

**Philipstown Planning Board  
Meeting Minutes  
May 21, 2009**

The Philipstown Planning Board held its regular monthly meeting on Thursday, May 21, 2009 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  
Andrew Pidala  
Pat Sexton  
Steve Gaba, Counsel  
Ron Gainer, Planner

Absent: Kerry Meehan

**Garrison Station Plaza - Site Plan Approval - 7 Garrison Landing: Discussion**

Mr. Watson said that Garrison Station Plaza would like to have the public hearing resumed. He said that they've been speaking with their neighbors and do have a couple of responsibilities. Mr. Watson said that the Board might see some change in the Statement of Use. He said that he doubted they'd see a change to the site plan, but they'd like to ask the Board to resume the public hearing and re-notice it.

**Lyons Realty Company - Route 9, Cold Spring: Discussion**

Mr. Watson said that most of the Board members made a site visit. He said that it will probably be a couple more months before they actually come back to the Board to talk seriously about what they've re-submitted to the State DEC, but he just wanted to have the opportunity to ask if the Board had any questions or something came up that the Board wanted him to take back and address, he would like to hear them or answer them now if he could. Mr. Watson said that if the Board had no questions, they could just dispose of it.

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

Mr. Gainer said that he thought Mr. Watson saw the memorandum that the Board made from the site walk and that those were the only comments offered.

Mr. Watson said that he was not sure he had seen them yet, but may have.

Mr. Gainer said that he and Mr. Watson could chat after tonight and he'd make sure Mr. Watson got a copy.

Mr. Gibbons asked if they could somehow do an endorsement.

Mr. Watson said that in fact, what the Board ends up doing is a recommendation at some point. He said that he thought it would be premature to ask the Board for that at this point because the plans are being revised in response to the DEC's comments.

**Quarry Pond Estates - Approval of Parcel B Condo Lot - Route 9, Cold Spring**

Mr. Watson said that they submitted an application for a three-lot subdivision of the property. It's a condominium parcel and the way they're phasing it, financing it and the way the condominium is structured, they have to have three separate pieces of property. He said that he did not even think he'd show it to the Board. Mr. Watson said that they have a parcel around the club house that is owned separately and apart from the residential parcels and they have to have the two bays in separate parcels. So there is literally no change in the plan. Mr. Watson said that it is simply a matter of facilitating the requirements of the attorney general and their financial requirements, so they've made an application for a three lot subdivision, which arguably is not even required, but they think the safer part of the discretion being the better part of valid so to speak. He said that he hoped the Board would find the application complete enough to schedule a public hearing in June.

Mr. Gaba said that it had to be referred to County Planning. He said that it is an amendment of the existing plan, so they're going under the SEQRA that's done already and they're just going to make a determination consistency.

Mr. Watson said right - that should be all that's necessary.

Mr. Gaba said that the Board can schedule the public hearing, but just can't act until...(did not finish sentence).

Mr. Watson said that they'll make sure the County has the referral back.

Ms. Doherty made a motion to schedule a public hearing for Quarry Pond. Ms. Conner seconded the motion. The vote was as follows:

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

Mr. Gibbons asked if the Board would make a motion for Garrison Station also and he made a motion to resume the public hearing. The motion was seconded. The vote was as follows:

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

#### **Philipstown Square - Site Plan Approval - Route 9, Cold Spring: Discussion**

Mr. Paggi said that they had addressed all of the items they discussed at the last meeting. He said that they've been in contact with the Wetlands Inspector and have added a couple of additional landscaping items to the plans. Mr. Paggi said that they provided a letter just this evening from the insurance company that was discussed at the last meeting. They have amended the plans to show the two access points. Mr. Paggi said that they still maintain that the safer condition is to have those gated with a fire department access only and that's their proposal before the Board. He said that they're actually asking the Board to consider site plan approval of the plans this evening.

Mr. Gaba asked what the status of the sign was.

Mr. Paggi said that the sign is in the ZBA. They were scheduled for June 8<sup>th</sup>.

Mr. Merante asked if they didn't have it on the hearing the other night.

