

A regular meeting of the Town of Victor Planning Board was held on April 12, 2016 at 7:00 p.m. at the Victor Town Hall at 85 East Main Street, Victor, New York, with the following members present:

PRESENT: Jack Dianetti, Chairman; Joe Logan, Vice Chairman; Ernie Santoro, Heather Zollo, Al Gallina

OTHERS: Wes Pettee, Town Engineer Consultant; Don Young, Town Attorney; Katie Evans, Director of Development; Kim Kinsella, Project Coordinator; Cathy Templar, Secretary; Silvio Palermo, Town Board Liaison; Kate Crowley & Joe Limbeck, Conservation Board; Sue Stehling, Historic Advisory Committee; Kent Kiikka, Chris Stern, Nick DiMeo, Jim Guelzow, Bob Hamby, Greg Miller, Sarah Fetcie, Paul Fetcie, Lori Vom Lehn, John Vom Lehn, Jacqueline Lanzillo, David Lanzillo, Stephen Schultz, Dave Davies, Dave Nunkin, Pat Palomaki, Kav Malli, Teresa Malli, Chip Testa, Jeff Smith

APPROVAL OF MINUTES

On motion of Ernie Santoro, seconded by Al Gallina

RESOLVED that the minutes of March 22, 2016 be approved.

Jack Dianetti	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 5 Ayes, 0 Nays

BOARDS & COMMITTEE UPDATES

TOWN BOARD reported by Silvio Palermo

- Code Enforcement Officer, Al Benedict has issued Victor Gravel Corporation, a violation notice for their 1097 Cork Road location. Part of the Code Enforcement investigation they discovered equipment being stored at this location not required for excavation of mineral products which would be in violation of the code because all they are permitted to do is excavation for mineral products and no other activity outside the residential code.
- Final draft plan of the Town of Victor Drainage Improvement Area was prepared and presented by Steve Metzger of Labella. This plan establishes a Drainage Improvement area consisting of about 60 areas/developments in the Town. If this plan is accepted the Town will be responsible for routine maintenance of drainage facilities in these areas. These drainage facilities will not be dedicated to the Town so the Town won't own the facilities but would need easements to be able to perform the routine maintenance. The routine maintenance will be performed by the Highway Department based on scheduling and funding availability. The drainage Committee used the following criteria:

- Primary use had to be residential
- Part of a development which had been through a Planning Board process which included a drainage plan.
- Not just a single house that was not part of a formal building process.
- Drainage Committee identified around 60 areas that fit into this criteria

Timeline for the Drainage Improvement Area

- Public Hearing is scheduled for May 9th, 2016
- TB could accept and approve the Drainage Improvement Area on 5/23/16 TB meeting, if approved by the TB this plan would become in effect 30 days later, 6/22/16.

CONSERVATION BOARD reported by Joe Limbeck

- April 5, 2016 meeting
 - LSI Solutions
 - We referenced comments from the 10/5/12 site walk. Doesn't appear to be any impact to the NWI wetland or the Class C stream that was noted on site walk. We had no additional comments.
 - Chris Wade
 - There is an NWI wetland within 500 ft of the site and we advised Mr. Wade.
 - Shill Development
 - We noted on the site visit there is a single yard tree very near the proposed garage site. We would like to have the drip line marked prior to construction so work doesn't impact root system.
 - We recommend new trees and species be added to site plan
 - We ask that silt fencing be added to the site plan so limits of disturbance are understood.

Ms. Katie Evans – I just wanted to provide an update to the Board and let you know that I've been contacted by Paul Colucci of the DiMarco Group regarding the Fishers Ridge project. As you are all aware, we are working on the FEIS for the Board and the public review and consideration. When the DEIS was issued, one of the comments the Board received from the Conservation Board was the request to look for local mitigation opportunities as opposed to paying into a wetland or a stream bank such as Duck Unlimited which was one that was identified. The applicant has worked with Town Staff and went through four different options. One of the four options identified was some stream restoration in Fishers Park. We have some severe erosion issues there and the applicant's wetlands specialist has identified that could be a potential mitigation through an Army Corp Permit.

So in order to move forward with that because the Town is the property owner, a joint application would need to be made. I've spoken with Supervisor Marren as well as LaBella, our consultant on how to proceed with this and I just wanted to let you know that I will be preparing a draft resolution for the Town Board to consider authorizing Supervisor Marren to sign the joint application. However, accompanying that application back to the applicant with a letter identifying that by no way, shape or form does this preempt a decision made by the Planning

Board. So essentially providing them a disclaimer that just because the Army Corp issues a permit and identifies that particular location as suitable mitigation, that does not preclude the Planning Board or preempts the Planning Board's decision that that would be appropriate. You have the ultimate authority as Lead Agency and to further publically document that, we are going to prepare a draft resolution and include essentially all of the facts relating to that in WHEREAS paragraphs for the Town Board's consideration at their next meeting.

I just wanted to make you aware of that and the only reason why the Town would be on a joint application is because it's Town owned property. I have a meeting set up with Ken Wilson and Brian Emelson Thursday to discuss the other option to see if that is a suitable alternative. Any questions?

Ms. Zollo – Is that typical procedure that you go ahead and make plans for mitigation before the project is approved?

Ms. Evans – It doesn't commit us to anything. It would be pending the project going forward. The answer to your question is "yes" only normally it's typical for an applicant for a big project like this to work with other jurisdictions such as State DOT, NYS DEC and the Army Corp of Engineers then come back to the local jurisdiction and have permits and be ready to go. That is not the case, you are Lead Agency and you ultimately determine what the appropriate mitigation will be. It's a very, very long process going through those agencies. This is a way to potentially get mitigation in a local park but does not bind the Town to any commitments. It's contingent upon the Planning Board going through the SEQR review and making the determination of what is appropriate. The reason we want to go through a Town Board resolution and accompany it with a letter to the document is just that.

Chairman Dianetti – Typically, what I know of the Army Corp of Engineers, in the process of coming up with your proposed development, you have to demonstrate that you've done everything that you can to avoid the impact, then you have to minimize it and then you have to mitigate it. The mitigation is generally something that they determine; it's usually a multiplier depending on the quality of the wetland and the extent of the disturbance. So they kind of go hand in hand as you're going through the process. I think if we get ahead of the game, we're better off. By letting the developer know these expectations are there and that we're really looking for something local rather than finding it out half way through the process. There are key elements they are looking for when you do your plan and the first and foremost important one is try to avoid the impact altogether and if you can show that you can't do that, then to minimize it and then after that you negotiate it through mitigation. Even though it hasn't been approved as part of the process, it's good to get it started early because you can then steer them away from things and ask them questions; have you tried to avoid it, are you minimizing it? I just think the sooner the applicants know in the process, the sooner we make them aware of it, the better product we'll have in the end and will fit our plan a little bit better with the emphasis on natural resources that we're pushing for now with the Conservation Board and the NRI.

Ms. Zollo – I just want to make sure that we're not presuming up front that they can't avoid impact or minimize it.

Chairman Dianetti – The Army Corp and the DEC will make the final decision whether or not they have done that. We can put our findings into it too but if they don't satisfy Army Corp, they're not going to get the permit.

Ms. Evans – So Heather to address your concern, the resolution would capture that, that it in no way binds or commits the Town. It just expresses our willingness to be a property owner that would be okay with mitigation on the property should the Planning Board deem that acceptable.

PLANNING BOARD reported by Kim Kinsella

- April 26, 2016 meeting
 - Public Hearings
 - Eastgate Square located at 44 Square Drive for a façade modification
 - Otto Tomotto located at Phoenix Mills for an outdoor patio
 - Ballerina Phase 2 Final Subdivision – remaining 48 lots
 - Board Deliberation on Eastview Commons – Planned Development District modification, Victor Self Storage East
 - Extension of Time requested by Heritage Packaging

The legal notice for the public hearings appeared in “The Daily Messenger” and Post Cards were mailed to property owners within a minimum of 500 ft from location of each application along with “Under Review” signs being posted on the subject's parcels.

PUBLIC HEARING

Speakers are requested to limit comments to 3 minutes and will be asked to conclude comments at 5 minutes.

WADE'S BARN
140 Cline Rd
SBL# 1.04-1-3.510

Appl No 6-SP-16

Acres: 29.40 Owner: Jane Wade
Zoned: R2 and is within the A overlay District

Chris Wade on behalf of Jane Wade is requesting approval to construct a 2,160 sf barn for personal use. Ms. Wade is currently constructing a new home on the site and per Town Code, the barn requires site plan review because structure is greater than 1,000 sf. This is the first time, this application is before the Board.

Mr. Chris Wade addressed the Board.

