

**Philipstown Planning Board
Minutes of the Meeting
September 20, 2012**

The Philipstown Planning Board for the Town of Philipstown held its regular meeting and a public hearing on September 20, 2012 at the VFW Hall, Kemble Avenue, Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman, Michael Leonard.

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

Approval of Minutes: 05-17-12 (as presented) and 08-16-12

Mr. Leonard asked if the Board had any comments with regard to the minutes.

There were no comments.

Mr. Merante made a motion to adopt the minutes. Ms. Finger seconded the motion. The vote was as follows:

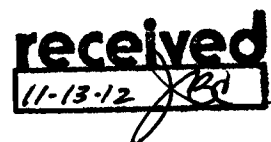
Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Kerry Meehan	-	In favor
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	In favor

Public Hearing

Cold Spring Fuel Corp. – Minor site plan amendment to allow installation of 18,800 gallon propane tank: Submission of revised and additional materials/discussion

Ms. Jennifer Reap introduced herself. She referred to the plan and said that right now they have a fence going straight across as opposed to putting the fence forward. Ms. Reap said that since the last meeting, they have made corrections to the plan. She said that one of them was that the zoning chart was incorrect and she thought they made all the changes that needed to be made. Ms. Reap said that they increased the number of bollards in the front of the fence and decreased the spacing between them so they're closer together. She said that they made the correction to the specified height of the fence. Ms. Reap said that she thought before they had it for four feet.

Ms. Sexton asked how big the tank was.



Ms. Reap said 18,000 gallons.

Mr. Merante asked what the size of this was compared to the one at Synergy.

Ms. Reap said not quite half.

Mr. Meehan asked who was going to install it.

Mr. Pidala said that it would be a company called Transtechs. He said that they would do all the installation, the piping and safety requirements. Mr. Pidala said that everything would be checked out afterwards.

Mr. Meehan said that the Board is not familiar with the codes.

Mr. Pidala said that they are familiar with it. He said that there will be a consultant and it will all be planned out before it is even started.

Mr. Meehan asked if the alarms are o.k.

Mr. Pidala said that they are fine – they meet code.

Mr. Meehan said that he would like to talk with the engineer.

Mr. Merante said that someone in the County would oversee the engineering firm surely with bonds, etc. – whatever the requirements are for the installation, and asked if the County had oversight on that.

Mr. Pidala said no, but they can come check it out.

Mr. Merante said, and make sure it complies with the code.

Mr. Watson said that Mr. Gainer suggested there be notes put on the plan that cites the code and make installation under those requirements. He said that he had no objection to that.

Mr. Pidala said that there are safety valves in place on all the tanks and little valves that go in the tank so it will still hold down the gas. There are thermal valves, which control...if there's heat, they'll shut it down. Mr. Pidala said that there are single level valves, where one person can shut everything down at one shot. He said that there are electronic valves, so all these things will be in place.

Mr. Meehan asked if this would be the bulk supplier.

Mr. Pidala said that it is a bulk plan.

Mr. Meehan asked where Mr. Pidala would store the delivery trucks.

Mr. Pidala said on-site.

Mr. Meehan said that it wasn't indicated on the site plan.

Mr. Pidala said that there are trucks there now and there is plenty of space.

Mr. Watson said that there is a working yard in the back where the oil tank is that if need be, can be used.

Mr. Meehan said that again, he didn't see any of it on the site plan.

Mr. Merante said that he was assuming that the tank comes to the tank already put together.

Mr. Pidala said that it is already fabricated.

Mr. Meehan asked if the applicant's deliveries were going to be 18-wheelers to bring the propane.

Mr. Pidala said right. He said that they pull right in from the road and don't have to be out on the street and get right in.

Mr. Watson said that is demonstrated on the plan. He said that in fact, they're using the same tracking that was previously approved by the Board.

Ms. Sexton asked if the applicant planned to fill small tanks also.

Mr. Pidala said yes, they do that now.

Ms. Sexton asked the applicant if he knew how big the Synergy tank was.

Mr. Pidala said that it's a thirty thousand gallon tank.

Ms. Sexton said the applicant has a seventeen thousand gallon tank, a twenty thousand gallon oil tank and a future seventeen thousand gallon oil tank. She asked the applicant if he intended to continue with the seventeen thousand gallon oil tank also.

Mr. Pidala said yes. He said that they got the o.k. for that, so if they want to get the permit for that, they were told (inaudible). Mr. Pidala said that they only have 120 and have to do a seven foot (inaudible).

Mr. Watson said that it was previously approved.

Mr. Leonard said that the Planning Board received comments back from the CAB and basically they did not really find any additional areas. He said that they acknowledged the fact, which they discussed before, about the existing roadway paths and (inaudible) buffer for Clove Creek.

Mr. Watson said that when he read that letter, he believed it said there was a new (inaudible) through there and that's not true. He said it is the same one that's already filling up the oil.

Mr. Leonard opened the hearing up to the public.

Mr. Larry Downey introduced himself and asked if there were going to be any setbacks from the roads and also that they're going to put a curb off of Route 9. Mr. Downey said that there are certain laws that the State has.

Mr. Leonard said that as far as frontage goes, the Planning Board had its site visit this past Sunday and discussed that issue.

Mr. Downey said that they have to be fifty feet from the roadway.

Mr. Leonard said that they are clearly beyond that. He said that earlier, the Board asked for some increases to the bollards, which deals with capabilities such that any vehicle coming in off the roadway, that would have clearly substantial...(did not finish sentence).

Mr. Merante said that it looks like it's about 87 feet from the centerline of Mill Road.

Mr. Watson said 62.

Mr. Merante said 62 to the property line.

Mr. Leonard said that they are way in excess.

