

Town of Halfmoon Planning Board

Meeting Minutes – June 10, 2013

Those present at the June 10, 2013 Planning Board meeting were:

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

Director of Planning: Richard Harris
Planner: Roy Casper

Town Attorney: Lyn Murphy
Deputy Town Attorney: Matt Chauvin

Town Board Liaisons: Walt Polak

CHA Representative: Mike Bianchino

Mr. Ouimet opened the June 10, 2013 Planning Board Meeting at 7:00 pm. Mr. Ouimet asked the Planning Board Members if they had reviewed the May 28, 2013 Planning Board Minutes. Mr. Roberts made a motion to approve the May 28, 2013 Planning Board Minutes. Mr. Ruchlicki seconded. Motion carried.

New Business:

13.063 NB Saratoga Academy Preschool, 17 Executive Park Drive – Change of Tenant & Sign

Mr. Thomas McCormick, a partner in Overton, Russell, Doerr & Donavan, LLP and also one of the owners of 17 Executive Park Drive, stated the following: Overton, Russell, Doerr & Donavan, LLP currently occupies 19 Executive Park Drive. We understand that there have been some concerns expressed regarding Saratoga Academy moving into 17 Executive Park Drive and sharing that building with a physical therapist who is also located there. My understanding is that those concerns are 3-fold. One is the bathrooms and that the bathrooms would be shared with patients of the physical therapist. That is not the intention of the school or of the landlord. The school is going to build their own bathrooms in the building for the children to use. They have no desire to have the children using public restrooms and sharing their bathrooms with any adults. The other concern that we were made aware of is that there is a concern regarding the children playing in the parking lot. That is also not the intention of the school. We have spoken with them and have given them permission to use a large grass area in back of 17 Executive Park Drive and that is the area that they intend to use as their "play area". The third concern from what we've heard and again we have gotten nothing from anyone associated with Town or anyone official. The third concern that we've been made aware of is a concern with the regard to the parking lot. I don't know exactly what that concern is beyond what we've heard that the physical therapist office has expressed some concerns with regard to people picking up and dropping off their children, which

occurs twice a day for 15 minutes. I don't know exactly what the concern is, but again this is a school that is operating in Executive Park right now. To our knowledge they have never had difficulty with pick-up or drop-off. We would not anticipate that there would be any difficulty with pick-up or drop-off at this location and we would like to know what exactly the Board's concern is with regards to parking. Mr. Ouimet stated the following: It is my understanding that their current location, where the daycare is located now, is a loop drop off area. Buses and cars loop around and drop the children off and drive out. The configuration of the parking lot for the building under consideration doesn't have a loop as it just has a straight angular parking lot. Is there some thought on your part to redesign the parking area? Mr. McCormick stated there was no thought to that because it has never been an issue. Mr. Ouimet stated well, you never had a daycare center there either. Mr. McCormick stated the following: I don't believe it is a day care center. My understanding is that it is a preschool, which is different than a daycare. My understanding is that there would be a drop off in the morning and a pickup at 2:30pm or so in the afternoon. We have not talked about redesigning the parking lot and the configuration of the building would not allow us to do that. There is no room to the right of building to the 19 Executive Park Drive side that would allow us to put any kind of a loop around the building as someone from the Planning Department suggested. We would not be able to comply with the Town's setbacks, etc. on the #19 side of the building and on the #15 side of the building, I believe there is a grand total of 16 FT, which with the Town's required setbacks would not leave enough room for any kind of a driveway, etc. It appears that the issue being raised is something of a "this may be an issue". There has been no demonstration of there being any kind of problem with this. Mr. Higgins stated in your opinion. Mr. McCormick stated the following: There has been no demonstration period. If there has been a demonstration, I'd love to see any kind of evidence that this would be issue. Mr. Ouimet stated we don't want to create an issue either and you understand that. Mr. McCormick stated the following: Well, I understand that too and I would think before someone is told that you have to address a problem. There should be some demonstration that there is a problem. Mr. Ouimet stated I agree with you. Mr. McCormick stated the following: I understand that the physical therapist has raised these various issues. She has raised 3 issues and 2 of them are non-issues completely and the third is a matter that is literally a 15 minute a day event. Mr. Ouimet stated unfortunately, we don't want any youngster or any parent getting struck by a car because they have to park on the street to walk in whether it is 2 minutes a day or 24 hours a day. Mr. McCormick stated the following: No one in this room, including me and my partners, want anyone or any child endangered or struck by a car, etc. There has been zero evidence that that is a real danger here. This is a parking lot where they do not even necessarily need to enter the parking lot. Right now those folks line up around that circle road in a very orderly fashion to pick their children up at the Saratoga Academy. We watch it every afternoon. Mr. Ouimet asked what makes you think it's going to happen the same way in this other building? Mr. McCormick stated because it is the same place. Mr. Ouimet stated but it is not configured the same way and you even admitted to that. Mr. McCormick stated if anything it is configured in a better fashion than the Saratoga Academy because they don't have to drive through any other parking lot and they don't have to cross another road. They're literally going to pull up right in front of the building. Mr. Ouimet stated that is shared with a physical therapist. Mr. McCormick stated the following: Yes, which is a small physical therapist office, which with all due respect to the physical therapist, does not have a steady stream of people coming in and out. It is a small office that does not exactly a land office business and it is 15 minutes a day. Mr. Ouimet stated you are not landing a lot of points with the 15 minutes a day statement. Mr. McCormick stated the following: I didn't realize it was a contest that I had to land points, but these children are escorted out at the academy where it is today. We watch the teachers walk the children out to the cars and we would expect that that is exactly how they would do it at this other location. Mr. Ouimet stated the following: And you're

talking about the preschool, right? So, you're watching the preschool kids come in and out of the Saratoga Academy now. Are you talking about the whole Saratoga Academy? Mr. McCormick stated I'm talking about whatever it is that they operate on the right side of the road when you pull into Executive Park Drive. Mr. Ouimet stated it is my understanding that they operate something a lot larger than just a preschool. Mr. McCormick stated I believe it is an elementary school; kindergarten through grades 5 or 6 with a very large number of children. Mr. Ouimet stated I'm not sure you're going to be able to answer this question but, do you know the age range of these preschoolers? Mr. McCormick stated I think preschool is probably 3 and 4 years old. Mr. Ouimet stated but you don't know for a fact, right? Mr. McCormick stated well, at 5 years old, you go to school. Mr. Ouimet stated so; they are all under 5 years old. Mr. Roberts stated I think the representative is now present and maybe he could enlighten us here. Mr. Mike Christensen, the applicant, stated the following: I'm the head of schools for the Saratoga Academy. The preschool students would be ages 3 and 4 years old and two-thirds of those students would be 4 years old. We are proposing to place 4 classrooms in building #17. The questions that are arising here are regarding parking and traffic flow that are actually questions that arise out of congestion that had been created between the 2 buildings that we're operating at 15, 24 and 1 Executive Park. Currently we're operating preschool through 6th grade in those 2 buildings, thus the congestion that we currently face. So, we had spoken to the previous people in the Planning Department to discuss our arrangements when we realized we had a congestion problem for this year and we had arranged with Mr. Jeff Williams at that time, to institute a car line at pick-up and drop-off. So, rather than have everybody pulling into the parking lot and then creating congestion that could potentially back up on to Route 9, we would ask everyone to pull in and loop around so when the people would come in at drop off time, they wouldn't have to park their cars. They pull in, the doors open, our representatives meet them, take the children and the cars drive out. We have little to no congestion in the morning and we saw tremendous congestions at 3:00pm. Originally, we did not ask the cars to loop and we just did the car line. We then instituted the loop around the park with the instruction that they were never to block a business driveway. They would come in, looped down through the park, pull up at the stop sign adjacent to 1 Executive Park Drive, wait until the school buses exited the facility, and then we waved them in. We were able to get around 150 students off premises within 12 minutes utilizing that system. That was with pre-K through grade 6 in those 2 buildings. We have 2 types of expansions: a lower level expansion with the preschool, which is at issue here, but also we're moving into a new middle school in Alplaus and we are moving grades 5 through 8. So, we are actually moving grades 5 and 6 out of 1 Executive Park Drive and moving them completely off the campus to the new facility. So, two grade levels are leaving those 2 buildings. Then we would be moving the preschool across to building #17. So, that is over 100 children leaving the facilities that are currently existing for Saratoga Academy. So, that should eliminate almost any congestions that we would have there. Mr. Ouimet asked how many preschoolers do you plan on accepting? Mr. Christensen stated we would have capacity for 80. Mr. Ouimet asked how many preschoolers do you have now? Mr. Christensen stated currently we have 80. Mr. Ouimet stated so, it would stay the same and you would be just moving from one building to another building. Mr. Christensen stated that is correct. Mr. Ouimet asked did you hear the presentation from the landlord saying that there is no way to do a loop around the new building. Mr. Christensen stated that is correct and there wouldn't be a necessity to do so. Mr. Ouimet asked why do you say that? Mr. Christensen stated the following: Because for drop-offs and pick-ups preschoolers are a little different. The elementary has a very distinct start time and buses are part of that. We just have a larger contingent of cars hitting all at once with our elementary school grades than we do with our pre-K. They are going to come in anytime from 7:30am to 9:00am for drop-off and anytime from 3:00pm to 5:30pm. So, we're never going to have this mass congestion of everyone converging on the facility at one time. Mr. Ouimet stated