Mr. Wade – Good evening. My name is Chris Wade and I'm here representing my Mom. My Mom wants to build a 36 x 60 ft horse barn with two stalls. She is selling the house that she is living in now at 130 Cline Rd. The house is too big for her and the barn is too big for her. She

wants to keep a horse there for her own personal use. She's 80 years old and rides a horse everyday.

Chairman Dianetti asked the public for comments.

Ms. Lori von Lehn from 6300 Candlelight Run – The property at 130 is beautiful and is beautifully laid out; the facilities are beautiful obviously for more horses. What I appreciate in looking at that Nothnagle site is that it includes not only the paddocks having fencing but also that it is also landscaped in a way that there are vegetational barriers and buffers for privacy but also for if a horse got loose, you'd have additional things to protect it from getting into the road.

This new site will be considerably closer to the road even with 100 ft setback and it should also be 100 ft setback from all of the lot lines as well. I haven't checked to see if that meets that but I presume there are people who will.

So that's one of our concerns that there is very little by way of vegetational buffers and barriers that would protect the horses as much as the motorist on Cline Rd. That is a fast road so that safety issue we would be interested in seeing addressed.

Also, we want to be sure there is a good approach to the sanitary waste disposal because again it's very much more proximate to the housing development, a residential area and also for the health measures besides other factors, just for health measures to be sure.

We are concerned in terms of the environmental issue in terms of wetlands. We're very concerned about drainage and to make sure that all things are done in a way that there is not a problem with run off and contamination.

Again, the concerns really come down to health and safety as well as the aesthetics and being part of the neighborhood. I like horses, they're fine. We want to make sure that these standards are maintained and that the aesthetics that were put into 130 Cline Road will be applied in terms of the landscaping and in terms of barriers for privacy and also for the safety of the horses and also the motorists on Cline Road.

Chairman Dianetti asked for other comments from the public and there were none.

Mr. Logan – I think it's laid out attractively and it's a nice looking barn. I have no objections.

Ms. Zollo- Our Code Enforcement Officer asked about the height of the barn.

Mr. Wade – The trusses will be 12 ft to the bottom of the truss. I'm not a contractor so I can't tell you exactly.

Ms. Zollo – And also the resident's comment about the storage of the manure.

Mr. Wade – Storage of the manure, she hasn't sold her house and it hasn't been determined, there's got to be a right of way for the driveway. We haven't quite determined where that's going to be or how much property is going to the house that she's selling. She does own over 400 acres there and across the street she owns property, in Farmington and Macedon. There's over 400 acres all together so manure won't be a problem, we've got tractors and spreaders.

Ms. Zollo – I'm just asking the questions that our Code Enforcement Officer had. As far as I know we don't have a response. Again, addressing the question from the resident, will there be some kind of hedgerows or something to keep the horses safe?

Mr. Wade – Years ago when my dad was alive, we planted between the housing development and our property, on the property line we planted about 100 pine trees and they are about 20 ft plus now. Along the road there are about 15 hardwood trees along Cline Rd that we planted that are full size now. Also on both sides of the driveway that goes to the big house, there are hardwood trees that we planted. We will be doing plantings around the house and around the barn to soften it. We're not exactly sure, the house is laid out and when they came in for the permit on the house, they had the whole layout for the trees and shrubs for the house. We're going to add some to the barn to soften it.

Mr. Logan – Heather to answer your first question, the section that they provided shows 10 ft to the bottom of the truss and if it's a 12 ft high truss, you're talking about 22 or 23 ft.

Mr. Santoro – Am I reading this map correctly, the barn is going to be within 100 ft of the existing house?

Mr. Wade – From the house that she is building right now, the barn is going to be about 120 ft from the house.

Mr. Wade pointed this out to Mr. Santoro. Mr. Wade stated the new house was framed out and was shown on the plan as existing house.

Mr. Pette – I just wanted some points of clarification on the site plan. It looks like there is going to be a wash area within the barn. It looks like you're going to be providing water service to the barn. (Yes) You might want to show that on the plan itself. Also the question about waste water and where would the wash water go? Would you clarify to the Board where this will be going.

Mr. Wade – They put in a 12" drain when she built the house, they required to put a 12" pipe down the north side of their property line. We're going to tie the eave troughs and the one wash stall into that drain that's going to be draining on her own property.

Mr. Pettee – So there's not going to be any formal type of treatment to the wash water?

Mr. Wade – No, but you're talking where you rinse a horse off.

Mr. Pettee – Maybe that's something that can be depicted on the site plan as well. Any type of trenching or piping of that wash water and how that would tie into the existing drainage pipe. The letter that LaBella issued on the 11th, if you could provide that and it looks like Marathon did the site plan, we could provide that to Marathon and maybe they could provide us with a response.

Chairman Dianetti - Are you concerned about when they are cleaning out the stalls?

Mr. Pettee – Just the wash area within the barn. I'm curious to what would be happening with that water.

Mr. Wade – I guess I don't get it because if your horse was outside and it's raining, it's going off on the ground. We're going to take it to the north and put it into that 12" pipe and drain onto our own property. There won't be manure. You rinse your horse with water.

Chairman Dianetti asked Mr. Young if he had any concerns based on this being an agricultural district.

Mr. Young – You need to be reasonable in your approach to addressing the application and not to impede upon their agricultural activities.

Chairman Dianetti – On the Board there was a request that some of the landscaping be addressed as part of the resolution.

Ms. Zollo – We could certainly add that. The Building Dept. must have received the site plan of the plantings, correct

Mr. Wade – The Builder did for around the house, yes.

Ms. Zollo – I mean our Building Dept., you said with the house plans, you had a landscape plan.

Mr. Wade – Yes, there is a landscape plan with the house plans.

Ms. Zollo – And you were going to add to that. I guess it's up to us if we want to add anything to the resolution.

Chairman Dianetti stated that he didn't think we could request landscaping on the house.

Mr. Salvatore Constantino from 6304 Candlelight Run – The only question that I had was to deal with any plan in the future to use this as a training facility for other people or for horse lessons or horse riding? My concern there would be traffic on Cline Road and other issues of congestion. I'm just curious as a resident if it's able to be used in that way if the family decided to provide instructions for horses.

Ms. Evans – It's a permitted use but it's my understanding, our documents reflect that the applicant has presented to the Board, that this is intended for a two stall barn for personal use. (Yes) So if they were looking to expand, they would need to come back to the Planning Board and you would be notified via postcard and a sign on the property so you would know.

Mr. Wade – Like I said, my mom is 80 years old and rides a horse everyday.

Mr. Paul Fetcie from 6301 Candlelight Run – I don't know all of the rules but here is a barn the is well under way, the whole foundation is done, the tractors are working in and out. The other

place is nice and has all kinds of fencing around up there and stuff so the horses can run. I'm just wondering, there is a field between the 18 houses on Candlelight Run and where the building is. Is that going to be used for the horses to run? I'm just curious other than the barn, there is a line of trees, we have them all around the houses, is there more to this than the barn?

Chairman Dianetti – For more construction they would need another application.

Mr. Fetcie – For the fencing?

Chairman Dianetti – For more construction or change of use, it would need to be another application. I don't want to step on anyone's toes here but this is an agricultural area and this is where the city meets the country. It's unusual to hear people complaining about the guy who wants to have horses.

The applicant would only need a building permit to put in the fencing.

Mr. Fetcie – It's really not complaining. We paid a good amount of money for our house and 10 year ago there weren't any farm animals and I didn't know there could be, but that's fine. I just want to know how big this could go.

Chairman Dianetti – Any time it tries to grow, because of the area, it will be scrutinized the way it is now; how much, where it's located, how it impacts the surrounding natural resources, etc. If someone comes in with a housing development, it'll probably be looked at a little bit closer.

Ms. Evans – For your reference, someone could come in with a subdivision similar to yours or any other in town and build residential homes there. But this particular property owner has opted to keep the approximately 30 acres in tact as opposed to splitting it up and having a pretty significant building footprint. So what is pending before the Board today and that's all we can review is a barn that is just over 2,000 sf. For your reference and for the public that is here, if a structure of a barn or garage is less than 1,000 sf you would only need a building permit. But because it's over 1,000 sf it triggers Planning Board review and notification to the neighbors to provide the opportunity for you to give your input to the Board.

Mr. Fetcie – When I hear 1 or 2 horses, that's fine. I'm just curious if it could also become 10 or 15 horses. It sounds like a huge barn. That was really my question. I heard agricultural, so just for my own benefit, he could have horses over there running but maybe the next person.....

Ms. Evans – It's an agricultural district so the intention is that agricultural uses are permitted on the property. Ironically, when we looked on the map today, your subdivision is also in the agricultural district.

Chairman Dianetti – Almost every subdivision in Victor was at one time a farm.

Mr. Fetcie – I was just curious what could happen beyond this.

Ms. Evans – Any time you have questions about the permitted uses, please reach out to the Planning & Building Dept. We would be happy to answer any questions.

