

Town of Halfmoon Planning Board

September 22, 2008 Minutes

Those present at the September 22, 2008 Planning Board meeting were:

Planning Board Members: Steve Watts – Chairman
Don Roberts – Vice Chairman
Rich Berkowitz
Marcel Nadeau
Tom Ruchlicki
John Higgins
John Ouimet

Alternate

Planning Board Members: Bob Beck
Gerry Leonard

Senior Planner: Jeff Williams
Planner: Lindsay Zepko

Town Attorney: Lyn Murphy

Town Board Liaisons: Paul Hotaling
Walt Polak

CHA Representative: Mike Bianchino

Mr. Watts opened the September 22, 2008 Planning Board Meeting at 7:02 pm. Mr. Watts asked the Planning Board Members if they had reviewed the September 8, 2008 Planning Board Minutes. Mr. Roberts made a motion to approve the September 8, 2008 Planning Board Minutes. Mr. Higgins seconded. Motion carried.

Public Hearings:

08.051 PH Loomis Subdivision, 116 Harris Road – Minor Subdivision

Mr. Watts opened the Public Hearing at 7:03 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Mr. Duane Rabideau, of Gilbert VanGuilder and Associates, stated the following: The proposed subdivision is located at the intersection of Lape Road and Harris Road. The parcel is approximately 2.6-acres and we are proposing a 4-lot residential subdivision. Lot #1 would consist of approximately 21,000 SF of land, Lot #2 and #3 would be approximately 30,000 SF and Lot #4 would be approximately 31,000 SF. The parcel is located in the R-1 Residential zone. The existing house on the property would be demolished. The parcel would be on public water and would tie-in to public sewer on Sprucewood Court. Mr. Watts asked if anyone from the public wished to speak. Mrs. Nora Cerniglia, 1 Sprucewood Court, stated the following: One of the main reasons why my husband and I love the home is because of the esthetic value of the property. It is my understanding that the sewer would come down along our property, across the front of our,

yard and across our driveway. Our concern is what will our property look like when the Town is done. Currently our property looks beautiful. We were offered a large sum of money for an easement to run through our property and we said "no". How will the elevation change the runoff of water because we are located downhill from that? Will there be a driveway or a culvert on Harris Road and how would that connect and how will that water runoff? Right now the back of our property is saturated because of the land conservation area and why can't that be extended further into this lot? Where will the 4 homes on these lots sump pumps eliminate into? Those are some of the concerns that I have. Mr. Rabideau stated the issue of the sanitary sewer would come down along the side of Harris Road within the right-of-way and they have it designed to go down the center of the road so it wouldn't really cross the property. Mrs. Cerniglia stated on the other side it will run along our property. Mr. Rabideau stated the following: That is correct. It will be in the right-of-way of Harris Road. The area would be graded and seeded back to the way it was. Mrs. Cerniglia asked by who? Mr. Rabideau stated the person that is actually doing the construction of the sewer main. Mrs. Cerniglia asked would our property look the same as it is right now when it is done. Mr. Rabideau stated yes. Mr. Rabideau described the areas where the conservation easement, the buildings and the sewer easement would be located. Mr. Rabideau stated they will probably have to clear about a 20 FT wide path in order to put that in but there would be no building in that area. Mrs. Cerniglia asked how close would the sewer line be to our property line. Mr. Rabideau stated the following: Approximately 30 FT. The entrances would be combined driveways tying into a culvert. The water would flow down whatever ditching there is now. Mrs. Cerniglia stated along with the drainage that we have along our property would there be a culvert next to it? Mr. Rabideau stated no, it would be in another area. Mrs. Cerniglia asked where would that drainage go? Mr. Rabideau stated under the driveway. Mrs. Cerniglia stated the drainage would go under the driveway and then what? Mr. Rabideau stated the way the County has it set up now the water naturally flows down through here anyway and that would not change. Mrs. Cerniglia stated there was some talk about a storm sewer in our front yard. Mr. Rabideau stated the following: No, there would be nothing in your front yard. There is sandy soil in that area and it is high and dry. Currently the area is wet because it is draining the water naturally. Mrs. Cerniglia stated being that the vegetation is gone, do you see any problem with excess drainage coming downhill onto our property? Mr. Rabideau stated the following: No, because the clearing is only going to be up in the area around the house so some of the vegetation would remain. Also, there is a 50 FT buffer that is all wooded right now. Mr. Mike Bielkiewicz, 3 Sprucewood Court, stated the following: Is the area near my home going to remain wild? Mr. Rabideau stated they would have to clear an area to get the sewer main in and it would have to be at least 20 FT wide. Mr. Bielkiewicz stated when we were clearing the windfall that was in the back we took down a tree and we were notified that we weren't suppose to do that within the conservation area. Mr. Rabideau stated the following: Yes the conversation area is on Mr. Bielkiewicz property. I assume it was put there because they wanted a buffer from Mr. Loomis' house. Mr. Bielkiewicz stated I thought it was an Encon type of thing because it is wetlands. Mr. Rabideau stated the following: No, there are some minor wetlands in there but this is something through the subdivision approval for Sprucewood Court. This 50 FT buffer was put there as a condition by the Planning Board. Mr. Bielkiewicz stated it was our understanding that that was to be conserved. Mr. Rabideau stated it still is. Mr. Bielkiewicz stated but you are going to strip a part of it. Mr. Rabideau stated that would be an easement in that area. Mr. Bielkiewicz stated the following: I find that surprising because of the nature of the ground. Ours is totally clay and you said that it was sandy loam. Mr. Rabideau stated it is sand. Mr. Bielkiewicz stated I dug a ditch and it was total clay. Mr. Rabideau stated yes. Mr.

Rabideau pointed out on the plans where there is a changeover from clay to sand. Mr. Bielkiewicz asked if the driveways would go out to Harris Road. Mr. Rabideau stated yes. Mr. Bielkiewicz asked if that would be a problem traffic wise because of the bend in the road? Mr. Rabideau stated no, initially we had the driveways set so that they were coming out in another area but County Planning requested that the driveways be moved further away from the intersection for site-distance. Mr. Bielkiewicz asked where the 4 lots would drain. Mr. Rabideau stated the water would drain into the sandy soil and it would just disappear. Mr. Bielkiewicz asked if the stones would be touched. Mr. Rabideau stated no, the sewer would be 8 to 10 FT off the edge of the road. Mr. Ray Beaudoin, 100 Harris Road, stated the following: I have a concern on the conservation easement. When I developed Sprucewood Estates, Stage Run Plantation had just gotten its approvals and was put in. Stage Run Plantation was required to put in a 50 FT wide no-cut conservation easement along the full circumference of the subdivision. When I did Sprucewood Estates a 50 FT conservation easement was also required. What that did was provide a 100 FT no-cut conservation easement between all subdivision developments. For consistency sake I would like to ask the Board to do the same, provide that 100 FT conservation easement, 50 FT on either side. We were required to do it and Mr. Bielkiewicz tried to take down a tree and was told he could not do that. I think the reason for this was to provide protection between neighbors and backyards. The consistency is there between the developments now and I would like to see it maintained if at all possible. Mr. Rabideau stated the following: Was there a 50 FT buffer on Stage Run Plantation because I don't believe there was? I have aerial photos that indicate that this is not the case because it has all been clear-cut to the property line. Mr. Watts stated we will look into that. Mr. James Bold, 105 Harris Road, stated the following: We live right across the road from this. In Mr. Rabideau's presentation he spoke about putting the sewer line in and there is a water line in that area so you need a 10 FT offset and asked if this was going to work. Mr. Rabideau stated it is going to have to work. Mr. Bold asked if the old house on the property would be demolished? Mr. Rabideau stated yes, that is correct. Mr. Bold stated the following: What form of historic perspective is here because I know there is some very significant stonework in the basement of that structure. I am not absolutely certain but I think they date back to Revolutionary War times and I know that the Planning Board gave some consideration to the Leeson Foundation just up the road and on the other side. I don't know just what the provisions were but I would like to ask that the Planning Board give some consideration to this. I realize that the house is going to have be demolished but before that house is removed and the stonework is destroyed I am pretty sure there are ovens there but I don't know the current condition of these. When I last saw the ovens, there were ovens that go back into a time period of the Revolutionary War. This Inn was a stop off point on the route from Albany to Saratoga. The other historic thing is the barn, which has totally collapsed now. I have no facts to support what I am going to say but it is my understanding that there are earthworks underneath that barn that had to do with the Underground Railroad during the Civil War period. I don't know that and I never saw those earthworks but there have been plenty of stories around Town for many years to indicate that. So, if these things could be verified, whether it is through the State Historic Preservation Office (SHPO) or whomever you have to go through, I certainly suggest that. As a neighbor I have no objection to the subdivision itself and asked if all the homes would be single-family. Mr. Rabideau stated they can be either or and we want to leave that option open. Mr. Bold asked if the lots were sized for either or? Mr. Rabideau stated 3 of the lots and 1 lot would have to be a single-family. Mr. Bold stated the following: I would like to speak in opposition to putting duplexes in there because there are many single-family homes in that area and to place duplexes in there would be out of character for the