Mr. Paggi said they did, but needed the thirty day review period. He said that they'd ask for an approval conditioned upon obtaining the variance - otherwise they'd have to come back in with a revised sign location.

Mr. Gaba said so that would be added as a condition.

Mr. Merante asked if there were any comments from the Board.

Mr. Gainer said that the Board had before it a draft Resolution for the SEQRA declaration and then separately, a draft approving Resolution. He said that there's been a variety of communications between individual Board members and his office. Mr. Gainer said that on page two of the Resolution, item two, they've identified every suggested condition that he'd understood Board members had talked about. Mr. Gainer read the Resolution aloud. On page 3, condition C, which talks about the specific sign, he proposed that some revised text...the second line that starts with the word, "appeals or otherwise shall be"...that the Board strike the words, "reduced in size" ...so as, and just put the word "may", so it says, "shall be made to conform with the Town sign regulations. He said that he was not sure exactly what variance they're seeking, but that would suffice. Mr. Gainer said that he believed all of the

terms were satisfactory.

Mr. Gibbons apologized for not being at the meeting last month and asked if they got the screening in the back. He said that he was there the other day and there were cars parked all along the creek. Mr. Gibbons said that they have gas tanks back there and asked how they were protected.

Mr. Paggi said that the tanks will be protected by bollards. He said that there are safety issues that have to be dealt with. Mr. Paggi said that the last time he was there, there was silt fence along the line of vegetation. He said using that as the bench mark, they are proposing to plant a row of forsythia right along the entire line from the disposal area to the property line. Further in from that, they're proposing to put a row of evergreen trees. Mr. Paggi said that in speaking to the Wetlands Inspector, he noticed that some of the area had been disturbed from construction - there were some repairs done to the septic system, etc., and he asked that they see that the (inaudible) is specified on the plan. Mr. Paggi said that the forsythia is really going to provide almost a hedge once it grows and the evergreen will provide wintertime screening.

Mr. Merante said that the forsythia is good in the summer time, but in the winter time it's non-existent.

Mr. Paggi said that they're putting the evergreens in front of that.

Mr. Gibbons said that they mentioned they were doing something else with the gas tanks.

Mr. Paggi asked if Mr. Gibbons was referring to the propane tanks.

Mr. Gibbons said yes and asked if Mr. Paggi was referring to something else.

Mr. Paggi said no. He was saying that there will be bollards that will protect them from being run into.

Mr. Gibbons said that they're staying where they're at.

Mr. Paggi said oh yeah.

Ms. Sexton said that she was approached by some of the residents that live behind and they wanted to know why they weren't made aware of the gas tanks. She said that they were not marked anywhere on any of the Board's maps. Ms. Sexton said that the residents are very concerned because when they were at the public hearing, nothing was mentioned. They approached the Fire Inspector about safety and screening and now they're looking at two huge gas tanks.

Mr. Paggi said that again, the intention is to provide the screening.

Ms. Sexton said right, but those should have been on their maps so that it could have been taken up and been presented at the time. She said that on the drawing they only show there are five white pines, and she would hope they'd have more than five because you can see through them and they lose their bottoms quickly. Ms. Sexton said to at least stagger them.

Mr. Merante said that they are on the Resolution.

Ms. Sexton said that's right, they're on the Resolution, but not on the drawing.

Mr. Paggi asked what the Resolution was asking for.

Mr. Merante said that the fourth bullet states "staggered rows of ten, eight-foot high white spruce...spread no more than twenty-five feet apart". He said that the question is about the propane.

Ms. Sexton agreed and said that the propane tanks were not shown anywhere and it did not give the Board a chance to see...rather than just had those...it could have been screened. She said that they have nice screening for the garbage cans. Ms. Sexton said that they believed they were oil tanks.

Mr. Scanga said that they got rid of all the oil tanks and in exchange, they got the gas tanks. He said that they're either going to look at fourteen oil tanks against a building or look at one location for gas tanks.

Ms. Sexton said that she was not arguing why it is, but the Board should have been aware of it because it's there now.

Mr. Paggi said that they could certainly add it to the plan.

Mr. Gibbons said that this would come under Fire Marshall's jurisdiction - whether it has a fence around it or concrete block to screen it or whatever and asked Mr. Gainer if that was so.