Chairman Dianetti asked for any other questions and there were none. The public hearing was closed.

RESOLUTION

On motion made by Joe Logan, seconded by Ernie Santoro

WHEREAS, the Planning Board made the following findings of fact:

1. A Site Plan application was received on March 7, 2016 by the Secretary of the Planning Board for a Site Plan entitled Wade's Barn.
2. It is the intent of the applicant to construct a +/- 2,160 sf barn.
3. A public hearing was duly called for and was published in "The Daily Messenger" and whereby all property owners within 500' of the application were notified by U.S. Mail. An "Under Review" sign was posted on the subject parcel as required by Town Code.
4. The Planning Board held a public hearing on April 12, 2016 at which time the public was permitted to speak on their application.
5. The application was deemed to be an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations and a Short Environmental Assessment Form was prepared.

WHEREAS, the Town of Victor Planning Board reviewed the Unlisted Action on April 12, 2016 and identified no significant impacts; now, therefore, be it

RESOLVED, that the project, Wade's Barn will not have a significant impact on the environment and that a negative declaration be prepared.

NOW, THEREFORE BE IT RESOLVED that the application of Jane Wade Site Plan entitled Barn Location Plan drawn by Marathon Engineers dated March 2, 2016 received by the Planning Board, Planning Board Application No. 6-SP-16, BE APPROVED WITH THE FOLLOWING CONDITIONS:

Conditions to be addressed prior to the chairman's signature on the site plan:

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That the comments in a letter dated April 11, 2016 from LaBella Associates be addressed.

3. That comments from Code Enforcement Officer dated April 4, 2016 be addressed.

Ongoing conditions:

1. That the site plan comply with Town of Victor Design and Construction Standards for Land Development, including Section 4.
2. Should an underground stream be encountered during construction, the Developer is to address the encroachment and impact to the underground stream to the satisfaction of the Town Engineer.

AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the Planning Board's approval letter.

Jack Dianetti	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 5 Ayes, 0 Nays

Mr. Wade asked when he could get his building permit. Ms. Evans stated as soon as his site plan reflects the comments in the approval resolution and has obtained the necessary signatures, he would be able to get his building permit.

LSI SOLUTIONS – Warehouse Expansion
7796 St Route 251
SBL# 15.01-1-6.000
Acres: 34 Owner: Route 251 Acquisition LLC
Zoned: Industrial /Route 96, Route 251 Overlay District

Appl No 7-SP-16

Applicant is requesting site plan approval for a one story 5,670 sf addition to existing building with associated site improvements including but not limited to relocating the dumpster and land banking two additional parking spaces. This is the first time this application has been before the Board. LSI was last before the Planning Board in the spring of 2014 and at that time, they received approval for a one story 29,000 sf office/mfg building.

Mr. Steve Schultz from MRB addressed the Board along with Jim Guelzow, Bob Hamlay and Greg Miller of LSI Solutions and Max Hegney from LeFrois Builders.

Mr. Schultz – As you are aware, LSI is a campus type setting on a 34 acre parcel on the north side of Route 251. The most recent addition to the campus, to include the building that we were here two years ago for, for the manufacturing office building and two years prior to that, they

constructed a warehouse building. They are proposing a 5,670 sf addition to the rear of the warehouse building. *Mr. Schultz pointed out the different bldgs on the overhead screen.*

The addition will be a metal panel building with a standing seam metal roof. The color will be a dark green and match the warehouse building. There is also a connection to the manufacturing building which will be a brown metal panel to match the manufacturing building. The height of the roof line will all match the existing warehouse. It's constructed over an existing asphalt parking area so will not increase the impervious area on site. We do have to relocate the dumpster as it now is where the warehouse addition will be installed. It will be sprinklered. The roof drains will tie into the storm piping that was installed in 2015 with the mfg building.

We met with the Conservation Board as they mentioned and they were fine with the project. We received comments from the Town Code's Dept and LaBella that we've addressed.

Chairman Dianetti asked for public comment and there were none.

Mr. Gallina – I think it continues to be consistent with the character of the site and the fit is good for the site. I have no questions or issues.

Mr. Logan – I echo Al's comments and just say that it's great that you're growing.

Ms. Zollo – I concur and am glad that they are doing well.

Mr. Santoro agreed with all of the comments.

Mr. Pettee – LaBella did look at the site plan application and issued a letter dated April 4, 2016. We really don't have any substantive comments. Nothing needs to be changed. This site plan drawing was well put together. The application was complete and we don't have any further concerns.

Chairman Dianetti closed the public hearing.

RESOLUTION

On motion made by Ernie Santoro, seconded by Heather Zollo

WHEREAS, the Planning Board made the following findings of fact:

1. A Site Plan application was received on March 8, 2016 by the Secretary of the Planning Board for a Site Plan entitled LSI Solutions, Inc Warehouse Expansion.
2. It is the intent of the applicant to construct a one story 5,670 sf addition to the existing warehouse.
3. A public hearing was duly called for and was published in "The Daily Messenger" and whereby all property owners within 500' of the application were notified by U.S. Mail. An "Under Review" sign was posted on the subject parcel as required by Town

Code.

4. The Planning Board held a public hearing on April 12, 2016 at which time the public was permitted to speak on their application.
5. The application was deemed to be an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations and a Short Environmental Assessment Form was prepared.
6. The application was referred to the Ontario County Planning Board under Section 239 of the General Municipal Law.
7. Comments were received on April 8, 2016 from Ontario County Planning Board referring the application back to the referring agency as a Class 1.

WHEREAS, the Town of Victor Planning Board reviewed the Unlisted Action on April 12, 2016 and identified no significant impacts; now, therefore, be it

RESOLVED, that the project, LSI Solutions, Inc Warehouse Expansion will not have a significant impact on the environment and that a negative declaration be prepared.

NOW, THEREFORE BE IT RESOLVED that the application of LSI Solutions, Inc. Site Plan entitled LSI Solutions, Inc Warehouse Expansion drawn by MRB Group dated March 2016 received by the Planning Board March 8, 2016 Planning Board Application No. 7-SP-16, BE APPROVED WITH THE FOLLOWING CONDITIONS:

Conditions to be addressed prior to the chairman's signature on the site plan:

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.

Ongoing conditions:

1. That the site plan comply with Town of Victor Design and Construction Standards for Land Development, including Section 4.
2. That at the request of the Planning & Building Department, a pre-construction meeting shall be held prior to the start of construction.
3. Should an underground stream be encountered during construction, the Developer is to address the encroachment and impact to the underground stream to the satisfaction of the Town Engineer.

AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the appropriate standard conditions with the Planning Board's approval letter.

Jack Dianetti Aye
Joe Logan Aye
Ernie Santoro Aye
Heather Zollo Aye
Al Gallina Aye

Approved 5 Ayes, 0 Nays

SHILL, EDWARD

Appl No 8-SP-16

218 Royal View

SBL # 5.01-1-25.014

Acres: 1.70

Owner: Edward Shill

Zoned: Limited Development District

Applicant is requesting approval to construct a 200 sf addition to front of house along with a 90 sf porch and a 900 sf freestanding garage. This site is located in the LDD area and an A overlay district. This is the first time application has been before the Board and the reason this is before the Planning Board is due to being located in the Limited Development District.

Mr. Chris Stern from Hamilton Stern Construction addressed the Board.

Mr. Stern – What you are looking at is an approximate 900 sf free standing garage and separately is a small 200 sf dining room bump out of the front of the house, as the family grows, in laws and perhaps children some day. Basically, they are looking to extend the dining room table. That front addition does not pass the current front of the garage so doesn't impact the front setback in any way and the proposed garage is well within the limits.

As you heard, we did attend the Conservation Board meeting last week and a few minor items were brought up and we don't anticipate any problems addressing.

The garage is a 1x10 vertical cedar siding with standing seam metal roof and a garage door to match the existing house. We're expanding interior square footage and parking square footage.

Chairman Dianetti asked for public comment and there were none.

Mr. Logan – It looks very close to the slope.

Mr. Stern – The same question came up in the Conservation Board meeting. It's about 40 ft from the top of the hill. It looks close but it truly is quite far away.

Mr. Logan – Is that about the same distance as the house?

Mr. Stern – Yes but the house is a little closer.

Mr. Gallina had no comment.

Ms. Zollo – The Conservation Board had some comments about the silt fencing, marking the area of disturbance and a couple of others.

Mr. Stern – There was a comment about keeping an existing tree as well.

Ms. Zollo – Can we make sure that we take care of those.

Chairman Dianetti stated their comments would be in the resolution and addressed. Mr. Stern wanted to know how the Planning Board wanted them addressed.

Ms. Evans stated that we request written responses to all agency comments and then document on the site plan how they are complying with them.

