

Philipstown Planning Board
Meeting Minutes
July 23, 2009

The Philipstown Planning Board held its regular monthly meeting on Thursday, July 23, 2009 at the VFW Hall on Kemble Avenue in Cold Spring, New York 10516. The meeting was opened at 7:30 p.m. by the Chairman.

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

Absent: Andrew Pidala

Public Hearing

Unjoo/Dong (Tom) Yu - Site Plan Approval - 544 Route 9D, Garrison: Revised application for site plan approval/discussion

Mr. Joseph Fucci, Architect, stated that the last time they were in front of the Board, there was an issue with regard to non-conforming setbacks and they were referred to the ZBA for a variance. He said that they have since gotten the variance and have made some adjustments to the plan. Mr. Fucci said that they have reduced the number of seats by four, increased the parking by three spaces, and added a planting schedule.

Mr. Merante asked if the ZBA sent them a formal letter with regard to the variance.

Mr. Fucci said that he had not received a copy.

Mr. Gaba said that he had the Resolution.

Mr. Merante asked the Board if there were any questions.

Ms. Doherty asked if this had gone to the CAC.

Mr. Fucci said that he received an email from Ron Gainer today and he referred in his letter to a town regulated wetland, which he was not aware of.

Mr. Gainer agreed and said that the Wetlands Inspector notified him yesterday. Mr. Gainer said that he had identified the need for a CAC referral because of the on-site wetlands and he at least wants to see the wetlands and the hundred feet buffer. He said that he's apparently been on the property a few times.

Mr. Fucci asked if the Town designated the boundaries of that wetland.

Mr. Gainer said that from what he's being told by the Wetlands Inspector, he's determined it to be a town regulated wetlands.

Mr. Fucci asked if he would be the person who would set the boundaries to that.

Mr. Gainer said sure.

Mr. Fucci asked if he could have a letter to that regard.

Mr. Gainer said that it is in their technical memorandum and recommended that he make contact with him.

Mr. Merante said that he thought somewhere in Mr. Gainer's memo that they have an approved system and he asked

if that was correct.

Mr. Fucci asked if Mr. Merante was referring to the septic system.

Mr. Merante said yes.

Mr. Fucci said that he didn't know the exact date.

Mr. Merante said ok, but it's approved.

Mr. Fucci said that it was approved in 1986.

Mr. Merante asked Mr. Gaba if there were any limitations on that.

Mr. Gaba said no, but it does have to go to County Planning.

Mr. Merante said yes, County Planning and New York State DOT because it's on Route 9D.

Mr. Gainer said that the applicant had a technical memorandum from the Board. He said that they've been to the project before. Mr. Gainer said that there are a few items on the site plan that have not indicated...and that's topographical information and soil types, which are code requests. Mr. Gainer said that obviously, since it's an existing building site, his suggestion would be waiving the requirements and to not burden the applicant with providing that.

Mr. Merante asked if the technical issues on page three were made to be confirmed that they're either going to be met or have been met.

Mr. Gainer said yeah, the technical issues he thought were just site plan issues or details that the plans will be revised. He said that they've also included standard notations that they resolve with the Wetlands Inspector in terms of what appropriate notation should be shown for title notes as well as erosion control notes.

Mr. Bill Zutt introduced himself and stated that he lives at 563 Route 9D, which is about a couple hundred feet north of this property. He said that they really didn't have a problem with what's being proposed in general terms. Mr. Zutt said that their concern is limited to drainage. He said that they live on the down hill river side of Route 9D and are the recipient of an enormous amount of stormwater that's collected along Route 9D in a series of pipes and catch basins on their property resulting in great damage to them - so much so that they actually had to bring a lawsuit against the State. Mr. Zutt said that they had to file a second lawsuit and only recently another claim against the State as a result of last Friday's storm. He said that in the letter he submitted, there are photos of some of the damage of that storm. Mr. Zutt said that in the technical review with the submission from the applicant, there is a standard test...all the drainage is going to go to a catch basin in the northwest corner of the site. He said that he's familiar with that catch basin - he's examined it.

Mr. Merante asked if that was right at the road.

Mr. Zutt said yes it is. He said that he has every reason to believe that the discharge point of the water in the catch basin is, indeed, Route 9D system. Mr. Zutt said that he'd ask Mr. Gainer to verify that.

Mr. Gainer said that they've raised technical issues relative to the department drainage issues and they're (inaudible) at this point.

Mr. Zutt said that they're not requesting to disapprove this application, but if they do approve it, to make sure that appropriate stormwater measures are taken - including stormwater recharge...anything at all that they can do to make sure that the drainage currently going into the catch basin no longer goes there and it's recharged somehow on site.

Mr. Zutt said that the Board is welcome to come to his property to look.

Mr. Gibbons asked Mr. Zutt if the State had indicated any time frame with regard to improving the situation.

Mr. Zutt said that they have not. He said that most recently an engineer visited the site, but he was non-committal just as was the former engineer.

Mr. Gibbons said that the Board, when they did the site visit, was certainly aware of it.