adjoining neighborhood. I would like to ask that some consideration be given to not allowing duplexes in this particular location. Mr. Rabideau stated we want to leave the option open for the duplexes. Mr. Watts asked if a SHPO study was required. Mr. Rabideau stated no that was not required. Mr. Watts asked why do you say it is not required. Mr. Rabideau stated because for one thing we didn't have to deal with wetlands because there wouldn't be any wetland disturbance so we wouldn't be triggering SHPO review. We haven't crossed any threshold for SHPO's review. Mr. Watts stated I think Mr. Rabideau is correct in his statement and I think that is how they got the SHPO review via the wetland threshold issue. Mr. Bold stated I am not sure of the exact distance but I believe the Leeson home, which was identified in that project. I think it is within 1,000 FT but I am not 100% certain of that. This home is shown on a map dated 1866 and the building itself is far older than that. I know that SHPO has been getting more and more interested in these homes along the line so I would like to see it verified. Mr. Dave Wiltsey, 123 Harris Road, stated the following: I have a couple comments regarding what has been discussed. Yes there is sand but I think it is piled on top but it is all clay underneath. Where we live at 123 Harris Road it is nothing but a bed of clay. On either side of us there is a 29 to 30 FT depth of sand and that continues on up the road up toward the Leeson property that Mr. Bold referred to. In terms of runoff onto neighbors property, yes there is probably a pretty good percolation rate with that sand but you are adding some roofs that are going to put more water on the ground and less of it would be absorb. So, that beautiful big sandbank that would hold that water and would release it slowing is going to release it a little bit faster now. My main concern, like Mr. Bold's, is the historical nature of that house. That house does go back into the 1700's. We have some information on the deeds because my grandfather owned it for a brief period of time from 1900 into the 1920's. My father, an aunt and uncles grew up there. So, we have a lot of information about the place and I hate to see it have to be torn down. I was very interested in seeing the Leeson house saved but that didn't happen and now it is gone. The reason the Leeson house was torn down really doesn't make sense when we look at it today because they can't build anything on that site. The foundation cannot be disturbed. They were allowed to fill it in but the foundation is still there and will stay there for many years. Currently it is an overgrown lot. We used to do all the mowing of the lawn after Art Leeson died and we were hoping against hope that the home might have been saved and it wasn't. Now we are looking at an even more historic house coming down. If I had the money I guess I would buy it and then I wouldn't have to be complaining about whether it is torn down or not. Seeing as that is not going to happen, I am still interested in what happens there and would like to know that it is done properly and that we don't find out after the fact that "oh, gee we should of done this or we should of done that". All I am asking is let's find the facts, let's take it slow and easy and not be in a big hurry to put a subdivision in there that may now be multiple occupancies and then wish that we hadn't done it afterwards. Mr. Bielkiewicz stated the following: A while back, I can't speak for all of Sprucewood Court, but in a remaining lot there was an attempt to make that a multi-family home and the whole street showed up at the meeting opposed to it. So, I am sure that would happen again if there were another meeting to discuss the nature of what units went into this subdivision. Mr. Joel Koval stated the following: I am the real estate agent that has the property listed for the Loomis'. Regarding the issue to the historical value: The property was built upon in 1770 according to the records that we show. So, obviously it is a historical building. We had several people look at this property from the aspect of rehabbing the structure. The Loomis' would have preferred that this happen but the building is too far gone and there was a structural report that the Loomis' had done on the property that shows approximately \$125,000 to \$130,000 worth of structural work that would have to be done before the cosmetic work could start. So this made

it economical unfeasible to try and do anything with that house. I have been in the basement several times and it is a scary place. There is a lot of brick and it looks like possibly there were ovens at one time but you can see from this report also that the brick is deteriorated to the point that a lot of it is just laying on the floor and is coming apart from the foundation. I wanted to address that issue because I think people did try or wanted to do something with this house but it didn't make sense to go forward with it. Mr. Dan Chouiniere, 96 Harris Road, stated the following: I agree with the other residents about the duplexes being out of character with the neighbor. When I moved in there, there were only 3 houses and now there are 3 subdivisions with another one going in down the road. At this point all of these subdivisions have single-family homes. There probably won't be any more public hearings for people to speak on this issue so I would like to say that I would like to see them be single-family homes and not duplexes along Harris Road. It would also double the amount of cars that are going to be coming out of those driveways if they are duplexes. Traffic along the road is already bad enough at this point with another duplex in the works coming down the road. I think it would be in the best interest of the community, especially in our area, for these to be single-family homes. Mr. Watts closed the Public Hearing at 7:27 pm. Mr. Higgins stated Mr. Bold brought up a point about the 10 FT separation and asked what is the right-of-way on the side of the Harris Road there? Mr. Rabideau stated the following: It is fairly wide because the edge of the pavement is about 25 FT. Due to the fact that it goes down they needed more right-of-way, which they acquired for the fill to keep the road up to transition from the hill down into the flats. Mr. Higgins asked so instead of the normal 10 FT right-of-way do you think there is a 20FT right-of-way there? Mr. Rabideau stated it is a varying width right-of-way instead of the normal 50 FT for Town roads. We have on here varying width right-of-way because of the way the County took land for the initial improvement of Harris Road back in the 1940's. Mr. Higgins asked the following: If there isn't room there, what are you prepared to do? Would you put the sewer on the other side of the road? Mr. Rabideau stated the following: Whatever it takes to get the 10 FT separation. That is an engineering issue that I am sure can be worked out. Mr. Higgins stated I think this Board would like to have an idea of what you plan on doing if you can't get the 10 FT separation. Mr. Rabideau stated we will get it; we have no doubt about that. Mr. Higgins stated looking at the 50 FT conservation areas and the neighbors request, is there any way that this sewer line easement can be pushed up further into the lots to give them more of an no-cut buffer? Because right now from my calculations you are going to have about a 10 FT no-cut buffer area and that is not even shown on the drawings so can you leave what is there? Mr. Rabideau stated the following: We need to leave this here because the slope runs down pretty quick and we can't bring it up the hill. We would have issues with tying into the buildings as far as the elevations. Plus a normal situation would indicate 10 FT on each side of this line and we would still rather have about 15 FT plus the 50 FT they have. There is approximately 250 FT from any one of these houses to the nearest home. There is a 50 FT no-clear buffer in that area and we are proposing the sewer line in another area. If we clear 10 FT on each side of this to actually put it in and maintain it this still leaves probably 10 to 15 FT from here to there. So it would be 50 FT plus 10 to 15 FT for a total of approximately 65 FT of buffer plus the added distance to their houses. Mr. Ouimet stated if you have a 20 FT easement for the sewer and just add another 10 FT, you would have a total of 30 FT. Mr. Rabideau stated the following: No, it would be 20 FT centered on the actual sewer line, so 10 FT on each side of it would be what you would physically clear. The easement is actually 30 FT but you don't have to clear the entire 30 FT. Mr. Ouimet asked why not add a 10 FT no-cut above that easement line? Mr. Rabideau stated then you would be compromising the building envelope. Mr. Ouimet stated the following: But it would be just like a 30 FT no-cut. You