Ms. Kate Crowley – In response to the question that Joe asked; when we did the site walk, we did take a look at the adjacency of the slope that is there. It drops off pretty steep. The garage is placed far enough back from the slope that we're not concerned about impacting the slope but it's the reason that we asked for the silt fence to be placed before any construction is done. There is one tree in the yard that is mature that we also suggested there be markers put at the drip line so that it's not impacted and we were assured that they will look with those two natural resources that are there.

Mr. Pettee asked Ms. Crowley to identify which tree they were referring to. Ms. Crowley pointed out the tree on the plan.

Ms. Evans – I offer up to the Board's consideration that silt fence is rather short and typically black. If we're looking to preserve a particular tree, I suggest the Board consider requiring an orange construction fence to be placed around the drip line. In that way lumber, building materials aren't place underneath it which would crush the roots.

Everyone agreed to this.

Ms. Crowley – Let me just say for the Board's understanding, we were informed that the tree was going to stay which is why we said to the applicant to protect the root system. If the tree has to go, that's not our deal. Our deal is making sure that the tree that stays is healthy.

Mr. Pettee – LaBella issued a letter dated April 8, 2016 and would like left in as a condition of approval.

Mr. Stern – Item #1 on LaBella's letter concerns the existing absorption field. *Mr. Stern and Mr. Pettee had a discussion on the absorption field and what was needed to address the comment.*

Chairman Dianetti closed the public hearing.

RESOLUTION

On motion made by Ernie Santoro, seconded by Al Gallina

WHEREAS, the Planning Board made the following findings of fact:

1. A Site Plan application was received on March 8, 2016 by the Secretary of the Planning Board.
2. It is the intent of the applicant to construct a 200 sf addition to front of house along with a 90 sf porch. Applicant is also requesting to construct a 900 sf freestanding garage.
3. A public hearing was duly called for and was published in "The Daily Messenger" and whereby all property owners within 500' of the application were notified by U.S. Mail. An "Under Review" sign was posted on the subject parcel as required by Town Code.
4. The Planning Board held a public hearing of April 12, 2016 at which time the public was permitted to speak on their application.
5. The application was deemed to be an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations and a Short Environmental Assessment Form was prepared.

WHEREAS, the Town of Victor Planning Board reviewed the Unlisted Action on April 12, 2016 and identified no significant impacts; now, therefore, be it

RESOLVED, that the project, Edward Shill will not have a significant impact on the environment and that a negative declaration be prepared.

NOW, THEREFORE BE IT RESOLVED that the application of Hamilton Stern Construction, Site Plan entitled Justin Hamilton, 218 Royal View drawn by Marathon Engineering dated April 5, 2016 received by the Planning Board April 5, 2016 Planning Board Application No. 8-SP-16, BE APPROVED WITH THE FOLLOWING CONDITIONS:

Conditions to be addressed prior to the chairman's signature on the site plan

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That the comments in a letter dated April 8, 2016 from LaBella Associates be addressed.
3. That comments from Code Enforcement Officer dated April 4, 2016 be addressed.
4. That comments from the Conservation Board dated April 5, 2016 be addressed.

Ongoing conditions:

1. That the site plan comply with Town of Victor Design and Construction Standards for Land Development, including Section 4.
2. That at the request of the Planning & Building Department, a pre-construction meeting shall be held prior to the start of construction.
3. Should an underground stream be encountered during construction, the Developer is to address the encroachment and impact to the underground stream to the satisfaction of the Town Engineer.
4. The building design shall be consistent with the architectural details received by the Planning and Building Dept on March 8, 2016.

AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the Planning Board's approval letter.

Jack Dianetti	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 5 Ayes, 0 Nays

BOARD DELIBERATION

VICTOR CROSSING – SEQR CHANGE OF HOURS

Applicant is requesting the elimination of the 11 pm to 7 am operating hour restriction from the 2006 Findings Statement. Board will review comments received and provide direction of the preparation of the Final Supplemental Environmental Impact Statement.

Ms. Evans – Benderson Development requests a modification to the previously approved site plan and subdivision for the Victor Crossing Shopping Center to change the hours of operation for the 93 acre Commercial Shopping Center to allow the Shopping Center to operate between the hours of 11 pm to 7 am which is restricted by the previously issued SEQR (State Environmental Quality Review) Findings and approvals in 2006. Existing light poles within the main parking field and along the entrance drive would remain on between the hours of 11 pm to 7 am while the area behind the bldgs would remain as shown on the current after-hours lighting plan. The project will continue to restrict deliveries between 11 pm to 7 am which is consistent with the 2006 Findings Statement. The project will also continue to restrict snow plowing and trash pickup behind the buildings between 11 pm to 7 am. The property is zoned Commercial and is within the Route 96/251 Overlay District. *This paragraph is actually the legal notice that was used during the public hearing.*

This application has been pending before the Board for some time now. The applicant has previously submitted a DSEIS (Draft Supplemental Environmental Impact Statement) for SEQR purposes. After review and consideration the Board deemed it adequate for public review. The Planning Board established a written comment period of 45 days beginning May 18, 2015 and ending July 2, 2015. Additionally, the Board held a public hearing on June 9, 2015.

The next step, the reason why it's on the agenda tonight is for the Planning Board to discuss comments received during the 45 day comment period as well as testimony offered during the public hearing. The Board will also be reviewing written comments from its transportation consultant Clark Patterson Lee and its planning and engineering consultant LaBella Associates. Tonight the Board will be issuing its own comments and/or identify information that they would like to be included in the FSEIS (Final Supplemental Environmental Impact Statement) under the topics of noise, odor, traffic, and light. The Board determined these four topics needed to be reviewed and considered when the DSEIS was deemed adequate for public review.

Chairman Dianetti made the announcement that this is not a public hearing and will not be taking public comments or comments from the applicant unless requested. There would be no new material being presented. It is an open and public *deliberation* by the Planning Board in an open meeting setting. The Chairman hopes the public understands.

Ms. Evans asked Mr. Pettee to go over the comment letter that LaBella presented.

Mr. Pettee regarding the April 6, 2016 comment letter – Benderson proposes both modification of the Findings and the elimination of any restrictions upon operating hours so as to allow the Project to operate 24-hours daily, subject only to approval of a modified after-hours lighting plan. In addition to the proposed change, there appears to also be new information available given that the Project was constructed following issuance of the 2006 Findings Statement and has now been in operation for some years. Whereas the environmental review concluded in 2006 could only forecast the consequences of constructing and operating the Project, the present supplemental review has available factual information regarding present conditions including those related to the Project's operation. Accordingly, the Draft SEIS (Supplemental Environmental Impact Statement) is not limited to the information available in 2006, but also presents new information describing the present facility and any impacts.

Some general comments relevant to the Final Supplemental Environmental Impact Statement (FSEIS) content. As described in more detail in the SEQR Regulations, a Final EIS must include:

- The Draft EIS, which may be incorporated by reference;
- Revisions or supplements to the Draft EIS;
- Copies or a summary of the substantive comments received and their source, including whether they were received at a public hearing or in writing;
- Responses from the lead agency (the Planning Board) to all substantive comments.

LaBella suggests, with respect to comments in particular, that the Final SEIS:

- Include a response to each substantive comment received;
- Include an index or table that will enable commenter's to easily confirm that their comment was received and find the response to their comment; and,
- Specifically identify any comments not responded to as a consequence of having found to not be substantive or to be irrelevant and the reasons therefore.

To summarize Specific Comments Relative to Final SEIS content. There were objections to illumination of nearby neighborhoods during the evening hours. Implicit in these comments is an apparent belief that the light originates from the Victor Crossing site. These include one reference to the interior of the home being so illuminated that no lights are needed on the first floor while the Victor Crossing site is in operation. With respect to sound, three of the nine Public Hearing comments and one of the four written comments reference disturbance in these same neighborhoods from noise. These include references to the audibility at these residences of trash removal vehicles, car alarms and even the closing of automobile doors in the parking lot. The comments seem to depict very different circumstances than would be expected from the review concluded in 2006 or from the descriptions and studies included in the Draft SEIS.

We do not take issue with the technical accuracy or methodology behind the information on lighting and sound presented in the Draft SEIS. And while this information might be found to be sufficient in other scenarios, in this instance we are troubled by the contrast between the conditions reported in the comments and those one would expect from a reading of the information presented in the Draft SEIS relative to lighting and sound. Given the imperative that the Final SEIS be responsive to public comments, we offer the following suggestions as to how the Final SEIS might "dig a little deeper" in an attempt to reconcile the conditions predicted in the Draft SEIS with those reported in the public comments or characterize the potential for impacts to neighboring properties more definitively.

