

Philipstown Planning Board
Meeting Minutes
July 30, 2015

The Philipstown Planning Board held its regular monthly meeting on Thursday, July 30, 2015 at the Butterfield Library in Cold Spring, New York. The meeting was opened at 7:30 p.m. by Planning Board member, Kim Conner (for Chairman, Anthony Merante).

Present: Kim Conner
Mary Ellen Finger
Joseph Giachinta
David Hardy
Peter Lewis
Neal Zuckerman
Steve Gaba, Counsel
Ron Gainer, Engineer
Absent: Anthony Merante, Chairman

Public Hearing

VISTA44LLC (dba Garrison Café) – Application for major site plan – 1135 Route 9D, Garrison, NY: New submission

Mr. Watson stated that the applicant is currently a tenant and operates the Garrison Café and the southerly portion in the larger of the two buildings located on the site. He said that that he thought the public notice may have overstated the area of the property, as they thought it was a little over an acre. Mr. Watson said that the northerly building is currently being used as a yoga studio and will remain in that use as long as that tenant is there. He said that as the public notice stated...the middle portion of the building...they are seeking approval to turn that into a more formal dining area so that dinner customers can be served. Mr. Watson said that the feeling is that the café portion is fine for breakfast and lunch, but it is not something that is going to attract dinner customers. He said that the northerly most portion of the larger, southerly building would be used for a wine and spirit shop. Mr. Watson said that there is currently and has been parking in front of the building. There had been some gas pumps that are gone. There is still a sign from the gasoline station. He said that on the original plan presented last month, there was parking that was extended beyond the property line onto the next property, which is owned by the Rajus. Mr. Watson said that during the site visit, a number of comments were made and they have tried to respond to those comments as best they could. He said that they realigned the parking in front - they lost a space or two, but they made sure the parking works. He said that it is tight – particularly at the southern end. They proposed one way into the property on the northerly curb-cut and one way out on the southerly curb cut. Mr. Watson said that they took the parking that was on the side of the building on the neighboring property and reversed it so that it is now on site. The traveled way that's already there would be used to get to more parking, part of which is currently being used as parking in the rear of the building. It would be extended slightly to accommodate an extra vehicle. Mr. Watson said that there was some concern about the congestion that would be caused by parking and people turning in the back of the building. He said that they do expect that to be employees for the most part. Mr. Watson said that they have changed the plan to take advantage of the grassy traveled way that runs through the property and out through a paper street to Grassi Lane and back out to Route 9D. He said that it is probably the major change in the property. Mr. Watson said that they have added some planters along the front of the building to



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differentiate between and identify the curb so people would know where to go in and out. He said that they have relocated the loading to a more convenient place and thought they had been responsive to those comments made during the site visit.

Mr. Gainer said that the Board received a technical memorandum from him that summarizes the status of the project. He said that on June 28th, the Board performed a site inspection of the property. Mr. Gainer said that they have identified the major changes that have occurred with the site, which is basically the layout of the parking and they are now proposing an access through the rear right-of-way, which exists. He said that with respect to SEQRA, the application represents an Unlisted Action, a full EAF has previously been filed and the Board has taken no action on the application. Mr. Gainer said that the Board had identified themselves as Lead Agency at the prior meeting. So a SEQRA declaration remains to be accomplished. The Board has previously made a referral to the Putnam County Dept. of Health (239M), the Town Conservation Board (the Stomwater Management Officer just responded this evening indicating to the Board that a wetlands permit will be required for any activities on the site within 100 feet of the stream on the adjacent property). Mr. Gainer said that Putnam County Planning has responded and identified the project as "approved as submitted". He said that a referral had been made to the Garrison Volunteer Fire Department approximately a month ago. Mr. Gainer said the Board is asking the applicant to provide documentation to establish the applicant's legal right to utilize the right-of-way, which is now being proposed. He said that the concern the Board had raised at the site walk relative to the possible expanded restaurant activity for the exterior deck in the back and the wonder as to whether that would be converted to dining needs to be responded to. Mr. Gainer said that a similar issue relative to any site lighting that would be modified on the plan – both along the building and to the rear, if the rear deck would be used, needs to be resolved. He said that it was previously defined as a major site plan. A no-violations letter from the Code Enforcement Officer is required. Mr. Gainer said that it was previously indicated that they'd received PC Department of Health confirmation that the onsite utility systems are adequate, and the Board needs documentation of that fact so that it understands whether any improvements are necessary. He said that it indicates that they're utilizing property on the adjacent parcel for access to the rear to accomplish this revised traffic circulation. An easement is required and that document should be filed and submitted to the Board's attorney. Mr. Gainer said that there are a variety of site plan notations that had to be filed. He said that there is some technical information that has to be presented to document the applicant's right to accomplish the traffic circulation being proposed.