would be using 20 FT for the sewer line and if you added 10 FT it would still be a 30 FT buffer between the property lines. Mr. Rabideau stated we are saying that the clearing from where the actual sewer line is going in, 10 FT down would be the anticipated clearing limits and from that point down it stays wooded/brush or whatever is there. Mr. Ouimet stated what I am suggesting and I think what Mr. Higgins' was suggesting is you go up 10 FT and make that a no-cut. Mr. Rabideau stated so it would be woods, clearing for the line and then the no-cut. Mr. Ouimet stated right. Mr. Rabideau stated I don't see a problem with that. Mr. Berkowitz stated is there any way to go back to your clients to get an definite answer whether the homes would be single-family or duplexes? I am not prepared to vote until I know which one it would be. Mr. Rabideau stated more than likely it would probably be duplexes. Mr. Berkowitz stated we need a definitive answer. Mr. Rabideau stated then I would say they are going to be duplexes; one single-family and three duplexes. Mr. Berkowitz asked do you realize that is out of character for that whole area? Mr. Rabideau stated not really because there is Knox Woods. Mr. Watts stated the following: That may be your opinion but that is not your call Mr. Rabideau. Mr. Rabideau stated I think the transition is there going from Knox Woods, which is multi-family to duplex then to single-family. Mr. Berkowitz stated there is a physical barrier separating Knox Woods from that development. Mr. Rabideau stated we have a natural buffer. Mr. Higgins stated that is their natural buffer and that is not your natural buffer. Mr. Rabideau stated correct. Mr. Berkowitz stated you are creating that buffer where the other buffer has already been created. Mr. Rabideau stated there is a lot in the area that could potentially be a duplex. Mr. Berkowitz stated potentially yes, but it's not. Mr. Polak stated Knox Woods is a PDD. Mr. Roberts stated I share the neighbors concerns about duplexes verses single-family and I don't think the duplexes are a good idea. Mr. Higgins stated the following: If you look at it as though you were putting commercial, which I agree this is residential and not commercial, but it is a duplex and that would require a 50 FT transitional buffer and that is a 50 FT no-cut buffer and then you would have to put your sewer line above that. You keep referring to the 50 FT conservation easement on the neighbor's property. That has nothing to do with what is before this Board tonight, which is the subdivision of that piece of property. Mr. Rabideau stated correct, but everyone is using that against us. Mr. Higgins stated the following: I am using it as it is a change in what the neighbors are seeing and a lot of other PDD's and a lot of other subdivisions have all come in on their own and offered 50 FT buffers. I think that is what we are talking about here. Yes, there is an area there with the easement but by the time you take all the trees down and you have to leave it open for maintenance, it is just going to be an open area that you can see right through. It's not really going to be a buffer at all. Mr. Rabideau stated correct. Mr. Nadeau stated I think I would like to have Mrs. Murphy research the issue of single-family verses duplexes as to what this Board's authority is on that. Mr. Nadeau asked Mr. Rabideau if there would be an easement on the combined driveways? Mr. Rabideau stated yes, that is correct. Mr. Ruchlicki stated the following: I think based on the discussion of the historical nature of the foundation on the old building that I would like to have a little more information associated with that. I am not ready to make any decision tonight based on everything that I heard so far. Mr. Watts stated the following: You have heard the concerns of the surrounding residents at the public hearing and you have heard the concerns of the Planning Board. We have certain issues that have to be researched relative to the SHPO concerns, relative to the easements and some engineering issues relative to the drainage at this site. Many of these concerns you can respond to yourself including the historical nature and the concerns of duplexes verses single-family homes issue relative to the character of the neighborhood and its impacts.

This item was tabled for the applicant to respond to the comments received by the public and the Planning Board Members.

08.077 PH AMS Entertainment, 152 Guideboard Road – In Home Occupation & Sign

Mr. Watts opened the Public Hearing at 7:42 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Mr. Tim Wedeman, the applicant, stated the following: I would like to have a home-based business and would like to put a sign in front of the house. I was told that the sign would have to be 4 SF with 2 SF on each side and we have no problem with that whatsoever. I have a draft copy of the sign showing how it may look. We are a DJ service for parties and whatnot. Primarily we would meet our clients at our office. The hours of operation would be 7 days a week. Clients would come to our home and we would do a consultation with them. We would only have one client per meeting and we would not have multiple clients waiting at the office. All of our equipment would be stored at the residence. No one would be at our house after 10:00 pm to drop off anything. Disc jockey services are what we do and we have been doing this for over 24 years. Mr. Watts asked if anyone from the public wished to speak. Mr. Watts closed the Public Hearing at 7:44 pm. Mr. Watts stated the following: We have your application that indicates your hours of operation. At the last meeting there was considerable discussion held about noise and the neighbors. Mr. Wedeman stated the following: I have had in-home businesses before with no problems whatsoever. The only concern that I had in the past was if music would be played and the music would only be played at the events. Mr. Watts stated there would be a problem if you do and if people are picking things up and dropping things off at 2:00 am based on the approval.

Mr. Nadeau made a motion to approve the In Home Occupation for AMS Entertainment contingent upon no trailer storage or outside storage of equipment would be located at the site. Mr. Roberts seconded. Motion carried.

Mr. Roberts made a motion to approve the sign application for AMS Entertainment contingent upon the sign is not placed in the County right-of-way. Mr. Nadeau seconded. Motion carried.

New Business:

08.089 NB Professional Office Building, 1396 Vischer Ferry Road – Commercial Site Plan

Mr. Mike Tucker, of Infinigy Engineering, stated the following: I believe this is the second time you have seen a proposal for this site over the past year or so. We have just over a 2.5-acre site which fronts on Vischer Ferry Road that is directly across the street from Bast Hatfields Offices. The site is bisected through the middle by a Federal wetland and there is an existing abandoned house on the site. This proposal calls for two 3,000 SF office buildings and associated parking on either side of that Federal wetland system with a single access drive off of Vischer Ferry Road. As designed we meet all of the zoning, open space, setbacks and parking space requirements. Each building has 15 parking spaces associated with it. We are not expecting anymore than 30 employees on the site once it is fully constructed. We are proposing a stormwater management system toward the rear of the site, which would detain the water and outlet it into the existing wetland system as it happens today. All utility systems will be connected to Vischer Ferry Road with the exception of sewer, which is not available. We are proposing a septic system to handle the flow from each of the buildings. The previous proposal that was in front of the Board last year was a single 8,000 SF two-story building with

two points of access off of Vischer Ferry Road. We have moved the parking to the rear of the buildings, reduced the access to one and we tried to evenly distribute the parking as much as we could. Mr. Watts asked if they have shown the handicap parking on the plans. Mr. Tucker stated the handicap parking is shown on the plans and they are the 2 closest parking spaces for each building. Mr. Nadeau asked if Mohawk Terrace was adjacent to this site. Mr. Tucker stated yes and we are in the process of obtaining a grading easement from Mohawk Terrace. Mr. Berkowitz asked about the neighbors to the east of the site. Mr. Tucker stated the following: There is a steep hill down to Towpath Road and there are some residential properties along the bottom of that slope on Towpath. There is nothing directly up near the top of the site. Mr. Berkowitz asked how far away are the residences. Mr. Tucker stated about 200 FT. Mr. Berkowitz asked what type of buffer was there. Mr. Tucker stated we are showing the required 10 FT setback along the property line and the homes are another 100 FT down. We would plant that area as much as we can but there is a substantial grade change there so I don't anticipate that those neighbors would really see the buildings from the bottom of the slope. Mr. Ruchlicki asked if this site was higher up than the residents. Mr. Tucker stated yes. Mr. Ruchlicki asked if there was any existing vegetation. Mr. Tucker stated the entire site is currently wooded with the exception of where that single-family home is and that entire slope is also vegetated down to their yards. Mr. Ruchlicki asked if there were deciduous trees. Mr. Tucker stated yes. Mr. Ruchlicki asked if they planned on using septic for both structures. Mr. Tucker stated yes we are and we are proposing a single septic that would accept the flow from both structures. Mr. Ruchlicki stated based on the location of the wetland in the middle of the lot, we would want to know where the leach field would be located. Mr. Tucker stated the leach field would be in the front portion of the site where the land is the most level. This area has the best soils based on when we did our soils test. Mr. Higgins asked are you going to have one system for both buildings. Mr. Tucker stated correct. Mr. Higgins asked if they would be separated. Mr. Tucker stated no, it would be one single leach field for both buildings. Mr. Higgins asked if both systems would empty into a single septic tank and then a single leach bed. Mr. Tucker stated correct. Mr. Bianchino stated zoning allows for multiple buildings on single systems as long as the lot is not subdivided. Mr. Tucker stated there are no plans to subdivide the property between the two uses.