your narrative states that you're going to have 80 students to start with 9 full-time employees. Mr. Christensen stated that is correct. Mr. Ouimet asked are you going to have any part-time employees? Mr. Christensen stated no. Mr. Ouimet asked would the program have the capacity to add an additional 20 to bring that up to 100 students? Mr. Christensen stated the following: We do have another classroom there, so the building does have the capacity for that. Operationally, I would prefer to keep the fifth classroom free as an utility room and a recreation room. So, really I was speaking more to the capacity of the building and our plans to expand at that location. Mr. Ouimet stated so you're planning on building 5 rooms; 4 of which would be classrooms and the fifth room could be a converted room to a classroom if in fact that you add additional students. Mr. Christensen stated the following: Yes, it has the capacity for that. Our plan right now is for that 5th room to be a general purpose recreational room; like an indoor playroom. Mr. Ouimet stated if you added 20 additional students, you would have to add an addition teacher, correct? Mr. Christensen stated if I added an additional classroom, I would have to add 2 more staff members. Mr. Ouimet stated okay. Mr. Higgins stated the following: When you were here originally, we expressed a concern about the traffic and about dropping off and picking up. Per your own description, you're utilizing a Town road as a parking area for your drop-offs or pick-ups. Mr. Christensen stated for pick-up only. Mr. Higgins stated the following: Regardless, you are using a Town road for your facility. The Board was shown pictures of people parking in areas that are not designated parking areas. Mr. Christensen stated the following: Correct and we have constantly been dealing with that. Our families have been instructed that they are not allowed to do so. When we find that a family has done so, we send mass emails to them to say that they are not allowed to park in anyone else's parking lot except for our own. When we find out that people are doing so, we deal with them. It's an on-going struggle because people are going to do what people do and then we respond to them accordingly. There have been punitive sanctions place on some families and one family who refused to comply was asked to leave. Mr. Higgins stated the following: Also, on the new site, this Board has to follow the guidelines that the Town has as far as parking. So, based on the 80 students and the number of adult people working with the students, you would require 36 parking spaces just for your functions, plus the physical therapist. There are 48 parking spaces there now; how many parking spaces are required for the physical therapy. What do the Town guidelines call for? Mr. Casper stated the Town guidelines for the physical therapist would be 19. Mr. Higgins stated so, based on the available parking and the guidelines that this Board has to follow, you don't meet the parking requirements. The parking requirements that this Board has to follow do not say 15 minutes a day. It tells us what we have to follow and we do not have the discretion to be able to do that. So, if you want to go into that site, you either have to reduce the number of children or not go there. Mr. Christensen stated okay. Mr. McCormick stated may I inquire as to why 36 spaces are required for 9 staff members? Mrs. Murphy stated the way the parking ordinance reads; it's one parking spot per 3 children and then 1 for each full-time employee. Mr. Christensen stated the following: The regulations that we followed for Saratoga Academy were 1 space per 10 seats in what would be called our auditorium. So, 1 per 10 students, plus 1 per full-time staff member, which we are licensed by the State of New York and through the State Education Department as part of our 501C3. Mrs. Murphy stated the following: The difference is that you're proposing a preschool and the preschool has different requirements based exactly on what you were saying that it isn't like a school where there are set times and people are there at specific times. Parents have a tendency with the preschool to not be as on time because it is not as a regimented program. Mr. Christensen stated that would imply that there is less need for parking at any given time. Mrs. Murphy stated no, it wouldn't. Mr. Christensen asked why wouldn't it? Mrs. Murphy stated the following: Because (A) that is what the local law says and that's what we're bound by and this Board can't do anything about that and (B) because if you're dropping off a child and going like you just said; just dropping them off and not parking, then that's what you

are doing. But, if you have a preschooler, people have a tendency to park their car, walk their child in or if they're on various hours, just the flow is different and you know that better than I. Mr. Christensen stated the following: Okay, I would argue that the flow is much better with the preschoolers regardless if the ordinance says that. So, again my concern is if I had an adjacent building, it's all part of the same corporate entity within the same campus. I'm having a hard time understanding why it's being fabricated that way for purpose of this proceeding. Mr. Ouimet stated this proposed use that you have is not in an adjacent building, the building is a ways down the road so to speak, right? Mr. Christensen stated right. Mr. Ouimet stated you had intervening buildings between the Saratoga Academy as it now exist and this proposed building is the building that you would like to occupy, right? Mr. Christensen stated correct. Mr. Ouimet stated so it is not adjacent. Mr. Christensen stated the following: Alright. So, if I were to reduce that by 20 students and 2 staff members for the proposed use, would that be acceptable by the Board? Mr. Ouimet stated the following: I think at this point what I'd like to do is to set up a committee and do a site visit to look at exactly what you're proposing to operate, where and how it's going to go. That way we can see what it looks like during different times of the day as to whether or not there is congestion on the road and things of that nature. Mr. Christensen stated the following: Okay. As our school closes in 3 days, you would have to do that fairly quickly. Mr. Ouimet stated the following: Mr. Roberts and Mr. Higgins will be the committee to make the site visit along with the Town Planners. The committee and the planners will meet with Mr. Christensen to take a look at the site. Mr. Christensen stated my one concern is the time frame for the buildout as I estimate 2.5 months that would be necessary to be able to open in September. Mr. Ouimet stated we could put your proposal back on the agenda for the next meeting and at that time we would have the report back from the committee and we'll see where we go. Mr. Christensen stated okay.

This item was tabled for the Planning Board committee and Town Planners to meet at the site to review the available parking spaces, access options to the preschool from Executive Park Drive and the drop-off/pick-up plan for the preschoolers presented by the applicant.