Mr. Kyle Irish, Chief of Garrison Fire Department stated that he had not received anything with regard to the application. He said that as a Code Enforcement Officer, he has not gotten anything on the change of use. Mr. Irish asked that the Board please inform them in the future.

Mr. Merante said that he and Mr. Irish talked about this last night. He said that the Planning Board has started a policy requiring additional copies and automatic referrals to the Fire Company.

Ms. Doherty said that she felt an Uncoordinated Review was appropriate and made that motion. Mr. Gibbons seconded the motion. The vote was as follows:

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

Mr. Robert Cutler stated that he was a neighbor to the applicant and that he had spoken before about his concerns regarding this. He said that he thought this was a dangerous proposition. He said that he lives on Route 9D, and whenever he makes a turn into his driveway...if you don't stop and let the traffic come out, you can get hit. Mr. Cutler said that the people coming up the road - a good ten percent of them are going sixty or better, and it's three hundred and more feet if you stop from sixty down to zero. There isn't three hundred feet to stop. Mr. Cutler said those people who are going to be making that turn and going to be taking their lives in their hands because people are going to be coming up and going into a parking lot that is jammed full of cars. He said that with regard to the number of people at the restaurant, he thought the latest proposal was forty patrons. Mr. Cutler said that if you have forty people, you have to have three waiters and two busboys. You have to have three people in the kitchen cooking and two people cleaning up. That's ten people right there - that's ten cars. Then, a manager - that's eleven cars. Plus the twenty cars for patrons - that's thirty one cars. He said that there's just not enough room. Mr. Cutler said that again, he thought it was a very dangerous proposition. He said that with regard to the three hundred feet, there are other factors - the driver reaction time, the brakes in the car, whether it's light or dusk and the condition of the road surface. All of those will increase the three hundred feet to four hundred/four hundred fifty feet. In addition, people are eating and drinking in cars now much more than eleven or so years ago. Also, cell phone usage. Mr. Cutler said that he thought this really needed to be looked at. He asked what the review process was and if it was this Board or another group.

Mr. Merante said that there will be a Line Sight Study.

Mr. Gainer said that the plan has proposed some entrance improvements to the site, that's subject to review by the New York State DOT. He said that the Board could also express in writing to the DOT Mr. Cutler's concerns, so that when they do review it, they understand. Mr. Gainer said that if they see signage as appropriate or other needs, they can go about any permit that may be issued.

Mr. Cutler asked what the next stage was and if there would be more reviews.

Mr. Merante said that they'll refer it to the State DOT, Putnam County Planning, and the CAC.

Mr. Cutler asked if this fit into the division of having a wonderful gateway to the Hudson Highlands.

Mr. Merante said that the best he could say in response is that it is pre-existing. It's a restaurant - a commercial enterprise.

Mr. Fucci said that it will certainly be more scenic than it is now.

Mr. Merante said that the two peak hours are seven to nine in the morning and the restaurant won't be open at that time. From five to seven in the evening, the restaurant will be open for lunch and dinner. He said so half of that peak time...supposedly half of the forty six hundred vehicles will really not be germane to the issue, he would think.

Mr. Zutt said that he heard DOT mentioned a couple of times and since they're going to be focusing on the sight distance issue, it might not be a bad idea to get those who have any interest in his problem to talk to those who are looking for sight distance issues and maybe come up with a response of some kind.

Mr. Gainer said that he proposed they look over those concerns in a letter to DOT.

Mr. Andy Chmar asked if there was a good lighting plan associated with this application.

Mr. Merante said that there are comments addressed in the planner's memo.

Mr. Gaba said that if Mr. Gainer is satisfied that the planning as it stands now is pretty much going to be the plan that they see when they go for final, he did not see any reason they couldn't close the public hearing and that they can't act now because they have a lot more information to get in.

Mr. Gibbons said that if the Board could somehow make sure there is no eighteen thousand watt lighting on the utility poles, he'd appreciate it.

Mr. Gainer said that they do have a lighting plan proposed and that they grazed the issue of trying to limit that.

Mr. Gibbons said that with regard to the lighting plans on applications on Route 9, they comply with it and within a year or two, Central Hudson is signing on (inaudible) that don't comply. He said that he wanted to ensure they don't have the same situation going on here.

Mr. Merante said that if it's on the plan and Central Hudson or someone else changes it, they have to let the Building Department know about it.

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

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

Garrison Station Plaza

Mr. Watson said that they're nearing the end of their negotiations and hopefully it will be a positive outcome and will be changing the plan, but asked the Planning Board to adjourn the public hearing until the next meeting.

Ms. Sexton made a motion to adjourn the public hearing to the August 20th meeting. The motion was seconded. The vote was as follows:

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

Quarry Pond - Site Plan Approval - Modification of architectural plans: Route 9, Cold Spring: Discussion

Mr. Gainer said that Quarry Pond got approved for two-story units and have recently applied to the Building Department for ranch style. He said that the Building Department was unsure how to process the building permit applications since the approving Resolution specifically referenced the architectural plans that were in the original plans. Mr. Gainer said that their suggestion was to bring it back before the Planning Board. He said that if there's no concern from their side, the Board could just accept the changes and let the Building Department proceed.