This item was tabled and referred to CHA for technical review.

08.090 NB Sunkiss'D, 222 Guideboard Road (222 Plaza) – Change of Use

Mr. William Willetts, the applicant, stated the following: I am looking to add another service to an already existing business. I have been operating a sun tanning booth business for the last four years and would like to replace one of the tanning booths with the addition of one hair salon booth and one nail salon booth. The only issue I think the Town would have is the parking and parking has never been an issue since I have been at this site. I probably am the only business that uses the parking for any period of time. The other businesses in the plaza are Pizza Inferno and Mr. Subb and both these business are take-out. Mr. Watts asked if there was a vacant space in the plaza. Mr. Willetts stated yes, Pack n' Mail no longer exists at this site and I am not sure if the owner of the plaza is going to rent out that space. There has been talk that they might use that space for Pizza Inferno who are the people who own the building. Mr. Berkowitz asked how many employees they had. Mr. Willetts stated myself and two other people. Mr. Watts stated your application says there is one full-time employee, zero part-time and zero seasonal. Mr. Willetts stated that is what it currently is but I would be adding two more employees with the change of use. Mr. Watts asked if they would be part-time

employees. Mr. Willetts stated yes they would be part-time because they would only be working 3 to 4 days a week. Mr. Watts asked if the operating hours would be 9:00 am to 8:00 pm, 9:00 am to 7:00 pm, and 10:00 am to 4:00 pm. Mr. Willetts stated yes and right now on the weekends I close at 2:00 pm but I left it at 4:00 pm just in case I ever go back to those hours. Mr. Watts asked the applicant to please advertise as being located in Halfmoon.

Mr. Higgins made a motion to approve the change of use application for Sunkiss'D. Mr. Berkowitz seconded. Motion carried.

08.093 NB Rafferty Subdivision, Middletown Road & Brookwood Road - Minor Subdivision

The applicant for this project was not present and no action was taken on this item.

08.095 NB Allco Inc., LLC, Routes 4 & 32 – Major Subdivision-Lot Line Adjustment

Mr. Brian Ragone, of Environmental Design Partnership, stated the following: I am here tonight representing Allco Inc. for a lot line adjustment/major subdivision. We submitted the major subdivision application because the applicant has subdivided the parcel in the past. Lot #1 is approximately 4-acres and this lot is proposed for a light industrial building. Lot #2's remaining lands would be approximately 23.5-acres. The land surrounding the lots to the east across Routes 4 and 32 are zoned R-1 Residential and the lands to the north, south and west are zoned LI-C Light Industrial/Commercial along with the Delaware & Hudson Railroad immediately adjacent to the parcel to the west. There are approximately 3.75-acres of wetlands on the 2 parcels. Once the lot line adjustment is approved, Lot #1 would go from 4.0-acres to 5.0-acres and Lot #2 would go from 23.5-acres to 22.5-acres. There is an existing 10-inch water main that extends to this site and in the future, if and when the light industrial business does go there, they would require an on-site septic system. Mr. Nadeau asked the applicant, Mr. Jim Niles, of Allco Inc., LLC, regarding the last subdivision of this parcel was there a stipulation that there would be no further subdivisions until the road was complete. I know there were issues with the road but I don't recall everything. Mr. Niles stated I don't remember a stipulation like that although I will admit that was the original plan until they finally got all the wetlands delineated and that is no longer feasible. Mr. Higgins asked how much traffic would there be on that private road. Mr. Niles stated the following: Right now we have 3 businesses fed by the driveway. The driveway is 25 FT wide because it was eventually intended to be a public road. My old building currently has an environment-1 water pump system and I don't know exactly how much traffic there is but I would say 4 to 5 cars a day. Best Auto Body and Storage has one employee fixing cars and then they have the storage business in the back. I don't know exactly how many units there are but I guess 25 or 30. Mr. Nadeau stated to Mr. Higgins I don't think there would be any traffic issue in that area at this time. Mr. Higgins stated the following: I think Mr. Nadeau is referring to the last time you were in we discussed this and I know the question of a Town road came up at that point. Are you saying because of the wetlands that it would not be possible to develop the remainder of the site? Mr. Niles stated no, it would cost more to build the road than the remaining lands that are useable are worth. Mr. Nadeau asked Mr. Niles if Al's property had an easement for you to cross his property? Mr. Niles stated the following: Yes and so does BW Steel. Both of those businesses have frontage but they have an easement to use the driveway. There is a little bit of history that might be relevant here. When we purchased this property in 1983 we had the NYSDEC look at it and we are one of those unfortunate souls that got a letter from them saying it is not

wetlands. Twenty-five years later here we are. Nothing has changed on the property in terms of the water, soil type, plant vegetation and so on. What has changed is the regulations of what is a wetland and what is not. What we are trying to do now is make the most of it the right way.

Mr. Roberts made a motion to set a public hearing for the October 14, 2008 Planning Board Meeting. Mr. Berkowitz seconded. Motion carried.

08.098 NB Beeche Light Industrial Shop & Warehouse, 356 Hudson River Road – Sign

Mr. Dave Blair, of W. M. Schultz Construction, stated the following: Mr. Gregg Beeche is going to give us some temporary office space while we are working on a project in Troy, Waterford and Halfmoon. At the time I applied for the W.M. Schultz Construction's change of tenant and sign application it was brought to my attention that Mr. Beeche did not apply for a sign application. I then submitted an application to the Planning Department for Beeche Light Industrial so we could have a temporary sign at that location. Mr. Beeche's sign is approximately 4 FT x 8 FT and is 6 FT high. Mr. Roberts asked if the Beeche sign was a permanent sign. Mr. Blair stated yes that is a permanent sign that will stay there. Mr. Roberts asked if the Beeche sign was currently at the site. Mr. Blair stated yes it is. Mr. Watts stated the following: For clarification we received a letter on September 22, 2008 dated September 19, 2008 from Mr. Beeche which stated it was a temporary construction sign. This sign is not a temporary construction sign and one could never construe that this was a temporary construction sign because that is a sign for the building. Mr. Blair stated the following: Mr. Beeche responded to the letter that was sent out when I applied for our signs to go on top of his sign. The way Mr. Beeche explained it to me was that he had put that sign up to show the address. Mr. Williams stated temporary signage is valid for 30 days after it is put up. Mr. Watts stated the following: Temporary signage is not a full-blown sign advertising a business. Temporary signage is something so that construction equipment knows how to get there. Whatever Mr. Beeche's council might choose to say is of no consequence. It is wrong and the letter is wrong but we are moving forward with the sign application based upon that. Mr. Roberts asked if the sign would be lit. Mr. Blair stated no.

Mr. Roberts made a motion to approve the sign application for Beeche Light Industrial Shop & Warehouse contingent upon the sign is not placed in the State right-of-way. Mr. Ruchlicki seconded. Motion carried.

08.097 NB W.M. Schultz Construction, Inc., 356 Hudson River Road (Beeche Light Industrial Shop & Whse.) – Change of Tenant & Sign