Mr. Paul Campbell introduced himself and stated that he lived next door to the property. He said that his neighbor, Lynn Duffy is actually closer than he is. He said that his main concern was with the propane and asked if this type of installation be located much farther away from residences. Mr. Campbell said that his home is only about three hundred feet from the proposed location. He asked what the Board thought the result would be if there was an explosion involving 18,000 gallons of liquid propane. Mr. Campbell asked if there wasn't an issue of public safety and what the Board's plan was for the personal lives and security of their property. He asked if there was a DEC approval involved with this type of installation that has to be obtained. Mr. Campbell asked what the visual impact of this proposal would be and at what height the tank would be set and what color it would be. He asked if the screening provided would cover it and if there would be more bright lights added to what's already there. Mr. Campbell asked if there would be increased noise, more back-up alarms, etc. associated with the daily operation. He asked what the operation of hours would be. Mr. Campbell asked if there

would be a negative impact on traffic with more vehicles coming and going. He said that he would like to go on record saying that he strongly objects to this project.

Ms. Reap said that she wished to address some of Mr. Campbell's questions. She said that the top of the fence would be ten feet and the top of the tank would be twelve feet.

Mr. Campbell said that maybe the height of the fence could be taller.

Ms. Reap said that the tank is going to be painted a color similar to the tank that's in the back, which is gray. She said that she did not think there would be any more lighting than there is presently.

Mr. Watson said that they actually expect that because the tank is bigger, there would be a cut in traffic. He said that he believed that the DEC has a registration process – not a permitting process.

Mr. Campbell asked if that had been (inaudible).

Mr. Watson said not yet. He said that they fully intend to comply with whatever is required.

Mr. Campbell introduced his wife, Madeline.

Mrs. Campbell asked what was going to be done to ensure they're going to be safe.

Mr. Pidala said all the safety devices are on the tanks.

Mrs. Campbell asked if they were guaranteed not to malfunction.

Mr. Pidala said that you have one safety device backing up another safety backing up another safety.

Mrs. Campbell asked if it was lightning proof.

Mr. Pidala said that he could see if they could put rods in there, but he'd never heard of a tank being struck.

Mrs. Campbell said that accidents happen and she didn't want to wait until it's too late.

Mr. Pidala said that everything is going to be grounded – electrical, etc.

Mrs. Campbell asked if there was going to be someone on the site to take care of it.

Mr. Pidala asked if she was referring to a leak.

Mrs. Campbell said anything.

Mr. Pidala said that nobody is there when the plant is closed down.

Mrs. Campbell said that he was saying there's no chance it would explode. She asked if that was guaranteed. Mrs. Campbell asked what they'd do if it does explode and if anything happened, would her home be taken care of and would her family be taken care of.

Mr. Campbell addressed the Board and said that he didn't know if they recalled, but a truck carrying propane collided into a bridge in White Plains and blew the whole area sky-high and destroyed the bridge and everything.

Mrs. Campbell said it destroyed people's homes.

Mr. Reap said that she understood what Mrs. Campbell was saying, but a propane tank truck could be going passed her house and blow up. She said that's the kind of thing she was talking about.

Mrs. Campbell said that they are living next to it twenty-four/seven. She said that she wanted a guarantee that her home is safe. Mrs. Campbell said that they've been there thirty years.

Ms. Reap said that all the state of measures that can be done will be be done.

Mrs. Campbell said, and they have to live with it. She said that in other words, as long as they comply with safety standards, they're left with, God forbid, if there is some type of accident.

Mr. Leonard said that first of all, the Planning Board this last weekend also addressed these issues and had these concerns and raised them. He said that the Board is not the final say. There are a lot of regulations and there will be other groups to look at this as well. Mr. Leonard said that they answered a lot of questions. Mr. Leonard said that if the applicant ends up meeting all of the regulations and the Board looks at the issues that can be reasonably dealt with, it has to become acceptable.

Mrs. Campbell asked again, if the tank explodes, will her house be affected – regulations or not. She asked if anyone had looked at that.

Mr. Leonard said that again, he thought it was out of the Planning Board's area.

Mr. Gaba said that certainly there hasn't been a study on the affects of theoretical blasts from a propane tank on the property, but he could tell them that safety, particularly with property like this – nearby residential properties, is something the Board will look into and in terms of the Part 3 of the EAF and SEQRA review, a safety study or something along those lines might be required. Mr. Gaba said that they are just at the public hearing stage of the application where concerns such as the applicant's are being presented to the Board and this is by no means the end

of the application process. Mr. Gaba said that he could assure Mrs. Campbell that the Board will look into them. He said that as an overall answer to her question though, if the applicable state and local regulations are complied with and if the Board finds the compliance results in a reasonably safe condition, then the approval would have to be granted. It's not 100% guaranteed or anything like that. It's just what's reasonable.

Mrs. Campbell said o.k., beyond the safety, the fencing, the screening...they have a gigantic business behind them with fencing, which is now falling apart. She asked if the screening was going to be maintained or was going to be put on the plan and then five or ten years down the road as it starts falling apart, they have no recourse. Mrs. Campbell said that the Board has to understand why she's asking these things and wants guarantees.

Mr. Watson said that the site plan approval is the Town's tool for the sort of example Mrs. Campbell was making. He said that if Mr. Pidala were to not do anything and the fence fell over or began to fall over, Mrs. Campbell's complaint to the Building Department would bring the Building Department out with the site plan and would tell the applicant he is in violation of his site plan, has to fix it, and if he doesn't, he would have to go to court or go back to the Planning Board and get a new site plan approval. Mr. Watson said that this whole process is a mechanism to provide as much assurance to Mrs. Campbell and other citizens of the Town as possible.

Mr. Downey said that there is not a fire department in Dutchess or Putnam County that could fight a fire from a propane tank.

Ms. Barbara Hobbins Feldt introduced herself and stated that she lived at Glassbury Court on Route 9. She said that what if...like what happened in Japan, Route 9 would be out – houses would be out. Ms. Feldt asked if there were any what ifs for that size tank. She said she thought that was a rational concern. She asked that the bollards be pointed out.