Mr. Watson said that they really have no problem with the technical comments. He said that the one that requires some research is regarding the right to use the street that's behind the property. Mr. Watson said that he was handing to Mr. Gaba pages out of a book called "Real Estate Titles", which was done for the New York Bar Association, copies of the deed. He stated that the Pedowitz treatise states that when lots were conveyed by reference to a filed map, rights of way are automatically gained over the street shown on the map. Mr. Watson said that pending that research plus a full copy of the filed map, they hope the Board will come up with the same conclusion that he had. He handed in two copies for the record.

Ms. Conner asked if Mr. Watson was saying that they had the right-of-way over the road because of the Pedowitz decision.

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Mr. Watson said because of the way the conveyance was made, he has a right-of-way over that road.

Ms. Conner asked if there were any restrictions on using what is considered a private road for commercial purposes.

Mr. Gaba said that within the subdivision map, there is an implicit easement for every lot, which fronts or otherwise has access on the roads in the subdivision to use them for ingress and egress. He said that the easement in the subdivision like that is an easement...depends on the nature of the lot, for ingress and egress to that lot. Mr. Gaba said that the main legal concern they had with the prior plan was putting parking on a separate lot and you can't have parking as a main stand alone use on the other lot. He said that the revised plan addresses that completely. Mr. Gaba said that those uses are permitted in either HR or HM, so it's not a big issue. He said that the other thing is that since they are using roadway on the second lot for access, they're going to want to have a recorded Declaration of Easement over it and a road maintenance agreement. Mr. Gaba said that in the event there is snow or ice, etc., you can still maintain access.

Mr. Giachinta asked if the applicant was not allowed to use the parking in the back, the parking on the side would work.

Mr. Watson said that they would have to do something to make a turnaround – they would reconfigure it to allow turnaround. He said that it would probably be made a little bigger – a little more disturbance.

Mr. Giachinta said that he didn't see anything for a dumpster and asked where the delivery truck would come in.

Mr. Watson said that they anticipated the delivery truck would come in the exit – from the front. He said that they anticipate that the employees will use the back parking spots and it will not be a big issue.

Mr. Giachinta asked if he was correct in saying that the DOT installed the curbs in the front.

Mr. Watson said yes.

Mr. Giachinta said that usually the DOT doesn't allow anything in their right-of-way.

Mr. Watson said that it is not going to be in their right-of-way.

Mr. Giachinta said that it's going to be on the curb.

Mr. Watson said that the road face of the curbs according to the survey that they were provided is the property line. He said that the planters were intended to go immediately behind the curb and would be on private property. Mr. Watson said that Mr. Gainer already made a notation in his report regarding the

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height of it...which...he was perfectly right – they'll have to limit the height of it.

Mr. Giachinta asked if the DOT had been notified of this.

Mr. Watson said no, not to his knowledge.

Mr. Giachinta said that he thought they should see it.

Mr. Zuckerman asked Mr. Gaba if there was a volume restriction on a private road.

Mr. Gaba said no.

Ms. Diane Travis introduced herself and stated that she lives on Grassi Lane. She said that there are thirteen houses on the road.

Mr. Lewis asked if the Rajus own both sides of the property.

Mr. Watson said yes.

Mr. Lewis asked where the question of easement of the lots (inaudible).

Ms. Conner explained that on the southern side, they own two lots but they're separate lots and so in order to drive on one for purposes on the other, you have to have an easement. She said that it has to be there in case they don't own the property one day.