Mr. Dave Blair, of W. M. Schultz Construction, stated the following: We are going to be working on a project here for the alternate water supply within Waterford, Troy and Halfmoon. We are renting approximately 300 SF of office space from Gregg Beeche Logistics so we can set up a temporary office for meetings. We will have an assistant project manager stationed there monitoring everything that is going on. Mr. Beeche has given us the opportunity to utilize his yard for equipment so we can work on the equipment or store it at the site if there is not use for it. I believe 5 to 10 pieces of equipment at the most would be in his yard at any given time. If our equipment is in that yard, we are not getting work done and this would not be very good for us. We don't plan on having much there but I wanted to make it possible to store the equipment there. We would be using that space for approximately 6 or 7 months. We have a

deadline of April 1, 2009 to get the project done. Mr. Watts asked would this site be your staging area for your equipment. Mr. Blair stated the following: No it is not. We have talked to DeGussa and we have a staging area at Freihoffers in Troy. We have a staging area at Lansingburg Little League and we are in the process of getting a staging area at DeGussa. DeGussa has a fairly large field right outside their fence. Mr. Watts stated so this is not a staging area and asked if there would be any construction material stored at the site such as pipe, sand or gravel. Mr. Blair stated we do not plan on having any materials at the site. Mr. Watts stated so there would be a possibility of storing equipment on the site including trucks, trailers, excavators, loader and bulldozers that would be stored in the gravel yard to the south of the building on the site so this would not be a staging area. Mr. Blair stated that is not our intentions to have it as a staging area. Mr. Polak stated I would like to see a project narrative describing what would be at that site with a plot plan that shows that area and what is going to be stored in that area. Mr. Higgins stated the following: They should also address whether or not maintenance and fueling would be performed at that site and also your hours of operation as far as loading, unloading and moving equipment. Your application says 7:00 am and would they be starting before that time. Mr. Blair stated our guys start at 7:00 am. Mr. Nadeau asked how would this impact the Beeche business and what would it take away from his site? Mr. Blair stated the following: It doesn't take much away from him. The little office area is 292 SF that we have. There is one building that runs parallel to Hudson River Road and then there is a building that is perpendicular to Hudson River Road and the perpendicular building is where we would have some of our equipment if it were stored there. Mr. Nadeau asked if the Beeche site was completed? Mr. Watts stated pretty much. Mr. Watts read W.M. Schultz's narrative: "I would like to be granted a change of tenant/use agreement for approximately 300 SF of office space located at 356 Hudson River Road. We would like to setup a temporary site office while we perform a job that has been awarded to W.M. Schultz. This job would be completed sometime in 2009. While at this location we will use it as an office for field managers and progress meetings. Use of the land to store some equipment and materials has been offered to us by the owner. As the job progresses we might store some materials and equipment there to ensure that we can maximize productions to complete the job. 2 trucks, 2 trailers, excavator, loader, dozer on gravel yard south of building #1 – 6 to 8 pieces total. If you need any further information please feel free to contact me. I will be more than happy to furnish you with the information that is required to obtain these permits". Mr. Blair stated the following: Since I have written that letter we have talked to DeGussa about trying to use the big field in front of their fence. So we don't plan on putting any materials there. Mrs. Murphy stated the following: The hesitation that I am expressing for the Board is a change in tenant would be what is going on inside the building and Mr. Blair is describing a change to the site plan. At this site in particular there were grave concerns from the neighbors regarding the activity that was going to be occurring because of the bordering neighbors. I don't recall specifically, but I would not be surprised if there were not notes in the resolution passing it saying either no outside storage or limiting where that storage can be. There are not notes on the map but that doesn't mean that it is part of the resolution. We are talking about two different issues whether you can have your tenancy inside the building and then a separate issue, which Mr. Polak is talking about, is the site plan and what you are doing outside the building pursuant to the map. We are talking about 2 separate applications at this point in time if you wanted to do outside storage. Mr. Blair stated the following: Whatever you need us to do to be able to get the permit. We are trying to get the project going and for us to have the office for the assistant project manager to have the meetings is important to us. If there is something that we have to apply for to be able to try to use that outside storage, that is something that I could definitely work with you on. You

just have to let me know what resolutions were passed in regards to Mr. Beeche's property. Mr. Berkowitz asked if this was something they could do separately with having the office use voted on tonight and then do the outside storage later? Mr. Blair stated yes I could do that and I will work with the Planning Department to try and get this taken care of. Mr. Roberts stated they should define the area where the outside storage is going to be. Mr. Blair stated if that is something that we need to do or we can put up an orange construction fence in there so that way you would know exactly where everything is. Mr. Watts stated we can approve the change of tenant application but we could use more clarification on the outside storage area if the applicant wants to go forward with that. Mr. Roberts asked the height of the sign. Mr. Blair stated the following: W.M. Schultz's sign will be on top of the Beeche sign and there is a 1-inch slot that runs along the top of it so it would go on top of that. So there would be 2 FT gap between the ground and the bottom of Gregg Beeche's sign 4 FT so that would bring it to 6 FT with another 2 FT on top for a 8 FT total height. Mr. Roberts asked if the sign would be temporary. Mr. Blair stated yes, that is correct and when the project is completed the sign will be gone.

Mr. Roberts made a motion to approve the change of tenant application for W.M. Schultz Construction, Inc. for office use only and the applicant is to reappear before the Planning Board in order to store equipment on the site. Mr. Higgins seconded. Motion carried.

Mr. Roberts made a motion to approve the sign application for W.M. Schultz Construction, Inc. contingent upon the sign will be removed when the office uses cease. Mr. Higgins seconded. Motion carried.

Old Business:

08.057 OB Grosky Office Building, 436-438 Route 146 – Commercial Site Plan

Mr. Gavin Vuillaume, of Environmental Design Partnership, stated the following: I am here this evening with Mr. Mark Grosky who is the owner and applicant of this project. We are here this evening for a site plan review of a project that was originally approved about 2 years ago. The original submission was for a project on a 1-acre parcel of land and at that time we proposed a 5,800 SF single-story office building. Since that approval the site plan application has expired and the applicant has had the opportunity to acquire additional land. On the older site plan the area to the south was about a ½-acre in size and was originally anticipating a second one-story office building. There was a boulevard in between the two parcels in that original site plan. We are now submitting a new commercial site plan application. We have presented a conceptual site plan in May 2008 for a 14,000 SF two-story office building with the same general layout and configuration as the originally approved site plan with a single access, parking in the front and the rear of the building that would be placed in the center of the property. At that time the Planning Board had referred the project to CHA and we subsequently prepared the preliminary detailed engineering plans. We went through several reviews with CHA and they had one comment letter that we addressed and more recently CHA had a second comment letter, which addressed the ground water aquifer area. There was a concern whether or not this project was going to be in an aquifer overlay zone. We were able to get some mapping from Albany to show that we are just outside of that aquifer overlay zone. We essentially addressed all of CHA's comments and we are here this evening for preliminary site plan. We have the site plan that shows the site layout and the planting plan and details. We are really looking at the same site layout that was presented 2 years ago only now that we are looking at the building as one large building as opposed to two smaller buildings. Mr. Nadeau asked about the amount of

greenspace. Mr. Vuillaume stated we are proposing approximately 40 percent greenspace and the C-1 Commercial zone calls for a minimum of 20 percent greenspace. Mr. Berkowitz asked where would the majority of the greenspace be located? Mr. Vuillaume stated a majority of it is in the rear where the stormwater management area is and in the front of the site there would be greenery around the perimeter of the building but most of it is around the perimeter of the parking area along the edges of the parking. Mr. Berkowitz stated so the majority of greenspace would be in the rear of the site. Mr. Vuillaume stated quite a lot of it is and I would say maybe a third of it or a quarter of it would be towards the rear. Mr. Berkowitz asked if they had given any consideration to having the parking in the rear of the building. Mr. Vuillaume stated the following: Yes, I think that came up at our last meeting with a concern of trying to get some of the parking in the rear of the building. As it turns out I think we show a total of 79 parking spaces here and of those 79 parking spaces we only have 27 of them that are in the front. A majority of the parking spaces are along the eastern side of the building. The reason for that is kind of twofold here; there are only 2 entrances to the building one in the rear and one towards the front. The rear entrance is going to be set up more for employees and a majority of the clientele and customers for the building would be entering through the front of the building. So it makes sense to put more of the parking near that front door or the side of the building so they could access either the rear or the front entrance. Again, most of the parking is to the side of the building. Mr. Berkowitz stated which is still visible from Route 146. Mr. Vuillaume stated the following: Yes. The other thing that was difficult is the size of the retention area and there just wasn't enough room to put more parking in the back and that is really where the stormwater needs to go in the rear. Mr. Berkowitz stated you have pretty much maximized the size of that building. Mr. Vuillaume stated we still have some more greenspace if we wanted to try to get some more but with the grading necessary to get the building in there and the required amount of parking that is necessary I would say that is pretty close to being maxed out. Mr. Roberts asked what type of landscaping are they proposing for the front of the building by Route 146? Mr. Vuillaume stated the following: We have a landscape plan for that and we are proposing some larger deciduous trees along the front. Along Route 146 in the parking area there is some landscaping. One of the comments that we received from CHA was to add some additional plantings not only in the retention area but also along adjacent residential lands. We did put some landscaping along the back edge of the retention area and along the area of the dumpster. One thing that I forgot to mention is that because of the R-2 zone in the rear, we are required to have that 50 FT transitional yard with landscaping. Over and beyond that I think if you do the 50 FT, you need to have some type of a fence so we are proposing some vinyl fence all along the rear property line as well as landscaping. Mr. Watts asked if the rear property line was where the mobile home park is located. Mr. Vuillaume stated yes. Mr. Watts asked if that was the lot that has been clear-cut from front to back at this point. Mr. Vuillaume stated it is cleared almost to the property line. Mr. Higgins stated it appears that about 75 percent of your parking spaces are 9 FT x 20 FT, which is basically at the discretion of the Planning Board for employees and for spaces that are not used frequently. What type of an application are you anticipating for this building that three-quarters of the parking is going to be taken up by employees? Mr. Vuillaume stated the following: Most of the 9 FT x 18 FT parking spaces are in the rear and to the side of the building. I believe all the parking spaces in the front would be the larger parking spaces of 10 FT x 20 FT. Again, it really depends on who goes in there. Right now it would be Mr. Grosky's law firm and right now I don't know how many clientele he is anticipating. I think Mr. Grosky would occupy the second story so we are really just talking about the first story tenants as

being potentially any other use. Mr. Vuillaume asked Mr. Grosky for a rough estimate of how many people would visit there during the day.