Ms. Reap did so.

Ms. Feldt asked what would happen if the truck went off course and went in this way (pointed out on plan). She asked if it would hit the buildings right there and not the bollard. Ms. Feldt said that she lived in Manhattan through 9-11 and bollards became used for everything. She referred to the plan and said that they looked like really tiny bollards and seemed inadequate.

Mr. Leonard said that was why it was increased. He said that the Board actually asked for that and they did it.

Ms. Feldt asked how many trucks were coming and going now.

Mr. Pidala said that in the wintertime it is more. He said in the summer you might have one or two a month.

Mr. Joe Giachinta introduced himself and stated that he owned property right next to Pidala. He

said that he was in favor of the project. Mr. Giachinta said that he was sure some of the Board members remember what that property looked like before the Pidalas bought it and there is quite an improvement right now. He said that they take pride in their properties and business and it shows. Mr. Giachinta said that the safety is the number one priority down there and he could tell the Board that for a fact. He said that also, that shows in the pride. Mr. Giachinta said that they've been here a long time, plan on staying and are setting this up for the second generation. He said that he was sure the Pidalas would do anything the Board and the neighbors ask them to do.

Mr. Leonard asked if there were any other comments.

Ms. Jainchill said that the thing that hadn't been addressed is the visibility of it and if there is any way they could make it less visible.

Mr. Leonard said that obviously, one comment was to raise the fence a little. He said that as they discussed Sunday, the color was designed such that it would blend in.

Ms. Jainchill said that they could put some higher plantings in front where there is already plantings or even put some evergreens immediately in front of the fence.

Mr. Leonard said that he believed the Board asked that question on Sunday for at least the roadway landscaping and clearly, they expressed that businesses need viewing capability and that property is very easy to go by. He said that it seemed like they already have the trees there.

Mr. Meehan said that in listening to the neighbors, he thought there was a safety concern. He said that he would like to see somebody come before the Board to tell them exactly what kind of safety measures to put in place to protect the neighborhood and what kind of state regulations have to be followed.

Ms. Sexton said that she wanted to know what the radius of damage would be if there were an explosion of a tank that size.

Mr. Leonard said that he thought there was a certain amount of limitation on the Board's end for these kinds of questions, which should be more for the regulators and are issues that they clearly have expertise on. He said that once those issues are resolved on their end...the Board members are not experts to be able to judge.

Mr. Meehan said that he did not think the Board was in judgment.

Mr. Leonard said that the Board has a certain amount of areas to look at.

Mr. Meehan said that the Board has had engineers come in before with regard to another application. He said that he thought that was all they were asking.

Mr. Merante asked if the Board would know the difference if the expert comes in and tells the Board what is done to maintain safety and follow State code, etc., would the Board know the difference. He asked if the Board would know the questions to ask. Mr. Merante said that the Board has a professional engineer and the building inspector, who are going to sit in judgment as to its construction. He addressed Mr. Pidala and Mr. Giachinta and said that it was his understanding that liquid propane does not explode – it is when it is released in the gaseous form.

Mr. Pidala said that it has to be released in gas form and has to be confined in an area.

Mr. Merante said that he'd like to remind everybody that they probably have a hundred gallon tank behind their house.

Ms. Sexton said that the purpose of the public hearing was so that the Board could hear concerns of the public and thought they should listen too. She said that she did not think it was such a bad idea to have someone come in to reassure the public since the Board can't really do it...that the safety issues are there and this is what they're going to do. Ms. Sexton said that she had a 70-gallon propane tank in a fire blow up behind her house. She said that lightening struck it.

Ms. Conner said that this is not the first propane tank on Route 9. She said that she wished to point out that Synergy has a much larger and older one, so there is precedent.

Mr. Meehan said that was thirty years ago and now there are newer and stronger regulations.

Mr. Leonard said that as Mr. Merante said, there are clear processes outside the Town and with the State that goes beyond the Planning Board, so they have a limited scope. He said that there are questions that he thought had to be answered by someone with clearly more experience and if the applicant raises questions in those areas, you'd have someone a lot more experience than the Planning Board members.

Mr. Zuckerman asked if there was a parallel process for the approval for a tank of this size or a tank in general.

Mr. Gaba said no, in-ground petroleum tanks are completely different than aboveground propane tanks. He said that the approval process just isn't the same – the DEC is much more involved with the petroleum tanks and propane, not so much. Mr. Gaba said that if they meet all the applicable requirements, the Planning Board could still look at safety issues and that would involve weighing what the safety measures are, what the risk of an accident is and decide whether on a site of this nature, that risk is appropriate or additional measures (addition to what's required by code) need to be taken in order for site plan approval to be granted. He said that he didn't know that the Board needed to educate the public in regard to that, as it's really the Board that needs to be educated about it. Mr. Gaba said that he'd mention the possibility of a safety study or some sort of report or correspondence from the professionals involved and thought that was an appropriate thing for the Board to ask for. He said that in fact, he kind of that the Board would be required to complete SEQRA Review on this. Mr. Gaba said that the Board needs to

look not only at what the applicable code is, but to look at the site plan that's being presented and whether it protects the public's health, safety and welfare and that includes things like looking at neighboring properties. He said that once you see what kind of safeguards are incorporated, once you have some kind of report or letter, the Board be in a much better position to weigh what's reasonable to require and what isn't.

Mr. Zuckerman asked what the process of the Board would be to ask for a safety request of some sort, because if something awful were to happen when you have these residences nearby, he did not have a sense as to the impact...he wouldn't know whether they're fine or not fine.

