

Philipstown Planning Board  
Meeting Minutes  
July 25, 2013

3The Philipstown Planning Board held its regular monthly meeting on Thursday, July 25, 2013 at the Butterfield Library in Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman.

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

**Minutes**

- June 20, 2013

Ms. Finger made a motion to approve the minutes. The motion was seconded by Anthony Merante. The vote was as follows:

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

**Public Hearing**

**Arthur Fisher – Approval of access and site plan application for minor project – 19 Sky Lane, Town of Philipstown: Discussion**

Mr. Watson stated that as said in the public notice, the property is located on a ridge line, but with regard to the restriction on ridge lines, the building is below the maximum permitted height and the maximum permitted footprint. He said that they are really seeking two approvals – the public hearing has to do with the site plan. Mr. Watson said that the application also seeks approval for access on Sky Lane – a private road that is improved with a right-of-way from the Town of Philipstown, up to and in front of the property. However, it's a very long, arduous and difficult route and probably one they couldn't bring to the standard normally you normally apply to private roads before a building permit is issued, so they're seeking approval to access from the other end of Sky Lane, which is a dead end road. Mr. Watson said that it's a mapped street that ends at the Town line. He said that Mr. Fisher has made an application for subdivision in the Town of Putnam Valley. That would give him frontage on Eleanor Place and would give him a small parcel of land that would allow him to build a driveway to the end of Sky Lane and then



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continue and open development road to his property. Mr. Watson said that they had made the application to the Planning Board and the Planning Board denied the application because the lots that would result in Putnam Valley were too small. They have made an appeal to the Zoning Board of Appeals to waive two elements of their zoning – one was the size of the lot and the other was the minimum open space, with certain conditions – one of which is to bind the lot to Mr. Fisher’s lot in a deed in such a way that it could not be severed and they were granted the variance from the Town of Putnam Valley. Mr. Watson said, so they will be continuing with that subdivision application in Putnam Valley and if they’re successful with that, they’ve discussed putting up a gate to bar general public access, which is the general wish of both towns as they understand it, and build the road much less problematic in terms of grade, cut and fill, etc.

Ms. Conner asked if the house would be visible from any of the public viewpoints.

Mr. Watson said that they believe it will not be.

Mr. Merante asked Mr. Watson to explain the restrictions with regard to Sky Lane.

Mr. Watson said that Sky Lane is a mapped street in a subdivision. The lots that Mr. Fisher owns and the surrounding lots are all lots on that filed map. Mr. Watson said that the lots were conveyed by reference to the filed map and implied along with that conveyance of the lot, comes the right to use the roads that are shown on the map. It’s an automatic thing.

Mr. Gainer said that the last thing the Board reviewed from his office was a summary of the site walk comments of June. He said that there were also referrals to both Fire Departments, and did not believe any response has been received. Mr. Gainer said that there was a referral to the Town Attorney to speak to the required improvements necessary along the paper road of Sky Lane, and the Board has seen a memo from his office.

Mr. Gaba said that he thought the Board had seen his memo and that there shouldn’t be a problem with the proposed construction of the road assuming that the Fire Departments are satisfied.

Mr. Leonard opened the hearing to the public.

There were no comments from the public.

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

Michael Leonard - In favor

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

Mr. Watson asked that the Board draw a pole or something so that they have some direction and can put this to bed in September – a conditional approval from the Town of Putnam Valley. He said that one of the reasons they didn't submit new plans is...this is really a pivotal point – the variance in Putnam Valley. The Philipstown Planning Board's approval is the second pivotal point. Mr. Watson said that they would very much like to know the sense of the Board and perhaps have a direction to the consultants for Resolution of Approval for September.

Mr. Gainer asked if he should be prepare the Resolution for September.

Mr. Leonard said yes.

Mr. Gaba asked Mr. Watson if he would check with the Fire Companies with regard to comment.

Mr. Watson said that he would.