Mr. Gainer said that was correct.

Mr. Scanga said that he thought it falls under the Putnam County Gas Inspector and they were there, they met the requirements - the gallons.

Mr. Merante asked Mr. Scanga if he had something from the County - an approval.

Mr. Scanga said that he could get something.

Mr. Merante said that he thought it should be for the record. He said that they're fairly substantial tanks he was assuming. Mr. Merante asked how many gallons.

Mr. Scanga said that they're thousand gallon tanks each.

Mr. Merante said that nobody was aware of that.

Ms. Doherty asked Mr. Paggi to show the Board exactly where they're located and if they were going to be screened.

Mr. Paggi said that one of them is going to be screened from the side by the mound, but the other one is going to be in plain view until the planting occurs. He said that the planting will occur.

Mr. Merante asked what the separation was in feet between the two tanks.

Mr. Paggi said that there are actually three tanks - a single one and then a double, but they're side by side. He said that between them is maybe one hundred fifty feet.

Mr. Merante asked if they were all the same size.

Mr. Paggi said that they are all a thousand gallons and he believed they were ten feet long.

Ms. Doherty said that she was assuming they are outside the line of hundred year flood plain.

Mr. Paggi said that regardless of whether they are or not, they are elevated above it and they're anchored. He said that again, that would go in with the approval that the Putnam County Gas would require. Mr. Paggi said that in looking at it, yes they are.

Ms. Doherty asked when they were put in.

Mr. Merante said that they definitely should be shown on the plan.

Mrs. Carlson asked the applicant if he knew if they did a survey to see (inaudible) because the three of them have (inaudible) because of the proximity to their property. She said that it scares them. Mrs. Carlson said that about fifteen years ago, when Synergy went to put their tank in, they all signed a petition because it affected them and they

were afraid. She said that they've already had two big fires behind them and it concerns them.

Mr. Paggi said that he finds it difficult to believe that Mrs. Carlson's insurance is going up.

Mrs. Carlson said that they have a house that's for sale right behind where Synergy is and that house can't sell because of the tanks.

Mr. Paggi said that he has a thousand gallon tank at his house and it's probably fifty feet from his house.

Mrs. Carlson said that a lot of the houses now are burying them.

Mr. Paggi said that again, he thought they had to defer to the approval.

Mr. Merante asked Mr. Gaba if he had any comment on that.

Mr. Gaba said that he did not see it as a site plan issue as far as the insurance goes, as far as a safety issue goes, it's been inspected by County Gas Authority.

Mr. Merante asked Ms. Doherty if there was any issue on the proposed Resolution.

Ms. Doherty said no - the proposed Resolution addressed her concerns.

Mr. Pidala said they've got twenty-five foot wide - non-gated. He said that he thought they should gate it.

Mr. Gainer said that they proposed it and the Board had indicated it didn't wish to see any...(did not finish sentence).

Mr. Merante said as opposed to taking down the entire curb. He said that he had the letter and acknowledged it from Mr. Scanga's insurance company. Mr. Merante said that it clearly does not state that they will not insure it. He read the letter aloud (copy on file at Town Hall).

Ms. Sexton said that at the County Planning Meeting, one of the first things they recommended was the removal of the barriers between the gas station...with many explanations of why and the safety issues. She said they seemed to concur with what the Planning Board feels and Ms. Doherty has the map where it says remove the barrier. Ms. Sexton said that you can go on line and actually get the whole study.

Mr. Paggi said, so they studied this particular site.

Ms. Sexton said yes. She said that they started it ten months ago and on their re-visit, they saw the barrier...(did not finish sentence).

Mr. Merante said January 16<sup>th</sup> of this year.

Ms. Sexton said that they said it should come down and they said they were doing this for not just the planning for now, but for the future. She said that they went through describing the whole area as a shopping-type zone eventually. Ms. Sexton said that they recommended side walks, markings on the road, etc.

Mr. Paggi said that they maintain that what the Planning Board is asking for is a less safe condition than the one they're proposing.