- With respect to lighting, given the conditions relayed by residents despite the apparent absence of any direct visibility of much or all of the site and its illuminating fixtures, we suggest the inclusion in the Final SEIS of additional information related to whether illumination reflected from site surfaces might somehow illuminate the surrounding neighborhoods and/or the sky including the potential for reflection back into these neighborhoods from cloud cover. Our understanding is that this potential, should it exist, is not taken into account in the provided studies and their estimates of light trespass and such.
- With respect to noise, additional information that we suggest be included in the Final SEIS includes an analysis of how intermittent noises (e.g., a truck passing in the nighttime) contributed to or influenced the average ambient sound levels reported in the Final SEIS, whether the intervals between such intermittent noises might be significantly quieter during the overnight hours (particularly in the winter), how reflection from the unique sight building and paved surfaces might influence or accentuate the propagation of sound from the site, how unique or unusual atmospheric conditions experienced overnight might influence sound propagation,

and how any or all of these might account for the reported audibility at nearby residences of even very low-intensity sounds emanating from the site.

- Any other information that the project sponsor might offer related to either lighting or noise that would help to explain the apparent discrepancy between the conditions one might expect from the information presented in the Draft SEIS and those reported in the comments would likewise be helpful in evaluating the potential impacts of this proposal.

Odor

- Other than that necessary to respond directly to comments, LaBella did not identify the need for any additional information relative to odors.

Traffic

- Regarding traffic, LaBella defers to the Town's Traffic Engineering Consultant regarding content recommended for inclusion in the Final SEIS.

Ms. Evans read a statement from Clark Patterson Lee, (the Planning Board's Traffic Consultant) letter dated March 8, 2016. *We reviewed the information made available since our 2014 review. Although there were concerns raised by the public that changing the hours of operation to 24-hours per day would result in noise from traffic not otherwise present, this is not a traffic impact. As noted in comment 3(The resulting volumes that are anticipated to be generated during the nighttime hour(s) are drastically less than the volumes experienced during the daytime peak hours. Because impacts due to the daytime peak hours were addressed through the previously implemented mitigation measures, no additional mitigation is required. Changing the hours of operation of Victor Crossing will have no significant impact on the surrounding roadway network.) Any change in level of service and delay on the surrounding roadway network has been mitigated already. We have no further comments to offer with respect to traffic and its potential impact(s).*

Does the Board have any items that you would like to add to the comprehensive summary that Wes has provided?

Mr. Logan – I would make the comment about the discussion on lighting. We did take a pretty long site visit, courtesy of the Town Staff, to various spots surrounding the project both to the north and to the west. There is a good deal of lighting out there but it is also much lower as we determined in the original project. It was required to be on lower poles so there is not a lot of direct light spill off. I'm not sure I understand the reflective part of it that the neighbors are concerned about but, I think what LaBella is suggesting, is adding that to the study would make a lot of sense to verify or at least vet that perception out there.

When we looked at it, to me the site was fairly dark. You could see lights coming through Walmart's sky lights. Most of the light that I saw was in the surrounding commercial community, both from the thruway's high mast lighting across the road by Fridays and McDonalds and over by the Mall. I noticed that the Mall was actually substituting or replacing lights in a positive way with current LED lights that are full cut offs. I think in the long run, that will help to reduce the amount of light that comes across the area both in sky glow off of clouds and frankly direct lights towards the bldgs in the area. I agree with what Mark Tayrien had suggested with the lighting just to make sure we addressed the perception one way or another that it's real or perceived.

As far as noise, the only thing that I heard out there was traffic from Route 96 and the Thruway. It was very loud; I don't know how you could hear anything during the evening hours, closing doors and things like that. But I could imagine, once that traffic had died down, that you'd find specific noises coming from the site because of lack of noise in the traveling community. That would be another item that you would certainly want to investigate overnight to see what kind of noise levels there are at 2:00 AM versus 10:00 or 11:00 PM when things are about to shut down.

Those are a couple of my immediate comments and my impressions as to what's going on out at the site.

Chairman Dianetti – Would we try to measure the amount of light that is coming from Eastview Mall and across Route 96 and over by the Thruway, try to separate that from what comes from Victor Crossing?

Mr. Logan – That would be for a lighting engineer to tell me but it would make sense and it would certainly be getting the background noise of the other lights. It would make sense. I really don't see that site as having a big light reflective problem because of all of the other lights around the area.

Ms. Evans – For the public's reference as well as the applicant, the Board very intentionally did the site visit. We drove through the plaza and also drove through the neighborhoods surrounding the plaza on February 18th. If you remember one of two storm events that we had this winter was February 16th so it accomplished two objectives; a leaves off viewing and snow on the ground.

Mr. Gallina – I think LaBella did an adequate job of capturing.....

Ms. Zollo – I would concur with what LaBella has in their letter. The applicant definitely needs to look more into the lighting as well as the noise because as they point out, there are certain environmental conditions that would exacerbate the sounds especially as Joe pointed out when the traffic dies down a little bit later. As I said, we have the visual impact, the sound and the lighting as well as the odor and the traffic.

Mr. Santoro – I would agree with everything that has been said and with regards to our view of it in February, there was a lot of snow on the ground and it was in single digits temperature wise and there wasn't much going on down at that mall.

The comments were that there weren't very many people out shopping that evening due to it being so cold outside.

Mr. Logan – But a night like that gives you the opportunity to sense what the ambient noise is in the area compared to what it could be overnight. So if you had the ambient noise without activity at the plaza and you had the ambient noise without any activity at 2:00 or 3:00 AM, it would be a good way to compare the two, you could get some background level measurements.

Mr. Gallina – One other thought as we were just stating the fact that it was a slow night, etc., it would be a good idea if somehow the applicant could measure the activity level. How many of

the square footage would be operating on a 24/7 scenario? Are we talking about 1% of the footprint or 100% or something in between because that would obviously contribute to the amount of noise, light, traffic, etc? So, under what condition would the applicant actually operate under the proposed hours?

Chairman Dianetti – From the letter that LaBella provided to us, how do we explain the disparity between the information provided by the applicant in terms of the impact versus what the residents are experiencing? Really, from a two hour ride on a cold night, it's hard to get the same impact that a resident who is there every day, year round is going to get from the experience. That's what I got out of the LaBella letter, basically requesting a more in depth study of the specific complaints that were made during the public hearing and try to find out an explanation and if there is a way to alleviate those impacts or eliminate them in the present or the future. It's just hard to experience what living there is like if you don't live there. It was great to go out and look at it. I've gone up there numerous times at night, driving around, trying to get the same feel but you don't get it from inside a car. That's what I took away from the letter, that we need to better understand why there is the disparity between what the residents are saying and the applicant is saying. We need to look at it closer.

A resident made a comment from their seat in the audience but it was inaudible.

Chairman Dianetti – We are taking the comments from the public very seriously and want to do more evaluation of the circumstances that they are reporting. That's what we are asking of the applicant.

Ms. Evans summarizes – The Board is asking the applicant to provide a response to the Clark Patterson Lee's letter as well as the LaBella letter as discussed this evening and include the comments that were collected during the public comment period as well as the public hearing. We are asking the applicant to prepare a draft FSEIS for the Board's consideration. For the public's reference, it is ultimately the Planning Board's responsibility as Lead Agency to finalize that document. It will come in to the consultants and staff who will review it and determine if all of the content is in there that was requested. If it's not, the consultants or staff may go back to the applicant and request supplemental information. Once we have what we think is a complete document, we bring it to the Board for your review and consideration.

The end result of this is a FSEIS which includes evaluation of the comments received and the concerns the Board has addressed. The end result after that would be a Finding Statement and that would conclude the SEQR process and the Board can not make a decision until after the SEQR process is concluded.

Mr. Logan – Do we have the ability to request a comparison and the effects between that and a Special Use Permit for an individual business rather than making the entire plaza open up from 11 PM to 7 AM?

Mr. Young – The SEQR process requires to look at alternatives. That is something you could ask them to look at.

Mr. Logan – In my mind, it's operating quite nicely now. There's been an explanation forwarded by the applicant early on that they can't bring restaurants in because he can't get the later hours.

Ms. Zollo – Is that a consideration of this Board, the economic impact to the applicant? It's never been before.

Mr. Logan – I'm just saying.....

Ms. Zollo -That was my next question; the applicant is trying to justify the extension of the hours by saying that it's impacting the tenants that they can bring to the plaza. As part of the SEIS, is that something the applicant will include and then can we request that that be justified? If you look at the surrounding restaurants because that was one of the specific tenants that they couldn't get, the restaurants in all of the surrounding areas, none of them are 24 hours and most of them close by 10:00 or 11:00 PM. Is that something that we can ask to be included in the SEIS?

Mr. Logan – I would agree that you could do that, you could certainly ask anything within reason.

Mr. Young – I don't know how deeply we can get into the economic impacts. But on a more general note, I would say that the alternatives need to be feasible that make sense in light of whatever it is the applicant is trying to accomplish. I think that in some sense, it inherits the analysis, they are not going to propose to do something that doesn't make any sense, it doesn't accomplish whatever it is they are trying to accomplish. So yes, the alternatives need to be feasible alternatives that make sense.