Ms. Doherty said that this doesn't change the bedroom count.

Mr. Gainer said no.

Mr. Merante asked if the Board had any questions.

Ms. Sexton asked how it changed the footprints.

Chris Guisti said that it is essentially the same.

Mr. Merante said that they've reduced the square footage.

Mr. Gainer said that there is some reduction in the square footage.

Mr. Merante said that he thought six hundred feet.

Mr. Gibbons said that they are going to fit on the same size lot.

Mr. Guisti said yes. He said that it's not the exact same footprint, but it's essentially the same.

Ms. Sexton said that they eliminated a bedroom upstairs, put it downstairs, and yet the structure (did not finish sentence).

Mr. Guisti said that there are larger trusses, so elevations are pretty much the same.

Ms. Conner said that there was one fewer bathroom.

Mr. Guisti said correct.

Ms. Conner asked a question with regard to the vinyl siding (inaudible).

Mr. Guisti said yes - same color.

Mr. Merante said that Ms. Sexton asked the question earlier, but it was answered with regard to there really being no way an addition could be added later on. He asked if it was necessary in keeping with the others to keep the roof line as high as it is.

Mr. Guisti said yes.

Mr. Gainer said that if the Board offered no objections, the Board could advise the Building Department that the revised layouts are acceptable and do not affect the prior approval.

Mr. Gaba said that he thought the Board probably could do that, but if it wanted to dot all the i's and cross all the t's, the thing to do is to have someone make a motion to amend the approval issued June 11, 2009 to provide that the approval extends to the proposed alternative architectural plans and determine that the proposed change is consistent with the prior adopted SEQRA Findings Statement.

Mr. Gibbons made a motion to amend the Planning Board's resolution adopted on June 11, 2009 to include the approval of the applicant's proposed alternate architectural plans; and further, motion to

declare that the proposed amendment is consistent with the SEQRA Findings Statement previously adopted on this application. Ms. Conner seconded the motion. All members voted in favor of the resolution with member Andrew Pidala absent. 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 -	Absent	
Pat Sexton	-	In favor

Mary Ellen Finger - Application for five-lot subdivision - Horsemen’s Trail Road, Cold Spring: Final Subdivision Plat - Phase One

Mr. Watson said that they made an application for final approval. He said that in the cover letter sent to the Board, they explained that they would like to do it in phases, so they’ve applied for final approval on the front two lots. Mr. Watson said that would give them the opportunity to market those lots and then have the money to build the road. He said that was really the driving reason for it. Mr. Watson said that the Health Department has finished its review of the entire subdivision, the plat is over there for signature and they are expecting that momentarily on the entire subdivision, and they’ve prepared a plat with actually three lots - the two front lots and the remainder. He said that they received a memo from Mr. Gainer’s office this afternoon and he had a chance to chat with him briefly about it. Mr. Watson said that there were a couple of issues that they think need to be corrected in the memo, and that the vast majority of the comments are technical in nature.

Mr. Merante asked Mr. Watson if he had a chance to look at the standard notations.

Mr. Watson said that he had never seen the standard notations before. He said that he went through them very briefly. Mr. Watson said that the vast majority of them he didn’t have a problem with. There are a couple that he thought were problematic. He said that the notion of a note on the plat that says that the road will be private, he had to object to because he thought it was always the Town’s prerogative to accept or not accept the road and he does not want to preclude future owners from offering the road for dedication - particularly because it’s going to be built for Town road standards. Mr. Watson said that he did not think that was fair to the applicant. He said that he thought that was the only really significant issue that might have some discussion involved in it.

Mr. Gainer said that the Board knows that they’ve given approval on the five lot project. The applicant has now indicated that she wants to do it in two phases and is certainly within her right to do so. He said that the Board has heard the layout in some fashion. Mr. Gainer said that essentially what the Board is going to do is approve the overall project which is the basis for the Board’s approval, but that merely gets filed in the Town Clerk’s office - it does not get filed with the County. Mr. Gainer said that relative to the issue of the notes that he had suggested on the road, it might have been his misunderstanding. He said that he thought the Board had previously discussed the issue with the road as to whether it would be considered a dedication or not. Mr. Gainer said that he thought the answer was that the Town had no interest and he might have misunderstood the Board. He said that certainly they can discuss that further with the Town and Town attorney. Mr. Gainer said that he thought the issue was really - first and foremost, whether the Board considers it necessary to have a public hearing on the final plat.

Mr. Merante asked why, as they already held a public hearing.

Mr. Gainer said that it’s now is being a phased project and it is the Board’s prerogative.

Mr. Gaba said that he agreed and he, too, was confused about that and didn’t think the Board wanted to dedicate it.

Mr. Merante said that he didn’t remember a discussion of it.

Ms. Sexton asked about the maintenance agreement.

