

**Philipstown Planning Board
Meeting Minutes
September 16, 2010**

The Philipstown Planning Board held its regular monthly meeting on Thursday, September 16, 2010 at the VFW Hall on Kemble Avenue in Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman.

Present: Anthony Merante
 Kim Conner
 Josephine Doherty
 Michael Gibbons
 Michael Leonard (arrived 7:40 p.m.)
 Kerry Meehan
 Pat Sexton
 Steve Gaba
Absent: Ron Gainer

Minutes
July 29, 2010

Ms. Conner stated that she had addressed a few minor corrections that were noted by the secretary.

Ms. Sexton made a motion to adopt the minutes as amended. Ms. Conner seconded the motion. The minutes were adopted. The vote was as follows:

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

**Garrison Station Plaza – Site plan approval – 7 Garrison Landing, Garrison:
Submission of letter requesting to be returned to agenda**

Mr. Gibbons recused himself and left the table.

Mr. Merante said that the Board received a letter from Garrison Station Plaza – a request to be returned to the agenda, however, they would not be holding a hearing or discussion on it. He said that Mr. Watson would briefly review what had gone on for about a year now and the Board would schedule them for next month.

Mr. Watson said that the application has been before the Board for quite some time now. He said that they've had a public hearing, closed the public hearing, did the Part 2 and he believed they submitted a Part 3, but the Part 3 has got to be revised. Mr. Watson said that he wanted to give the Board a brief overview of what the project was so that the Board members would re-familiarize themselves with it and hopefully, they'd be able to

move it forward. He presented a plan and said that it was the former Guinan's Pub/Deli, which is to be converted to office space. During the public hearing, a number of members of the public objected and wanted a restaurant/bar – basically, they wanted a re-incarnation of Guinan's. Mr. Watson said that they suspended the application and gave those proponents of the restaurant well over a year to come up with a plan, and frankly, his understanding was that they are still prepared to come back at some time in the future should somebody come up with a viable plan that will allow that to be re-established, but they recognize that they have to come before the Board. Mr. Watson said that they are looking to go forward with the plan at this time, which is again, a conversion into office space. He said that one of the major considerations was the lack of a septic system and they have a simultaneous application before the DEC to put in a sewage treatment plant that will discharge into the river. Mr. Watson said that DEC has told them they had gone as far as they could go. They are ready to sign approval on the plan, however, they must refer the application to the State Office of Parks and Recreation, who objected to the architecture that was proposed and shown before the Board.

Mr. Merante asked if their primary or only objection was dealing with the siding.

Mr. Watson said that there were two objections – one was the siding and one was the removal of the bay window on the side of the building. He said that Garrison Station Plaza spent considerable time with the architect and even hired a historic architect to try to convince the State that what they're trying to do is replace the stucco from the 1920's or 1930's with a clapboard siding that is more in keeping with the other buildings in the area. The State said no. The bottom line is that they lost that effort. Mr. Watson said that Garrison Station Plaza has decided to keep the stucco siding in accordance with the recommendation of the Office of Parks, Recreation and Historic Places, and keep the bay window that they didn't want removed. He said that it is their plan before the next meeting to submit a revised or a new Part 3 of the EAF, which addresses that issue as well as the others raised, and hopefully the Board will be in a position to consider a Resolution. Mr. Watson respectfully asked that based on the history of this and the effort that was made on behalf of and by the applicant, that the Board would direct its consultants to prepare an approving Resolution next month subject, of course, to the adequacy of the Part 3 of the EAF.

Ms. Conner asked if they could repair the stucco.

Mr. Watson said that he thought there are places where it has to be repaired. He said that there was a decision not to do some testing because of the damage.

Ms. Sexton asked if the State said something about wanting to do something.

Mr. Watson said that he'd check. He said that the Part 3 would include their letter and their address of any comments. Mr. Watson said that he didn't remember that, but he could be wrong.

Ms. Conner made a motion that Mr. Gainer prepare a Resolution based on the completed review of the Part 3 EAF.

Ms. Doherty said that it is all based on the Part 3 and asked if the Board would get it in plenty of time.

Mr. Watson said yes. He said that he is certain it was done and submitted...just the one section had to be revised.

Ms. Doherty said, and Mr. Gainer would have plenty of time to review it.

Mr. Merante said yes. He said that in the meeting last week, his review of it and the Resolution would be based on his approval.

Ms. Doherty said then she would second the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	Recused
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Mr. Gibbons joined the table again.

Garrison Golf Club PDD – Application for Phase II site plan approval: Resolution

Mr. Merante asked if what the Board had was an amendment to the PDD.

