to be worked out.

Ms. Jainchill asked if Ms. Smith would be submitting a planting plan.

Ms. Smith said that she would add how many feet of fence and where the trees will go to the plan.

Mr. Leonard said that one of his concerns was to clear visual issues there. He asked if the impounded vehicles were going to remain to the left portion because on numerous times when he's passed there, the front gate is open. Mr. Leonard asked if they were expanding the impounded cars to other areas.

Mr. Smith said no – she plans to have them right against the fence, and then the gates would screen most of it.

Mr. Gainer said that a concern raised at the site visit was that since they're impounded and possibly damaged vehicles, the Board was concerned about trying to capture any fluid leaks through some mitigation and asked if Ms. Smith had anything.

Ms. Smith said that she did have something and it is EPA-DEC approved. She said that they're called pop-up pools for vehicles. Ms. Smith said that she had not seen any leaks there in twenty years. She said that he could keep re-using them if nothing goes in them.

Mr. Gainer said that the Board would probably like to see the enhancements done so it knows the screening, etc., are identified on the plan before it goes to public hearing.

Ms. Smith said that a public hearing is not required. It's at the Board's discretion.

Ms. Jainchill asked if the Board has set an escrow for this.

Mr. Gainer addressed Ms. Smith, said that when she first dealt with the notice of violation, she went to the Town Board to seek relief for the posting of escrow monies and asked if that was ever resolved.

Ms. Smith said that she gave \$500.00 dollars for the application fee and the Board said that she wasn't going to have to post the \$5000.00 – she would just pay the fees as they were incurred.

Ms. Montgomery said that she thought it would be determined when the Board determines whether this is a major or minor site plan application.

Ms. Jainchill said that she thought it was determined that it was minor.

Mr. Gaba said that he thought the Board should have an escrow and that it was a mistake to pass on bills to applicants and pay them as they go.

Ms. Montgomery said that she needed to go back and see what the Board did.

Ms. Smith said that she would call the Clerk to see what the charges are.

Mr. Zuckerman joined the table again.

Adjourn

Mr. Merante made a motion to adjourn the meeting. Mr. Meehan seconded the motion. The meeting ended at 9:45. The vote was as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
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 for the Philipstown Planning Board and are subject to review, comment, emendation and approval thereupon.

Date approved: _____