Mr. Watson said that one of the things that was mentioned in Mr. Gainer's notes was a homeowner's association. He said that he thought a maintenance agreement was necessary - it's the only common element in the thing...so he didn't think they needed to go to a homeowner's association. Mr. Watson said that they have no objection to a maintenance agreement and they could sunset the maintenance agreement upon acceptance on the Town if that ever happens. He said that the trump card is in the Town's hand - they could always say no.

Mr. Merante asked if the Board had any authority to insist on the homeowner's association.

Mr. Gaba said that it's for maintenance of a private road - sure they do.

Mr. Merante said that he was not talking about a road agreement, but a homeowners association.

Mr. Gaba said yes, the Board can't make them force a homeowners association.

Mr. Watson said that with a private road, he thought that philosophically, they'd expect the individual owners are going to participate in the maintenance agreement, so long as it's private, so they don't have any objection.

Ms. Sexton said that the Board is going to approve this as a whole. How it's phased in is one thing. In other words, they are not going to be able to sell those two lots residential and then in the future, sell it off as industrial.

Mr. Gaba said no, they can do that.

Ms. Sexton said that's what she meant. She said that she thought the Board was looking to ignore that. Ms. Sexton said that when they did Mr. Giachinta's subdivision, the Board was very clear on not having that. In other words, selling off two lots to a residential customer and then putting in a sand grinding or rock crushing situation right next to them. Ms. Sexton said that the Board was truly clear - so much so that they asked him to go to the Town and change the industrial zoning on the five lots to become residential, because it's very clear that these lots will be sold off - two here, one here...and you're going to have someone come in and put in a rock crusher. Ms. Sexton said that this property is currently for sale as industrial. She said that it's to prevent someone from coming in and doing just that. Ms. Sexton said that the Board did it with Open Space and she asked Mr. Chmar if that was correct. She said that now they seem to be veering away from that and she thought it was very important that this is either going to be a residential situation or an industrial situation. Ms. Sexton said that she did not think they could leave it a little bit of everything. She said that she had no problem with the phase-in, because that's understandable.

Mr. Gaba said that the Board has to understand that if they wanted to, they could have come in and said they wanted a three lot subdivision to begin with and they're going to develop two lots along the roadway as residences, the third one they just don't know - it's going to be open space for now, and in the future they may sell off and someone else would develop it. He said that you wind up with a very different SEQRA review in terms of going through the approval process because you wouldn't know what those other lots are going to be. Mr. Gaba said that their SEQRA review didn't go that way because they came in and said they're going to have three other residential lots in the back. He said that they're saying now that the other three lots in the back...they don't plan on developing them just yet - they want to phase the development. So the Board can give them final approval for what is in essence, a three lot subdivision, and they have basically conditional final on the other three lots in the back. Mr. Gaba said when you do that, you should determine what improvements need to be made to the first two lots in order for them to come back - the road stuff for example, and get final approval for the other three in the back. He said that it's theoretically possible that they'll do the first two lots and then abandon the other three in the back, but when they come back to do the improvements to the third lot, they're going to have to go through a whole SEQRA review. Mr. Gaba said that in other words, phasing won't stop them from doing what the Board is afraid they are going to do.

Ms. Sexton said that it did when Mr. Giachinta changed his industrial zoning to residential. She said that the Board asked him to go change it as a condition of the approval of the subdivision.

Mr. Gaba asked if Ms. Sexton was saying she wanted to see this property re-zoned.

Ms. Sexton said yes, absolutely - that's what they did before.

Mr. Merante said that he thought Mr. Giachinta was amenable to changing it also.

Ms. Sexton said that he was not in the beginning.

Mr. Gaba said that if the applicant was amenable to that sort of thing, he did not know that the Board had to go to the extreme of re-zoning. He said that they could go to something like a deed restriction saying it could only be used for residential purposes providing that the two lots in front are developed residential.

Ms. Sexton said that it's sort of like going around the situation. She said that she thought the people who come to public hearings want to know what is going to happen to a piece of property. Ms. Sexton said that maybe they should have a re-application and another SEQRA. She said that a deed restriction would at least give people the idea that they're not going to buy the piece of property next to a rock crushing...they have right in front of them right now....trying to change the zoning so that anything over five acres, you can go ahead and store on, etc., and now they have a piece of property sitting here with the exact same composite on it and it's advertised for sale as an industrial piece of property. Ms. Sexton said that it really gives the Board a cause to stop and ask what they are doing. She said that they have to find a base on it where everyone is treated the same.

Ms. Conner said that it seemed to her they go through the process - a long time of curbing this and then they take this step. She asked what the point was.

Mr. Watson said that the point is that the only reason for phasing this is the amount of work and money that needs to be spent in order to complete the drainage that's necessary and build a road to the standard that the Town requires. He said that's the only reason.

Ms. Conner said that if the Board phases it, shouldn't they then say what they're going to do with it and say, "this is why we gave you the approval". She said that they're getting the approval for the five lot subdivision - not the two lots.