The SEQR process, the overlying idea with SEQR is to maximize the environmental impact to the maximum extent practicable. So for something to be practicable, it has to make sense for whatever it is that you are proposing. Here they are proposing to operate the plaza in a certain way. I think the economics of it are obviously inherent in whatever it is they are proposing to do.

Ms. Zollo – So then we could ask that that be justified because as I said, the restaurants in the surrounding areas, most of them close at 10 or 11 PM and they are not surrounded by residential homes. I just remember from the previous configurations of this project, residents were not allowed to bring up economic impacts as regards to home values and when office square footage was proposed in this project and in other projects around the residents, the residents were not allowed to bring up the glut of for rent office space in the area because that was an economic impact and it wasn't part of this process.

Mr. Young – I guess when you were talking about economic impacts, I thought you were talking about the economic impact to the developer meaning is what we're trying to ask them to do, does that somehow make it economically unfeasible to do whatever it is they are trying to do. I didn't realize you were talking about economic impact to the surrounding property owners.

Ms. Zollo – I’m not. I’m just saying a general economic impact. What I’m saying is that the project is being asked and trying to be justified with the fact that they couldn’t bring a certain restaurant tenant into the project and are apparently saying they are having difficulty bringing restaurant tenants in and that’s their justification for 24 hours.

Mr. Young – The Positive Declaration that we issued identified four areas of potential environmental impacts and those were; noise, odor, light and traffic. So those are what we are really trying to get through with this SEQR review, those four pointed issues. I guess I would round this out by coming back to the alternative issues. If this Board would like the applicant to explore alternatives such as a Special Use Permit procedure that was brought up, I think that the Board can ask that of the applicant.

Mr. Logan – The point was Don that you don’t need all of that available time in the plaza necessarily. If it’s been functioning the way it is without extending the hours and they can’t fill a particular pad with a business that needs that, what’s the impact of adding the extra square footage that’s going to attract so many cars per evening and comparing that impact to the impact to the entire plaza being opened for a few more stores that might take advantage of it?

Mr. Young – Perhaps the Board might ask the applicant in its alternative section to explore something less than the whole plaza being open 24/7.

Mr. Logan - I’m looking at individual pieces and what kind of traffic potential there would be for restaurants for example that may want to stay open until 12:00 or 1:00 AM versus all of the shops being open at a given length of time.

Mr. Gallina – That’s what I was trying to get back to, what does the applicant anticipate in the way of occupancy 24/7? We’re asking the same question from a couple of different angles.

Ms. Zollo – And it gets back to my point, if the reason for doing this is for restaurants, then we have to ask them to look at the surrounding areas and the hours of operation of the restaurants in the surrounding area.

Mr. Boglioli’s comment from the audience referred to the point that there are other tenants than restaurants, including small fitness centers, that open prior to 7 AM.

Ms. Zollo – That wasn’t brought up in the original application.

Ms. Evans – Heather I’m listening to your comments. I think what you’re looking for will come out in the Findings as a result of

Ms. Zollo -I’m just asking if it will be addressed. That was my original question. You’re saying “yes it will be”.

Ms. Evans – I’m saying the direction that you are providing for inclusion of the FSEIS will hopefully provide you with the data that you need to generate Findings, whatever that is. The goal of this is to provide you with all of the information you need to make an informed decision.

Chairman Dianetti – We’re asking for alternatives.

Ms. Evans – Yes and we have that on the record. We’ve summarized the Board’s comments, had a good deliberation and have clarified direction back to the applicant and certainly the meeting minutes will reflect this conversation for the public, the Board and the applicant to reference.

The discussion ended at this point.

INFORMAL DISCUSSION

STONINGTON RIDGE

Modock Road

Acres: +/-142 Owner: Woodstone Custom Homes

Zoned: Residential

Mr. Jeff Smith of Woodstone Homes addressed the Board.

Ms. Evans - Applicant is requesting an informal discussion with the Planning Board regarding reconfiguration of Stonington Ridge, formally known as Auburn Hills Section 2. Applicant is proposing to reconfigure the lots to remove the two open space parcels previously intended to be HOA lands. The applicant is looking for feedback on re-subdividing the two open lots into each of the 29 existing lots. To simplify that, we would start with 31 lots and end with 29 lots, however, the filed most restrictive conservation easement would remain where they are today.

For consideration, I had a conversation with Code Enforcement Officer Al Benedict and he stated he was looking to the Board. Under the code we could handle this administratively but given it had a public hearing previously, he was looking for the feedback in addition to whatever you have for the applicant or whether you’d like us to go through the Board process with a public hearing or if you’re comfortable with the administrative process.

Mr. Smith – I assume that you have reviewed all of the material that I had provided. Just as a background, we had acquired this subdivision from DiFelice Development last year and there were some things that in retrospect I would have done differently if I was the original developer. As we moved forward, they had not made any arrangements for how to deal with the conservation land which is approximately 18 acres. As we evaluated the options, it took quite a while to research, trying to get it to a land trust. We researched several local land trusts who showed no interest in taking the property. It took my attorney months and months to research how to do it with an HOA and the difficulty there is that as your notes say, it’s the most restrictive conservation easement standard format with Victor which is fine. But as soon as we get into the HOA provisions, we have to go into essentially a full blown HOA because of the common ownership which we’ve been through before and we’ve done townhome developments with that. It’s not only an expensive process, it’s an enduring process, annually requiring financial recordings and meetings. It would essentially require a management group to do all of

the paperwork when, in fact, this conservation area is basically to be left alone and not be managed, with very restrictive covenants in terms of the ability to maintain it, mow it, etc.

So after evaluating whether it was an HOA or if we could give it to a Trust, we met with the Town Staff and decided to give it to one lot. As we looked at it, it made more sense to just quick claim adjacent properties, enlarge those lots. The conservation easement would stay identical to what it is. It's still as restrictive as it was intended but rather than the ownership being common with an HOA, it would be uncommon to the 29 lots that are adjacent to it. Essentially the deed ownership is the issue both with the HOA as well as our resubdivision. It took quite a while to research individual trusts and whether they would accept it. It took quite a long time to even go to the Attorney General to find out the necessary details.

Referring to the subdivision plan - The lines on the plan show you essentially what we're thinking is where you do boundaries that take corners, it's not a good idea because people think of their boundaries going straight back. We thought that we'd take the boundaries on the cul-de-sac and take them straight back to where they would largely consume the area behind them. Then take the boundaries on the curve or linear street where we now call Summerhill Lane and extend those straight back which largely takes a very deep valley area, mostly grass and shrubs now.

We are trying to divvy up the property in a sensible manner. The conservation areas, the easement would stay identical. We still would have conservation markers where the boundary occurs. So nothing changes in terms of the logistics of accomplishing the protection of the area. I know in the code's commentary, they talked about these odd strips along a couple of areas. It's not only a conservation area but it's also a sanitary sewer area. As I understand historically, DiFelice was thinking that they might potentially purchase the property there from Victor Clarise. In dreams of developing more, they had to maintain that sanitary sewer easement and also a conservation easement.

I have been in contact with that owner and they have no interest in selling the property and also our sewer could not be serviced to their property. It's a 14 acre parcel and could only be developed into approximately 7 lots. So I would leave the sewer easement the way it is and the conservation easement the way it is because it does act as a buffer to the adjacent properties. As I read all of the Planning Board comments that were provided to me there was some discussion of the neighboring properties and the potential of people walking behind their homes on trails. I think there is some logic in saying that's a conservative area even though I believe Codes said it could be forfeited, I don't see any reason. In Pittsford, we've had conservation easements used as buffers between uses and older tenants and newer tenants and that's fine.

There is a line shown between that 60 ft reserved right of way (ROW). It's a privately owned ROW, Woodstone owns it now. Again, DeFelice thought they might extend the street. As I talked to the neighbor and looked at the economics of extending this street, it really is not of any benefit to us and nor would it be to a future town development. There is very limited acreage to the east, Cork Road extends to here and if Clarise was ever to develop their land, it would be simpler to come off of that road with such a low density. I'm suggesting that in this whole process of resubdivision that we would take that 60 ft and divide 30 ft over to Lot 50 and 30 ft to Lot 51. There is a trail easement that we would change the definition of that and refile that trail easement so that it would run straight down the side rather than partitioning what would be to the larger parcel. We would bear the expense of redrafting that easement and obviously it would go through a review of the Town.

The other small strip (next to Lot 63), we would again leave that easement defined exactly as it is and put conservation boundaries on the property lines. Nothing would change in terms of conservation. I would bear the expenses of resubdivision. It wouldn't be too much for the Ontario County fees.