Mr. Mark Grosky, the applicant, responded to Mr. Vuillaume's question but Mr. Grosky did not use a microphone and his comments were inaudible for transcription. (Tape counter side B 571-583).

Mr. Berkowitz asked if there would be an elevator in the proposed building. Mr. Vuillaume stated following: Yes. The other purpose of the 9 FT x 18 FT parking spaces was to minimize the amount of impervious area on the site. We do feel that we are probably a little over parked but we do show the required amount of parking for the building. There are two options: (1) land bank some of the parking spaces or (2) stripe less parking spaces in order to meet that requirement of the 10 FT x 20 FT parking spaces and then go to the smaller spaces if we found that we needed the parking. For this entire building 80 parking spaces is quite a lot. So we could re-stripe it to the 10 FT x 20 FT and then have less parking spaces and then go to 9 FT x 18 FT parking spaces if we needed to. Mr. Higgins stated or you could make the building a little smaller, have the 9 FT x 20 FT parking spaces and then land bank some spaces. Mr. Vuillaume states yes that could be a third option. Mr. Grosky stated the following: When the original 6,000 SF building was proposed, this question was raised before about the amount of parking. I wrote a letter saying that there was very low turnover in my practice and I don't see a lot of clientele and probably didn't need as many parking spaces as were required. I believe in the plan that was approved there were 7 parking spaces that were banked. Now we are asking to bank no parking spaces. Again, if we did do all 10 FT x 20 FT parking spaces and the Town were to allow me to bank the 7 parking spaces, we still would have more parking than the code requires at 1 per 200. Mrs. Zepko stated my advice to the Board is to consider land banking a large number of parking spaces on site specifically in the front of the building. Mr. Higgins stated the following: That's fine and I agree with land banking 100 percent but my question still remains regarding where did you come up with three-quarters of them being employee parking. The Town requires 10 FT x 20 FT and what we would like to see is 10 FT x 20 FT spaces laid out then we can determine whether or not what percentage would be for employees and also for land banking. I think you are trying to put too much on this spot. I think the building is too big, I think there is too much parking and I think you are trying to jam too much on this particular site. Mr. Nadeau stated the following: I agree with Mr. Higgins. In looking at this there is not a lot a room for error there and it reminds me of Dunkin Donuts. Mr. Roberts stated I agree with Mr. Higgins also, he made a good point. Mr. Vuillaume stated the following: One thing that we do have here is the building elevation. Again, you are looking at the footprint of the building. The footprint of the building is not two-stories with one story on top of another. The footprint of the first story is quite a bit larger and you can see from the building elevations that the second story is probably a couple thousand square feet less. Mr. Grosky stated the following: Potentially it is 6,000 SF over 10,000 SF. The original concept drawing which is shown in both of the drawings showed a footprint that was preferred by the Town and CHA of 70 SF x 124 SF and we are now working off the premise of 70 SF x 124 SF. This shows that we really didn't change anything because we went up rather than out to get that 40 percent greenspace. Oscar Schreiber who owns the lot immediately to the left of my property was kind enough to grant me a permanent easement for the 30 FT adjoining his land, which we also cleared. The intent of that was to increase the westerly look of those properties to blend them together to give it an appearance of considerably more greenspace along that western side. As a matter of fact the Town has a discharge easement on Mr. Scheiber's

property with an 18-inch culvert pipe that goes under Route 146 and drains onto his property and onto my property. Although right now the plans show an open swale that is being re-directed to the rear. My intent along with Mr. Schreiber's is to take that pipe and to go back to the discharge pipe that is at the rear of the property so that we can bring in fill to grade those lots to make them look very nice and to put up some trees on that westerly boundary. We are going to make sure that this looks very nice. Mr. Berkowitz asked how much of your greenspace is a drainage area. Mr. Vuillaume stated it depends on the surface area of the water. The area where the actual retention area is located is quite small and it is just the grade that you would need to get down to it. Are you talking about just the area where the stormwater is going to occupy the site? Mr. Berkowitz asked what is the total area of your proposed drainage system. Mr. Vuillaume stated the stormwater basin is probably about 10,000 SF in surface area. Mr. Berkowitz asked what percentage of the greenspace would you be taking up with the stormwater basin and how much useable greenspace is there. Mr. Vuillaume stated storm basins usually count as greenspace as long as it is landscaped which this is. Mr. Higgins asked if the 30 FT easement to the west of the property is a registered easement. Mr. Grosky stated yes. Mr. Higgins asked so will that always be maintained greenspace. Mr. Grosky stated the following: Yes, my intention is to grade that area, re-seed it and re-tree it to make Mr. Schreiber's land as valuable as it can be. Mr. Schreiber sees this as an improvement as well by piping that 18-inch pipe to the rear of the property; bring in fill and grading the lots to appear as one. There is going to be 45 FT to the west of my building that would all be landscaped. Mr. Berkowitz asked do you care as much about Mr. Schreiber's property as you do about the people behind you. Mr. Grosky stated the following: Yes and this is why we are putting up the 6 FT stockade fence. I will address that by offering an apology for doing things out of sequence, although unintentional. I am a first time developer and I live here in Town. We asked EDP if it was okay to go ahead and clear the property and that was at my builders request because his fear was that we were getting close to winter conditions and he wanted to speed up the process by having the land cleared. EDP did call the Town and spoke to Milly on July 29 and asked if any permits were required to clear the lot and we were told that as long as we stayed under the 1-acre required that there was no requirement for a Stormwater Pollution Prevention Plan (SWPPP) and no requirement for the soil disturbance permit. Based on that we asked EDP to outline where we could clear. The one lot immediately adjoining Mr. Schreiber's land, which is 438 Route 146 is .87 of an acre. We cleared that entire lot and got a Stop Work Order midway through. We had EDP write a letter certifying to the Mr. Greg Stevens, the Town's Director of Code Enforcement, that we were not over the 1-acre and that Stop Work Order was rescinded. The plan that was approved before had no mention of any no-cut zones or anything like that and it showed clearing right up to the property line. That combined with the fact that we called and asked if any permit was required, I made the assumption as did EDP that we were okay to go ahead and clear that land. I understand that this caused some angst amongst perhaps some members of the Board and it was unintentional. Mr. Watts stated Milly works in the Planning Department and I would seriously doubt that Milly would speak to issues of clearing permits, which falls under a different department. Mr. Grosky stated I can't speak for who EDP spoke to. Mr. Watts stated well you said it and it is now on the public record but I seriously doubt knowing her that she would answer a question of that magnitude for something she has nothing to do with. Mr. Watts stated the following: Regarding CHA's sign-off on this site with their September letter. There are a lot of issues that are being raised here by the Planning Board relative to site; the parking spaces, the configuration of the building and buffering and asked where they are at with this thing. Mrs. Zepko stated it sounds to me like the Board isn't prepared to vote seeing that there are