Mr. Merante said what if they were to be sold off - the two lots get sold and then the third lot gets sold as industrial zoned.

Mr. Watson said what if the first two lots get sold as industrial.

Ms. Sexton said that's fine. She said then it's not a residential area - it's an industrial area. Ms. Sexton said that the Board makes other people tell the Board what they're going to do with this.

Mr. Watson said that they can look at it that way, but they can also look at it as exactly the losses from property rights in order to get the Board's approval.

Ms. Sexton said that may be true. She said that they have the right to do that, but then the Board also has a right to have some direction as to know what's going to be there.

Mr. Watson said that this is a subdivision - it's not a site plan.

Ms. Sexton said that she realized that, but in approving a subdivision, they're approving safety and what's going to be there. She said they have an agreement with the Fire Department and now they want certain things put in there because it's going to be residential. Ms. Sexton said that to her, the simplest thing is a simple deed restriction that whatever they put there will be residential. It should have some type of focus and should be approved as residential or not residential. Ms. Sexton said that otherwise, they have plans to do something different and are not telling the Planning Board that.

Mr. Watson said that it was the second time Ms. Sexton's accused him of that and that he takes offense to it.

Ms. Sexton said that she did not mean Mr. Watson personally, but was saying that's the way it appears. Ms. Sexton said for Mr. Watson to not take offense to what she's saying. She said that she was saying he was absolutely right -

if things were done in another direction in Garrison, they wouldn't be there and it would never come before the Board. But now this is before them. Ms. Sexton said that she would not insult Mr. Watson or his intelligence.

Mr. Watson said that this is a subdivision. He said that they demonstrated all the things they had to do to demonstrate a subdivision. Mr. Watson never had a conversation with Dr. Finger with regard to divesting herself of the industrial value of that property. He said that they planned residential lots. That's what they planned - that's what she's offering for sale. Mr. Watson said that he did not know that she's willing to divest herself of the value of the zone. He said that it seemed to him they're beyond that stage anyway and he did not see how phasing affects that.

Ms. Sexton said that it was approved as a general plan - a subdivision. People are coming in asking for five residential lots. They're not asking for two residential lots and one industrial lot and a farm. Ms. Sexton said that it is not the way it was presented to the Board. She said that this is the way it appears. Ms. Sexton said that maybe Ms. Finger has absolutely no objection to keeping it all residential, but then that's what should be presented to the Board. In other words, it shouldn't be a five lot residential subdivision. She said that she thought that's what the Board approved.

Mr. Watson said that Ms. Sexton was reading much more into the application than what was there.

Ms. Sexton said that it's there.

Mr. Gibbons said that the Board did approve a five lot residential subdivision. The idea of phasing it in just means Dr. Finger is going to be able to sell property prior to selling some other parcels. He said that if they were sold for a different condition, that's a change of use in his opinion. Mr. Gibbons said that he didn't see it as really changing the entire plat because they're saying it's all residential. If it's sold off, it's got to be sold off with the idea that if they want to go industrial, they're going to end up back in front of the Planning Board. Mr. Merante asked if that was a fact.

Mr. Gaba said absolutely. He said that the Board needs to understand that phasing gives the property owner the right to come back and develop the second phase of the subdivision in accordance with the overall plans that would be submitted to the Board.

Mr. Merante asked if they had that obligation.

Mr. Gaba said that he did not believe they do.

Mr. Merante said that there was another piece of property right next to this piece where the applicant had a residence - it was rented by an employee, and he also had wanted to put rock crushing on there. The objections were steady and constant that you have two uses on the property and people objected to the rock crushing because there was a residence right next to it. Mr. Merante said it went nowhere and it sounds like that's what is behind what Ms. Sexton was saying.

Ms. Sexton said it is. It's being presented with one thing, but the potential is there.

Mr. Gaba said that if they buy next to industrial land knowing it's industrial land, those are their property rights. He said that if they don't want to make any recommendation that they'll be deed restrictions, etc., that's fine. It may require some additional review by the Planning Board before it grants final approval. Mr. Gaba said that certainly, they'd want to review the SEQRA determination just to make sure there's no issues there. He said that other than that, they can go forward.

Ms. Sexton said that it would be different SEQRA.

Mr. Gaba said slightly, yes.

Mr. Meehan asked if the Board approves this as residential, they go for a building permit and the permit says something else other than residential, it would be a red flag to the Building Department.

Mr. Watson said that the Building Department may only approve residential applications. He said that they can't approve commercial or industrial applications without it coming to the Planning Board for site plan approval.

Mr. Meehan said that he was saying there's some checks and balances in the system.

Mr. Merante said that's what Mr. Watson was saying - that is the check on that. They have to come back to the Board.

Mr. Watson said that once the subdivision is approved, the only thing on all three lots that can happen in this town without going back to the Planning Board (and then if they have new zoning, some residential will come to the Planning Board) is a residential application.

Ms. Conner said that (inaudible) initially can't really come before them because of (inaudible), so that isn't clear.