13.064 NB Kid Kampus, 282 Grooms Road – Change of Use

Mr. Greg Sawyer, the Director of Operations for Kid Kampus, and Mr. Ryan Sawyer, part owner of kid Kampus, were present for the proposed change of use for Kid Kampus, located at 282 Grooms Road. Mr. Sawyer stated the following: We are applying for a second license for Kid Kampus. Currently we provide after school and summer camp only and we are proposing for an infant through 12-years old license. So, we want to change our license from education to infancy. Mr. Ouimet asked are you proposing to increase the number of students that you serve. Mr. Sawyer stated right now we are licensed from the State for a capacity of 211 children and we have reduced the capacity to accommodate for the infant, preschool and the toddlers. Mr. Ouimet asked what would your capacity be now? Mr. Sawyer stated 156 for school aged children, 8 infant, 15 toddler and 25 preschool for a total of 48 preschool children and right now I believe you have us approved for 170. Mr. Higgins stated yes and I was just going to say that you were not approved for 200. Mr. Sawyers stated the three main things that we are looking to do are; currently we are zoned education and "E" occupancy and we're looking for an "I" occupancy. Mrs. Murphy stated the following: That is a Building Code determination and that doesn't affect this Board. It affects Code Enforcement. Mr. Sawyer asked so, this Board doesn't make that decision? Mrs. Murphy stated that is done by Building Code and it is not something that this Board is involved in and they're doing that based on parking requirements, which is a totally separate issue. Mr. Sawyer stated the following: So, what this Board is concerned about is that we are trying to increase our staff numbers and I believe that right now you have us approved for 10. We now are looking for a total of 26; 9 full-time and 17 part-time who would be working the after school program. I believe our

hours of operation that we were approved for was 7:00am to 6:00pm and now we are proposing our hours of operation to be 6:30am to 6:00pm Monday through Friday. Mr. Ouimet asked the Planners, where are we at with the parking at this site? Mr. Casper stated the following: There are 32 parking spaces available at this time and it follows the Code standard of 1 parking space per employee and 1 parking space per 3 preschoolers. Mr. Ouimet stated so there are an insufficient number of parking spaces? Mr. Casper stated yes, there is an insufficient number of 60 parking spaces. Mr. Berkowitz stated the ratio would be 1 to 3 for preschoolers and then there is a separate one for school aged children and I don't know what it is for toddlers and infants. Mrs. Murphy stated the following: That would be the same as preschool children. Can you break down those numbers? You said there are 48 preschool and asked if the 8 infants were on top of the 48? Mr. Sawyer stated the following: No, that is included in that. The 48 is the infant, preschoolers and toddlers all together. Mrs. Murphy asked what is the number for children that are age 5 and up? Mr. Berkowitz stated 156. Mr. Sawyer stated the following: Again, that's based off of what the State licenses us for. I know like you said it is 170 and currently we don't have that many kids there and we would be more than happy to accommodate the 170 if that is what the Board requires. Mr. Berkowitz asked are school buses dropping off in the summertime for the summer school? Mr. Sawyer stated no, the parents are required to provide transportation to and from the facility. Mr. Berkowitz asked is that different from the school year? Mr. Sawyer stated the following: Yes. During the school year we have 3 buses that arrive in the morning between 7:00am and 8:30am and 5 buses that drop off from 2:30pm to 3:00pm. Mr. Berkowitz stated so, you're going to have a pretty big increase in traffic in the summertime. Mr. Sawyer stated I have worked the summer program there under a lot more children than we currently have enrolled. Because it is not a structured program, the time varies for people who drop off their children from 7:00am to 9:00am. Mr. Berkowitz stated but you're talking 3 vehicles and then there is going to be 156 vehicles to close to 200 vehicles in a 2 to 3 hour period. Mr. Sawyer stated I'm confused to what the question is. Mr. Berkowitz stated the following: During the school year you have 3 buses dropping off kids and in the summertime there are no buses because the parents would drop off their individual children and then leave. So, you're talking about another 150 cars entering and exiting that facility instead of having 3 vehicles entering and exiting that facility at one time. Mr. Sawyer stated correct. Mr. Berkowitz stated so; there would be a tremendous increase in traffic at that site during the summer. Mr. Sawyer stated that is currently what we are approved for. Mr. Berkowitz stated but when we approved it, we knew that there were school buses transporting most of those children. Mr. Sawyer stated the following: The building was previously a daycare that I worked at as a director as well and that was under the same regulations approved for the same number of children. We have run a summer camp there for 8 years and we've never had a big fluctuation of traffic in the morning. Even pick-up runs very smoothly because we offer call-ahead service that is similar to what the Saratoga Academy was talking about where people don't even park as they would just loop around and we also have a loop. So, that would help with the traffic flow to be continually moving instead of a standstill. Mr. Berkowitz asked what are the hours of drop-off and pick-up? Mr. Sawyer asked for which program because there would be multiple programs running. Mr. Berkowitz asked what's the average? Mr. Sawyer stated 6:00am or 6:30am would be preschool and after school would be 2:30pm to 3:00pm. Mr. Berkowitz stated I'm talking about in the summer. Mr. Sawyer stated the following: Typically the morning drop-off would be 7:00am to 9:00am, so that would be a 2-hour window and in the afternoon pick-up would be 2:30pm to about 6:00pm. Our peak hours are usually between 4:00pm and 6:00pm. Mr. Berkowitz stated so; the afternoon would be a lot more staggered than the mornings. Mr. Sawyer stated the following: Yes, parents come when they get out of work. As far as the parking lot is concerned, right now we currently have a very large section of blacktop that is blocked in and roped off for the children to play as well as a playground space, which we could potentially convert

back to a parking lot. Mr. Roberts asked then where would the children play? Mr. Sawyer stated the following: We have an entire playground that has woodchips and a grassed area and the blacktop was just an additional space to help with group sizes and such. We also do have a 3,000 SF indoor gymnasium and that has plenty of room for them to run around and play. Mr. Ouimet stated the following: So, what do we do with the parking? If there isn't enough parking, we can't very well approve the request. Mr. Sawyer stated the following: Those numbers that we're projecting are what we applied for and it's not actually what we're licensed for yet. So, we would be willing to either decrease those numbers if need be for parking or adjust to appease the Board. I'm a little confused how we're approved for 170 with the current parking. Mr. Casper stated we did a recalculation separating preschoolers and elementary and we came up with 73. Mrs. Murphy asked do you know how many parking spaces could possibly be made in the area that Mr. Sawyer talked about that was roped off? Mr. Casper stated we could make a site visit to determine that. Mrs. Murphy stated because it might be that you could just call that roped off area to be landbanked for parking. Mr. Ouimet stated I believe that roped off area was originally counted for parking spaces. Mr. Higgins asked of the 32 parking spots that are on the plan, does that include the area that is roped off? Mr. Sawyer stated no. Mr. Higgins asked approximately how many parking spaces are in the roped off area? Mr. Sawyer stated I would say at least 20 or so and possibly more. Mr. Ouimet stated the following: I think we are going to have to have a site visit because we wouldn't have the authority to waive the regulation if the regulation requires "X" number of parking, that's what you have to have. Mr. Higgins stated or least the potential to put those parking spaces in if they are landbanked. Mr. Ouimet stated I don't know if you have any space that you could potentially "landbank" some parking that could be converted to parking in the event that you needed it, but that is what the site visit will tell us. Mr. Sawyer stated I do believe that there is about almost an acre of land behind our parking lot that currently is not utilized or clear out that we could potentially even do that as well. Mr. Ouimet asked did you say that you were applying for a change in your license? Mr. Sawyer stated yes. Mr. Ouimet asked do you need this Board to act before the application can be processed? Mr. Sawyer stated the following: Yes and our application has to be done by the 19th of June. Again, I'm a little confused with the ratio on how we're approved. Mr. Higgins stated because the preschool children has a different ratio than the other group of children. Mr. Sawyer asked so, is it 3 to 1 for the all day? Mr. Berkowitz stated it is 3 to 1 for the preschool and all day it is 1 to 10. Mrs. Murphy stated ages 5 and up it is 1 to 10 and for preschool ages 4 and below is 1 to 3. Mr. Sawyer asked for the parking spaces? Mrs. Murphy stated yes. Mr. Sawyer stated so, for every child you need 3 parking spaces. Mr. Ouimet stated no, for every child under 5. Mr. Berkowitz stated for every over 5 years of age you would need 1 to 10 and below age 5 is 1 to 3. Mr. Sawyer stated but again, those numbers that we're projecting we would be willing to decrease them if that makes the parking lot size accommodating. Mr. Roberts stated I think that may have to happen. Mr. Sawyer stated if we need to do that in order to get this pushed through for the license, we would absolutely lower those numbers to what the Board wants them to be. Mr. Roberts stated again, we can't make a decision by June 19th because we don't meet again until June 24th. Mr. Sawyer asked based off the 32 parking spaces, can we use those to equate to the number of preschoolers that you would allow? Mr. Berkowitz asked are you willing to give up that play area on blacktop? Mr. Sawyer stated if that's what we need to do, absolutely. Mr. Berkowitz asked did you say that it was approximately 20 parking spaces? Mr. Sawyer stated again, we have plenty of space for the kids to run around and play in the building and out. Mrs. Murphy asked Mr. Casper when he came up with the 32 parking spots that they have, what were you looking at? Mr. Casper stated the site plan. Mrs. Murphy asked did the site plan show the roped off area or did they rope off 20 or their 32 parking spaces? Mr. Casper stated the applicants had also indicated that they had 32 parking spaces on their application. Mr. Sawyer stated we did not change the parking spaces from when