Mr. Merante said that this was the Board's hang-up from the beginning. He said that the Board feels this way and instead of insisting the entire curb be taken down, they do definitely want these open (a recommendation he thought would go in the Resolution).

Mr. Gibbons referred to Section 175-39-C, items 4 and 7. He read the sections aloud.

Mr. Gainer said that both of those sections are in the approving Resolution.

Mr. Merante said that he goes back to the history...he has known the place since it was first built and he did not recall any accidents or problems.

Mr. Paggi said that he thought they had to ask that the Board consider their request and they'll poll the Board. If they're denied, then they're denied, because the gating of both accesses is unacceptable to the applicant. Mr. Paggi said as one last compromise, they just advised him that they would be willing to keep the rear entrance open, but they want the front fenced.

Mr. Gaba said that the Board made a proposal to them, which he thought from the engineering and design standpoint is appropriate and if they are unwilling to develop their property in accordance with that, the Board is within its rights to deny it. He said that the Board should make its SEQRA determination first. Mr. Gaba said that the Board may need to modify it in light of refusal. He asked if it had any impacts on traffic safety.

Ms. Doherty said on page 2 of their EIS statement (revised on May 20<sup>th</sup>) it states " the connection to the northerly adjacent site will be provided if the front and the rear should provide additional access for customer traffic and emergency vehicle".

Mr. Paggi said that was intended just to represent the emergency access.

Ms. Doherty said, well it says customer traffic and emergency vehicles.

Mr. Paggi said that happened today - that revision.

Ms. Doherty said that it was yesterday.

Mr. Gainer said that they sent it out earlier this week - it was either Tuesday or Wednesday.

Ms. Doherty said that it was revised May 20<sup>th</sup> according to the front page.

Mr. Paggi said that's an error. He said that the intention is that those accesses were for emergency access only and asked that the record show that.

Mr. Gibbons suggested clarifying before the vote and asked Mr. Paggi if he wanted the back entrance open, but not the front entrance.

Mr. Paggi said that's correct. He said that they would prefer both closed, but the back entrance they would allow to be open with the compromise.

Mr. Gaba suggested having the Board members comment on their feeling of the proposal and if the feeling is that they are not willing to prepare it in that manner, Mr. Gainer and he can prepare appropriate Resolutions to be considered at next month's meeting - granting or denying it. He said that they could give the applicant an idea of where he stands and he thought it would be a lot more orderly than trying to adopt something tonight.

Mr. Merante agreed. He explained that the applicant is agreeing with the Board on every issue except the one about the opening. Mr. Merante said they're voting on that issue.

Mr. Gaba said that the Board is not voting on anything. He said to be clear about that.

Mr. Merante said that it is a straw poll.

Mr. Gaba said that it's not a straw poll either. He said that they're asking the Board members for their feelings - not voting.

Ms. Sexton asked why the Board couldn't make that change so they can (inaudible).

Mr. Gaba said they could, but it's kind of a messy way to proceed. He said that if that's what the Board wants to do, it could certainly do that.

Mr. Gibbons said that he'd start off. He said if it's the way they want it, he's voting no. That's his straw vote.

Mr. Merante reminded him that it's not a vote.

Mr. Gibbons said his preference is no.

Ms. Sexton said no.

Ms. Conner said no

Mr. Pidala said yes.

Ms. Doherty said no.

Mr. Merante said no.

Mr. Meehan was absent.

Mr. Gaba said that they'd prepare for next month a Resolution and the SEQRA determination with regard to it.