Mr. Watson said that was an enforcement issue. The law was in place to prevent that. He said that it's always astounded him that the reaction to the Town's unwillingness to enforce the law as it's written, means to make a new law to make it harder to do anything. Mr. Watson said that it defies logic absolutely. He said that the law's in place and needs to be enforced.

Mr. Gibbons said that if the Board had a concern about it being industrial when the application first came in, he thought that was the time the Board should have addressed it. He said that they're looking at it as they've already approved it as a five lot subdivision and he didn't think the Board should be turning the clock back. Mr. Gibbons said that the Board approved it residential and didn't know if it should be putting the applicant through more hoops.

Ms. Doherty said that she thought she heard someone say that part of the property is for sale as industrial.

Mr. Watson said that the entire piece of property is for sale as a unit.

Ms. Doherty said as industrial.

Mr. Watson said as a unit.

Ms. Doherty said as a unit, even though it has been approved here as five residential lots it's being sold (did not finish sentence).

Mr. Watson said if they can't phase it. He said that if it can't be phased, the farm will not support itself given the level with taxes and operational costs involved. Mr. Watson said that there is not enough money to build the road and get it approved as five lot subdivision the way they envisioned it, so they are trying to take out the first two lots so they can be marketed to generate the money for the road and avoid the situation that Steve Carlson found himself in where he had everything done, made all the promises and did almost all the work, but his hands were tied and the Board's hands were tied too. Mr. Watson said that here we have an opportunity to free that money up and avoid that situation.

Ms. Doherty said that Dr. Finger's proposal is to sell it as one industrial piece of property essentially throwing the five lot residential subdivision to the side.

Mr. Watson said to turn it around. He said to say everything were in place so they could put the bond up and have five lots. That would not prevent someone from purchasing all five lots. It would not prevent someone from merging the lots back if they wanted to put some big industrial use on the property. Mr. Watson said merging the lots he believed takes five years to be able to do by yourself. He said that if any of the things were commercial development, it's a full site plan, it's a whole other SEQRA review than what the Board's done - it's a whole other process.

Ms. Conner asked if it was permitted for someone to put a house there if it were zoned industrial.

Mr. Watson said no. He said that you can't add a house that's an individual residential unit because there is a house on there that is an individual residential unit, and today you can only have one with the exception of the new accessory apartment law. Mr. Watson said that if it were vacant property, yes, you can get a single family residential unit on an industrial piece of property.

Ms. Conner said because it seemed to her that by doing the five lot residential subdivision, they're kind of changing the zoning to residential.

Mr. Watson said that you're not changing the zoning. But they are certainly changing the people who will buy the property and affecting how it will ultimately be used to some degree.

Mr. Gainer said that the decision at hand for the Board is whether it wishes to entertain the concept of phasing. He said that the Board may have conditions at which to permit that to move forward. Or it could choose not to.

Mr. Gaba said that in regard to phasing, he'd suggest that the times the Board wouldn't allow phasing is if there is some physical impediment to constructing the second, third or fourth half of the subdivision. He said if not arbitrary and capricious, the Board should have some good reason if the Board says it will not let them phase.

Mr. Merante asked if the Board approved the phasing of the first two lots and the other three lots could not be sold as individual lots and someone came in with a small fabricating plan, would it have to come in for a site plan review.

Mr. Watson said absolutely.

Ms. Sexton said that with regard to the fabrication, would the Board then have to turn that down.

Mr. Gaba said site plans are tough.

Ms. Sexton asked a question (inaudible).

Mr. Gaba said yes, if it's allowed under the industrial zoning - pretty much all you're looking at is site plan. He said that the Board would be allowed to require that they mitigate impact on the wetlands and it might be a case that the mitigation would be so extreme that an application for mining or rock crushing might have to be turned down.

Ms. Doherty said that when the Board originally had the public hearing on this, a neighbor came here with the idea that it was a five lot residential subdivision. She said that now it could be something quite different and asked how the Board would address that.

Mr. Gaba said that it could hold another public hearing before it grants final if there's a change from preliminary to final.

Mr. Gibbons made a motion to approve the phasing of this application. Mr. Meehan 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 -	Absent
Pat Sexton	- Abstain

Mr. Gainer said that the way he would anticipate the proceeding is to see the overall plat - the construction drawings also advanced now expecting the phasing concept to illustrate how the construction might be different in terms of being built in the different phases. It's mainly for access to lot two. Mr. Gainer said that those plans should be advanced. He said that ultimately the Board has to make a decision on whether or not to have a public hearing.

Mr. Merante said that his feeling was that the Board should hold a public hearing to review the plans and give the

people who were there initially a chance to respond again.

Mr. Gibbons and Ms. Conner agreed.

Mr. Gaba said that what the Board has now is going to be the plan. He said that he did not know how much of a public hearing they could have on that.

Ms. Doherty said that she thought it was important that the adjoiner who came to the first public hearing is aware it's been changed maybe significantly.

Mr. Gibbons said that he agreed with that.