Mr. Gaba said that the Board on every application, asks the applicant for some input on it and then run it by the professionals. The professionals are hopefully in a position to report back to the Board. If for whatever reason it fell outside their area of expertise, and they questioned what was received from the applicant, the Board could go out and hire their own expert to review it and report back to you. Mr. Gaba said that's rarely the case.

Mr. Gainer said that he submitted a technical memorandum from his office to provide an outline of technical issues that have to be addressed. He said that there are various details that have to be added just to identify the specifics of the tank installation. Mr. Gainer said that currently, there is only a short form EAF and it would be incumbent upon the Board to seek a long form and they could present a suggested Part 2 for the Board's review and then from that analysis, the Board could then move forward with the issues of the further technical studies required to advance the application. He said that they specifically asked that notations be added to plan to clarify the applicable standards – including the NFPA58, and also identify the plans that will apply to the 17,000-gallon tank, which was previously approved.

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

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

Ming H. Wang – 3-lot subdivision – Jaycox Road, Cold Spring: Request for 90-day extension and revision of Resolution of final approval

Ms. Conner recused herself and left the table.

Mr. Watson said that they were actually requesting two things – a ninety-day extension and a revision to the Resolution. He said that the reason is that it has to do with the title problem (inaudible) that they had with the property. Mr. Watson said that last month, the Village of Cold Spring put forth a claim to the ownership of Jaycox Pond. He said that threw a monkey wrench

into everything because they didn't own the property and couldn't subdivide it. Mr. Watson said that deal has been worked out and Cold Spring is going to quit claim the ownership (the fee of the underlying ownership) of the land to the Wangs. They, in turn, are going to issue water rights and an easement to get to the pond back to the Village. Mr. Watson said that they decided they'd it would be better to put the easement area and water rights area on the map, which they have done – so the map is different only because they provided some additional information. He said that the Wangs and the Health Department have signed the plat. Mr. Watson said that it was there for signature this evening if the Board accepts the amendment.

Mr. Gainer said what was passed out was a draft Resolution, which amends the prior subdivision action that the Board took. He said that back in June of 2011, final subdivision approval was granted subject to standard conditions. At that time the issue of title was not known to the Board. It was resolved through the addition of notations on the plat. So there's a new plat before the Board with a new date and some limited additional information relating to the Village of Cold Spring easement that's been granted. The draft Resolution establishes the very same conditions that were on the original approval, but is intended to acknowledge that that the Board doesn't find it has any material affect on the former approval and reaffirm the prior subdivision action.

Mr. Gaba said that the situation is that there is an ancient deed that goes back to the 1800's and it grants the Village an easement and water rights – the right to take water off of property, which has been identified as the Jaycox Pond property. The easement was never specifically located. Mr. Gaba said that the Village and the Wangs have come to an understanding with regard to locating the easement and memorializing in an easement a document the right to take water. He said that they simply filed all recording documents, which clarified the parties' understanding as to where the easement is and memorialized that right now it's being shown on the subdivision plat – it is the exact same subdivision plat as before. Mr. Gaba said that it is the exact same subdivision plat that was approved before. The only difference is now it delineates where the easement is and where the Village has the right to access.

Ms. Finger said that she was wondering if the subdivision notes had a condition that she thought the Board had removed last October. She said that she reviewed the minutes.

Mr. Gainer said that the Resolution doesn't contain those notes – they'd been added on the plat.

Ms. Finger said that the one regarding the house and driveway are not on the plat.

Mr. Watson said that particular note was with regard to the Resolution one time before and they took that note out.

Mr. Meehan made a motion that the Board grant the ninety-day extension. Mr. Zuckerman seconded the motion. The vote was as follows:

Michael Leonard	-	In favor
Kim Conner	-	Recused

Mary Ellen Finger	-	In favor
Kerry Meehan	-	In favor
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	In favor

Ms. Conner joined the table again.

Lyons Realty LLC – Soil Mine Application: Request for return of escrow

Mr. Watson said the soil mine application has been withdrawn from the State and there is no more to do.

Mr. Gaba asked if the Board verified there were no outstanding bills.

Mr. Gainer said that he hadn't checked his records to see if they've done anything of late.

Mr. Watson said that the last thing that he would have been involved with would have been the night of the public hearing back in June or July.

Mr. Gaba said to approve it on the condition that there are no outstanding bills.

Mr. Watson said, so check the balance first.

Mr. Gaba said right.

Ms. Conner made the motion to approve the return of escrow on the condition there is nothing outstanding. The motion was seconded. The vote was as follows:

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

SNK Farms, Inc. – Minor site plan amendment and special permit application, 3188 Route 9, Cold Spring: Revised EAF Parts 1, 2, and 3

Mr. Watson said they made substantial revisions to the plan. He presented the plan and said there have been several minor changes. Mr. Watson said that one of the Board's concerns was that they put something in front of the retaining wall. He said that they have specified that they would put reflective posts there. Mr. Watson said that they are high enough so that they will be evident. He pointed them out on the plan. He said that other major had to do with traffic. Mr. Watson said that they have submitted a traffic study and did address it with a striping plan. He said that they prepared a circulation plan and explained to the Board how it would work. Mr.

Watson said that they've added striping at the north and south entries and they specified a narrowing of the throat of the south entry.

Mr. Merante asked Mr. Watson if he was showing the 8/27/2012 revision.