**Louis Lanza - Approval of 3-lot subdivision - Nelson Lane: Discussion**

Mr. Watson said that he'd start off by saying that he didn't honestly know exactly why he was there. He introduced Mr. Lanza and his contractor. Mr. Watson said that the Board approved a three-lot subdivision and it's filed. He pointed out the three houses that were proposed. Mr. Watson said that Mr. Lanza has decided for the time being and maybe permanently, not to build on any of the lots, that he's going to farm the piece of property. He wanted to get to the back of the property with farm vehicles, tractors, and what he needs in order to do that. Mr. Watson said that he's actually farming it now. This year he started farming for a small poultry operation, but mostly, he's been tapping the maple trees and it's quite a substantial harvest. Mr. Watson said that the applicant called his office and said he wanted to build a road up to the top. He asked if there was anything preventing him from doing that and if there were any permits he needed. Mr. Watson said that he looked and said that he did not see any permits or anything that says he can't do this. Mr. Watson said that he also asked him to talk with his attorney and have the attorney go through the rules and find any specific permits and he found nothing. So he proceeded to have the work done. Mr. Watson said that you'll see it go from a green line to the pink line, etc. He said that as of the date they were out there, which was a few months ago, the green was an area where there was some vestige of an old road - certainly easily visible. Mr. Watson pointed to an area on the map and said in there was some evidence of a road that was clearly not as strong. He said he worked here (pointed out) and he started to work up here (pointed out) and he was shut down and taken to court. Mr. Watson said that the only allegation that he knows was actually specified is that he violated the wetlands as far as activity in the wetland. He said that they've been working on that with Mr. Klotzle, plus more with Mr. Klotzle - he's given them a program to go through to try to remediate that. Mr. Watson said that they got through the first step with his approval. He walked up there with him. Mr. Watson said that he made several recommendations - one of which was to talk with the County Soil and Water Conservation Service..

Mr. Lanza said she came yesterday.

Mr. Watson said so they're working on that. He said that they've been asked by Mr. Shea, who's sort of been shepherding this for the Town to talk to the Planning Board about this and do what needs to be done. Mr. Watson said that certainly if there's something to be done, they'll do it. He said that despite what the Steep Slopes Law says, if there's something they need to do, they'll certainly be glad to do it, but they need to get this behind them. Mr. Watson said that they have no intention to break the law. He said that this area (pointed out) clearly (inaudible) in the wrong, and they are clearly trying to take care of that. Mr. Watson said up here (pointed out), it is across a steep slope, but is the only way to get to the back of the property and make the property function. He said that they're there to get the Board's comments. Mr. Watson said that if there is some permit they need, he'd like somebody to identify it for him.

Ms. Conner asked what they were doing at the top.

Mr. Watson said that there is area up there that can be formed for a couple of different reasons, but essentially, the initial program is to be tapping the maple trees.

Mr. Lanza said they're going to get a pick-up truck with a tank up there, so they can collect...right now, he has a thousand gallon tank at the bottom of his property.

Ms. Sexton asked why this wasn't presented as part of the subdivision plan to begin with. She said that now it looks like it's a chance to just get to the top of the hill.

Mr. Lanza said that originally when he got the property, he was a New York City restaurateur who had no intention of ever moving to Garrison. After they started building the first house, he started visiting more and decided to move his family to Garrison and get rid of his place in the city. So the initial intention was as an investment. Mr. Lanza said that now he lives there, loves it and wants to stay there forever.

Ms. Sexton said that he started putting the road in right away - as soon as the approval was given, so he must have more intentions.

Mr. Lanza said that it was a yearly process to get the place approved.

Ms. Sexton said that she knew that. She said that the Board was believing something else. Nobody said anything about farming or putting those types of roads into the steep slope. She said that would have been taken into consideration. Ms. Sexton said that she was not saying it was, but was telling him how it looks. She said that it looks like the applicant was trying to circumvent the Planning Board by saying one thing and doing one thing when one house was already built. Ms. Sexton said that all of this would have come under the steep slopes before the subdivision and the Board might have had a different take on this piece of property. She said that it seems quite odd. Ms. Sexton said that she guessed there was a lot of taking down of trees, etc., and that maybe he could explain more.

Mr. Lanza said that he has a hundred thousand dollars easily invested in planning for a subdivision, so he's not that rich or stupid to try to do something behind their back and get all the approvals with all the time and effort...in the long run, by farming, he's not making money. He said that he's doing it because he loves it. Mr. Lanza said that he's lived there since February of last year and they started building the path back in September.

Mr. Merante said that now he's proposing to put the road up there - he does have the subdivision in his pocket.

Mr. Lanza said that the subdivision, from what he understands, has nothing to do with the property above.

Mr. Watson said to use this road for a residence...they knew they couldn't do that and that's why they had the three lots down below. He said that if this were a prairie, you'd have a lot more (inaudible). Mr. Watson said that it's a single lane road. It's wider than the trail that's there, but it's still a single road.