Mr. Watson said that the PDD very specifically allowed different changes in the plan or improvements or additions to the plan under certain circumstances. He said that there was a core area of about ten acres that surrounded the club house, parking lot and pro shop. Within that area, any proposed improvements, which will include the hotel they planned if it ever gets off that ground or anything they do that would normally require site plan approval, requires the Board's site plan approval. So if they decided that they wanted to block off an end of the building and replace it, they have that right in the law to do that in the PDD section that was set up for the Garrison Golf Course, but they have to get the Board's site plan approval to do that. Mr. Watson said that when you go outside of the core area, which is the vast majority of the property, there is an allowance, he thought, for two residential dwelling units on the property - certain temporary buildings. But anything else they wanted to do...for instance, if they wanted to build a pavilion on the fourth hole, they'd have to come back to the Town Board and get an amendment to the PDD. Mr. Watson said that the proposal to replace the temporary three-season structure with a four-season structure at the western end of the main clubhouse, is within the core area and requires site plan approval, so it's entirely possible they will be back from time to time over the next ten years and hopefully they will be back for the hotel that was studied. Mr. Watson said that this is a very minor fraction of the level of

improvements and work that was studied and considered on the EIS that was prepared for the overall project.

Mr. Merante said that they had a Resolution adopting a Negative Declaration. He asked if there were any questions.

There were no questions.

Ms. Doherty made a motion to adopt the Negative Declaration (attached). 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
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Mr. Merante stated that the Board had a Resolution. He read it aloud.

Ms. Sexton made a motion to adopt the Resolution (attached). Mr. Leonard seconded the motion. The vote was as follows:

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

Nathan H. & Ernest Lyons – Amended reclamation and site plan – Route 9, Cold Spring: Resolution

Mr. Watson said that the application of Nate and Ernie Lyons is to continue the processing of soil at the Putnam mine site, which has been operating for about thirty years. He said that the mine is spent. They're on their last renewal. Mr. Watson said that they have applied to the State to allow them to change their reclamation plan, which originally just really called for this (pointed out) to be a meadow, but the reclamation plan they're hoping will be approved to be revised and the site plan approved to allow the continuation of the soil processing on the site on Route 9 (Weisman site). Mr. Watson said that they're revising the reclamation plan, which is essentially the same piece of paper, and the enlargement and extension of the berm to provide both visual and sound attenuation...the landscaping of that berm and the extension of the landscaping beyond the berm to hide the operation from people passing by on Route 9...essentially the water that flows across continues to flow to the north to a stilling area to infiltrate the water into the ground. Mr. Watson said that they haven't had any problems with that over the thirty years. It occasionally needs to be cleaned, but other than that, it functions adequately. So

essentially they'll see very little change on Route 9, except that they'll see the screening and the buffering of the site from the visibility and the noise on Route 9. Mr. Watson said that he was hoping the Board would consider a Resolution adopting the Negative Declaration and another approving the site plan.

Ms. Sexton asked what kind of trees were on top of the berm.

Mr. Watson said that they're all spelled out in the landscaping plans. He said that they're a mix of Norway spruce, white spruce and blue spruce.

Ms. Sexton said that the Norway and blue are great, but they know what happens to the white.

Mr. Watson said, not white pine – white spruce.

Mr. Merante asked if the soil to be processed was coming from other sites.

Mr. Watson said yes.

Mr. Merante asked if it was established that there would be no crushing there.

Mr. Watson said that's correct.

Mr. Merante distributed the Resolutions.

Ms. Doherty made a motion to adopt the Resolution (attached) for the Negative Declaration. 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
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Ms. Sexton made a motion to adopt the Resolution (attached) for the project. 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
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Timmons – Three-lot subdivision – Route 301, Cold Spring: Submission of revised plans

Mr. Noviello said that at the last meeting, the Town Engineer asked them to make several changes and the plans before the Board addresses that request.

Mr. Merante asked Mr. Noviello to briefly review the changes.

Mr. Rick Jakaj said that based on Mr. Gainer's memo dated May 19, 2010, they went through and made all the topographic changes as requested by the Board, based on the site visit and additional information regarding the topo. He said that there was a concern...the people on the northern side of the property...there's a steep slope and they went back and reviewed that. Mr. Jakaj said that they also added the additional information regarding the soil types as defined by USDA and addressed the concerns of the well that is going to be closer to Route 301. He said that they proposed several infiltration devices. Mr. Jakaj said that they also prepared a new sight distance as requested by the Board and Mr. Gainer.

Ms. Doherty said that one of the things that was brought up at the site visit that she knew a number of the Board members were concerned about, was the fact that they wanted to have two curb cuts onto 301. She asked why they couldn't just have the one and have the three driveways come off the one curb.

Mr. Noviello said that it makes the properties a lot more balanced to have two curb cuts. He said that they are only going to have one additional curb cut.

Ms. Doherty said that she thought it was poor planning to have two curb cuts in such a short distance.

Mr. Noviello said that he thought in terms of safety, there are no issues. He said that in terms of planning, he thought part of it also has to do with the privacy issues and the preference of the people buying the lot. He said that since there are no safety issues...(did not finish sentence).