we took over so, whatever it was previously, it is today. Mrs. Murphy asked are there actually 32 parking spaces plus a macadam area that you could convert? Mr. Sawyer stated yes and I'm saying there is potential to increase the parking above 32. Mr. Berkowitz stated there are 73 parking spaces shown on the map with 7 handicap parking spots. Mrs. Murphy stated that's what they need. Mr. Ouimet stated that's why they have an approval for what they have. Mr. Berkowitz so, according to the map, they have 80 parking spaces and asked if they had blocked out 40 parking spaces? Mr. Sawyer stated the following: Yes, it is a very large size blacktop. There is an upper parking lot and then there is a lower level parking lot as well. The entire upper parking lot is completely used for parking and I would say a quarter of the lower parking lot is used for parking and the rest is roped off for outdoor play. Mr. Higgins stated the following: Is your lower parking lot in the back where the buses park? When you're looking at the site, your building is off to the left and when you look straight ahead, is that where the buses park? Mr. Sawyer stated that is correct. Mr. Higgins stated then to the left of that is where that area is roped off in the back on the bottom left? Mr. Sawyer stated correct. Mr. Berkowitz asked are those handicap parking spots roped off? Mr. Sawyer stated no, they were moved and there are handicap parking spaces at both the lower and top parking lots and there is ADA access for both entrances of the building as well. Mr. Higgins stated the following: According to this, there are 73 parking spaces and then 7 landbanked parking spaces, which gives you a total of 80 parking spaces and that is based on this site plan that we're looking at. Mrs. Murphy stated there are 73 parking spaces according to the recalculation based on knowing that some are preschoolers. Mr. Higgins stated so, the numbers that you are using are under 5 and over 5. Mr. Casper stated according to the code what I see under preschools is 1 for 3 and for elementary I believe it is 1 for 5. Mrs. Murphy stated so, they need 73 parking spaces. Mr. Casper stated yes and what we've arrived at is a total of 47 parking spaces required for the preschoolers and elementary students and an additional 26 parking spaces are required for the employees for a total of 73. Mr. Higgins stated 73 parking spaces are required based on the 48 preschoolers and 156 elementary students.

Mr. Berkowitz made a motion to approve the change of use application for Kid Kampus based on the site plan and the existing parking spaces available on site. The Planning Board determined the All-Day daycare meets the Town Code parking requirements. Mr. Roberts seconded. Motion carried.

13.065 NB Bowl New England (Spare Time Bowl), 1668 Route 9 – Sign

Ms. Carol Judge, of Bowl New England, stated the following: We are proposing to put 2 pictures outside the exterior of the bowling center. We had some correspondence with you regarding the placement that was incorrect. So, we re-evaluated that and moved the placement of the 2 pictures to be placed outside to the left of one door that was a full columns worth so, that would be 12 FT to the left of one door and 12 FT to the right of a regress door where the new recreation would be. So, now these pictures would be nowhere near the entrance. These would be a basic picture; one is going to be a picture of a group of people having fun or an excitement picture. The other picture would be located at the other end of the building next to our new sports and recreation area and we will have a picture of people suited up in a laser tag suit. These 2 pictures would be 4 FT x 12 FT, made of plastic that is stretched and are in a nice frame. The 2 pictures would be backlit with a white background light that wouldn't blink. Mr. Ouimet asked will these pictures change? Ms. Judge stated they will not, but we do anticipate changing them every 18 months perhaps. Mr. Roberts stated your application says that each of these pictures would be 8 FT x 12 FT. Ms. Judge stated I'm sorry; they will be 8 FT x 12 FT. Mr. Roberts asked are they going to backlit? Ms. Judge stated yes, they would be backlit with white light. Mr. Ouimet asked is the lighting LED? Ms. Judge stated the following: It is LED and being backlit it is not a bright light. Unless, you looked at it, it

wouldn't catch your eye and it wouldn't be a distraction. Mr. Roberts stated is it only going to advertise on-premise activities? Ms. Judge stated it isn't even advertising and there is no verbiage at all. Mr. Roberts stated but you're just going to show on-site activities. Ms. Judge stated exactly and one picture would show a group of 8 young folks having a good time and the other one would show people dressed in a laser tag outfit. Mr. Berkowitz asked does the applicant need to come before the Board for the expansion of the use of the laser tag? Mr. Harris stated the following: I will need to talk to Mr. David Ely or yourself about a change of use application given that you are changing some things internally. Have you pulled any Building Permits for the expansion? Ms. Judge stated the following: We haven't done that yet because we wanted to get this finished. We have all the design done and we're ready to move to the next step as soon as the sign is approved. Mr. Ely and I can certainly do that as well. Mr. Higgins stated as far as the lighting intensity; they must follow the guidelines and requirements that we previously approved for other LED signs. Mr. Ouimet stated the difficulty with that is that it is not a digital sign; it's a picture that is backlit. Mr. Higgins stated but as long as it's still not more intense than digital signs, then we should be fine. Mr. Ouimet stated we have had an issue with some of the digital signs in Town because of the brightness of the sign and the question that was raised by Board is this going to be super bright so it can be seen from Route 9? Ms. Judge stated the following: My intention is that the signs are seen when you pull in the parking lot. It's not something that we trying to generate from the road. Ms. Ouimet stated and it's not there to sell or a good or service or anything of that nature. Ms. Judge stated absolutely not; there will be no verbiage and it is just a picture. Mr. Ouimet stated the picture would just depict what's going on inside. Mr. Berkowitz asked would you have any spotlights shining onto Route 9? Ms. Judge stated absolutely not; it is a very diminished light from the back.

For the record: The Planning Department's write-up for the sign(s) is as follows:

Project Name: Bowl New England (Spare Time Bowl) – Sign replacement/installation

Address: 1668 Rt. 9

Zoning: C-I (Commercial)

Number of signs: 3 (2 flex-faced, translucent graphic panels (photo) + 1 plastic letter façade sign)

- Sign Size (sign #1): 72 SF (6'x12')
- Sided: one-sided
- Location of Sign: wall-mounted/hanging
- Lighting: internal illumination
- Sign Size (sign #2): 72 SF (6'x12')
- Sided: one-sided
- Location of Sign: wall-mounted/hanging
- Lighting: internal illumination
- Sign Size (sign #3): 24 SF (2'x12')
- Sided: one-sided
- Location: wall-mounted (building façade; main entrance façade)
- Lighting: None

Mr. Roberts made a motion to approve the sign application for Bowl New England (Spare Time Bowl). The Board informed the applicant that they would need to return with a change of use application related to new activities/uses proposed inside the bowling alley building. Mr. Berkowitz seconded. Motion carried.