One of the Board members asked how wide it was.

Mr. Watson said that it's irregular. He said ten to twelve feet.

Mr. Gainer asked who issued a violation.

Mr. Watson said the Building Department. He said that they're in Supreme Court because work didn't stop immediately upon the stop work order and there was an injunction sought and granted.

Mr. Pidala asked Mr. Watson what he was going to do about the drainage - the water coming off the road.

Mr. Watson said it's all rock.



Ms. Conner said that there's always drainage.

Mr. Watson said again, it's all rock.

Mr. Gibbons asked if the applicant went before the CAC before he started the work.

Mr. Watson said no.

Mr. Gibbons said he wished to point out Section 174 of the Code and read the section aloud.

Mr. Watson said that Mr. Gibbons only read part of the section and told him to read the beginning.

Mr. Gibbons did so. He said that the applicant has a three-house subdivision. Mr. Gibbons said that he definitely has use of his property.

Mr. Watson said that he still thought Mr. Gibbons was taking it out of context. He said that he didn't think there was anything in that section that says a homeowner can't do this.

Mr. Gaba asked if the proposed road affected adding building sites.

Mr. Watson said no.

Mr. Gaba asked if there was a view shed that's impacted.

Mr. Watson said that he didn't know that answer and would have to look. He said that there are certainly views up on the top, but anything would be distant.

Mr. Gaba said that they could go back and forth over it and maybe they're required to come back and maybe they aren't, but assuming that there are no significant impacts, the Board would re-visit SEQRA very quickly in regard to the three lot subdivision. He said that he was guessing it is just an unpaved pathway that they're going up and down for maple syrup. Mr. Gaba said, and get an amendment to the subdivision...they have the Town's blessing and have nobody giving any trouble. He said that they have to get their wetlands permit too of course. Mr. Gaba said maybe it's the right answer, maybe it isn't, but it is certainly the easiest answer.

Mr. Merante said that Mr. Klotzle and he took a walk up there with the owner. He said that the first thing he noticed when they got up to almost where the road ended was that it was extremely steep and cutting it...just with a bulldozer....makes no provisions for drainage or anything. Mr. Merante said that if you get any heavy snow or rain, you're going to have stuff washing out.

Mr. Watson said that they visited that very topic with Mr. Klotzle when they were up there. He said that they probably didn't walk up quite as far as Mr. Merante did, and they identified things that could be done, including having the County people coming over and making some suggestions and they're going to do those things to stabilize it.

Mr. Pidala said that they're going to bring that water down into the road.

Mr. Watson said that he didn't understand what the Planning Board wants to approve. He asked what permit he needed for drainage.

Mr. Gibbons asked Mr. Watson if he was doing more than an acre of land disturbance.

Mr. Watson said that he'd have to measure that - maybe.

Mr. Gibbons said that's stormwater.

Mr. Watson said that is not the Planning Board's jurisdiction.

Mr. Gibbons said that he was saying there are guidelines that need to be followed.

Mr. Watson said that he was not disagreeing with that.

Mr. Gibbons said that there are drainage issues in particular that the Board is very concerned about.

Mr. Watson said that he'd been asking for as long as this has been going on, for someone to tell them what permit they need and what they have to apply for.

Mr. Merante asked what the court told them.

Mr. Watson said that they didn't tell them anything and asked the applicant if he knew.

Mr. Lanza said that his attorney and the attorney for (inaudible) said that it's best to (inaudible) and that's when he came to the Planning Board.

Mr. Watson said that he did not understand how the Planning Board could approve this. He said that he thought there was a prohibition against the Planning Board granting this and he did not think there was a prohibition against the property owner building a driveway to the rear of his property.

Mr. Gibbons said that at the same time, the code is indicating that it should at least go to the CAC - in his opinion.

Mr. Watson said that if Mr. Gibbons pointed it out, he'd be happy to read that.

Ms. Conner said that if you read the first part of the code...she read it aloud. She said that the road cuts across the entirety of the steep slopes. Ms. Conner asked if they were class three slopes.