Mr. Watson said yes. He said that those were the two major changes they made. Mr. Watson said that at 4:30 today he got a copy of a report from Ms. Jainchill that said they didn't address the idea of the sidewalk. He said that they really see it being a needless expense to the applicant. Mr. Watson said that first of all, that was not suggested with Philipstown Square. That report is over three years old. Mr. Watson said that Philipstown Square is done and they're not going to be back. He said that Valenti Concrete is not going to go away. He's done and not going to be back. Mr. Watson said that Pidala Electric is not going to be there. So what they're going to be doing is putting up 250 feet of sidewalk that nobody's going to be able to walk to and nobody's going to be able to walk away from. They don't have pedestrian traffic there and there's not very much possibility of pedestrian traffic. He said that Ms. Jainchill's memo also requested an explanation as to why they're making the application to open the fill-up lane close to the building. Mr. Watson said that he believed he explained it more than once. He said that the previous site plan required that the applicant block and prevent traffic from using the fill-up lane closest to the building because the door to the convenient store was right in the middle of the building and there was no room for someone to pull out and stop quickly enough if somebody was coming out of the door. Mr. Watson said that the door has been moved to the north end of the building, so they increased the distance and then the site plan has a series of bollards that will direct traffic away and provide some measure of safety for people.

Ms. Jainchill asked if there was a process that they went through when they opened that up again. She said that she assumed it was closed up because the Town Engineer made that happen.

Mr. Watson said that it was part of the site plan was to block that off for that particular use.

Ms. Jainchill said that there was never a permit to take it out and asked if that was right since it's now not in compliance with the site plan.

Mr. Watson said that with regard to Ms. Jainchill's memo and the suggestion that they do a three-year accident analysis, before they undertook the traffic study, the engineer asked them for affidavits from the owner and the previous owner with regard to accidents at the intersection. The affidavits state that there was never an accident at that intersection.

Ms. Conner said that she had personal knowledge of an accident at that intersection.

Mr. Watson asked if someone was coming out of the gas station.

Ms. Conner said that she was not sure, but knew at least one person whose car was totaled.

Mr. Watson asked if it was moving in or out of the gas station.

Ms. Conner asked if it didn't have to do with significant traffic patterns.

Mr. Watson said that it has to do with use at that intersection by the gas station.

Ms. Conner said that she could not state for sure whether someone came out of the gas station and hit her or not.

Ms. Jainchill said that a safety study could be done where you foil a request for information from the police records.

Ms. Sexton asked if there was just an accident at the gas station with a delivery truck.

The applicant said yes, there was. He said that it was on Route 9 – it wasn't at the gas station.

Ms. Sexton said that there has been more than one.

Mr. Meehan said that when you're coming south on 9, turning and going left at the light to get into the gas station, you have to sit there and wait for the cars to turn left, the light turns and the traffic starts going north and you're stuck behind three cars wanting to go left.

Mr. Watson said that he does use the station and if he is leaving or entering the station, he'd rather enter at that traffic light than he would at the south end. He said that knew there was a suggestion from AKRF, who wrote a report, that the traffic exit from the south. Mr. Watson said that if you've got traffic lined up going north, traffic lined up going south, stopped at the intersection, somebody coming out of the south end when the light turns green, there's a real opportunity...the easiest way to get out of that is to go out at the traffic light, wait until the north/south traffic is red and you can go.

Mr. Merante said that the only confusion that he's seen many times is in coming out of the gas station and wanting to go across to Fishkill Road, people coming out of Fishkill Road don't know what to do and if you have someone who's not familiar with the area, they'll stop and look and get half way out into traffic. Mr. Merante said that it is not the owner's fault, it's DOT and whoever designed the light at the intersection. He said that there's a light with three sides and an empty fourth side and four entrances to this intersection. Mr. Merante said that somehow or another, pressure has to be put on DOT or Putnam County to do something about it.

Mr. Watson said that they'd have the traffic engineer at the public hearing to answer the specific questions.

Ms. Jainchill said that reducing the number of turns at the corner of the confusing intersection would reduce the potential for conflicts.

Mr. Merante asked how they'd reduce the number of turns.

Ms. Jainchill said by not having an exit. She said that if you only have an entrance to the north and an exit from the south, you'd simplify the movements, nobody would be encountering a no signal. Now the exit would be over a hundred feet south of the intersection, traffic would be slowed down by the traffic light. She said that she would encourage the applicant to provide a study. Ms. Jainchill presented a sketchy alternative.

Mr. Merante said that he knows someone that comes out of East Mountain Road South every day and with the morning rush, she can't get out. He said that if people don't let you through, you're stuck.

Mr. Leonard said that in his opinion, you're clearly facing this issue in the rush hour at night.

Ms. Jainchill said that she had been realizing that gas stations around Westchester and Putnam Counties are set up for similar issues. She said that she had an aerial of one gas station and presented it to the Board. It happens where there's a confusing intersection and they try to simplify the movement in order to provide safety. She said that it's not going to provide flow.

Mr. Leonard said that if the Board is looking to restrict it to one way on each one, to what level do they expect the applicant to go, because personally observing this a bunch of times, he didn't think they were going to (inaudible)...you're going to force the traffic lane to go in a direction which would keep someone definitely from being able to turn into that area. He said that you could put a sign up, but he didn't think the sign would stop it.

Ms. Jainchill said you could put a do not enter and enter sign...markings on the ground showing an arrow in and out.

Mr. Merante said that when this station is busy, which is most of the time, someone pulling in from either one of these, is jockeying back and forth as people try to get access to a pump.

Ms. Jainchill said that's another thing that the one-way system solves – nobody's entering from the south.

Ms. Sexton said that it doesn't sound like a really good solution, having been there trying to get out. She said that she really thought the Board should put some kind of onus on DOT.

Ms. Jainchill said that the application is for (inaudible) traffic to the intersection.

Mr. Zuckerman said that's not what their study said.

Ms. Jainchill said that they definitely have the right facts. She said the problem is that the use was approved twenty years ago. A lot has changed in the neighborhood and traffic patterns.

Mr. Watson said that they counted the actual traffic with the operation. He said to be perfectly

frank, if they can't use it for oil change, they're going to use it for a car wash. So their comparison is really a fair comparison, because as opposed to looking at it today, which admittedly because the car wash is closed down, there's a lot of traffic and there will be an increase from that. Mr. Watson said but there's not an increase from re-opening the car wash.