13.066 NB Tire Warehouse Inc., 1428 Route 9 – Commercial Site Plan

Mr. Albert Mugrace, Architect, stated the following: I'm here tonight representing Tire Warehouse, Inc. Tire Warehouse has been operating from 1428 Route 9 for the better part of 20-years. Their primary function is tire replacement, some brake work and minor engine work. Over the last 7 to 8 years, they have built a storage building in the rear of the property. That building presently consists of 9,000 SF and this building is dedicated primarily to tire storage. Tire Warehouse has proposed to add an additional 6,000 SF to the tire storage facility. This proposal would increase the total square footage to 15,000 SF of storage that would be used strictly for tires. Mr. Ouimet asked is the addition going to be constructed the same way as the existing structure? Mr. Mugrace stated yes, it would be constructed the same way and it would be a metal building. Mr. Ouimet asked would the proposed building have fire suppression systems inside? Mr. Mugrace stated we will be working on some type of a fire suppression system; however, there is lack of public water on the premises so we cannot implement a sprinkler system. Mr. Ouimet asked what type of sprinkler system is in the existing building? Mr. Mugrace stated in the existing building we obtained a variance from the New York State Board of Codes to go with a smoke and fire ventilation system, which is in form of a copula that is opened to allow smoke and ventilation to occur. Mrs. Murphy stated this proposed addition would make the building too large to allow for that type of fire suppression system. If they want to increase the building to a larger size, than it would have a water fire suppression system. Mr. Ouimet asked so, are you going to run into a problem with having a water fire suppression system, because technically you are proposing to increase the size of the building? Mr. Mugrace stated making the building bigger, we are probably going to run into a situation where we have to address the fire suppression system that we're going to be using and that would be taken care of during the work and drawing design phase of the building. Mr. Ouimet asked did you say that this proposed addition was going to be used for additional tire storage? Mr. Mugrace stated yes. Mr. Ouimet asked would it be for tires that would be used at the Tire Warehouse on Route 9 or your complex of facilities? Mr. Mugrace stated yes, just for the present facility. Mr. Berkowitz asked how many tires would this combination hold? Mr. Brian McCall, of Tire Warehouse, Inc., stated the following: I'm not certain. There's no mathematical formula to figure out how many we're putting in there. Mr. Berkowitz asked how many are in the existing warehouse? Mr. McCall stated approximately maybe 2,000. Mr. Bob McCarthy, Council to the Tire Warehouse, stated there is a mathematical formula which you can use based upon the size square and the New York State Fire set's it and that's really what it is. Mr. Berkowitz asked so, what is the limit in those two facilities? Mr. McCarthy stated I apologize because I didn't do the calculation, but I can let the Board know. It's just basically square foot and you multiply that and it will tell you how many tires would be permitted there. Mr. Berkowitz asked how many days or week inventory is that? Mr. McCarthy stated the following: The problem that you're having is not necessary day or week inventory. It's because of the big companies like Wal-Mart where you have to buy in huge truckloads to make it worth your while. So, at one time you might have 1,000 tires there, but you might sit on them if you buy them in the spring because they're winter tires. Then it might be loaded and emptied in the spring until your next buy. That's really why my client is moving in this direction, because to be competitive, you have to buy in such huge quantities and unfortunately now with so many more cars and Korean cars and so forth, the number of tires, and Mr. McCall can address this a little more, went up from a stock of maybe 50 ten years ago, now you have to stock 100 different tires so, that becomes part of the problems. Sometimes this is not going to be empty, but it will be low stock and sometimes it's going to be filled. Mr. Berkowitz asked will they ship from site to site based on how many cars come to one site verses another site because I know you'll have to borrow tires from another site. Mr. McCarthy stated this would just be for the Clifton Park and we have storage at other facilities. Mr. Roberts stated so, this is just for the Halfmoon site and you're not going to ship these other places. Mr. McCarthy stated no, but I can't tell you

that if there is an emergency, but no, Troy is a new facility and they have their own storage facility. Mr. Roberts stated so, as a rule this is not going to be a distribution site to other sites. Mr. McCarthy stated this location is not a distribution center. Mr. Berkowitz asked how do you fit a tractor-trailer on that site? Mr. McCall stated the tractor-trailer would backup to the existing warehouse. Mr. Berkowitz asked can the gravel hold a tractor-trailer? Mr. McCall stated yes. Mr. Berkowitz asked when you build a new facility, would that be built strong enough to hold tractor-trailers? Mr. Ouimet stated I think the engineers can take a look at that and I think we're going to have to refer this to CHA for review. Mr. McCarthy stated the last time we did some soil testing. Mr. Higgins asked if there would be adequate parking at the site? Mr. Harris stated yes. Mr. Ouimet asked are there any outstanding violations at this site? Mr. Harris stated there are no outstanding violations. Mr. Higgins asked are you going to change the number of rental trucks that are on-site? Mr. McCall stated no.

This item was tabled. The Board reviewed the concept plan and referred the project to the Town Engineer/CHA for their review.

Old Business:

13.024 OB Garden Time, Inc., 1467 Route 9 – Addition to Site Plan

Mr. Roger Keating, of Chazen Companies, stated the following: I'm here tonight on behalf of Garden Time, Inc. to go over the proposal site plan amendments. As you know, Garden Time currently operates at the intersection of Stone Quarry Road and Route 9. We've been working with Garden Time on making site plan amendments and addressing the Board's comments while providing the sales environment that they are looking for, which where somebody could envision buying a product at Garden Time and having it displayed in an environment that would be similar to what they might see in their backyard and their home environment. The proposed improvements that we have done; to reiterate, this is a 7-acre piece of property and the rear portion of the lot would remain undisturbed. The new 40 FT setbacks were added to the site plan at the last meeting for no display zones along Stone Quarry Road and the northern portion of the property with additional no display setbacks along Route 9. Those no display setbacks range from the edge of pavement anywhere from 40 to 75 FT along Route 9. We've also revised that site plan to take the number of swing sets from the portion of Route 9 where Garden Time is currently displaying a number of swing sets and pulling the swing sets into the site so that there would be just one swing set on display to show a representation of the fact that Garden Time does sell that type of product. We've added the storage area in the rear, which would be fenced in so we clearly define the storage area verses the sales area. Also, the site access would remain the same, but we're looking to relocate the existing sign near the existing entrance just because some people have had a little confusion knowing that The Hair Hut used to have 2 access points verses just the one that we have now. At the last meeting there some confusion with the product that was on the existing site. What we have done now is we took Garden Time's inventory plan of the larger structures on the site, which consisted of the sheds, the gazebos, the pavilions and the garages and we took the inventory plan and dropped it on an existing site plan to give a representation of the number of larger units that Mr. Trolestra had on the site. Using the definition that the Town has provided us, we revised the unit count such that there is now 80 structures, which consists of the sheds, the gazebos, the garages and pavilions, 20 outdoor play sets, 20 pieces of furniture for a total of 120 units. Also, a small area has been designated near the office for a seasonal display area, which would consist of some of his smaller types of products; such as a birdhouse, a birdbath, a wishing well or some of those types of items in that area. Also, with us tonight is Mr. David Pentkowski who is also representing Garden Time, Inc. and I believe Mr. Pentkowski wanted to say a few things this evening. Mr. Pentkowski stated the following: I have been trying to