Ms. Doherty said that she thought there were safety issues. She said that every time you add a curb cut, you're adding more chances of someone having an accident.

Mr. Noviello said that he was not sure he agreed with that analysis and did not think the standards that are used in engineering analysis agreed with that. He said that AASHTO and New York State DOT have set down standards and they reviewed all those standards.

Mr. Merante said that he wanted the Board members to bring up issues they had and then when they have the public hearing, they'll add them up completely. He said that he knew there was at least one other Board member who had a concern about the same issue, so it is a serious issue and it will be addressed at the public hearing, as he did not want to get into it now.

Mr. Noviello said that he understood the concerns and was taking it very seriously and they will double check their analyses and make sure that it is safe.

Mr. Merante asked Ms. Sexton if she wanted to echo that.

Ms. Sexton said absolutely. She said to just go up and down Route 9 and see some of those driveways.

Ms. Conner said that they said in their project study that it is 45 m.p.h., but it is actually a 40 m.p.h. there.

Mr. Noviello said o.k.

Ms. Conner said that she saw they had three percent for fifty feet and then fifteen percent.

Mr. Noviello said that they could add the grade for the existing driveways.

Ms. Conner asked if it would change at all since it's got to go to different places

Mr. Noviello said no.

Mr. Merante asked Mr. Noviello if he submitted an EAF on this.

Mr. Noviello said no, but they will.

Mr. Merante asked Mr. Gaba if the Board should have the EAF in hand before it schedules a public hearing.

Mr. Gaba said that he would suggest the Board schedule a public hearing conditioned upon the applicant submitting an EAF and plans revised to address the comments of the engineer.

Mr. Merante said o.k., the Board would set the public hearing for next month conditional on that.

Mr. Leonard asked if the applicant would explain a little about the septic and well and what they'd be doing there.

Mr. Noviello said that they are abandoning the existing septic, existing well, existing garage and existing house. He said that everything would be properly disposed of. The well will be properly kept according to the Health Department standards. Mr. Noviello said that basically there's enough land there that the space is not going to be affected.

Mr. Gibbons asked if they knew what footprint they would use/how big the houses would be in there.

Mr. Noviello said for demonstration purposes, they showed the typical house site estimated at 30 x 50. He said that they could ask the owner, as two of the lots will be for his children. Mr. Noviello said that he did not think they were affluent enough for a four to six thousand square foot house.

Mr. Jakaj said not only that, it's designed based on a three-bedroom.

Mr. Noviello said that they are anticipating submitting to the Health Department for a three-bedroom house.

Mr. Merante said again, the Board would set a public hearing conditional on the applicant providing an EAF and answering the Planner's review.

Mr. Noviello said that he would give Mr. Gainer a full set of plans and twelve copies to the Board.

Mr. Gibbons said that he was on board with the one driveway serving the properties, so he would like to see a rendition of when they were indicating it would have a negative impact on the property. He said that he thought the applicant should be obligated to show why there is a negative impact, especially when he believed the majority of the Board prefers the one driveway.

Mr. Noviello said that the most important issue as he understood it was privacy. He said that the two driveways would be shared by the owner's two children and they wanted to have some separation from the neighbor's driveway.

Mr. Gibbons said that he did not know who was moving in and didn't really care. He said that it is about the future. Mr. Gibbons said that the Board tries to provide a single road to get these houses in. He said that if the applicant is finding he needs a double set, then he should prove to the Board it is a negative impact. Mr. Gibbons said that with what he's looking at, he did not see a negative impact and did not think the Board members saw it.

Ms. Doherty made a motion to set a public hearing conditioned on the EAF and Mr. Gainer's review. 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
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Mr. Merante said to the applicant that he'd be on next month if the Board gets everything it needed.

Viletto Vaughn Hammond Corporation – Site plan approval – 2757 Route 9, Cold Spring: Submission of revised plans

Mr. Watson said that the Board had its site visit. He said that he had the same plan the Board saw last month, which does not show the changes that have been made, but he would run through them. Mr. Watson said that they enhanced the drainage facilities on the site to improve picking up water from the Town road, bringing it over, treating it in the area to the north end of the property and eventually delivering it across the street into the wetlands. He said that they've added the things that Mr. Gainer wanted – the monitoring wells have been added to the site, and a more detailed landscaping plan has been added to the site plan. Mr. Watson said that they do still have to add some screening, which they said they would do and failed to do that. He said that they've tried to take as much advantage of the existing parking as they could and tried to minimize the amount of disturbance, but still come up to Code.

Ms. Conner said that when they were at the site visit, they talked about the parking lot being gravel, but on the plan it says asphalt.

Mr. Watson said that there's existing asphalt at the south end (pointed out).

Ms. Conner said yes, but it says, "asphalt parking area", and then there's a line.