Ms. Finger said that she has been using that gas station for the last twenty years and there's a big difference of traffic activity depending on rush hour. However, she uses that south entrance many times as her entry point because she feels so much safer and doesn't have to fear being rear-ended.

Ms. Jainchill said that it seems the vision is to make the area a hamlet, which includes comments. She said that's really what should be looked at. It's not the onus on the applicant, but is something the Planning Board has to recognize. She said that part of what they want to do in order to follow what the Comprehensive Plan put together is that they want to make this less fast where it's defined as the hamlet in the Code.

Mr. Gaba asked if they were talking about the hours of operation of the plan change.

The applicant said eight to six and closed on Sundays.

Mr. Gaba asked when the car wash would be open.

The applicant said seven days a week. He said just to let the Board know, the car wash will create a lot more traffic than the repair shop/oil change. The car wash brings in three to four hundred cars and the oil change place will be twenty cars.

Mr. Gaba said that the oil change place is probably not going to be doing most of its business at rush hour. So if the change is allowed, they're actually going to wind up with less traffic on that site. Mr. Gaba asked Mr. Watson if he said he was going to bring a traffic engineer to the public hearing.

Mr. Watson said yes.

Mr. Leonard referred to the plan and asked if there were plans for the lane on the far side next to the curb...by scale, there's only thirteen feet in the corner. He asked if their plans were that the large trucks would try to make that turn and go out.

Mr. Watson said that large trucks are going to go straight out.

Mr. Leonard said, but around the side – the small lane between the car wash currently and the curb (next door), when you come around the corner, it's thirteen feet. He asked if that would be adequate enough for trucks to make the turn and come out.

Mr. Watson said yes. He said that they didn't put the reflective posts along the property line

because they would lose a foot of that lane. Mr. Watson said that they have also put a note on the plat that the roof has to be cut back to make it work, but it does work. He said that they have an advantage in that the traffic is really slow, so the trucks can make a sharper turn. Mr. Watson said that another point was that they happen to be laying out the lanes on Route 9 up by Glassbury Court. It's 11.8 feet in a lane.

Mr. Gainer asked Mr. Watson to put the turning radius information on.

Mr. Meehan asked if the deliveries would be at night.

Mr. Watson said that the applicant could request it, but can't control it.

The applicant said that he would try to get deliveries at night.

Ms. Jainchill asked how the parking spaces were determined.

Mr. Watson said that they calculated using the code.

Ms. Jainchill said it's pretty loose what the code says.

Mr. Watson said that they measured the building and came up with it based on that number.

Ms. Finger said that she could understand the desire to refer to it as a hamlet appearance, but it is a vehicular business, as are the businesses to the north – i.e., Putnam Tire, etc., so the idea of pedestrians walking along between those distances doesn't really seem fitting.

Ms. Conner said that when they redesigned everything, they looked at all these centers. She said that with the ball fields and fire department, they built a sidewalk along there and the intention was to create some kind of relationship between public space and the ball field. Ms. Conner said that with this particular site, it's actually kind of ideal.

Mr. Leonard said that there is new oil and old oil. He asked the applicant if he was going to change tires also.

The applicant said yes.

Mr. Leonard said that obviously tires require a lot of inventory and the old tires need to be disposed of.

The applicant said that would not carry tires as inventory.

Mr. Leonard said that the applicant had two spaces in the rear for employees and asked if that was going to be the amount.

The applicant said yes.

Mr. Leonard said so the Board is expecting just two employees to run the business.

Mr. Watson said no. He said that with those particular spaces, employees would be directed to park there before they park in the front. Mr. Watson said that would probably use a couple of the other spaces, but the goal is that they're going to keep those spaces – they don't want the customers behind there.

Ms. Conner asked if they would only have two employees with the oil change.

Mr. Watson said that there would be more than two employees. The oil people...their cars will be (inaudible). The gas people will be (inaudible) and the convenient store will take the rest of them.

Mr. Leonard asked if the bay doors would be expected to stay closed year round.

The applicant said that they talked about keeping the front doors closed and the driveway in back.

Mr. Leonard said that again, similar to the property next door, the Board recommended the plantings would help with regard to screening from the neighbors.

Mr. Watson said that was addressed early on. He said that there's a fair amount of fill, so any runoff is not going to go back because the lane goes up and over before it goes down.

Mr. Gainer said that the Board should be aware the applicant filed a long form EAF, Parts 1, 2 and 3. He said that with Part 2, at some point he had some suggestions to modify some answers provided in the middle, but otherwise found the Part 2 reasonable. Mr. Gainer said that it could be further discussed. He said that there are other technical issues to be resolved, but they can be dealt with directly with the applicant's consultant. Mr. Gainer said that he just heard tonight that the required letter from the zoning administrator has apparently been filed, which was an open issue on the application process.

Mr. Merante made a motion to schedule a public hearing next month (October 18, 2012) on this matter. Ms. Conner seconded the motion. The vote was as follows:

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

E. Polhemus Enterprises, LLC – Site plan (soil processing) – Horsemen’s Trail, Cold Spring: Revised EAF Parts 1, 2, and 3

Mr. Watson provided a colored version of the plan that had previously been submitted to the Board. He said that it’s an application that has been before the Board for a very long time, it’s changed considerably over the course of the review. Mr. Watson said that essentially, they revised the plan to show the minimum use on the property. The single major issue they wrestled with has been noise. He said that in order to get rid of the noise, they eliminated the wood processing. They built a berm, which would help deflect some of the noise. Mr. Watson said that they moved the activity area to the middle of the site and really just boiled it down to the minimum amount of use. He said that it is not dissimilar to the use that has been going on for the last thirty plus years. Mr. Watson went over the property layout with the Board. He stated that they would be extending the berm that’s partially built. They will raise it up and extend it a little and the planting will provide screening for the neighbors. He said that similarly, they’re providing plantings and closing up the northern entry, leaving the southern entry open with a small gate and putting more screening along the side, so it will be as invisible as they think they can make it from the outside. Inside, there’s some grading in order to make sure the drainage goes to the settling pond. Mr. Watson said that there is a little platform that will go away where the house needs to be and it will all be graded. He said that they left two parking spaces, which is what they require and they have the parking area for equipment that may be on the site. He said that at some point in the future, they intend to do material bins. Mr. Watson said that with regard to screening, they’ve specified that only (inaudible) would be used, which is really what you have to do anyway. But they’ve also specified lining the hopper with sound detonating material. Mr. Watson said that he believed it was the least they could possibly do and still keep the property as a viable thing to have and continue to operate what’s been an on-going operation for thirty years.