provide a little guidance to the applicant and I'm not certain regulation guides this type of an activity on this site. One of the problems that we've run up against is, as you probably know, the definition of a unit and apparently there has been some problems or at least some issue with Code Enforcement on that as well. So, we're trying to create some standard or ask the Board to create some standard so, we all know what we are talking about; whether we're talking about a gazebo, a storage shed or a lawn chair. Apparently, at some point the count as to the number of units that were on this site varied from as few as 50 to as many of 80+ and it was a purely a matter of what the definition is. I don't have any definition in the code matter and if Mrs. Murphy knows of any, than I'm sure you would point that out to me. We need some standardization so that everybody knows what a unit is and so that this operation is treated the same as anybody else who is selling lawn chairs or any other type of decorative lawn device is the community. What I think Mr. Keating has tried to identify on the plans are those items that are sheds or gazebos as opposed to tables and chairs. I think it's going to help not only the applicant to comply, but it's also going to help Code in enforcing this. We literally got to the point where apparently; if there was a table with four chairs it was 1 unit, then take away the table and now you have 4 units and obviously that doesn't make sense for anybody to do that. Mr. Ouimet stated the following: I liked to ask you; there was an email dated April 2, 2013 that was provided from Mr. Rich Harris, our Director of Planning, to Mr. Trolestra, which has a definition of unit as determined by this Board to be the acceptable definition. I look at what has been submitted as the proposed site plan that Chazen Companies has just done and I don't see compliance with that definition. Mr. Pentowski stated the following: It is my understanding and please correct me because I'm late to the party; my understanding was that that definition was offered as something that the applicant should consider or could consider not being legislated by the Board unilaterally, but maybe I'm wrong. But, I don't see it in the code and the Board certainly can't just decide on its own that this is what we're going to impose on you as a unit. I think the applicant took that definition that was proposed and tried to work with it and came up with something that would be agreeable to both the Board and the applicant. Mr. Ouimet stated the following: I was only one of the three members on the sub-committee that went to the site to look at the facility. I think the applicant just rejected our definition in favor of his own because he just wants to do whatever he wants to do. Mr. Pentowski stated the following: That's definitely not true. But, it's certainly a unit by the definition and it is not a table or a chair and that was never intended as a unit to be considered when they came in initially for their site plans. Mr. Ouimet stated the following: Be it as it may, I think at the site visit, we spent quite a number of hours at that site and I think we were pretty clear to the applicant that we weren't going to consider anything greater than 75 units. Yet he persisted in submitting two additional site plans for our review that had well over 100 units under any definition on these proposed site plans. Mr. Pentkowski stated the following: But, there has to be some standard and it just can't be arbitrary. If you can point to us somewhere where this proposal does not comply with your zoning ordinance, then there is no question that they would not be allowed to do that. Mr. Ouimet stated the applicant has an approved site plan now and he is in violation of that approved site plan. Mr. Pentkowski stated no. Mr. Ouimet asked why not? Mr. Pentkowski stated the following: Because he isn't. We can debate that, but he is not. Mr. Matt Chauvin stated the following: Actually, there is a violation of the site plan. In fact, there are multiple violations. Mr. Pentkowski stated I know there is a citation. Mr. Chauvin stated no, there are actual violations of the site plan as observed by Code Enforcement that are not even related to the number of units on the site. So, I just want the record clear that there are violations of the existing site plan. You can argue if you like relative to units and whether or not it is your position that the number of units on the site would violate the site plan, but there are other different, not unit related items that violate the site plan. Mr. Pentkowski stated the following: I will defer that to you Mr. Chauvin because I'm unaware of that and we have to address that separately. The problem that we had initially is the alleged violation

that I heard of and the only one, but perhaps I'm wrong, was that they had too many units. Mr. Ouimet stated the following: They clearly do. The existing site plan says 55 units and they clearly have more 55 under any calculation, under any definition. Mr. Pentkowski stated the following: The problem is that the code does not identify what a unit is and we're trying to solve that problem. Get a definition before we start determining how many you can have. Mr. Ouimet stated the following: We tried to solve that problem by giving you a definition that is acceptable to this Board. It was reviewed by council, council said it was an enforceable definition, we gave it Mr. Trolestra and said "this is our definition", and he said "no, I have a different definition". Mr. Pentkowski stated the following: You don't have to be aggressive with me because I understand your point of view. But, the fact is; your code doesn't identify a unit. If it does, I apologize because I don't know of it. If I go to Lowe's, do I count units of material out in front? I don't believe so. Mrs. Murphy can correct me if I'm wrong, the code doesn't talk to it. The Board offered a definition for us to accept and we don't accept it. We would like to work with the Board to get to a definition that works and makes this site look good, gets improved, everybody is proud of it and its successful, but if the Board is going to say this is what a unit is and you're going to accept it, that's arbitrary and that is going to get challenged and we don't want to get to that point. Mr. Roberts stated personally, if you're trying to compare this site with the Lowe's site, that's apples and oranges and you can't even go there. Mr. Pentkowski stated the following: Oh, absolutely and the only reason why I mentioned it is for example; an Adirondack chair at Lowe's, they have them stacked in an area and you have given them that permission annually, as I recall. I don't think you limit the number but, you say this is the area where you can display these. You go out here and there's an Adirondack chair and I'm told that code is saying, "Well, that's a unit and you can only have so many". Unless, it wasn't for sale, in which case I guess they could have it as long as they didn't sell it to the public. Mr. Roberts stated the following: When the applicant first came to the Planning Board, our big concern was and still is; that this is one of the first sites you see coming into our Town and we want it kept nice and clean and that's a big concern. To me, this is just too congested. I would not be in favor of this plan and I don't care what you define as a unit because I would not go for this plan at all and I would vote "no" on this. Just so you know. Mr. Pentkowski stated I could appreciate that opinion, but again, there is no standard here. Mr. Roberts stated the following: Sure it's a standard. The applicant got approved for a site plan and that's the plan. Now he wants to come in for something more and he needs the Board's approval. This is plain and simple. Mr. Pentkowski stated the following: There is no question but, it's not your opinion as to what may or may not look good to you. It can't be arbitrary. Mr. Roberts asked then why is the applicant coming back for an approval if it's not up to us? Mr. Pentkowski stated because we are looking for a modification to the site plan according to the code and not some arbitrary; "this is the definition". Mrs. Murphy stated the following: Could you please stop using arbitrary. This is not an arbitrary decision. They have given you a black and white written out definition of what they define a unit to be. Granted it is not applicable as we sit here today but, they are telling you that it's going to be a condition of their approval. You can continue to use the word "arbitrary" because you believe you're going to have to file an Article 78, but that does not make it so. Mr. Pentkowski stated the Board's definition of what a unit is; is not in the code. Mrs. Murphy stated that is correct. Mr. Pentkowski stated the following: So, what you're applying is arbitrary and there is no question about that. All I'm suggesting is that we could try to come to some agreement that works for the Town that makes the site look good. These guys want to go out there and landscape and do the improvements that you see there. They would put irrigation in, mow the lawn and all of that, but obviously they can't do that without a site plan approval. The problem is that their use is somewhat unique, it's not like building a new building that you deal with all the time where you have one structure. This is a lot different and it requires some cooperation both with the definition and maybe with some seasonal display areas, which they've proposed. It will be there when it's for