Mr. Watson said that it was a mistake and he would have to correct it. He referred to the plan and said that the driveway comes in front of the rental and behind the hardware store and you'll see the asphalt through there. He said that was the original location of the Old Albany Post Road and the 1907 version of Route 9, so they'll see patches of concrete that were never taken up when they abandoned it. Mr. Watson said that if there's any up there (pointed out), it would be taken out when the drainage is put in. He said that when the parking is built, he was sure the rest would be taken out. Mr. Watson said that the apron at the beginning of the property, right by the road, will stay.

Ms. Conner said that he didn't show the stone wall coming down, curving.

Mr. Watson said that he would make sure that it gets on.

Mr. Merante asked if the monitoring wells were still being monitored or they were just there and capped.

Mr. Watson said that they're just there. He said that he thought in the paperwork submitted to the Board, they submitted the report that the findings were negative and it's been take off the spill list.

Mr. Gibbons said that he'd never seen a delivery truck, but he asked if there were going to be trucks coming and going.

Mr. Watson said yeah, that was discussed on Sunday. He said yes, there is. Mr. Watson said that the biggest truck that comes there is a Cisco Truck, which gets in and out of there without any difficulty at all.

Mr. Gibbons said o.k., it's not going to the rear of the building or anything.

Mr. Watson demonstrated how the truck would come in, park (behind the hardware store, in front of the restaurant), and then go out on the other side. He said that circulation is going to be maintained.

Ms. Doherty said at the site visit, they talked about sight distance from the southerly driveway, which will be the exit.

Mr. Watson said yes.

Ms. Doherty said that he said he'd measure that.

Mr. Watson said they have not measured it, but would measure it and submit that.

Mr. Gibbons said that in going in and out in the last sixteen years, he had never had any issues.

Ms. Sexton said that Mr. Watson said it was a two-story building, but the top would only be used for storage.

Mr. Watson said yes, and the owner confirmed that during the discussion on Sunday.

Ms. Sexton asked if they'd add a note somewhere that if it is used as offices, etc., that it requires an elevator.

Mr. Watson said, that it is handicap accessible.

Ms. Doherty asked Mr. Watson to go over the lighting.

Mr. Watson said that the lighting plan is not complete. He said that they would provide downward lighting. Mr. Watson said that they have called to specify that the lighting that's there, was going to be removed.

Ms. Conner asked if the restrooms were located in the hardware store.

Mr. Watson said that he believed they were in the hardware store, but in the back left of the restaurant, right behind the bar, there is a new restroom.

Mr. Gaba asked Mr. Watson when he could get the lighting in.

Mr. Watson said that they could have that in the next submission.

Mr. Gibbons made a motion that a public hearing be scheduled. Mr. Leonard seconded the motion. The vote was as follows:

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

Dylan Leiner & Jon Scott Francis & Julie Corbett – Lot line adjustment – 103 & 109 East Mountain Road South, Cold Spring: New submission

Ms. Conner recused herself and left the table.

Mr. Watson stated that it was a lot line adjustment – a ten percent allowable adjustment. He said that there is a total of seven acres – two parcels. The Leiner parcel is at the northwest corner of the map. It contains 1.1 acres. The property owned by Mr. Francis and Ms. Corbett contains six acres and it's all of the parcel on the east side plus the back, behind the present Leiner parcel. Mr. Watson said that they've agreed to a lot line adjustment. There are no proposed improvements and no physical changes. He said that as a matter of fact, most of the land is State protected wetlands. Mr. Watson said that on these types of things, he normally gives the Board a short form EAF, but he gave them a long form EAF in this particular case, because this land is adjacent to a State park and he believed that it automatically requires the Board to do a Coordinated Review, although there's no other agency involved. He said that they are trying to increase the Leiner parcel by 1.8 acres, so he'll have a total of three acres and decrease the Corbett Francis parcel by the same – 1.8 acres, so their property will end up at almost 4.4 acres.

Mr. Meehan asked if the zoning there was 40 or 80.

Mr. Watson said that it was both and pointed it out on the plan. He said that each of the property fulfills the 40,000 square foot requirement in the 40,000 square foot zone.

Ms. Doherty asked if they needed a variance.

Mr. Watson said that he couldn't imagine why.

Ms. Doherty said because it's checked in the application.

Mr. Gaba said the issue there was that the front yard setback doesn't conform now. He asked if the side yard conformed.

Mr. Watson said no.

Mr. Gaba said that what they're doing is taking a piece of property from one and adding it to the other and there was some question as to whether or not, because you have non-conformities existing, you do a lot line change. Mr. Gaba said that he talked to Mr. Gainer about it. He said that he looked into the Code and since they're not increasing the existing non-conformities and the non-conformities are legal, they don't need to go to the Zoning Board. Mr. Gaba said that the only permitting agency was the Planning Board and they didn't need the approval of the State or anything.

Mr. Watson said that was correct. He said that it has to be referred to the County.