**C. F. Diversified – Application for two-lot subdivision – P.O. Box 160, 2700 Route 9, Cold Spring: Submission of Homeowner's Association agreement and copy of previously filed map #2714/discussion**

Mr. Watson said that this was the subject of a previous subdivision. He said that this was really supposed to be Phase II, which hasn't happened. Mr. Watson said that they are seeking to approval to construct and subdivide off a five-acre parcel that meets the current code so that the building could be sold separate from the rest of the 67 acres. He said that Mr. Fadden, Principal of the Corporation that owns the property has had the building on the market for a number of years now. Mr. Watson said that they are essentially re-create the piece that was originally there before Mr. Fadden had acquired all the property in pieces.

Mr. Leonard stated that the Board received comments from the Conservation Board and read the comments aloud (copy on file at Town Hall).

Mr. Merante said that the impervious surfaces are there – pre-existing and he did not see that they were adding anything to it.

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Mr. Watson said that if a purchaser comes along and there are going to be changes, there will be a site plan approval involved in that. He said that if the purchaser comes along and moves in as is, obviously nothing's going to change except the occupants. Mr. Watson said that he didn't disagree with any of the comments that were made, but thought now was not the time to have to consider those.

Ms. Conner asked what happens to the larger piece of land which is still office/commercial.

Mr. Watson said that if somebody were to want to build a commercial building or a large enough houses on this piece of property they'd have to come to the Board for site plan approval, at which point the Planning Board would address the impervious coverage, septic, etc.

Ms. Conner asked in terms of access, how far the wetland to the north extends.

Mr. Watson pointed out on the plan where it extended to.

Ms. Conner asked if there were two lots in use at this time.

Mr. Watson said that there are four lots – two are built on and two are vacant. He said that technically those two other lots require a waiver from the Planning Board, but it's kind of an automatic waiver if you're on a State road. So they have the potential for one corner lot. Mr. Watson said that he guessed they have the potential for two more lots using this, based on the ODA roads, but if this were to be developed further...this was planned for a commercial development with a commercial road in there.

Ms. Jainchill said to clarify from Ms. Conner's questions, for an ODA road, you can have four properties that are primary accesses on that road and then two additional properties that have frontage on a public road, but can access from that road. She said that in this case, her question is...currently the five properties have frontage on this ODA road. Ms. Jainchill said that now that the property is going to be subdivided, the property is no longer part of the agreement of the road, so it's totally separate from it. She asked if Mr. Gainer understood it that way also.

Mr. Gainer said yes.

Ms. Sexton asked if the things on there – the trailer, etc., are all o.k. to stay because it's pre-existing.

Mr. Watson said that he believed so.

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Mr. Gaba said that Mr. Gainer pointed out to him that he made a comment in his site plan memo regarding the existence of a shed/dwelling. He said to the extent that might be considered a mixed use or possibly even a non-conforming use, they've already established that they don't need site plan for the project – they're just looking to subdivide it. Mr. Gaba said that he did not see that it presents any impediment to planning the subdivision.

Mr. Leonard opened the hearing to the public.

Ms. Marilyn Rockwell introduced herself and stated that she had been before the Board with her proposal for the horse farm across the street. She said that she was hoping to see if she can get access off of that road. Ms. Rockwell said that it's also come to her attention that there was a Homeowner's Association Agreement for Round Hill and asked if that was part of this. She said that it looked like it had never been formally submitted. Ms. Rockwell asked how that might impact the entire project.

Mr. Gaba said that the lot that's been subdivided off doesn't take access from the roadway, so as far as the subdivision goes, the Homeowner's Association Agreement really isn't relevant to chopping that lot off. He said that it may be the case down the road, that the road's not being plowed or not being kept up and the people who are still taking access off of it don't have the funds, or the funds are insufficient, and they may turn to the owner of the lot that's being subdivided off and say they can't escape the Homeowner's agreement of being subdivided. Mr. Gaba said that's an issue between the people who own the roadway and really isn't an issue with the subdivision.