Ms. Finger asked if the Board had a copy of the Maintenance Agreement and how the road was maintained.

Mr. Hardy asked if the cars are going to come in, park in the diagonal parking and leave through the easement and the truck that supplies the store is going to be in that spot, will people be able to go out while the truck is there and what about the conflict between the truck and (did not finish sentence).

Mr. Watson said that he would look at that. He said that there is some room there. Mr. Watson said that it looks tight, but they could probably adjust it slightly and make it work.

Mr. Hardy said that at the corner, it seemed tight for the diagonal parking and the isle that the cars need to get out.

Mr. Watson said that when the truck is there, they won't be able to get out for a limited period of time, but when that truck is gone they'll be able to go twice the width of the truck. He said that part of the reason it is diagonal is because when you back out of a diagonal space, you don't need as much space behind you.

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Mr. Hardy said that he understood that.

Mr. Watson said that they have a program that will track the wheels of a car or SUV out of those spaces and will supply that to demonstrate that it will work.

Ms. Conner asked if every car that parks in the parking lot was going to go through the back.

Mr. Watson said no...they anticipate all the cars in the front will go out the front.

Ms. Conner asked what the back was for.

Mr. Watson said that he thought the employees who leave late after closing would find it more convenient to maneuver a little and go out. He said that they think that substantially less than half of the daily traffic and less than half of the parking lot's capacity will use the rear exit.

Ms. Conner asked if they were anticipating the trucks are going to use the rear exit.

Mr. Watson said yes.

Ms. Conner asked if they ever resolved the issue of how much parking the other building needs.

Mr. Watson said that he did not address that. He said that he can't speak to that and thought it was part of the calculation, but would double-check.

Ms. Conner said that they did not have comment from the Wetlands Inspector and did not have a wetlands permit yet. She said that she knew that most of the roadway on the bottom, south end is within the wetland buffer and it's a listed wetlands for Philipstown. She said that she was wondering what kind of road improvement they're planning to make, if any, to the back area.

Mr. Watson said that he did not know.

Ms. Conner said that some of the parking is on the septic system and asked if that was a problem.

Mr. Watson said that you would normally think so – that parking has been there for a long time and it's functioning and they're actually moving some of it a little off of it, so they're reducing that impact.

Ms. Conner said that as far as the back patio goes and if it becomes outdoor seating, would that increase the number of tables the restaurant would have and increase the need for parking.

Mr. Watson said that they are not seeking to do that. He said that it could go either way – they can transfer people in or out, but they would take a condition that it not be used for outdoor dining and should

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they decide to do that, they'd have to come back. Mr. Watson said that the seating arrangements and the seating count has been keyed to the already approved flows that the Health Department has given them. So the increase in the number of tables has been limited by that and can't be any higher.

Ms. Conner said that there's a drawing that shows the interior of space and there are square footages for each of the rooms, but there is not a square footage for part of the wine bar.

Mr. Watson said he'd look at that.

Mr. McMahon said that he handed the attorney the County approval for use of the kitchen (for the additional space). He said that the café operates very well for breakfast and lunch. Mr. McMahon said that they found their customers would like a slightly different atmosphere at night and the plan is to have twelve or fifteen people be in a nicer room next door, adjacent to the café. He said that they have their full liquor license already, so there are no changes there. Mr. McMahon said that they are open most of those hours already. He said that it is just an attempt to have an evening business a few nights a week. Mr. McMahon said that they have a pretty good sense of what Garrison needs and they feel it is appropriate. He said that the idea is to provide a very small, nineteen capacity space. Mr. McMahon said that it is a very small plan. He said that they did have one idea that came up and they thought was a great idea. Right in front of the café the speed limit goes back to 40 m.p.h., so a neighbor suggested to try to get the speed limit down in front of their commercial area. Mr. McMahon said that with regard to deliveries, they receive two deliveries a week from their major food provider. He said that they get one delivery a day.

Mr. Greg Beranski, resident of Grassi Lane said that he and other residents have concerns. He said that they put together a letter signed by the residents, and read the letter aloud (copy on file).