sale and then like Lowe's or Wal-Mart or one of those; those things go away when they are no longer part of the season. Mr. Roberts stated the following: We have been trying to cooperate, but every time we make a recommendation, he rejects it. How is that cooperation? Mr. Pentkowski stated the following: That's why we are here; to try and improve on that. They have made some strides from what the original application was. They've tried to take some of things that someone thought was cluttered; again, somebody's opinion, and tried to improve on that. Mrs. Murphy stated the following: Again, I would like to clarify for the record; there was a site plan that allowed things in specific areas, they were cited because things were not where they were supposed to be. Now, this is a new site plan. When the first site plan was approved, it was done before this Board with the agreement of the applicant that that was appropriate layout for this site. Now, he is asking for a substantial increase in the utility of the site. The Board had already determined what an appropriate use was and it was agreed to by the applicant. So, any increase in the volume on that site is something that you're going to have to sell to this Board because they've already made a decision about what is appropriate for this site. The applicant is changing the parameter. Mr. Pentkowski stated the following: There is no question that he is asking to change what was originally approved because financially and from a business standpoint, it's not working and people/customers want to see more choices and they want the option to see everything that's available. Obviously, this is a large site and it's not like we're cramming this on a small parcel, although granted, a good part of the parcel is wet. Mr. Roberts stated the following: On our site visit, the applicant told us that he has catalogs. So, he has a sample of what is on the site and then he can go to the catalog and the customers can pick from there also. So, he doesn't need to have everything on-site. Mr. Pentkowski stated believe me, I don't how to sell sheds, but if it wasn't a necessary function of their success, then they wouldn't be here. Mr. Roberts stated maybe he picked the wrong site to choose for this business. Mr. Ouimet stated this might not be the site for him. Mr. Pentkowski stated well, that may be, but this is what they're entitled to do at this site and this is a use that they are entitled to at this site. Mr. Ouimet stated their entitled and they have an approved site plan entitling them to show 55 buildings and now they want 135. Mr. Pentkowski stated the following: They are now back here asking this Board to approve a new site plan that would allow them to do the same use and comply with your zoning ordinance completely. They're not asking for any variances, they're going to have the necessary parking, they're going to have the necessary setbacks and somebody is deciding that this is too many, but that's not to be seen anywhere. That's just someone's opinion and that is what is called "arbitrary". There is no standard for that. You're not saying to have a gazebo that you have to have so many square feet in the community. You're not saying that it violates any of those things. Mrs. Murphy stated the following: We do have where gazebos and a home can be placed, etc. There are regulations. Mr. Polak stated the following: We have been through this for I don't know how many hours and the applicant just refuses to cooperate. This is very simple; the applicant just doesn't want to cooperate. I don't know how many site visits that have been made or how many hours our Planning Department has been out there and again, he refuses to cooperate. It is not your fault or the Planning Department's fault because they went out above and beyond and yet the proposal for this project does not stop. Mr. Roberts stated as I have said before, this may be the wrong site for this business and that's the way it appears to me. Mr. Pentkowski stated I won't belabor it any longer, but the fact is that it is an approved use for this site. Mr. Roberts stated that's right and it's approved for what we have done now and he is not to go over that. Mr. Pentkowski stated we're talking about the use. Mr. Ouimet stated that's approved. Mr. Penkowski stated I'm not talking about the number of units; the use is approved. Mr. Ouimet asked so, are you telling this Board that you can put as many units as you want on that site? Mr. Pentkowski stated of course not, no. Mr. Ouimet asked then what are you telling us? Mr. Pentkowski stated I'm not going to argue with you. Mr. Ouimet stated the following: If you're going to make a presentation, make the

presentation that you want 130 units; make that presentation. What is your definition of unit if you have rejected ours? Mr. Pentkowski stated if you are going to interrupt, there is no sense talking to you. Mr. Ouimet stated I'm finished. Mr. Ouimet asked Mr. Ruchlicki if he had anything that he'd like to say, because he was on the committee. Mr. Ruchlicki stated the following: While there seems to be some disagreement on the definition of the unit, it still doesn't change anything relative to the site itself and what it was approved for and what we approved it for before tonight. If you are here to propose another change to the site, you didn't do that. You actually started your presentation with an argument and that's the way I took it because you're disagreeing with what our definition of a unit is, but you actually haven't even defined what the new site proposal is and the maps are right here in front of all of us. Having said that, whether we were to approve this or not, we haven't been presented with it yet. Mr. Pentkowski stated the following: The site plan that we've provided did show an additional reduction of units. The previous site plan was 135 and the updated site plan does provide 120 and we also reduced the number of units, if you recall, in the areas in the back where we had some additional gravel pathways that extended up into the rear, we pulled those units out of there as well. When reduced the unit count from 135 to 120, we did that with all the large structures. When I say large structures, I mean the sheds, the gazebos and that type of thing. So, that's where we had pulled some of the unit count back. To clarify, there was a reduction in the number of units on the submittal from the previous one. Mr. Ruchlicki stated the following: Not to belabor the situation; based upon all of that, that's fine and dandy. The fact of the matter is; if I read this correctly, when all of this started here a few minutes ago, you actually put me as Board member on the defensive because I was there for a site visit, we discussed this whole thing while I was there, we tried to come up with an agreement and I agree with Mr. Polak. We never did say that this was etched in stone or that was etched in stone; we merely asked you to work with us, but when this whole thing started tonight, automatically you went on the defensive yourself. So, for myself as a Board member, I kind of took offense to it and that's just my opinion and that's all I want to say relative to that. Relative to the new site plan, let's continue on from there and maybe we can come to a decision on a unit, what a unit description is or something of that nature. So, don't come before me in particular, as this is my opinion and don't come before me and immediately be on a defensive because then I become defensive. I came to the site in good faith to meet with you guys and decide what it was that you were doing there and what perhaps you could do there above and beyond what the original site plan was approved for. Again, I don't think I should be put on the defensive relative to something to something that we have to make a decision on. It's a mutual decision and it is not something etched in stone. So, I don't quite understand why you came forward as you did tonight and again, I took offense to it. Mr. Chauvin stated I would really appreciate it, for clarification purposes, it's been articulated by the applicant that they have reduced their proposed number of units with the presentation this evening from 135 units to 120 units. If we could, and we've had a lot of push back about how there is a disagreement or an unwillingness to accept the definition that has been proposed by the Town. How have you outlined or how are you defining and what are you showing on your proposed site plan this evening as a unit? You have 120 units; what is the unit that you are showing? The Board is the one that has to evaluate it. I'm just trying to make sure that we're all talking about apples and apples here because I really think that that's the crux of the issue. We're talking units yet you have not articulated what you have proposed as a definition of a unit. Mr. Pentkowski stated the following: Actually, on this site plan, we used the Town's definition for a unit, which was including the outdoor furniture and things along those lines. So, we have the 120 units and we did a general summary of what the unit count would be. Approximately 48 of the units would consists of sheds, 14 units would consist of garages, 4 units for pavilions, 14 gazebos, a seasonal display area with outdoor play equipment that is 20 units, then there are chairs, benches and tables. When we had the discussion at the last meeting, we had proposed to modify