Ms. Sexton asked if there was a plan to subdivide the property since it's an R-40 – to put another house on the side in the back.

Mr. Watson said that he's never had that discussion and didn't believe it was his plan at all. He said that he simply wants more land. Mr. Watson said that he believed he attached to the EAF a small topographic map that he did a slope analysis and showed a wetland. He said that they'll see it is all wetlands and wouldn't satisfy any of those requirements, or at least most of the requirements.

The Board decided to schedule a site visit for Sunday, September 26 at 9:30 a.m.

Mr. Merante asked if the Board should schedule a public hearing for next month.

Mr. Gaba said yes and they could hold it over if the Board needs more information.

Mr. Meehan made a motion to schedule a public hearing for next month. Mr. Gibbons seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	Recused
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Mr. Gibbons made a motion that the Board declare itself Lead Agency and make a 239M referral. Mr. Leonard seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	Recused
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Micheal Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Ms. Conner joined the table again.

William and Susan Wood – Three lot subdivision – 334 East Mountain Road No., Cold Spring: New submission

Mr. Boolukos introduced himself. He said that they are dealing with a 36-acre parcel – 36.575 to be exact. Mr. Boolukos said that Lot One contains 26.077, Lot Two contains 5.409, and Lot Three contains 5.089. He said that they have two existing homes on the premises now – one occupied, one unoccupied. Mr. Boolukos said to the Board that he thought he'd like to just throw the ball into their court and get questions and feedback.

Mr. Merante asked if because this was contiguous to the Town of Fishkill, it would have to be referred to the Town of Fishkill.

Mr. Gaba said that it was a good idea to give them notice, but the Board is not required to give them notice for a subdivision. He said that it is required to go to County Planning.

Mr. Leonard said that they said they would be taking down the shed because it goes over the property line. He said that the gravel driveway also goes over and he asked if he was going to move that back over.

Mr. Boolukos said that all he could do is not use it anymore. He said that it's there and he'll just have to plant some shrubbery back on it or whatever.

Mr. Gibbons asked who the property owner to the right was.

Mr. Boolukos said Zakowski.

Mr. Gibbons asked if he could possibly get an easement from him for that.

Mr. Boolukos said that he was just going to eliminate it. He said that he didn't want to look into that part.

Mr. Gibbons said that's fine.

Mr. Boolukos said that he wasn't aware it was on their property – that's what happened. He said that he didn't need it to be there.

Mr. Merante said, so he was going to abandon it.

Mr. Leonard said that he thought on the final map, it should really show that he's still there unless it shows it either being removed or an easement or something.

Mr. Merante said that it is a driveway.

Mr. Leonard said that he was just saying though is when it's approved final, it shouldn't show it going over and they should take the piece out then if they're not going to keep it as an easement, just to show that he's not intending to use it.

Ms. Conner asked if Mr. Boolukos said that the shed had been moved.

Mr. Boolukos said yes.

Ms. Conner said that it would probably need to be located on the plan.

Mr. Boolukos said yes, they've got to.

Mr. Gibbons asked if he demolished it or relocated it.

Mr. Boolukos said they relocated it. He said that the Building Inspector had already been up there and checked it.

Mr. Gibbons asked if he was correct in saying the only development was going to be on Lot Three.

Mr. Boolukos said correct.

Ms. Doherty asked what the topography was like up there, as she did not see any topos. She said that the Board needs to see that.

Mr. Boolukos said that personally, he did not think the Board needed to see it. He said that he would be happy to get it, but asked the Board to hear him out. Mr. Boolukos said that they don't plan on doing anything on the rest of the entire site, except for that house site. He said that there are steep slopes once you leave that area and they range from 15 to 25 - to probably even 30 in some instances, as you approach the road. Mr. Boolukos asked if in light that nothing was going to be done in those areas, the Board would suffice with a note, as he was trying to save the applicant some money. He said that he could put a note to the effect.

Ms. Doherty said that at this point in time, the Board doesn't know what the topos are either - for the driveway, the house site, for anything.

He asked the Board to refer to one of the plans he submitted.

Ms. Conner said that the Board really needed to know what there is there and what it looks like.

Mr. Merante asked if there was a transition from class one, two, three, etc.?

Mr. Boolukos said that there is no steep slope when you don't see it.

Mr. Merante said to be honest, the Board had never seen anything like the drawing before. He said that usually you show the whole topography around the proposed structure.

Mr. Gibbons explained to Mr. Boolukos said that whenever they're disturbing land, the Board needs to have the entire topography. He said that the other thing is that they have power lines coming through. Mr. Gibbons asked if they were private power lines.

Mr. Boolukos said privately owned...an easement.

Mr. Gibbons said that's what the Board needs to know. He said that it needs to be defined as an easement. Mr. Gibbons said that they need to know where the easement is and if there are any other encumbrances on the property.

Mr. Boolukos asked how the Board would feel about the single driveway access for two lots.