Ms. Jolene Cuyler stated that she lived right across from the Garrison Café. She said that shares the concerns with regard to noise, traffic and impact on the environment. She said that right about where you enter and exit, it is a problem for her to get out of her driveway. She said that there's a lot more traffic on Route 9D than there used to be.

Mr. Andy Chmar of 40 Walmer Lane, Cold Spring, said that he has been a frequent patron of the café. He said that his only hope is that...this is an area that under the Comprehensive Plan was considered hamlet/mixed-use. Mr. Chmar said that the Town said that there are specific places with the Town that they want to have mixed use. He said that his hope is that the Board – through its actions and process, can find a middle ground that accommodates the residents' concerns, while allowing this business to thrive.

Mr. Wally Schaffer said that the Board has to remember the residential side of this mixed use equation – that they can find something that suits everybody. He said that it really is a residential zone. It is surrounded by houses all around. He said that he had some issues he wanted to illustrate. Mr. Schaffer said that if this operation goes into the night and produces any additional noise or lighting, especially in

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the back of the building, that is going to be cumulative with activities at the Post Office. He said that the traffic will burden Grassi Lane. Mr. Schaffer distributed several photos that he had taken of the surrounding area to the café property.

Mr. Raymond O'Rourke asked if the hearing would be left open.

Ms. Conner said that the Board would discuss that.

Ms. Travis said that when the site visit took place, none of the neighbors were informed. She said that when the visit was done, the Board saw just one side – not the neighbor's side. Ms. Travis invited the Planning Board to come down again, as a group, and walk through.

Ms. Conner informed her that every site walk that the Planning Board makes is noticed in the paper of record, which is the PCN&R.

Ms. Travis said that it affects the entire road, which is very expensive to maintain. She said that now they are going to have trucks going on it. Ms. Travis said that there is no maintenance agreement. She said that years back, they needed to completely re-grade and the neighbors put together money to pay for it. Ms. Travis said that with the additional traffic, there will be more maintenance.

Ms. Goldie Greene stated that she wanted to address quality of life issues. She wished the applicants had a little sensitivity with regard to what Garrison is all about. Ms. Green said that she finds it shocking. She said that there are no trees there and that those shown on the plan were incorrect. She said that this project is unsafe and unaesthetic (headlights shining on everyone's property). Ms. Green said that she hoped the shop continues in the same manner, but as far as a night time place, it is not what they need.

Mr. O'Rourke said that he is more than happy to take the Board's feedback and continue to modify the plan so that everyone's satisfied. He said that this is not a new commercial idea. This is the Garrison Café adding a room on to do what they can legally do now and they'd like to do it in the best possible way.

A gentleman (unidentified) said that a few more tables in the restaurant was mentioned, however, one of the main things that's going to be put in is a bar and a liquor shop, which is going to increase the amount of traffic. He said that a bar that stays open late is a lot different than a small restaurant.

Ms. Conner explained that if the Board closed the public hearing, the public still had an opportunity to write and send in comments to the Board, which the Board would evaluate when they receive the next month's materials.

The Board discussed whether or not to close the public hearing.

Mr. Hardy said that in terms of the information the Board was waiting on – the Conservation

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Board/Wetlands Inspector, fire department and referral to DOT, he thought the hearing should be left open. The Board members agreed.

Mr. Hardy made a motion to keep the public hearing open. Mr. Lewis seconded the motion. The will be continued at the next Planning Board meeting. The vote was as follows:

Anthony Merante	-	Absent
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
Peter Lewis	-	In favor
David Hardy	-	In favor
Neal Zuckerman	-	In favor

Mr. Jeff Grocott, resident of Grassi Lane said that they are talking about a change of use and for the purposes of the layout, he asked if the change of use is the same as what we'd consider a change in zoning.

Ms. Conner said no.

Mr. Grocott asked if the change of use something that's going to move beyond these business owners.

Ms. Conner asked if he was asking if the change of use runs with the property owners.

Mr. Grocott said right.