Mr. Watson said yes. He said that he did not disagree with the idea she expressed there, but expressing an idea and saying that if you want to do something like that, you need to get a permit - they are two different things.

Ms. Conner said that you need to get a permit to build almost anything and asked why they wouldn't get a permit for the road.

Mr. Watson said because it's not in the law. He said that if they could point it out to them, he'd be happy to make the application and maybe they'll get denied, but it's not there.

Ms. Conner asked Mr. Gaba if it had to be expressly written in the law and there's no room for interpretation.

Mr. Gaba said that he came in, got a three-lot subdivision, showed the Board all the site improvements on the three-lot subdivision and now he's coming back with a completely different site improvement. He said that it's not like it's just one piece of land that he owns and is putting a driveway on it - it's three lots, which are not connected by the roadway. Mr. Gaba said that he did not know if that requires amended subdivision approval. He said that unless the Board has some problem with the road, it's just a farm.

Mr. Watson said it's a farm.

Mr. Gaba said so it's going to be improved to farm road standards.

Ms. Conner said but it's across steep slopes.

Mr. Merante said, and it's above specifically delineated water courses and the wetlands down below. He said that they indicated and he'd like to see it in writing that the drainage will be taken care of so the banks will not run down into these water courses and the pond.

Mr. Watson said that they are working with Mr. Klotzle and they will continue to work with him. He said that he would report back to the Board on that.

Mr. Merante said from his point of view, that would satisfy him - if he sees something Dave Klotzle approves, it will address that issue, because that's a significant cut.

Ms. Sexton asked the applicant if he brought that to the Board during the subdivision and said he wanted to put the road all the way up to the top of the mountain and put a house up there, how much he wanted to bet he wouldn't have gotten approval for that.

Mr. Watson said that he did not think the Board could not approve that.

Ms. Sexton said that it's like splitting hairs. She said that if the subdivision came to the Board that way...they're saying that the Board couldn't approve it, but now they're saying it's o.k. to do it.

Mr. Watson said to take a look at it from a slightly different perspective. He said for the moment, to pretend it's a prairie. The Board approved the three-lot subdivision with this configuration and it's a prairie, and he wants to put a barn or garage back there that's not shown on the plan and wants to build a road back there. Or there's a little pond back there and he wants to build a road back to the pond so he can use the pond...the pond is shown on the plan, but all the improvements are up there. Mr. Watson said that if he has a driveway that doesn't cross steep slopes and a house that's built in the same general area as shown, he just doesn't know really what would prevent him or why he would have to come back and get anybody's permission to build a farm road or land back to the pond or whatever it is.

Ms. Sexton said that she thought that was apples and oranges because they're not talking about a prairie - they're talking about steep slopes. She said that they're also talking about if you want to put a shed back there, you'd have to go anyway to get approval to put the shed because that wasn't on your original plan.

Mr. Watson said that's absolutely not true.

Ms. Sexton said that he meant you could put the shed right on the property line then.

Mr. Watson said no. He said that he'd have to get a building permit.

Ms. Sexton said right and this just seems a convoluted process.

Ms. Doherty asked Mr. Gainer what kind of approval in his opinion, this work should have had and what needs to be done now.

Mr. Gainer said that he honestly couldn't be sure. He said that until tonight, he didn't understand what the activities on-site were. Mr. Gainer said that he's never been on the premises, so he can't be sure just what jurisdiction the Town has. He said that it would appear that possibly the CAC would normally have some matter to discuss, but you really have to understand applicability. Mr. Gainer said that he just couldn't read the steep slopes ordinance and be sure that there's a requirement for that referral. He said that it warrants some review now that the Planning Board better understands what the activity's been.

Mr. Watson said that he would be more than pleased to speak with Mr. Gainer and have their attorney speak with Mr. Gaba and try to come to something that makes sense. He said that until he knows what to apply for...the reason they changed the subdivision regulations a year ago was because somebody made a legal subdivision and he was involved in it, that the Town Board didn't like. Mr. Watson said that the Town Board thought that sort of subdivision was illegal. They looked at it closely when it was done and found out it wasn't, so they changed the law. He said just because you look at the law and there's some guidance with regard to steep slopes...and it does give the Planning Board some very specific direction, but it doesn't say, "homeowner, you shall not use any of your steep slopes". Mr. Watson said maybe you have to look at that or maybe point out to him that they're wrong, because he certainly could be wrong.