Mr. Gibbons said that they'd prefer that.

Mr. Gaba said that the applicant would need a driveway maintenance.

Ms. Doherty said that she did not see the six thousand square foot buildable area. She said that the applicant has to show the six thousand square feet on each lot.

Mr. Merante said that he had a question on Sheet 2. He said asked what the little boxed-in area – now or formally Richard Keller and family, was.

Mr. Boolukos said that the gentlemen across the street owns that piece of land.

Mr. Merante said o.k., but the lot lines shown there block it in.

Mr. Boolukos said that it's a separate lot, separate deed.

Mr. Leonard asked if nothing was going to happen with Lot One other than moving the shed over.

Mr. Boolukos said nothing is being done on Lot One.

Ms. Conner asked which building was the shell they were referring to.

Mr. Boolukos said that it was on Lot Two. He said that it was occupied up until a couple of years ago.

Mr. Gibbons said that Mr. Boolukos was not extending the building. He said that all they're doing is rehabbing it.

Mr. Boolukos said that's right.

Mr. Boolukos said that he was told he needed eight additional copies for the CAC referral.

Mr. Boolukos said that they talked about the tree location earlier.

Mr. Gibbons asked if it was correct that he had to show them on the plan if they are over twelve inches.

Mr. Gaba said that he didn't remember seeing that.

Mr. Merante said that Mr. Gainer suggested the Board schedule a site visit and asked the Board if they agreed/disagreed.

The Board agreed.

A site visit was scheduled for Sunday, September 26 after the first scheduled site visit.

Ms. Doherty made a motion that the application be referred to the County and that the Board declare itself Lead Agency. 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
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

The Berner Family – Two lot subdivision – 1 Lurch Road, Cold Spring: New submission

Mr. Watson said that the Berner family has a family compound of about 32 acres - the roadway network to several dwellings that the family uses – the pond in the middle of the property and a deer fence that segregates off the compound area. He said that they wish to subdivide the property and create a single lot on Jaycox Road – the north end of the property. That lot will contain about three acres. Mr. Watson said that they've shown the Board the pond, the slope analysis and the area where they seek to create the lot. It's relatively flat and open. He said that there's an access-way into the back of the pond for maintenance and stuff that they want to keep with the main parcel. Mr. Watson said that they did some testing out there today, but unfortunately, they didn't have the chance to talk with the fellow who did it.

Mr. Gibbons asked for some clarity on the plan.

Mr. Watson and Mr. Gibbons had a brief discussion.

Mr. Watson said that they're very close to 301. In fact, he thought it was probably less than 200 feet from the driveway into the Berner property.

Mr. Gibbons asked Mr. Watson if he would find out the sight distance.

Mr. Watson said they would certainly do that.

Mr. Gibbons said that there are some windy turns up in there.

Mr. Merante asked Mr. Gaba if the application would have to go to CAC as there is a pond on the property.

Mr. Gaba said that it goes to the CAC.

Ms. Doherty asked if there was more than one residence on Lot One.

Mr. Watson said that there's more than one dwelling. He said that it is owned jointly by the Berner family. Mr. Watson said that Roland Berner bought the property in the early 50's and his children became the owners of the property in the mid-seventies and they each maintain a weekend home there. It is all single-family.

Ms. Doherty asked Mr. Gaba if that impacted the application in any way or it was just pre-existing, non-conforming.

Mr. Gaba said Mr. Gainer pointed that out too before he had him look into it. He said that there's a quirk under the Code that if you have multiple single-family dwellings on one parcel, it constitutes a non-conforming use. Mr. Gaba said that he looked into the cases to see what the situation is when you have a non-conforming use and you're subdividing off land to see if that would require going to the Zoning Board for a variance, and the courts of New York have held that no, you do not need to go to the ZBA unless your Code has a prohibition on increasing the intensity or the volume of a non-conforming use, which our Code does not have. He said, so there's really no problem if they have a legal, non-conforming use subdividing off another lot.

Ms. Doherty said that she thought she'd like to see that somehow in the Resolution.

Mr. Gaba said sure.

Ms. Doherty said just to show that the Board considered it.

Ms. Conner said that in the Indenture, it says that they can only have five houses on this piece of property. She said that her question was that if you subdivide off a piece of the property, could you still (did not finish sentence).

Mr. Watson said that it would still count as one of the parcels.

Ms. Conner said, so this would be the last house – period.

Mr. Gaba said, well, even if it was some sort of a private agreement between them, he did not see it was something the Planning Board would take into consideration. He said that it might be enforceable by a private individual.

Ms. Conner said, so they don't have to abide by it.

Mr. Gaba said not something in a will like that, no. He said that if it was a recorded covenant against the property, that might be something else again. Mr. Gaba said it's just a will provision.

Ms. Conner asked if an Indenture was a will provision.

Mr. Gaba asked if it was actually in the deed.