Mr. Gaba said that this property has zoning which allows restaurants, wine bars and residential if they wanted to keep that as well. He said that there is no change of zoning going on here. But because they're changing the use, that triggers a requirement for site plan approval. Mr. Gaba said, so they're doing something they're allowed to do – it's just a question of how they do it. The Board is looking at what the configuration for the property there should be. Mr. Gaba said that additionally, there is SEQRA Review, so they look at all sorts of environmental concerns (impact on neighbors, etc.) and it may factor into conditions that they would impose, but this is not a zoning change.

Gex - Lot line change – 24 Hummingbird Lane, Garrison, NY: Request for extension

Mr. Luke Hilpert said that they were there to request another extension, which would be retroactive to July 5, 2015. He said that the Board was aware of the delays they had initially due to Mr. Marconi's health. Mr. Hilpert introduced Mr. Peter Gregory, applicant's engineer, who has been dealing with the Board of Health and the County, and can explain to the Board why things have been delayed.

Mr. Peter Gregory said that his office has been involved in coordinating an application for a construction permit with the Putnam County Health Department. He said that they were informed that the process that the Health Department was going to review this application initially was going to be processed that would

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just be a non-jurisdictional review. Mr. Gregory said that they'd been informed recently that the Health Department is going to be investigating the existing dwelling and homes, septic system, that's out there right now. He said that they've made significant progress in addressing some of the concerns and comments the county has had regarding the newly developed lot – the proposed dwelling and its septic system. Mr. Gregory said that they found out now that they're asking them to design a code compliant system for the existing home. He said that they've researched the records and determined that based on the age of the existing home and its system, the County feels they have to conduct a full review of the existing as well as the proposed improvements. Mr. Gregory said that they've been in touch with them and are waiting to hear from them with regard to a date to go out on the property, which looks like it would be within the next one or two weeks performing the soil testing. He said that if all goes well, they'd be able to submit to the Health Department, a code compliant design for the existing residence. Mr. Gregory said that since they've been able to address the concerns regarding the new development, the Health Department – if all goes well, would be able to sign off on the subdivision application and subsequently issue a construction permit for the new home and septic system.

Ms. Conner asked Mr. Gregory if he had any copies of this correspondence.

Mr. Gregory said that he did.

Ms. Conner said that because this has been going on for so long, the Board had concerns. She asked Mr. Gaba to speak to that in more detail.

Mr. Gaba said that he sympathized with Ms. Gex. He said that it is basically a lot line change, but under the town code, it constitutes subdivision, so it has to be reviewed under the same procedure for subdivisions and has to be treated like any other two-lot subdivision, notwithstanding that it is, at bottom, a lot line change. Mr. Gaba said that the fact is that they received the original approval in February of 2011 and it's been over four years that they've been getting these 90-day extensions that are permitted by the code – but not just for the asking. He said that they have to be for good cause. Mr. Gaba said that there have been a number of excuses/reasons why they haven't gotten their DOH approval, but the fact of the matter is it's been over four years. He said that it is up to the Board, but the concern he would raise is that the next two-lot subdivision that comes before the Board asking for 90-day extensions, is going to be able to point back to this case. Mr. Gaba said that in his opinion, this has reached an extreme enough point (going on five years in a few months) that it would be appropriate for another public hearing to be held. He said that he was not saying to deny the extension, but just to make sure there's not been some changes in the neighborhood, concerns that have arisen, etc.

Ms. Conner said that also, there should have been fees charged over this period of time.

Mr. Gainer said that possibly there may be some requirement for payment of fees for any requests for time extensions of a prior approval. He said that can be researched.

Mr. Marconi asked if he could speak. He gave a brief summary of what had gone on from the beginning

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of the process. He said that his stroke delayed the project for at least 18 months. Mr. Marconi asked that the Board please consider that. During his illness, this matter was the last thing on their mind. He said that he was not there to snow anybody. The prior engineer took so long, Mr. Marconi fired him. They dealt with the Board of Health having been given ten items that had all been done and after speaking with them, they have come back to say that the applicants need to make a septic at 100 expansion. Mr. Marconi said that they only heard about this not very long ago and have scheduled a company to come out to do perc tests. He said that he understood the Board's frustration, but said that the Board has no idea how frustrated they are. Mr. Marconi said that they want this done and are doing everything they can to get this finished.