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

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

Dean Anderson - 4 Dale Lane, Garrison: Special Use Permit - Appeal #851

Mr. Anderson introduced himself and stated that he was there for a special use permit to put an apartment inside the barn of less than 800 square feet. He said that the barn has a c.o. Mr. Anderson said that he has the Putnam County Department of Health permit and wetlands review permits and that he would like to proceed to get this approved.

Mr. Merante asked Mr. Anderson what he needed from the Zoning Board.

Mr. Anderson said because it's a special use and the building is non-conforming, supposedly that is the law. He said that the actual footprints won't be changed.

Mr. Meehan asked the applicant if he appeared before the ZBA yet.

Mr. Anderson said that he appeared - he gave the Zoning Board his application and they said it was complete. He said that he originally appeared before the Zoning Board when he built the barn.

Mr. Meehan asked when that was.

Mr. Anderson said 1994. He said that's when he got the c.o.

Mr. Gaba asked when the last time was that he was in front of the ZBA.

Mr. Anderson said last Monday.

Mr. Merante asked what they were looking for.

Mr. Gainer said that the requirement from the Town Code is the request for a special permit for this use. He said that it is only in front of the Planning Board to offer comment and pass it back to the ZBA.

Mr. Gibbons said that the structure already exists.

Mr. Anderson said correct.

Mr. Gibbons asked if the access road to get to this structure was already existing.

Mr. Anderson said that on the property, he is proposing his driveway along his field to get to the building to avoid

the wetlands. He said that it's all been plotted out and reviewed by David Klotzle. Mr. Anderson said that they've been to a number of meetings.

Mr. Gibbons asked if he had already been to CAC.

Mr. Anderson said yes.

Mr. Meehan asked if it was all flagged.

Mr. Anderson said it's all flagged right now.

Mr. Gainer said that the applicant has a wetlands permit.

Mr. Meehan asked if the CAC looked at the proposed driveway.

Mr. Anderson said that they did and they approved it. He said that they had to go through a few changes.

Mr. Meehan asked if Mr. Anderson shared the driveway.

Mr. Anderson said yes.

Mr. Meehan asked if he had an agreement.

Mr. Anderson said yes from 1952.

Mr. Merante asked what size the apartment was.

Mr. Anderson said 790 or 780 square feet.

Ms. Doherty asked if Mr. Anderson was providing parking to that as well as the main house and asked if it was shown on the plan.

Mr. Anderson said that the house on the property has its own parking area.

Ms. Doherty asked where he was providing parking for the apartment.

Mr. Anderson said near the barn. He said that it should be on the plan.

Mr. Gainer said that it shows a proposed garage on the plan.

Mr. Meehan asked if it was paved in front of the garage.

Mr. Anderson said no.

Mr. Merante asked Mr. Anderson to point out the parking.

Mr. Anderson said that it is right in front of the barn. He pointed it out to the Board.

Mr. Gainer said that a significant issue with obviously all the construction is immediately adjacent to within the hundred foot buffer of the wetlands. He said that the CAC has obviously been through that review.

Mr. Meehan said that Mr. Klotzle would probably supervise the construction.

Mr. Anderson said that he promised to be there.

Mr. Gainer said that the Board could offer that as a recommendation in its referral back.

Mr. Merante asked if any Board member felt the need for a site visit.

The Board members agreed that a site visit was not necessary.

Mr. Meehan made a motion that Mr. Gainer draft a letter from the Planning Board to the Zoning Board. Ms. Conner seconded the motion. The vote was as follows:

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

Zoning Law Review - Request from Town Board

Mr. Gainer said that you have various conditions for paragraphs within the permitted uses table that refer to mining. He said that the purpose of this is to prohibit mining from the B-2 zone and permit it in the industrial zone as (inaudible) or larger, and also to prohibit mining south of East Mountain Road South. He said that along the Route 9 corridor, you can have mining on parcels greater than five acres down to the point of East Mountain Road South.

Ms. Sexton asked if anyone knew about the increasing mining all the way down.

Mr. Gaba said that he did not think they were increasing the mine because they are trying to make this consistent with the overlay.

Ms. Montgomery said that this was something that came up at the Town Board meetings and something the Supervisor's been working on. She said that she didn't have any information other than what the Planning Board has in front of them.

Ms. Doherty asked if the Board had a map.

Mr. Watson said that he didn't think it was so much the mining, but the process of rock-crushing, etc., and there were objections by a lot of the local business people with regard to that. He said that he thought it really had to do with...there was a quickly passed amendment to the Zoning Board that just ripped the processing of anything out of the law entirely and it did things it wasn't intended to do. Mr. Watson said that he believed this was an effort to correct that - to do what they intended still, which was the five acres, but allow it under other circumstances.

Ms. Doherty asked again if anyone had a map of the old one showing where the industrial areas are in the town.

Mr. Merante said that he would request that from the Town Board liaison - the Planning Board members each need a detailed current zoning map. He said that it was first dated April 1, 2008 and then April 30, 2008 and asked why.