Mr. Watson said that she was reading the deed. He said that regardless, it is the fifth house. Mr. Watson said that he was pretty sure that you would still count the original parcel that was encumbered by that restriction and you would count that fifth house, regardless that it was now on a separated piece of property.

Mr. Gaba said that he was not so sure about that, but it isn't an issue that's up now anyway, because even it was, it would still be the fifth house. He said that he could look into the issue and if that turns out to be the case, the Board could ask for a note to be put on the subdivision.

Mr. Watson said that he had no objection to that.

Mr. Merante said to Mr. Gaba that this was the first time he had seen the term "beneficial owners". He asked Mr. Gaba to explain that.

Mr. Watson said that the question on the application was, "does it show all of the contiguous proper owned by the applicants", and the answer was, "the applicants are the beneficial owners of adjacent properties – they are members of an LLC that actually has the deed to an adjacent parcel". Mr. Watson said, so he termed them the beneficial owners.

Mr. Gaba said in other words, they don't hold title, but they have the right to use it because they own it.

The Board agreed to schedule a site visit for Sunday, October 3 at 9:30 a.m.

Ms. Doherty made a motion that the Board declare itself Lead Agency and send a 239M referral to the County. 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

Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Ms. Conner made a motion that the Board schedule a public hearing on October 21, 2010. 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
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Garrison Land Holding Co. LLC & River Home LLC – Lot line adjustment – Route 9D, Garrison: New submission

Mr. Watson said that this was originally two parcels of land that went from 9D to the railroad. It was subdivided into two rectangles. He said that at that time, there was a variance granted (they called it a special use permit) to reduce the size of the square on the property. It was improved with a small concrete block house as was the other parcel. Mr. Watson said that in recent years, they had a lot of work done on the property – the house was enlarged and it was sold to three companies – Riverview Property, Riverhome and Garrison Properties. Jonathon Rose and his wife, Deanna are principals of each of those three entities. Mr. Watson said that the structure of the two lots was such that there were two rectangles of flagged lot, an easement through the one lot to get to the other, and there was a driveway constructed on that easement area. He said that they recommended that they eliminate that easement by doing a lot line adjustment between River Properties and Riverhome. That was accomplished and what the Board sees is the result – a long flagged lot with a slight bend in it, and it was done to increase the size. Mr. Watson said that it’s not quite conforming – it’s about 299 and a half feet or something like that in terms of the square, but they still have the variance for the...there’s an existing driveway off of 9D at this location (pointed out). Mr. Watson said that they’re going to take that driveway and relocate it a little to the south and connect at the top of the hill where it drives down to the potential house site. He said that the application to the Planning Board is to take the straight line back to the railroad and remove it and replace it with a line that shortens the lot with concrete block house and enhances the lower lot. The existing driveway, he guessed, was at about 15 percent and Mr. Gainer said that it had to be done to 14 and he thought they could accomplish that without very much trouble. Mr. Watson said that in the beginning, they have a two-acre and a 3.7 acre lot and when they end, they will basically be a 3.2 acre lot – the north lot will increase by 1.2 acres, and the south lot will decrease by the same amount. He said that it will become a two and a half acre lot.

Mr. Merante asked if it would be sent to the CAC.

Mr. Watson said yes. He said that Mr. Klotzle has been on the site several different times and is aware of what's going on.

Ms. Conner asked if Mr. Watson said that the existing variance covers (inaudible).

Mr. Watson said that they've only reduced the need for the variance. So they made it less non-conforming.

Mr. Gibbons asked if the driveway was going over Class 4.

Mr. Watson said that it's going across Class 2 slopes. He said that it doesn't quite make it onto 3. Mr. Watson said that's basically because the driveway was graded years ago.

Mr. Merante said that one section looked like 3 to him.

Mr. Watson said that he would take a look at that, because the grade of the driveway is fifteen percent and that's perpendicular to the contours, so that shouldn't be.

Ms. Conner asked if it was an existing driveway.

Mr. Watson said yes.

Ms. Conner asked if up on the north end was flatter in some way, or if it could just be relocated in general that would stop it from having it go to the existing (did not finish sentence).

Mr. Watson said no. He said that it was flat up there until a certain point, and then it starts to drop down. Mr. Watson said that they looked at that for Mr. Smith.

Mr. Gibbons asked if Mr. Watson would explain the stormwater drainage that he had indicated and asked if there was going to be stormwater drainage on this.

Mr. Watson said that obviously the driveway will create some stormwater. He said that they'll run it into the creek. Mr. Watson said that in terms of stormwater and relieving stormwater, if you get close to a big body of water, you want to let it go sooner rather than later. He said that if you're further back from the river, you want to hold that water back so it doesn't accumulate with the water that's being generated near the river. Mr. Watson said that the opposite is true as you get near the river – you want to get rid of that water, so that when the big surge comes by, it's already gone. Mr. Watson said that's in terms of detention. He said in terms of treatment, they will probably have some dry wells in there, which are not shown. Mr. Watson said that he was sure that their disturbance is under the acre they require, but they will do something with it.