Ms. Conner said, so no more wood.

Mr. Watson said no more wood – it’s gone.

A woman from the audience asked if the public could ask one question.

Mr. Leonard said that it was not a public hearing.

Ms. Jainchill asked Mr. Watson if with regard to the noise study, he had the map for it.

Mr. Watson said that he would get it to her.

Ms. Jainchill asked if the mobile rock crusher would still occasionally be on the site.

Mr. Watson said very occasionally.

Ms. Jainchill said that it’s not retail sale and asked if that was correct.

Mr. Watson said that he thought there would be some level of people coming in on a Saturday to pick up some gravel in the back of their pickup kind of thing. He said that he thought that would happen. Mr. Watson said that with regard to the impact on traffic, it would only have a measurable impact on that quarterly basis that Entergy is going to use their building for their instruction. He said that was all talked about because all the traffic study and recommendation had to do with the quarterly day when they're going to have sixty people there. Mr. Watson said that the traffic study, which was basically done at the same time by the same firm as did the Entergy traffic study, and they recommended here that they put up signs directing northbound traffic.

Ms. Jainchill said that the decibel levels are going to be brought down by the padding.

Mr. Watson said padding and then different screening.

Ms. Jainchill asked if they gave a decibel level that it would bring it down to.

Mr. Watson said no.

Ms. Sexton asked where do they make a comment about dust control.

Mr. Watson said that he thought it was in the EAF.

Mr. Gainer said that the Board had actually processed this application to some extent previously and actually had gone through some environmental review. He said that they had the applicant file Parts 1 and 2 of the EAF - Part 3 elaboration probably back in 2010 that initiated this traffic study and the understanding of necessary mitigation. Mr. Gainer said that the noise study that was done is the same study that was accomplished then. He said that the applicant's filed a new Parts 1, 2 and 3 just for this latest application. It was at the direction of the Board to update all the information to eliminate any reference to the wood processing. So that EAF has now been modified and presented to the Board as part of the submittal. Mr. Gainer said that he did not know if they Board needed to re-adopt a Part 2 or just accept the corrected materials, which for the most part reflect the original EAF documents minus any reference to the wood processing.

Mr. Gaba said that he did not know that the Board needed to re-adopt it, but it's really not a problem to do that. He said one of the things pointed out in Mr. Gainer's memo is that there should be a new submission to County Planning with a revised plan. He said that they are required to give what's called a "full submittal" of the application and if there are changes, they have to be sent in. Mr. Gaba suggested the Board do that.

Mr. Gainer asked if the CAB should also be re-noticed.

Mr. Gaba said that he supposed so, but didn't think there would be any different result.

Mr. Watson said that all these things are mitigations to previous plans. He said that he did not

have any objection to having the application being sent to the County to make a full submittal, but it seemed to him that it was not necessary to go back to the CAB, as frankly there's nothing there.

Mr. Gainer said that he understood.

Mr. Gaba said that he did not know that it was necessary, but he thought if the Board was inclined to do it, it's within their purview.

Mr. Gainer said that relative to process, the original application was subject to a public hearing.

Mr. Gaba said that they noticed the public hearing and it was opened and closed. He said that the situation with that is that if the Board feels that the changes are such that the public hasn't had a fair chance to comment on them, the Board can require a further public hearing. Mr. Gaba said that there's nothing on there that the public hasn't had a chance to comment on already and since it's not required, that's one he certainly wouldn't recommend.

Mr. Leonard said the Board would make the 239M referral to the County and that was the only referral required.

Mr. Gaba agreed. He said that the Board didn't have to adopt the Part 2.

Mr. Merante made a motion that the Board adopt the Part 2. Ms. Conner seconded the motion.

The vote was as follows:	Michael Leonard	-	In favor
	Kim Conner	-	In favor
	Mary Ellen Finger	-	In favor
	Kerry Meehan	-	In favor
	Anthony Merante	-	In favor
	Pat Sexton	-	In favor
	Neal Zuckerman	-	In favor

Ms. Finger made a motion to refer the application to the County. Mr. Merante seconded the motion. The vote was as follows:

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

Other Business

- County Line Equities

Mr. Leonard asked Ms. Jainchill if she had the chance to speak with Ms. Smith.

Ms. Jainchill said yes and that Ms. Smith asked to not be on the agenda and not to bill her anymore. She told Ms. Smith that she has not been billed.

- Pre-application meeting

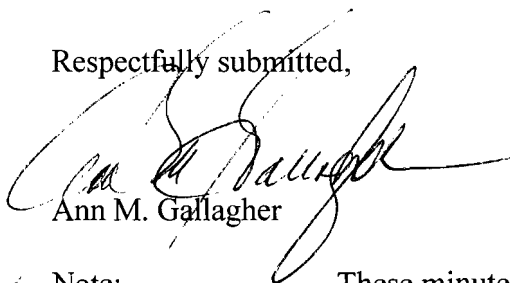
Ms. Jainchill said that there was a subdivision pre-application meeting. She said that they had not set up any forum with regard to subdivision application meetings, and that's why she had not distributed anything. Ms. Jainchill said that she wanted to give the Board a head's up that the Lyons property (applicant) came in to talk about a subdivision of one parcel for residential use. She said that they have issues to work out before they can actually put the application together.