Ms. Montgomery said that in April of 2008 it was brought to the Town Board's attention by a resident.

Mr. Merante said, but it sat in limbo ever since and asked if that was true.

Ms. Montgomery said that she believed so. She said that she thought the issue was that they weren't quite sure what the resident wanted to do with the property at that time. Ms. Montgomery said that he came to the determination that he wanted to keep it open for industrial use and came before the Town Board and presented it to them. She said that again, she didn't have any additional information.

Mr. Gibbons said that they face the question as to how many other properties are going to be affected. He said that's what the Board is really concerned with. Mr. Gibbons said that the Planning Board does not have enough information before them in his viewpoint.

Mr. Merante said that they have it in the book that B2 is prohibited in both 37 and 39. He said that it's confusing as to why it's coming to the Planning Board now.

Mr. Gaba said that it still says it's prohibited, except in the I district, and he had thought that the mesh would be overlaying in the I district. He said that now he's hearing that maybe it allows on lots greater than five acres.

Mr. Merante said that 36 is the one that needed to be changed - B2 needed to be prohibited.

Mr. Gaba said that all three need to be changed.

Mr. Gainer said that 36 and 39 the Board would change.

Mr. Merante said that 37 does not need to be changed.

Ms. Doherty said that the Board wants a map.

Ms. Sexton said that she thought it could be clarified because to her it's not clear. She said that she would like to suggest that any future zoning changes are done with the original on top and the bottom in italics so that they can see the changes.

Mr. Polhemus said that he had a site plan in front of the Board a number of years ago about soil processing and they had a number of public hearings. He said that there was a lot of excitement about the use of property, etc., and then all of a sudden a law was passed. Mr. Polhemus said that he was waiting...the Town said that they were going to make a resolution to allow the process of dirt. He said that he saw that the law was passed which prohibited that.

Mr. Merante said that he thought that's where they were with this - the Town wants the Planning Board's comments.

Mr. Meehan said that the problem with Mr. Polhemus's place is that he had a residence along side the material processing and at the time, and the Planner was very opposed to that.

Mr. Polhemus said that was one of the issues which could have been resolved.

Mr. Meehan said that the Board spent a few months on it.

Mr. Gibbons said that this is not against Mr. Polhemus getting his operation back and going. He said that the Board doesn't know who else it is affecting because it's very open.

Mr. Meehan said that it is really confusing. He said that you're really separating industrial districts - south of East Mountain Road South and north of East Mountain Road South on Route 9. He asked if there should be some definition as to industrial districts south and north.

Ms. Doherty said that she wants to know how many five-acre industrial lots there are.

Mr. Gaba said that the Town Board is considering adopting a local law and referred it to the Planning Board for review and report. He said that he thought if they don't receive the report within 30 days, they can act without it.

Mr. Gainer said 60 days.

Mr. Gaba said that the Planning Board has a little time on it. He said that if the Planning Board asks for more information, he was sure it would be provided. Mr. Gaba said and then at next month's meeting the Planning Board can put together its report. He said that there must be an explanation for this, as it's not a long, complicated law.

Mr. Gibbons said that it's going all the way to Fishkill, and he was concerned with how many properties they might be looking at.

Ms. Doherty said that the Planning Board does not know.

Mr. Gaba said that he could put together a letter to the Town Board.

Mr. Merante asked for the other concerns of the Planning Board.

Mr. Meehan said they need an overlay and a better explanation of the law.

Ms. Doherty said that maybe the Town Board could give the Planning Board an idea of what led up to this.

Ms. Sexton asked if anyone knew what the new zoning said.

Mr. Merante said that the Planning Board received an email from the Town Clerk that up to this point the new zoning code is on the town web site.

Ms. Montgomery asked if the Board wanted printed maps.

Mr. Gibbons asked if the real question was what is possibly affected between parcels between a and b. He said just giving them the soil mining overlay map isn't going to answer their question.

Ms. Sexton said that the soil mining alone is very specific and very small.

Mr. Merante said that he'd look into that and see what he could dig up.

Mr. Gaba said that he would circulate a draft and make sure everyone was on board.

Correspondence

Edward Ochsenschlager - Return of Funds

Mr. Merante said that the Board received a letter from Dottie Turner stating that all charges against the account have been paid and there is a balance remaining. He said that the Planning Board should submit a letter to the Town Board asking for the return of the funds.

Mr. Meehan made a motion that a letter be sent to the Town requesting the return of funds to the applicant. 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 -	Absent
Pat Sexton	- In favor

Letter dated June 15, 2009 regarding Philipstown Square

Mr. Merante read the letter aloud. He said that this application is on hold until the funds have been submitted to the Town.

Minutes

June 11, 2009

Mr. Gibbons made a motion that the minutes be accepted as written. The motion was seconded. The vote was as

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

Adjourn

Mr. Gibbons made a motion to adjourn the meeting. The vote was seconded. The meeting ended at 9:20 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 -	Absent
Pat Sexton	- In favor

Respectfully submitted,

Ann M. Gallagher

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

Date approved: _____