Mr. Giachinta asked Mr. Gregory how much time he thought they needed to finish this.

Mr. Gregory said three to four weeks.

Ms. Conner asked if they were saying it would be retroactive to July 5th.

Mr. Hilpert said that's correct. So they'd have essentially sixty days. He said that he did speak with Ms. Scuccimara earlier about this situation and she said she'd be happy to call the Board of Health and find out what's going on. Mr. Hilpert said that he will take her up on that offer. He said that if the extension is granted this evening, he would be happy to report back to the Board on more regular intervals so that it can see what is happening.

Ms. Finger suggested the applicant speak with the code enforcement officer and told them that he recommended that she give them the information she had on it with regard to taking action.

Mr. Zuckerman suggested the Board write a letter from the Planning Board to the County Health Department to inquire about the status and possibly supply the Board with a bit of history and some perspective sense of what's going to happen. He also said that he'd like to take Mr. Hilpert up on his recommendation and ask that the intervening time, he like to hear what's going on – an update with regard to progress.

Mr. Zuckerman made the above-stated motion. Ms. Finger seconded the motion. The vote was as follows:

Anthony Merante	-	Absent
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
Peter Lewis	-	In favor
David Hardy	-	In favor
Neal Zuckerman	-	In favor

Mr. Gainer stated that he would write the letter.

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Manitoga – Special Use Permit #188 – 22 Old Manitou Road, Garrison, NY: Update

Mr. Stefan Yarabek, landscape architect, introduced himself and Allison Cross, the Executive Director. He stated that he met with Kevin Donahue in April and provided him with draft plans for site improvements that were to occur at Manitoga. Mr. Yarabek said that in his review of those site plans, he suggested that they come to the Board for an advisory opinion as to the proper procedure for going forward. He stated that in the file, they saw that two special use permits were granted – one in 1974 and 1975. The current IC zone allows all the uses that were granted in the special use permits. Mr. Yarabek said that in the initial special use permit, there was an approval of a site plan which granted a new visitor's center. He said that Manitoga was not in a position to build a structure at this point in time, or to build a 70-car parking lot. Mr. Yarabek said that they wouldn't build it where it was approved to be built. He said that the design was done by Russell Wright. Mr. Yarabek said that is clearly a site plan application. He said that there were other issues in the Building Inspector's memo, such as correct 911 addressing, etc. Mr. Yarabek said that all the uses that are at Manitoga are now allowed as-of-right by the zone, but there are two special use permits that permitted those activities before the new zoning change. He said that this started in 2008. Mr. Yarabek said that in 2008 and this past July, the Town Board sent letters of endorsement to granting agencies for this work to be done. He said that the north road is the road you visit directly to Russell Wright's studio and home. They are essentially in consultation with the Town Highway Department back in 2008/2009 – re-doing the road. Mr. Yarabek said that's why they went to the Building Department. He said that Mr. Donahue said that it's really not a building permit because they're not building a building, and suggested they go to the Planning Board and bring them up to speed with what they're doing. Mr. Yarabek said that the existing road would be improved without severely altering the landscape, but the sides of the road would be changed with property drainage swales and two culverts for drainage. These were done in consultation with the then Highway Department some six years ago.

Mr. Gainer said that the applicant has prior special permit approvals in place, which go back some forty years. He said that when he saw the plans, because they're not very clear as to what the intent of this discussion was going to be, he suggested they provide some narrative to the Board to explain what he's seeking from the Board. Mr. Gainer said that he is specifically trying to upgrade the driveways to the parking lots. There will be drainage improvements that need to be done. Mr. Gainer said that the organization was interested in trying to hold on to the approvals for the proposed structures that were never built, and that warrants some discussion as to how that gets addressed and if it even can be at all. Mr. Gainer asked Mr. Gaba if there was any guidance he could offer as to how this is advanced by the Planning Board.