One of the Codes comments which was a valid comment, if we had done all of this before, we didn't like the names of the subdivision or the roads so we ended up going through a procedure which essentially was refilling the subdivision to change the names. I believe Codes mentioned there was a street name that was named in one of the easements and we would correct that. It might give us an opportunity to refine the whole parcel.

I would concur with Codes and our intent is to hopefully have this done administratively. There isn't anything that has really changed in any of the approvals. It's just the mechanism of doing it. Instead of ownership in a common way with an HOA, we're looking at ownership in a distributed manner to the existing parcels. Code talked about possibly us wanting to extend trail easements through the conservation area. As I reviewed the Planning Board minutes, there was some concern about adding the trails because of the concern of the adjacent properties. There really wasn't any intent to take the public trail easement which is what that is, the Town has a right to improve that as a public easement. I would prefer to not extend that to the conservation areas. I would prefer to keep it as the intended preserved area; not to be built on, not to be mowed, not cleared, etc.

Chairman Dianetti asked for comments or concerns of re-subdividing this property from the Conservation Board.

Ms. Kate Crowley – I do remember some of the history about the trail easement that we had discussed with the previous applicant. This area of Town, if you come further south, you head behind Clarises, then there is a large parcel owned by the Elders, then you come further down to Dryer Road to Ganandagon. What we had talked about was that the applicant had offered to put in a trail easement so that if at any point in the future if the other sites were developed or if the residents were interested that we could extend that trail system. That's why it's there.

We have not had any discussion with the rest of the Conservation Board but as Joe and I are listening to the comments this evening, we're not concerned if the shape of the lots are changed as long as the type of the conservation easement were to stay in place.

Mr. Smith wanted to know if there was currently an easement to the south of the property.

Ms. Crowley – The applicant at that point had not made all of those inquiries all the way down Cork Rd.

Mr. Smith stated he had contacted the property owners down Cork Rd and they have no interest in selling their homes or furthering development. He wanted to know where the easement would go beyond his property but had no problem maintaining it. It's a filed easement of record and the Town would have the right to develop it as an easement in the future.

Mr. Santoro – Are you planning to put plaques at the end of those lots?

Mr. Smith – There are standards within the construction standards. In this case, the trail easement is a reserved purpose for the Town, not the developer. It's differently structured than the conservation easement. The conservation easement, yes there are boundary stakes that we have to put in as part of the construction standards that notify where you cross into a conservation area. They will be staked and marked.

Mr. Santoro – Clearly “state” that. I can foresee someone buying the property and think they can go all the way back.

Mr. Smith – That's one of the reasons why the HOA... imagine the nightmares of someone going there and puts grass on it. Conservation easements in general are difficult to maintain because they are in rear areas. However, it would be difficult regardless of the mechanism of who owns that land. We will be placing the markers and they will have deeds that are very clear that these lands can not be used for ATVs and can't be built upon or mowed, etc. The same mechanism for enforcing that easement is in place regardless of whether that land is owned by one owner or owned by many. That's the nature of a conservation easement, they do have to be enforced and usually they are enforced by neighbors and towns. We have them in several of our other subdivisions and generally they work and particularly they work well against the obvious, no structural change. They are a little more difficult to enforce when someone wants to mow a little further into it. Whether it's individually owned or an HOA owns it, it will be the same problem. I think if that with the combination of the required markers, it's not likely to happen in any wholesale way. Most of this land is not the kind of land that you would mow. Its very heavily shrubbed and it would be very obvious if someone started to cut that.

You raise a valid point in terms of maintenance and restrictions of conservation areas. For 10 years we've been trying to do this with the Town of Pittsford for some of the areas that are buffered areas. A lot of the time there are buffered areas because it's an agricultural use and the farmer doesn't want the person throwing the grass on their land. This will happen but I don't think it will happen in an extended way. It may even be lessened by an individual owner. Maybe the only likely areas it would happen is where there is a potential for extension where it is fairly open grassy areas.

When we install lawn, etc., we will be very clear as we have been in the Town of Pittsford that if there is a disturbance, which there won't be, that it would be revegetated, not with a hand raked hydro seeded lawn, it would be done with a rough back blading and a different type of seed mix, etc. which is what we're doing now in the large open areas that we're disturbing for the roadway. So there are ways to define that space in addition to the markers that will be placed.

Chairman Dianetti – So you're looking for direction from the Planning Board in regards to whether or not this can be done as an administrative lot line adjustment or have a new subdivision plan submitted and go through the process.

Mr. Smith – Our hope when we approached the staff, was that it didn't change the intent at all of any of the approvals, the conservation land would stay as is. We were hoping to manage it differently and do a quick claim type deed process in terms of redistributing the common space to the adjacent owners rather than keeping it as a ball parcel.

Chairman Dianetti asked the Board members for their comments.

Mr. Santoro – As long as it's followed through with marking those areas.

Mr. Smith – The conservation easement doesn't change at all. Instead of having 1 owner, it will have 29 adjacent lot owners.

Ms. Evans – Can you tell the Board, are you sole ownership of all 31 lots or have any of them been sold yet?

Mr. Smith – None have been sold yet but are at the verge of signing contracts. I told a few that we might have to have a contract disclosure that this is still in process. Lot 63 was our very first contract that we have and it will probably require another 30 ft. They didn't know that at the time, I did not discuss it with them at all. They thought that there might be a road next to them. Recently, we are centering their house on the existing width of the land on the assumption that they might acquire some more. I've spoken to my attorney in terms of how we will deal with this. This is a pending process and it's a disclosure that we need to make. The deal of an HOA would be the same problem.

If we can't do this, I'm still not going to go back to an HOA. There aren't that many options. I could continue to own it which I'm not going to do. We could give it all to one lot which just doesn't make much sense. It's not much different from when DiFelice stated that it would either go into an HOA or a Land Trust. I've researched that and the Land Trust doesn't want it, it's not something they could offer access to very easily and there is no parking facilities and the Town doesn't want it for the same reason.

The intent of the conservation area is to maintain it in a "forever wild state". We are going to do that no matter what we do, it's just this would be the simplest way to do it.

Ms. Evans – If the Board wanted to go through the subdivision process then we go through the neighbor notification process. It would take longer and you would have an opportunity for feedback from your support team. If the Board was comfortable going with the administrative route, I would just suggest summarizing some of the comments that Jeff has made tonight of things that he plans on doing and that way it would be on record and going back to staff's administrative review that those comments would be taken into consideration. The Town staff can't put conditions on an administrative approval, only the Board can do that. One way to accomplish this route would be summarizing them tonight and directing staff to hereby incorporate them on the basis that the landowner has agreed to do it.

Mr. Young – In a sense, the Code Enforcement Officer has already taken the position that this is subject to an administrative lot line adjustment. So I'm not inclined to step on his toes. I think if he's taken this position and has asked for the Planning Board's feedback..... From a technical aspect, from an administrative lot line adjustment, I don't know how bound he is to take your feedback because it's not within your jurisdiction if it's administrative although I would be surprised if he didn't take your feedback due to asking for it. My inclination is that if you are inclined to agree with the Code Enforcement Officer, that this is appropriate for an administrative lot line adjustment, you would issue your comments and we would presume given the way the Planning Board works, they would be taken into consideration when this application

is processed. If you're not inclined to go this route, then we go through the typical subdivision process where you issue through notifications of public hearing. You might be able to combine the preliminary and final subdivision process. You have the lines drawn, have LaBella issue their comments, get a final map and approve it and the Town Engineer and Planning Board Chairman signs it.

Mr. Santoro – I think it's overly burdensome. I don't know if you've been by there lately but it's all bulldozed and ready to go.

Mr. Smith – I don't disagree with Katie, I believe it should be done administratively. The intent is if the staff would provide the direction and as long as none of the original conditions change and that's our objective, so the conservation easement is maintained, the intent of the trail easement is maintained then we would be allowed to modify the boundaries. In that direction of the code I would think would be sufficient particularly given my agreement with Code's comment that the one easement be altered that currently goes down the property line here, it makes sense it should go down the new property line, not the existing property line.

Chairman Dianetti asked for the Board's comments.

Mr. Logan – I drove the site today and I'm fine with the concept that you are proposing. There are a couple of items that I would have changed if we hadn't put the road in yet. I would have run the trail to the corner of the lot behind Lot 53. I would have put the trail on the cul-de-sac instead just because it's safer. The conservation easement between Lot 61, 62 and 63, that little strip, does that really make sense to keep?

Mr. Smith – There is considerable grade changes that aren't visible. There's a steep little valley between these lots. It's considerably flatter here so this may have been some of the consideration when the previous owners were laying the plan out. My intent would be to keep the original approvals as close as possible and that's why I was thinking of just adjusting that portion of the trail easement between those two lots.

Ms. Kate Crowley – The reason that was between Lots 62 and 63 was so that everyone in that community could get back to the conservation easement area. It was like a walkway.