Ms. Rockwell said that she didn't have an issue with the subdivision itself. She said that if she should gain access off of Roundhill Road, if that applies to the 85-acre parcel.

Ms. Jainchill said that it's not really applicable to the application.

Ms. Conner said that Mr. Rockwell would have to take it up with the Roundhill Association.

Mr. Nicholas Rockwell said that he thought his wife was concerned about the fact that the Homeowner's agreement was on the agenda, so they were wondering if the Agreement was going to be somehow sanctioned or enforced since it was on the agenda.

Ms. Sexton said that the Board asked the property owner to provide a copy. She said that it is already filed and pertains to those four pieces of property.

Mr. Watson said that the Agreement affects the existing property. It is not the subject of

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approval, but was provided for information.

Ms. Sexton made a motion to close the public hearing. Mr. Merante 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	-	Absent
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	Absent

Mr. Watson said that he knew Mr. Gainer prepared a Resolution after speaking with the Board during the site visit.

Mr. Gainer asked if there was any response from the County.

Mr. Watson said the 239 came in a couple of days ago – approved as submitted.

Mr. Merante made a motion to adopt the Negative Declaration. 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	-	Absent
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	Absent

Mr. Gainer said that there is the question whether the statement relative to the payment of rec fees is appropriate in this instance.

Mr. Gaba said that there is a residence on it, so he didn't see how they'd get out of it.

Mr. Watson said that he did not know, but thought there was something that if you can have a residence on the property, it's subject to it.

Mr. Gaba suggested they leave it in and if they subsequently feel the Resolution should be amended, remove the finding and come back to the Board to ask that the Resolution be amended.

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Ms. Conner made a motion to adopt the Resolution. 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	-	Absent
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	Absent

**Gex – Realignment of property line – 4/24 Hummingbird Lane, Garrison: Request for 90-day extension**

Mr. Gaba said that this was the ninth extension and that he hoped the applicant was able to work within the timeframe.

The applicant said that he would be able to.

Ms. Sexton made a motion to approve the 90-day extension. 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	-	Absent
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	Absent

**Neill – Site plan application – 621 Route 9D, Garrison: Request for return of escrow**

Mr. Leonard said that the Board would ask for a motion for approval based on confirmation from Supervisor's office.

Ms. Finger made a motion to return the escrow monies to the applicant based on confirmation from the Supervisor's Office that all outstanding bills have been paid. Ms. Conner seconded the motion. The vote was as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen	-	In favor
Kerry Meehan	-	Absent
Anthony Merante	-	In favor
Pat Sexton	-	In favor

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Neal Zuckerman - Absent

**Manitou Properties Co. LLC – Site plan application – 1656 Route 9D, Cold Spring: New submission**

Mr. Watson said that they are actually proposing very little grading and very little site disturbance. He said that they are hoping to use the existing entry and make that entry one way. It would lead to an everyday parking lot behind the building and then exit on the existing driveway that comes out on Moffat Road. The school itself has an overall capacity of seventy-five kids. They plan to use the building for evening classes and for groups to meet, etc. on a somewhat limited basis. Mr. Watson said that they have an auxiliary parking lot. The everyday spaces are sixteen and then twenty-four auxiliary parking spots, which are in what is the parking lot for the restaurant right now. Mr. Watson pointed out the septic system on the plan and said that it was put in, in the 1980's and they believe the school would use much less water. Mr. Watson said that there will be some improvements in the front of the property. There is an existing courtyard/fountain type area that will be utilized for the older children. A swing set is proposed near the driveway. The entire front area will be fenced. Mr. Watson said that they have provided for some stormwater treatment at the back end of the property. He pointed out the screening they provided on the plan.

Mr. Leonard said that they had the application meeting on June 28<sup>th</sup> and he asked Mr. Watson to address what was done with regard to the traffic.