additional questions that have arisen tonight that would warrant an investigation. Mr. Bianchino stated in our comment letters we raised a series of issues with the initial site plan and the applicant's engineer submitted responses to those comments and a revised site plan. Mr. Watts stated that was based on prior to hearing our comments tonight. Mr. Bianchino stated correct. Mrs. Murphy stated the following: I think the unique nature of this is that there was an application that was before the Board that was approved that CHA had and had been working on. Then when the applicant modified the application it went directly to CHA. Usually this Board sees it and then refers it to CHA. Mr. Vuillaume stated we did present the conceptual site plan at a meeting in May 2008 and that is when you referred it to CHA. Mr. Roberts stated but this is the first time the Board is seeing these changes. Mr. Vuillaume stated the following: You can look at the two plans. This site plan is almost identical to the one we now have in front of the Board. One plan shows 14,000 SF and the other one shows 15,800 SF. So there is an extra 1,800 SF was added to the building. Mr. Higgins asked if the other plan showed all the parking and everything else. Mr. Vuillaume stated as far as parking sizes, it was a sketch plan and I assume they were all 10 FT x 20 FT. Mr. Higgins stated looking at this and running some numbers you have 13 out of your 80 parking spaces that would be 10 FT x 20 FT so as far as I am concerned in my personal opinion that is way too many. Mr. Nadeau stated that was a sketch plan and now we are seeing the actual plan and we are reacting to your actual plan and not the sketch plan. Mr. Grosky stated the following: The other point is the historic perspective. When we were first here in 2006, I was in the process of acquiring lot #436, which is the smaller lot to the east. At that time we adjourned for a couple of times to allow me to draft a cross-access easement, which was going to be down the center of the property line 20 FT onto each property along the whole 300 FT depth of this. At that point some of the Board members that were here then will recall that the matter got referred to Mr. Chauvin for an attorney opinion as to whether those 2 lots were a pre-existing, non-conforming use that would allow me to have a curb-cut on each of those properties. The Planning Board's concern at that point was that it wasn't that desirable to have two ingress and egresses out onto the major thoroughfare within 230 FT of frontage. I wrote an attorney opinion to Mr. Chauvin citing some law in my favor and Mr. Chauvin wrote a letter back to the Board agreeing that these were pre-existing, non-conforming lots and that indeed I was entitled to two curb-cuts. Over the last couple of years I have incurred as a small developer a substantial carrying cost in trying to re-visit this and try to make the economies of scale work and to do something for the community that is more appealing. I am now down to one curb-cut, which I would hope that in and of itself is a significant improvement. Relative to Mr. Higgins' concerns over the parking; because the Planning Board allowed me to bank 7 parking spaces on a 6,000 SF building, using that math, you would be banking on almost a 2 ½ times the size of the building and I would be asking to bank 18 or so parking spots. Perhaps one of the things we might look at is on the square footage of the building where we added the space from the conceptual plan of 14,000 to 15,800 SF enlarging the second floor, to meet my needs to run my practice. I need to have that 6,000 SF. Essentially I proposed a single building last time of 6,000 SF for me and now I am proposing a 16,000 SF building where I am taking that building that I was going to solely occupy and I am sticking it upstairs and for that the Town is getting this one curb-cut on the major thoroughfare. I would ask the Board to at least consider giving me some allowance with respect to the parking spots. I am hoping with things that are abuzz in the Town that this may medical space. I know that when that has happened in the past that the Town has made some accommodations allowing for 9 FT x 20 FT parking to permit that higher turnover that medical space often has. Perhaps for the time being maybe one of the solutions that could address Mr. Higgins' concerns would be to go ahead eliminate this northern bank of

parking to create a little bit more greenspace in the front and just mark those as banked 10 FT x 20 FT spots. In the future as we get full occupancy, we could always come back and allow that to be extended out and to put those banked spots in. Because the footprint of this building as it exists is the square footage that I need to run my practice and the additional square footage for the tenants on the bottom is what we are hoping would make such a big property cash flow. Mr. Watts stated the following: What we do based on the Town Parking Ordinance is that the 10 FT x 20 FT spaces are basically spots where there is in and out traffic for "clients". The small spaces are for people who are there everyday like employees and we try to get some balance in there. I know that most other towns have 9 FT x 18 FT but part of the compromise of that was to allow some leeway for the Planning Board. If it were a building that nobody came in and out of, then we would have more 9 FT x 18 FT spaces because it would be all employees. I guess with the gas prices we will not have as many SUV's to worry about. Part of it is with is the tenant mix of the building. Is it a place where an insurance company, back office operation, where the people come in and they are there for 7 or 8 hours a day and then they leave so then they could use the smaller parking spaces? I know this is hard call but what is the applicant looking for in terms of the tenant mix? Mr. Grosky stated with respect to the tenant about 40 percent of the building I can directly speak to because it is not an unknown quantity. I am a certified financial planner and I am an attorney that dedicates this practice to helping seniors that go into nursing homes. So most of my clients are people that are in a nursing home and I have a son or daughter coming to me saying they are going broke at \$10,000 a month and how do we stop it. Most of my meetings are either in court or they are either in a hospital room or a nursing home room. I do not have a tremendous amount of traffic in my office. If I see 10 people a week, that's amazing. My staff consists of 2 CPA's, 1 certified financial planner that manages the portfolio for all of the client money and they never see anybody. So there isn't a lot going on in my office space. The 10,000 SF tenant space downstairs would be purely speculative but I'm hoping that it would be mostly medical. The building would be solid brick and limestone all the way around and would not be a vinyl building that is going to be an eyesore. There would be a backlit clock tower in the front with all granite in front. I hope that the Board can see from looking at some of the sketches that this is going to be a marquee building that the community can be proud of. Mr. Watts stated by medical do you mean doctor's offices. Mr. Grosky stated something like that would be great. Mr. Watts stated the following: Which then would have higher turnovers. I am trying to gauge in my mind the parking. Mr. Grosky stated the following: I can speak to 40 percent of the building and tell you that we will be under utilizing that parking which is why when it was a single tenant building of 6,000 SF I asked the Board to allow me to save a lot of money on parking spots that I knew I would never need and here we have not asked for that. Instead of banking we just showed them smaller. If we address Mr. Higgins's concerns of going to 10 FT x 20 FT spaces, we could certainly do that and perhaps bank a row of parking to get us to where we potentially need to be. That is more desirable to me from an economic standpoint than shrinking the building, which is something that is a much tougher fix at this stage given the architectural progress that has been made. We were hoping to break ground this fall. That does make it very difficult for us to proceed if we have to now go back and redesign the conceptual size of the building as opposed to just re-striping the parking lot and perhaps banking some parking spots to accommodate that need later. I do think that the Board would see that the parking is going to be very much under utilized for my type of business. Mr. Berkowitz stated if you are looking for a medical tenant, you would need 10 FT x 20 FT parking spaces because it would be high volume. Mr. Vuillaume stated the following: Just for Mr. Grosky's 6,000 SF we will show and identify which parking spaces would be his and then we will