Mr. Logan – But that's going away, correct?

Mr. Smith – It would still be in a conservation easement but will be privately owned.

Mr. Gallina – Just because it's a conservation easement, it doesn't mean just anyone can go on it.

Mr. Smith – There was never a trail easement there anyways.

Mr. Logan – I would just say...no one is going to maintain that little strip. People are going to mow across that and it's not really going to effectively be a conservation easement. You'd have to marker it, etc. I don't see that as a practical maintenance site especially since no one is going to use it other than to mow their lawn and frankly if its most restrictive, its never going to behave

like that unless you have a fence there where it doesn't allow people to mow their lawn...I would have just extended the lines and gotten rid of it and not have that as a designated strip of conservation easement. For what it's worth, you're going to get a little more conservation easement at the backs of Lots 50 and 51.

Mr. Smith – This area and the buffer will still be maintained as a conservation easement.

MR. Logan – There's no conservation easement where the driveway was (between Lots 50/51).

Mr. Smith – We would eliminate that. That was not in the conservation easement.

Mr. Logan – But if you got rid of the other one (between Lots 62/63) add a little at the end of that roadway so that you have a contiguous easement and not a layer of *nothing* between them.

Mr. Smith – Yes, that land would be continuous (back of roadway between Lots 50/51). We might have to change the wording in the easement. We could redefine the easement.

Mixed conversation took place at this point.

Mr. Smith – I don't disagree with you but on the other hand I don't want a 3 month Planning Board process to eliminate that conservation easement.

Mr. Gallina – Then just redistribute that amount somewhere else on the site plan.

Mr. Smith – We can change the legal description.

Mr. Logan – I don't mind if this is administrative but take the opportunity to clean it up a bit.

Mr. Smith – If the Board would agree to put that in the staff directive, I don't have any problem with that.

Ms. Evans – One of the challenges in this situation is that the easements are filed. Therefore, the only body that has jurisdiction to change filed easements is the Town Board.

Mr. Smith – But there are conditions within the easement about amending it.

Ms. Evans – But it would still need the Town Board unless you are proposing an easement that isn't currently filed. It would be different if the easements weren't filed but they are. So the only body that can amend them is the Town Board. It doesn't mean that it can't happen it's just that is the process. The other concern that I have is the timing because I want to make sure that lots aren't sold off before these documents are filed.

Mr. Smith – Before a formal transfer is accomplished, we're months away from that. As we spoke earlier, if we enter into a contract, it would have to be disclosed. We don't envision moving anyone into there for quite a few months. But if the direction is to have a continuous conservation easement here, we could go through the process of the lot line adjustment and then

independently amend the easements, then we could participate with the Town Board in doing that. I don't have any problem with that. I think that would be two different issues.

My point of being here tonight was to say leave everything alone and not change the conservation easement and only change the property lines. If we want to address cleaning up the conservation easement, I would be pleased to do that on an independent track that just says there are a couple of issues of perhaps adding to the conservation easement here and delete it here.

Ms. Evans – So adding is no problem, it's the delete part that we just need to go through the Town Board.

Mr. Smith – I don't disagree with you.

Mr. Logan – That little strip has already been worked right?

Mr. Smith – It's already been graded and bulldozed.

Mr. Logan – So it doesn't make sense to make it the most restrictive conservation easement we have in the Town and you'll have all of these posts to maintain.

Mr. Smith – What about the trail easement as we change the definition of that?

Ms. Evans – The same thing. It's a filed document.

Mr. Smith – We can't just refile it? It has to be Town Board approved?

Ms. Evans – Yes. The comment about the road name reference, as I understand it's just another document filed to essentially create a change.

Chairman Dianetti – For an easement, you can widen it...

Ms. Evans – I don't think it's a problem. It's a step that needs to be taken regardless if you go through Planning Board or not because of the fact the easements are already filed.

Mr. Smith – The easements could stay exactly the way they are and we could resubdivide exactly as I proposed. If we want to change it and clean things up; move the trail easement, add a conservation easement then I agree, we go through a Board process. All I'm asking is that we separate the two. I can make a condition to the Town that states we'll administratively subdivide the parcel but will also address the couple of areas discussed to clean them up and this would go through a Board process. But I would like to isolate them.

Mr. Gallina – It's an independent discussion.

Mr. Logan – And you're already taking away an easement to the Town for that road by moving those lot lines so don't you have to go to the Board anyways?

Mr. Smith – It doesn't take away the easement.

Mr. Logan – But you said to get rid of that road.

Mr. Smith – The easement will still be there.

Mr. Logan – I'm talking about the right of way.

Mr. Smith – There are no rights to that..... I own that land and I'm quick claiming half it to Lot 50 and half of it to Lot 51. It's not a Town right of way. It was a reserved 60 ft strip that DiFelice thought they might use someday. It's a separate tax parcel, fully unencumbered and if I take half of it and give to Lot 50 and the other half to 51, I can leave the trail easement exactly where it is. I would prefer to go through the effort of moving the easement to make it more reasonable. But we could do them independently.

Mr. Gallina – I think the developer has done the due diligence and looked at 5 different options, did the research and came back with the most viable options and whether we do that through an administrative lot line or defer it, whichever is least burdensome and doesn't put the conservation easement at risk. The only idea that I had for consideration was to minimize the risk of encroachment from 27 homeowners as opposed as to just putting in markers, would a split rail fence or something that is natural looking that really marks the conservation easement from the existing property line.

Mr. Smith – My problem with that is we would have had that same problem with the adjacent 29 lots that are going to be there regardless.

Mr. Gallina – It's one thing to know that my property line stops here as verse to owning a strip that goes 300 ft back.

Mr. Smith – I would prefer to not have to spend thousands of dollars on a fence.

Mr. Gallina – I just thought that instead of some 50 markers 3" off of the ground to identify the conservation easement. Part of our obligation is to protect that easement.

Mr. Smith – Which has not changed at all with these property lines.

Mr. Gallina – Conditions do change by going from 1 contiguous block whether it's owned by an HOA or a developer.

Mr. Smith – We could put additional markers on the lot centers to make it very clear. There is going to be markers at each corner.

Ms. Crowley – If I could build on that suggestion. We actually had this discussion at one of our Board meetings. One of the suggestions that we had come back to an applicant with is using large rocks that get unearthed during the project and use them as markers for the conservation easement.

Mr. Gallina – I think it would be something more significant than the markers. I'm fine with the lot line changes.

Mr. Pettee – Regardless of which way you do it, I think that if you're looking for Town Engineer assistance in review whether it goes to the Planning Board or if it's done administratively, the staff could make a referral to the Town Engineer. The Town Engineer would need to sign off on the revised mylar as well. It might be worthwhile for the staff to send it on to us for review.

Ms. Evans – My concern lies with and I'll tell you because of the amount of time that I've spent in the last two weeks on another situation where a builder transferred ownership of a property before an easement was filed. The easement was filed after the fact, not knowing that the transfer took place. It becomes an irrelevant document that's been filed because it didn't happen before the land was transferred. My concern is and I understand that you want to handle them separately and be independent of each other with an administrative review and then the easement situation. I think that's okay but I would be looking for you to provide me with some documentation that you agree to follow through and make this happen if you sell a lot. Whatever you do on your own end is great, that you make a future homeowner aware of it. But if there is an easement that is supposed to be filed, we're going to check that and make sure before we issue a C of O.

Mr. Smith – That's fine. I've run into a lot of builders that don't know what they're doing. We do know what we're doing and I do understand to grant the easement, you have to own the property to grant it. If we decide to extend the conservation easement, I currently own the land and have the right to do that. The same thing with this strip (between Lots 50/51). We would make sure that if we were going to contemplate transferring any of these properties before all of this was done, that we would essentially already have them sign the rights to future easements that would be granted and that's a very simple legal process.

Ms. Evans – Yes, and if you give us notification, we're going to do everything we can to get those documents executed as quickly as possible.

Mr. Smith – A Conditional C of O is a good mechanism to make sure these things happen. I think as long as we understand what we're looking for, I don't disagree with better demarcation, that's sensible. I would prefer to take something that won't fence in the owners, whether it be boulders or more 4x4's.

Ms. Evans – I think we've captured a lot in the discussion and I think the meeting minutes will reflect the Board's position. I think I'm hearing from the Board that they are comfortable with an administrative lot line revision, you'd like to see the trail easements and the conservation easement rectified to serve the intent of the original approval and you'd like to see some natural demarcation for the conservation easements. We do require the posts as it's in the code.

Based on that, I think the direction is clear if that's the consensus of the Board.

The Board agreed. The discussion ended at this point.

Motion was made by Ernie Santoro seconded by Heather Zollo RESOLVED the meeting was adjourned at 9:45 PM.

Cathy Templar, Secretary