Mr. Watson responded (tape zapped out). He did say that the Board suggested they come in from a particular point (pointed out on plan), but they have a very expensive septic system that kind of prevents that. Mr. Watson said that the fact that the intersection of Peekskill Road and Route 9d...they could go around it, but then would be getting much too close to the intersection.

Mr. Leonard asked what the fence toward 9D was comprised of.

Mr. Watson said that it would be a black, chain linked fence.

Ms. Sexton said that she saw there was no elevator and yet upstairs there would be occupational therapy, counseling, etc.

Mr. Watson said that he would talk with the architect and express that concern.

Ms. Sexton said that all buildings renovated should be handicapped accessible.

Ms. Sexton asked if the school would also be for children with learning disabilities, autism, etc.

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Mr. Watson said that he did not believe so, but he would check.

Mr. Merante said that it is a benefit that they will be going in from the current primary exits and not the other end. He said that Peekskill Road has become a bypass from Cold Spring and Nelsonville. Mr. Merante said that he was concerned about the number of children being dropped off and then coming out on Plumbush Road into the little area there. He said that it would be very difficult getting out to 9D. Mr. Merante said that it would be the same thing, in coming out in the evening and coming across that little section between Moffat and Route 9D.

Mr. Watson said that they would be engaging a traffic engineer, and will make the decision on who it will be shortly, so they will address those issues. He said that from their preliminary discussions, he believed at this point that the arrival hours of the students will be behind the peak of traffic. Mr. Watson said that the arrival will be about 8:45 a.m.

Mr. Merante asked what accommodations would be made aside from what Ms. Sexton had talked about with regard to the small rooms and the closed in structure, etc.

Mr. Watson said that he couldn't speak to it exactly, but he knew there were fire access issues, which are going to be addressed. He said that there was a question with regard to fire access on the front side of the building.

Mr. Merante asked if Mr. Watson knew approximately the number of children.

Mr. Watson said that they are hoping they'll have seventy-five.

Ms. Conner asked if they could take a full-size school bus on this road.

Mr. Watson said yes. He said that they really expect that it will be a van-type bus, but they can accommodate a full-size bus.

Mr. Merante asked if they were talking about public school buses.

Mr. Watson said yes.

Mr. Merante asked if that was going to be a dedicated public road going in.

Mr. Watson said no.

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Mr. Merante asked if the school bus could go on a private road.

Mr. Watson said that it's the driveway. He said that public schools have to provide transportation to private schools within 50 miles.

Ms. Conner asked if there were County or State rules about schools that have to be complied with.

Mr. Watson said yes. He said that Manitou is actually operating now on a minimal level that's allowed without a license.

Ms. Conner asked if in terms of the structure, they'd have to comply with the law.

Mr. Watson said that he was sure there are.

Ms. Conner asked if the Board had to see any of that stuff.

Mr. Gaba said he guessed it was theoretically possible that it would require some physical change that would impact the site plan and it wouldn't hurt to look at it. He said that maybe there's a handicap ramp or something that they need to add to the outside, etc.

Mr. Watson said that they do have a handicap access.

Ms. Jainchill said that her main concern is the fence. She said that it seemed it is not in the protection overlay – it's just outside of it. Ms. Jainchill said that she would just re-think a black, chain-linked fence and where it's located. She said that she would ask they involve their landscape architect in how that will affect the users of the roadway. Ms. Jainchill asked that they submit a landscape plan. She said that she would also like to hear more about the ADA on the second floor and whether that's required by building codes. Ms. Jainchill asked if there were any trees being cleared.

Mr. Watson said no.

Mr. Merante asked if because it abutted the Cold Spring cemetery, there were any restrictions incumbent on the property.

Mr. Watson said not as far as he knew.

Mr. Gainer said that because it's the first time this has appeared before the Board, it would be

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appropriate to formally classify the project for the record as a major site plan. He said that they identified a variety of technical issues that the applicant's consultant will respond to.