go back to the site plan and we will try to plug in more 10 FT x 20 FT parking spaces for the eventuality that Mr. Grosky does have some kind of high turnover and then we will just bank those areas for now and ultimately if we don't need them, then great we won't need all those 10 FT x 20 FT parking spaces. I think the Board seems to be uncomfortable with the fact that we have too many of the smaller parking spaces. We can try to tweak the site plan to get more of those larger parking spaces. Mr. Berkowitz stated I would like to see the building moved forward and have the parking in the back of the building. Mr. Vuillaume stated we can look at that. But I really think it is important for Mr. Grosky to get as much of the parking in the front of the building at this point. Mr. Grosky stated only because at this point I would be the only tenant in that building. Mr. Berkowitz stated Mr. Grosky had said that no one comes to the office. Mr. Grosky stated the following: Predominantly I do not have an ebb and flow of clients per day. The clients that I do have tend to show up for 2 to 3 hour installments. They are there for very long very in depth consultations often with social workers and family members and they generally are there for a good long time. Mr. Berkowitz asked if the handicap parking spaces would be tied up for 2 to 3 hours? Mr. Grosky stated the following: No, I don't think so because my typical client is the 40 to 50 year old son or daughter coming in for their 80 year old mom or dad that is in the nursing home and not necessarily the disabled person themselves. Frequently that is exactly what is happening. With respect to the parking in the front verses the rear; if the elderly client does come, obviously the intent with the clock tower is for them to enter into the front of building. Mr. Vuillaume stated in most cases I am sure that the new tenants would feel the same way as Mr. Grosky does in that they would rather have the parking spaces closer to the front door. Mr. Grosky stated and the obvious corollary of putting that second row of parking in the back it would necessitate moving the building forward which is more in your face to the road side particularly if we ever do go to 4 lanes down that corridor. Mr. Berkowitz stated being that it is going to be such a nice looking building; you would want everybody to see it. Mr. Grosky stated I agree, my only point being is that if we do move the parking to the back and the building moves forward, the building would be that much closer to the road side and I don't know whether that is more attractive to the Board than planning it as is. Also, the second row of parking in the back would mean that anybody coming and going at night the headlights are going to be facing to the residential spot in the rear. Mr. Berkowitz asked isn't that going to be well buffered? Mr. Grosky stated the following: Yes it will be but again I am not sure whether from a light absorption standpoint whether it is more attractive to have those spots in the front. It's more of trying to balance the practicalities of wanting your elderly to enter into the front where there is a clock tower verses having it more in the back and having more of a non-descript back for an employee entrance and it is not where you are trying to guide your people to. Mr. Vuillaume stated also keep in mind that we do have a 70 FT front yard setback that we would have to adhere to in the front, which would be very tight if we were to push the building forward. Mr. Higgins asked if there was a garage. Mr. Grosky stated the following: That was taken care of with the demolition permit that we had and we have removed that tiny garage. The residential house that is located at 434 Route 146, which is my eastern neighbor, we have tried to intentionally design the building where the front most part of this building is about 5 to 10 FT in back of his rear and we thought that to be a nice design feature as opposed to moving the building forward and this landowner's visual is the side of a building. Given the fact that we are in a mixed-use zone, I really did strive to give a commercial building a residential feel. This is not an over 8,000 SF box that screams commercial. Mr. Higgins stated the following: I hope that you also appreciate that this Board has certain regulations that we have to follow. We have to treat everyone the same and that is why no matter who comes in with a proposal such as this we have to look at how it pertains to

the regulations that we have to follow. Mr. Watts stated the following: In order to keep the process moving as quickly as we can and now that there has been a significant change, I am going to refer this to CHA for their review. I would like you to consider what the changes are that we requested relative to the parking, the buffer and the size of the trees shown.

This item was tabled and referred to CHA for review of parking; i.e. – land banking, the number and size of spaces and buffering.

08.065 OB Bank of America (ATM Kiosk), 476 Route 146 (Lowe's) – Addition to Site Plan

Mr. Robert Streker, of Bohler Engineering, stated the following: I am representing Bank of America. We were here for the July Planning Board Meeting where we presented a site plan. We had some comments from CHA and some discussion with the Board. In particular there were concerns regarding the lighting levels and the lighting design that we had on the plans. There was also concern about the location of the ATM that we discussed the last time. It was suggested a new location be proposed. Based upon the discussion that we had and the comments that we received we have relocated the ATM to the location that was discussed at the last meeting. We have arranged it so that the circulation through the ATM utilizes that first parking row near Route 146, which is a very seldom-used parking aisle and parking spaces. We have reduced the lighting from the originally proposed 32 FT pole down to 20 FT and still maintain the ATM lighting regulations. Without going through everything we discussed the last time this is basically the changes we have. We have received another letter from CHA, which indicate that for the most part we have satisfied their comments. Mr. Nadeau asked if the area would be monitored by video. Mr. Streker stated it will be videoed and alarmed reporting back to a central monitoring station. Mr. Roberts stated to make up for the 2 spaces they are losing, they are proposing to take 2 spaces from the land banked area and I don't think that is necessary because there is plenty of parking there. Mr. Streker stated there is quite a bit of parking out there and if the Board is agreeable to it, then we would not build out the land bank area.

Mr. Roberts made a motion to approve the addition to site plan for the Bank of America (ATM Kiosk) located at 476 Route 146 (Lowe's). Mr. Ouimet seconded. Motion carried.

08.088 OB Fellows Road PDD, Fellows Road – Amendment to PDD

Mr. Roberts recused himself from this item and Mr. Leonard sat in for Mr. Roberts. Mr. Jason Dell, of Lansing Engineering, stated the following: I am here on behalf of Mr. Bruce Tanski for the Fellows Road PDD Amendment. The proposed Fellows Road PDD Amendment includes the modification of the amendment to remove the eight 3-unit town homes and replace them with five 11-unit apartment buildings. The proposed infrastructure would remain consistent with what was approved on the original PDD. The road horizontal configuration will change slightly, however, the proposed project would still utilize sewer and water. Sanitary sewer would be extended down to the apartments as well as down to Gauthier Road. We are before the Board to answer any questions and to also ask the Board to schedule a Public Informational Meeting. Mr. Higgins asked if the sewer main going to be extended to the end of Gauthier Drive or is it going all the way down Gauthier Drive. Mr. Bruce Tanski, the applicant, stated the following: A force main would be going to Gauthier Drive even if the town houses were going in there. My intent is to run a force down Gauthier Drive to serve all the homes on Gauthier Drive. Mr. Higgins stated so if it is a force main that means the individual houses would have to have a

grinder pump to pump into that force main. Mr. Tanski stated correct, which is about half the cost of repairing a septic system. Mr. Higgins stated as part of your public benefit, you are going to run the force main all the way down Gauthier Drive and it would be at the cost of the individual homeowner's to have the grinder pump and to tie into that force main. Mr. Tanski stated correct. Mr. Watts asked who would own the grinder pump. Mr. Tanski stated the following: The homeowner does. Initially when VanPatten started this with Environmental One they owned them and Environmental One gave them a lifetime warranty but now they don't. The homeowner would now own them. Mr. Nadeau asked regarding the traffic light issue, it says that the traffic engineer will monitor it. At sometime, let's say it was needed, what is the mechanism to work this light in? Mr. Tanski stated before we go that far; I spent about an hour on the phone with Ms. Wendy Cimino and the traffic study was done in 2005 and that was based on the homes that were going to be built in Sheldon Hills and Werner Road and also based on the 200 plus town houses that I was going to build on Vosburgh Road which we didn't build. Ms. Cimino also said that the State had done a traffic study of their own in 2000 and finished one in 2006 and she said the traffic has actually declined on that road. Mr. Nadeau stated I have concern because I see a lot more traffic coming out of Mechanicville, which is obviously coming out of Stillwater. Mr. Tanski stated the following: Ms. Cimino said even if the hospital were there it probably wouldn't trigger it. Plus the NYSDOT has issued a lot more regulations that make it even stricter to have a red light. Mr. Watts asked who was Ms. Wendy Cimino. Mr. Tanski stated she is the woman that works for Creighton-Manning and is the person who worked on the traffic study in 2005. Mr. Higgins asked what the status was on the realignment of the road. Mr. Tanski stated the following: I have to defer this to CHA because we submitted this to CHA and they sent back some comments to Mr. Lansing and I think Mr. Lansing has addressed those comments but I think we are real close. One of the problems is with New York State Electric and Gas and they have a couple of major poles that they have to move and they told me that they probably can't move them until the spring. Mr. Bianchino stated that he met with Mr. John Pingelski, Superintendent of the Town's Highway Department, and walked the realignment area with him. Mr. Pingelski expressed concerns on possible impacts that the Fellows Road realignment would have on the operations at the Highway Garage with regards to a couple of storage buildings and the stockpile area. These issues will need to be resolved as not to have any negative impact to the Highway's operations. Mr. Bianchino further stated that before CHA releases final comments on the realignment that he suggests an internal meeting should take place between NYSDOT, CHA, Planning and Highway Departments in order to have all involved parties aware of what is to happen and to receive suggestions. Mr. Bianchino stated Lansing Engineering would need to submit plans to NYSDOT prior to setting up the proposed meeting. Mrs. Murphy asked if the terminal ends of the existing Fellows Road spurs have been addressed. Mr. Bianchino stated that needs to be added to the final plans to be reviewed and commented on.

Mr. Berkowitz made a motion to set a public informational meeting for the October 14, 2008 Planning Board Meeting. Mr. Ouimet seconded. Motion carried.

Mr. Ruchlicki made a motion to adjourn the September 22, 2008 Planning Board Meeting at 9:12 pm. Mr. Berkowitz seconded. Motion carried.

Respectfully submitted,
Milly Pascuzzi
Planning Department Secretary