Mr. Gaba said that the applicant has special permits under the Code. All special permit approvals require site plan approval, herego, if he wants to hold onto the special permits, they need site plan approval. It's up to the Building Inspector as to whether or not the driveway improvements would require an amendment to a site plan – even an informal one. Mr. Gaba said drainage improvements probably would, and if they are looking to hold onto the approvals for the buildings, definitely would. He said that they have vested rights under them and if they want to hold onto them, they're going to need some minor site

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plan approval.

Mr. Yarabek said that he thought they were looking to memorialize the idea of a meeting facility, but not that specific plan, but they would have full site plan approval should they ever go to build the structure.

Mr. Giachinta asked if that would require any storm water management.

Mr. Gainer said that the plans are very informal, so that normally you would see limits of disturbance lines, etc., but it is presently not shown on plan. He said that it's possible it may exceed an acre. Mr. Gainer said that it's several hundred feet and there are two driveways involved and they're expanding parking.

Ms. Conner asked if Manitoga owned the road that leads up to the house.

Mr. Yarabek said yes.

Ms. Conner said, so the house next door has a right-of-way.

Mr. Yarabek said yes.

Ms. Conner said, so it's a private road then.

Mr. Yarabek said yes.

Ms. Conner said also on the plan there's a bus turnaround.

Mr. Yarabek said that it's a t-intersection that exists and there's an existing gravel-way that will improve. He said that it's not a cul-de-sac or turnaround.

Ms. Conner asked if there were any easements on the property.

Mr. Yarabek said no.

Ms. Allison Cross, Executive Director of Manitoga stated that currently there are not conservation easements on the property. She said that there is an agreement with the Nature Conservancy. In 1974, Russell and Annie Wright gave the property to the Nature Conservancy. In 84, that agreement was nullified and Manitoga Inc. was founded as an independent non-profit and the Nature Conservancy gave the land and the property and the existing endowment to Manitoga Inc. Ms. Cross stated that in that agreement, there is a clause that if Manitoga Inc. ceases to exist or a like non-profit, the property reverts to Scenic Hudson to maintain that property. If they choose not to, it goes back to the Nature Conservancy. She said that is in existence through earlier agreements, which is not a conservation easement.

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Ms. Conner said that there's Audobon in there somewhere.

Ms. Cross said Audobon is less clear. She said that prior to being given to the Nature Conservance, the Audobon was one of the non-profits that was being considered to take the property. Ms. Cross said that it's a little complicated in terms of the history, but he Audobon has nothing to do with it.

Mr. Gainer said that they have two special permit approvals in place – they exist today. He said that what they specifically seek an approval on is really just enhancements to the access at two locations. Mr. Gainer said that the Board arguably could take no action, but really sends them back to the Building Inspector to see if he is willing to just consider it a field change and allow them to proceed without any formal action, with the understanding that if they ever do proceed with the proposed classroom and the other structure on the site, that they propose what they don't have identified as to a location, that clearly will require a site plan review and that will require some formal submittals and detailed drawings if they ever proceed. Mr. Gainer said that way, they stand in place with their current approvals and the Board can actually provide written guidance to Mr. Donahue to suggest that it's probably a matter that he can act on and then requires no further action from the Planning Board.

Mr. Gaba said that if the Board was trying to dispose of this application tonight, he thought the appropriate thing to do would be to have someone make a motion that the Board adopt a Resolution directing the applicant to return to the Building Inspector to see if he'll accept the proposed changes as field changes to the existing approvals and then if the Building Inspector decides he won't, they could either appeal that to the Zoning Board or come back to the Planning Board and ask for an amended site plan approval for their special permit uses.

Mr. Giachinta made the above-stated motion. Mr. Hardy seconded the motion. The vote was as follows:

Anthony Merante	-	Absent
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
Peter Lewis	-	In favor
David Hardy	-	In favor
Neal Zuckerman	-	In favor

Adjourn

Mr. Zuckerman made a motion to adjourn the meeting. Mr. Lewis seconded the motion. The meeting ended at 9:35 p.m. The vote was as follows:

Anthony Merante	-	Absent
Kim Conner	-	In favor

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Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
Peter Lewis	-	In favor
David Hardy	-	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: _____