Mr. Gaba said that it is an Unlisted Action under SEQRA and it would be appropriate for the Board to declare its intent to be Lead Agency in an Uncoordinated Review.

Mr. Merante made a motion that the Board declare itself Lead Agency. 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	-	Absent
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	Absent

Ms. Finger made a motion that the Board declare the project a major site plan. 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	-	Absent
Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	Absent

Referrals to the County and Cold Spring Fire Department will be made.

The Board decided to hold a site visit on Sunday, August 18, 2013 at 9:30 a.m.

The Board had asked that the traffic study be submitted by the 29<sup>th</sup> of August so that a public hearing could be held at the next Planning Board meeting.

Ms. Finger made a motion that the Board schedule a public hearing for Thursday, September 12, 2013. Ms. Sexton seconded the motion. The vote was as follows:

Michael Leonard	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Kerry Meehan	-	Absent

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Anthony Merante	-	In favor
Pat Sexton	-	In favor
Neal Zuckerman	-	Absent

**Old Business**

- **Entergy – Site plan application – 3 Horsemen’s Trail, Cold Spring: Approval of Resolution**

Ms. Conner made a motion to adopt the Resolution. The motion was seconded by Mr. Merante.

The vote was as follows:

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

**Adjourn**

Ms. Conner made a motion to adjourn the meeting. Mr. Merante seconded the motion. The meeting ended at 9:30 p.m. The vote was as follows:

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

Respectfully submitted,

Ann M. Gallagher

Note: These minutes were prepared 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 #     CF Diversified Corp. 2-lot subdivision. 72.909 +/- Acres of Land located along the east side of NYS Route 9, in the vicinity of Vineyard Road. Tax Map # 38.-3-24.

WHEREAS, CF Diversified Corp. owns a parcel totaling some 72.909 +/- of acres located east of NYS Route 9 in the Office/Commercial/Industrial Mixed Use (OC) Zoning District; and

WHEREAS, an application was made by CF Diversified Corp. 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, the applicant has submitted the following amended subdivision plat materials for consideration by the Town of Philipstown Planning Board:

Author	Title	Last Revision Date
Badey & Watson PC	Subdivision Plat showing the further Subdivision of Parcel A	April 30, 2013

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

3) The Planning Board hereby grants Final approval of the subdivision plat as depicted on the plans listed above subject to the following conditions:

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. Labeling of the drawing presented for signature as a "Final" subdivision plat; and
  - C. All required endorsements on the Subdivision Plat drawing; and
  - D. Pursuant to Section 148-3C(2) of the Philipstown Code, the plat shall contain the approved street numbering on the Mylar signed by the Board for filing in the Putnam County Clerk's office; and
  - E. Resolution of technical comments offered by the Town Engineer's office, as noted in memoranda of June 17, 2013 and June 30, 2013; and
  - F. Resolution of any comments offered by the Town Attorney's office; and
  - G. 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; and
  - H. 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 3A through H have been met.

5) Pursuant to Section 112-15A of the Philipstown Code, conditional approval expires 180 days after the date of this resolution granting conditional approval unless the conditions have been met and the final plat map has been endorsed by the authorized officer of the Planning Board. The Planning Board may extend, for periods of 90 days each, the time in which a conditionally approved plat must be submitted for signature if, in the Planning Board's opinion, such extension is warranted by the particular circumstances.

6) The endorsement of a final plat map expires 60 days from the date of such endorsement unless the map has been filed or recorded in the office of the Putnam County Clerk.

7) Promptly after an endorsed final plat map has been filed or recorded in the office of the Putnam County Clerk, the applicant shall deliver to the Town the five prints required in § 112-14C(2).

Adopted at a meeting of the Philipstown Planning Board on July 25, 2013.

PHILIPSTOWN PLANNING BOARD



Michael Leonard, Chairman

c: Richard Shea, Town Supervisor  
Kevin Donohue, Code Enforcement Officer  
David Klotzle, Wetlands Inspector