Adjourn

Mr. Merante made a motion to adjourn the meeting. Mr. Meehan seconded the motion. The meeting ended at 9:30 pm. The vote was as follows:

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

Respectfully submitted,



Ann M. Gallagher

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

Date approved: _____

PHILIPSTOWN PLANNING BOARD

TOWN OF PHILIPSTOWN, NEW YORK

RESOLUTION PPB # 1 Yung Wang & Ming-Hsien Wang 2-lot three lot subdivision. 81.108 +/- Acres of Land located on Jaycox Road. Tax Map # 38-2-27.

WHEREAS, the Wang's own a parcel totaling some 81.108 +/- of acres located on Jaycox Road in an R-40 Zoning District; and

WHEREAS, an application was made to the Planning Board of the Town of Philipstown for approval of a 2-lot subdivision; and

WHEREAS, the Planning Board completed SEQRA review for this project, a duly advertised public hearing has been held, referral of the application pursuant to GML §239-n has been duly made to the County Planning Department, which responded with approval of the project; and

WHEREAS, the Planning Board carefully considered all of the comments raised by the public, the Board's consultants, and other interested agencies, organizations and officials; and

WHEREAS, on June 16, 2011 the Planning Board granted Final approval of the subdivision plat subject to conditions specified in the resolution of approval adopted by the Board; and

WHEREAS, subsequent to receipt of this approval the Wang's entered into negotiations with the Village of Cold Spring concerning use of the pond on the property for municipal water supply purposes; and

WHEREAS, the applicant has submitted the following amended subdivision plat materials reflecting easements and rights granted to the Village of Cold Spring, for consideration by the Town of Philipstown Planning Board:

Author	Title	Last Revision Date
Badey & Watson Surveying & Engineering, PC	Subdivision Plat prepared for Yung Wang & Ming-Hsien Wang	August 3, 2011
Badey & Watson Surveying & Engineering, PC	Constraints Map	March 28, 2011

WHEREAS, the Town Planning Board has been duly authorized to approve plat applications and to grant subdivision approval for property located within the Town and approve local wetlands permits; and

NOW, THEREFORE, BE IT RESOLVED, that:

I. Subdivision Approval:

- 1) The Planning Board finds that the applicant has met the requirements of Town of Philipstown Article 112 for grant of subdivision approval; and
- 2) The Planning Board finds that that the easements now showing on the revised plat, which were granted to the Village of Cold Spring for use of the on-site pond for water supply purposes, and for access to the dam, do not have any material effect upon the Board's prior grant of subdivision approval; and
- 3) The Planning Board hereby re-affirms the prior grant of Final approval of the subdivision plat as depicted on the plans listed above and final approval subject to the following conditions as enumerated in the June 16, 2011 resolution:
 - A. Presentation of a tracing and print of the final plat in accordance with Section 112-14C(1) of the Philipstown Code, including all required endorsements; and
 - B. Signature of the Plat by the Putnam County Health Department; and
 - C. To address concerns of the Planning Board, the Construction Plans shall incorporate the following:
 - A note should be added to the plans to specify that, prior to the construction of any lot improvements, an erosion/sediment control plan conforming to applicable NYS and Town Stormwater Pollution Prevention Plan (SWPPP) requirements, and including all necessary construction details required therein, acceptable to the Building Inspector and Town Engineer shall be prepared and implemented on each lot
 - Concrete Monuments should be provided where specified by the Town Engineer
 - D. Bayswater Findings - Payment of a Recreation Fee for the second and each additional residential lot in the subdivision which does not contain an existing dwelling shall be collected by the Town in an amount then in effect as of the date the plat is presented for the Chairperson's signature, which fees shall be paid prior to signing that section to be filed in the County Clerk's office. The Planning Board has determined, based upon the present and anticipated future need for parks and recreational facilities in the Town [as calculated from projected population growth to which this subdivision will contribute], that

parklands should be created as a condition of approval of this subdivision. However, because parks of a size adequate to meet the Town's requirements cannot be properly located on the subdivision plat or would otherwise be impractical thereon, the Planning Board, pursuant to Section 277(4) of the Town Law of the State of New York, hereby requires that the applicant deliver payment in lieu of parkland, by cashier's check or certified check drawn to the order of the Town of Philipstown in such sum as the Town Board shall determine. In this regard, since the Town Board has promulgated Chapter 71 of the Town Code fixing the amount to be paid in lieu of dedication of parkland at \$5,000.00 and 00/100 Dollars for every additional lot created in a subdivision; such Recreation fee payment being 1 lots x \$5,000.00 for a total of \$5,000.00. Such amount shall be paid at the time the Plat is presented for endorsement by the Planning Board Chair, and before any on site work commences or building permits are issued, unless payment shall be deferred to a later date by agreement between the applicant and the Town Board.

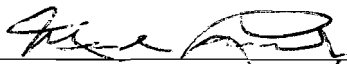
E. Payment of all outstanding fees for review and approval of this application.

4) The Chairman is authorized as officer of the Planning Board to endorse the final plat when Conditions A through E have been met.

5) Pursuant to Section 112-47D(5)(e) of the Philipstown Code, conditional approval expires 180 days after the date of this resolution unless the conditions or requirements have been certified as completed. Provided, however, that the Planning Board may extend the time in which the conditionally approved plat must be submitted for signature for two (2) additional periods of ninety (90) days each.

Adopted at a meeting of the Philipstown Planning Board on September 20, 2012.

PHILIPSTOWN PLANNING BOARD



Michael Leonard, Chairman

c: Richard Shea, Town Supervisor
Kevin Donohue, Building Inspector
David Klotzle, Wetlands Inspector