Ms. Conner said that he was saying that basically any homeowner who wanted to do something with steep slopes should just wait until they're done with Planning Board approval (inaudible).

Mr. Watson said that he was not saying you should do that specifically - no. He said that he was just pointing out what the situation is.

Ms. Conner said that she understood that they had to have them stop and they didn't stop and then had to actually go to the judge. She said that it seems like they're operating (inaudible).

Mr. Lanza said that he spoke to the Building Inspector several times and said that if he's going to come on the property to please call him and he'll meet him there. He said that his wife was eight months pregnant and this guy kept showing up and was not being very professional, so there was a problem with communication.

Ms. Conner said but that doesn't mean the Mr. Lanza doesn't have to follow the rules.

Mr. Gibbons said that the hillside is covered with trees. He said that with the amount of travelway they're putting in there, probably the Timber Harvest Law is going to be affected in this. Mr. Gibbons said that they're going to be cutting down a bunch of trees and thought those things should be looked at.

Mr. Watson said that he couldn't respond to it right or wrong with regard to the comment, but would tell the Board that this part of it (pointed out) he was sure was at one point was a road. And yes, there were some trees cut, but it wasn't clear cut. Mr. Watson said that it's something they can look at.

Mr. Merante said that he would like to get Mr. Gainer involved with Mr. Watson on this and see what the Board's next step could be. He asked them to get together and have Mr. Gainer come back to the Planning Board.

Mr. Gaba said but there's no application before the Board and asked if they would have to put something in escrow with regard to review fees or anything like that.

Mr. Watson said that he was not sure what is appropriate because there's an argument going on here and the Town needs advice - it's not reviewing an application.

Mr. Pidala asked Mr. Watson if he could get a report from Mr. Klotzle after he looks at it.

Mr. Watson said they can ask. He said that they told him he thought it was probably about three more weeks.

Mr. Merante asked if there was any fee put forth for the "violation of the wetlands" and the fact that the Wetlands Inspector had to review this and write a report. He said that there are expenses incurred by the Town and there are going to be expenses by the Town with the Board's Planner.

Mr. Merante said that this is an issue that needs to be straightened out because there could be significant expenses on the back of the Town - there may already be.

Mr. Watson said that the attorney chose to prosecute this thing so he was sure they (inaudible) money.

Mr. Merante said legal money is one thing, but he was talking about professional review from the CAC, Wetlands Inspector and the Town Planner.

Mr. Gaba said that they could submit an application/escrow review fees and just hold it in abeyance.

Mr. Watson said that he would ask.

## Minutes

◆ April 16, 2009

Mr. Pidala made a motion to adopt the minutes. Mr. Gibbons seconded the motion. The vote was as follows:

	Anthony Merante -	In favor
Kim Conner	-	In favor
Josephine Doherty	-	In favor
Michael Gibbons -		In favor

Kerry Meehan	-	Absent
Andrew Pidala	-	In favor
Pat Sexton	-	In favor

**Old Business/New Business**

Mr. Gibbons said that last month, the Board received a letter (dated April 28, 2009) from New York State Department of Environmental Conservation - Request for Additional Information - Frazier Property. He read aloud a section of the letter and stated that it is an approval of access for a driveway on an unapproved lot.

Mr. Merante said, and it never came to the Planning Board.

Mr. Gibbons said that it is not before the Board as a subdivision, but he believed the Planning Board should be raising a red flag to the Code Enforcement Officer that this in their packet.

Mr. Gainer asked who the letter was addressed to.

Mr. Gibbons said Julia Frazier.

Mr. Gainer asked if it was cc'd to the Town.

Mr. Watson said that there's a parallel application for the CAC.

**Adjourn**

Mr. Gibbons made a motion to adjourn the meeting. Ms. Sexton seconded the motion. The meeting ended at 9:05 p.m. The vote was as follows:

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

Approved: \_\_\_\_\_