Ms. Doherty asked if the 6,000 square foot buildable area was there and she just wasn't seeing it.

Mr. Watson said that he did not think it was there and wasn't sure that they could get it. He said, but they have a pre-existing, non-conforming lot and they are not doing anything to increase that non-conformity.

Ms. Doherty said, so that precludes the need for the 6,000 square foot.

Mr. Gaba said if they have an existing legal lot, yes.

Mr. Merante asked with regard to the location of proposed residence, what the elevation was above Route 9D.

Mr. Watson said that it is actually below Route 9D. He said that it's an elevation of probably 65. Route 9D is at elevation 130.

Ms. Conner asked a question (inaudible).

Mr. Watson said that he did not think it was. He said that the reserve area is above it, so he guessed he would have to say that if there ever became a need to use the reserve area, that would have to be pumped. Mr. Watson said that the primary area...you don't normally do that. Normally you put the reserve area below.

Ms. Conner said that it says, "proposed (inaudible)".

Mr. Watson said that he would have to correct himself, as that could be handled two different ways. He said that's going to push it.

Mr. Gibbons said that the questionnaire asked about outcroppings, etc. and he saw that in the middle of the Class 2, they have a bridge. He asked if there was anything else near the house. He said it looks like there's a shed.

Mr. Watson said that frankly he was not sure.

Mr. Gibbons said that he felt apprehensive. He said that when you see all the steep slope lines, (did not finish sentence).

Mr. Watson said that it is a steep piece of property and if it were not a pre-existing lot, they wouldn't be doing this. He said that's the situation.

Ms. Conner asked if it was a pre-existing lot because of the potential to build up top. She asked if Mr. Watson would point out where the lot lines were on the plan.

Mr. Watson did so. He pointed to a line and said it was the one they want to create. Mr. Watson pointed out Lot A and what it included. He said that it has been in that general configuration for at least thirty years, except that they pushed it down to make a little jog.

Ms. Conner said, so there are three lots there that they are looking at.

Mr. Watson said no, technically they're looking at two.

Mr. Gibbons said that the existing driveway where they indicated it looks like it's going over Class 3 is also right near a pond. He asked how close it was to the pond and if it now kicked in CAC land.

Mr. Watson said that he thought that was something CAC had to answer. He said that he would tell the Board that they asked on more than one occasion whether activities relating to it require a wetland permit. Mr. Watson said that their belief is that they do not need a wetlands permit.

Mr. Gibbons asked if Mr. Watson said that Mr. Klotzle had been looking at that.

Mr. Watson said that he had been working on this property for the previous owner for a couple of years. He was trying to figure out whether he could build on it the way it was and what he would have to do, so Mr. Klotzle was there a couple of time during the last three or four years. Mr. Watson said that he knew Mr. Klotzle was aware of it, because the Health Department will not come out and look at tests unless Mr. Klotzle gives them a letter saying he was aware of the tests. Mr. Watson said that if they need it, they'll apply for it, but he didn't think they did.

Ms. Sexton asked where the original existing driveway ended.

Mr. Watson pointed it out on the map.

Ms. Conner asked what the cross-hatching indicated.

Mr. Watson said that's legal steep slopes. He said that the Board would see it on the site visit. Mr. Watson said that the cross-hatching is land that is legally a Class 3 steep slope because it's within twenty-five feet of the top of a physically Class 3 steep slope. He said that with Class 3 slopes, the way the law works is that you extend it twenty-five feet uphill beyond its physical limits.

Mr. Merante asked when the jog on the driveway was done or was it now proposed.

Mr. Watson said that the physical jog on the driveway is not done. It will be done upon the Board's approval. He said that the legal jog in the driveway is done and actually in escrow right now, waiting for a bank to release the mortgage.

The Board agreed to swap this visit with the first one arranged, so that Leiner will be October 3rd.

Ms. Doherty made a motion that the Board declare itself Lead Agency and make a 239M referral to the County. 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
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Ms. Doherty made a motion to schedule a public hearing for October 21, 2010. 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
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
Pat Sexton	-	In favor

Correspondence

1. Memo from Robert J. Bondi dated August 26, 2010 regarding Central Hudson Gas and Electric
2. Letter from Chambers of Commerce dated August 2, 2010 regarding facilitating a better business climate within our County.
3. Letter from Arcangelo DiStefano, Esq. dated August 24, 2010 regarding E. Polhemus Enterprise, LLC

Adjourn

Ms. Doherty made a motion to adjourn the meeting. Mr. Meehan seconded the meeting. The meeting ended at 9:27 p.m. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons	-	In favor
Michael Leonard	-	In favor
Kerry Meehan	-	In favor
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: _____