the definition so that for instance; if the applicant had put something inside a gazebo to show spatial representative for a table, that would not be counted as a unit, but we pulled that off of the plan this past time out so, if we did have a table or chairs in the gazebo that that would be on the unit count. So, that's the plan that we revised. I do appreciate Mr. Ruchlicki's comments and if you recall, when we did have the site visit, things like the swing sets up near the roadway and the distraction associated with those and the buffers that we had talked about; those are all things that we did consider. So, we did go through the site plan and make a lot of those concessions. We actually added even additional buffers on top of the site plan that the Board had not discussed at that site visit. Introducing a 40 FT no display zone along Stone Quarry Road and doing some of the same near the intersection of Stone Quarry Road and Route 9 giving that additional 40 FT no display along that area and that's 200 FT from the property line. So, we have definitely pulled back that frontage to get that color and everything off of Route 9, which was a concern with respect to the colors and everything associated with the swing sets. So, I hope that the unit count was appropriate. Mr. Chauvin stated the following: I guess what I'm hearing is that this entire argument was for no reason. If what you are telling me and maybe I'm mishearing, is that the application and the modification that is presented this evening was modified from 135 to 120 units. Is the 120 units based upon the definition provided by the Town and that you are willing to accept the definition as provided by the Town and that's why the question was raised? Mr. Keating stated Mr. Ouimet raised it as a suggestion that the applicant had violated their assessment. Mr. Chauvin stated the following: Let me just simplify this and then we'll go from there. The applicant is willing to accept the Town's definition of a unit and incorporate that into their submission and at this time, are making this presentation to this Board based upon the Town's definition of a unit as submitted and you're asking for 120 units on the site in that configuration with that definition. Is that a fair representation of what we brought before the Board this evening, plus a seasonal area? Mr. Pentkowski stated the only caveat I think would be that on this plan you may see represented a gazebo and something of like size; as a shed, might be put in that same spot. Mr. Chauvin asked are the 120 units in that general configuration in accordance with the sizing as represented? Mr. Pentkowski stated exactly and for purposes of that application, that's the definition that has been applied. Mr. Chauvin stated and we're not challenging that definition in the context of that application. Mr. Pentkowski stated that is what we are asking for an approval for. Mrs. Murphy stated the following: It is my understanding that the County has not yet come back with their response. So, as always I advise the Board that until the County has acted, we don't act just because of the changing and the voting requirements with regards to whether or not the County's approval was positive or negative. Mr. Ouimet stated I would like to ask the Board if there are any other comments or questions you want to raise before we make a determination? Mr. Berkowitz asked how do you figure out the parking on this site, if they want to compare this to Lowe's, Wal-Mart and everything, if they have a total sales area of 2-acres because there is nothing on the map indicating the size of the property, the size of the sales area, greenspace or nothing. Mr. Pentkowski stated there is approximately 2.5 acres. Mr. Berkowitz stated so, this is a retail operation and asked how many parking spaces are required for 2.5 acres of retail space because you brought up Lowe's, Wal-Mart and Home Depot and that's the only reason why I'm asking. Mr. Ruchlicki stated based on that, when we discussed the original site plan and the changes that you were proposing when we visited the site relative to parking, if you were to introduce even a seasonal type of an application to this site, it would then change the parking requirement because we already had a general idea of how much traffic would be in and out of there with people just looking at your units, gazebos and sheds. So, if you introduce some other type of seasonal sales, that may change that entirely and I would have great concern with that relative to the way the site is laid out unless you can prove to me that the seasonal application isn't going to affect the parking and I don't believe it won't and that's just my opinion. Mr. Pentkowski stated the only reason why I

mentioned Wal-Mart, Lowe's and Home Depot is that they can stack numerous lawn chairs or whatever in a small area and you don't call them units. Mr. Berkowitz stated if you provide enough parking for the 2.5 acres, you can stack all you want. Mr. Pentkowski stated the following: I'm not suggesting that is what we want. I'm just saying that there is an inconsistency if those aren't called units where they are. I'm not suggesting that we are Lowe's or Wal-Mart or that there is any other parallel. Mr. Berkowitz stated you brought it up and that's all I'm asking and if you brought it up, we are just trying to treat you fairly as we would treat Wal-Mart, Lowe's and Home Depot. Mrs. Murphy stated going back, you're not objecting to the definitions. Mr. Pentkowski stated no and this site only has a few employees. Mr. Ouimet asked the Planners is there was a seasonal application before the Board that was submitted? Mr. Harris stated no, we don't have a change of use application but a seasonal sales area is shown on the revised site plan. Mr. Ouimet stated but there is no application for that. Mr. Harris stated correct. Mr. Ouimet stated so, seasonal sales is probably a premature discussion at this point. Mr. Ruchlicki stated but it was on the site plan. Mr. Ouimet stated yes, I know. Mr. Higgins stated the following: Again, to reiterate and this is probably the third time that this question has been asked, but I just want to make sure that I understand. As far as the definition that was proposed as far as a unit, the applicant does not have a problem with that, is that correct? Mr. Pentkowski stated for the application that is before the Board and the reason I emphasize that, is that there is an approved site plan. Mrs. Murphy stated the following: Mr. Higgins' concern is; if he says that, he consents to the definition and he has already been cited on the other site, he is concerned that somebody will use that to say you're clearly out of compliance because of the new definition. So, he doesn't have a problem using the definition for the new application. Mr. Higgins stated so; this is strictly in reference to the application that is in front of this Board tonight, which is for 120 units based on the description that is on this. Mr. Pentkowski stated yes, that's acceptable. Mr. Higgins stated as far as the seasonal display area; again, that's something that is going to be discussed sometime in the future. Mr. Pentkowski stated if that general concept is acceptable, then there is further applications to be made as to how those are handled, I understand and that's where we get to the Wal-Mart and Lowe's type thing where they say yes, you can have this for a certain period of time. Mr. Ruchlicki stated the following: Obviously, I don't think any of us would disagree that this site and what it is currently and what is being proposed here; I don't feel the seasonal use can be compared to Lowe's or Wal-Mart because it is totally different. This site, I won't say wouldn't be proper for that type of an application, but like Mr. Berkowitz was saying "go ahead and stack them to the ceiling", we wouldn't be talking about that for this site because it just wouldn't fit. Mr. Pentkowski stated but if there were something seasonal like a lawn display or something that would be out of there at the end of the season, you wouldn't see it. Mr. Ruchlicki stated and that too would be up for discussion and I just don't think we should be making that comparison. Mr. Pentkowski stated but there would be no intention to stack a lot of things because the site is supposed to be attractive. Mr. Berkowitz asked if they are open during the wintertime? Mr. Pentkowski stated the plan is to be open for a couple of days a week in the wintertime just to show that they're not closed and that they are around. Mr. Berkowitz asked is the site plowed and maintained in the wintertime? Mr. Pentkowski stated the following: But it's quieter for sure and there may be fewer units. So, the site plan may not have all those units. Mr. Berkowitz stated the following: I don't think we will have a concern if there are less units than on the site plan. According to the definition that we just agreed on, how many units are on the site as of today? Mr. Keating stated the following: I can only speak to the inventory with the sheds and the gazebos that was provided to me by Garden Time and at that time there were 50 sheds and gazebos, but we didn't have the furniture count in that. So, I can't speak to that inventory, but of the larger structures; the sheds, the gazebos and the garages, there was 50 of those. Mr. Chauvin stated the following: Code Enforcement did a count and it's 81 under the new definition. Obviously, we're not talking about the site plan

violation using that definition. Mr. Ouimet stated the site plan that you submitted doesn't have any furniture on it. Mr. Pentkowski stated no, we didn't depict that. Mr. Ouimet stated so, it's just structures; the sheds, gazebos, garages and play sets. Mr. Pentkowski stated the following: With respect to gazebos; because they're irregularly shaped types of units, they will put tables and chairs in there for representation and they are also available for sale. Sometimes they also might put an outdoor swing or something like a lawn chair on display. Obviously, council just indicated that there were 81 units on there so, I'm assuming that the rest of those were likely furniture or picnic tables and thing along those lines. Mr. Berkowitz asked are there any play sets on display right now? Mr. Pentkowski stated yes, there are and those are actually on my existing conditions plan. Mr. Berkowitz asked was that included in the 50 that you counted for the gazebos? Mr. Pentkowski stated that is correct. Mr. Berkowitz stated so; there is just a discrepancy on what you counted and what we've agreed on then. Mr. Harris stated the proposed site plan uses the definition, but the existing conditions do not. Mr. Berkowitz stated so; there is about 30 items of chairs and tables. Mr. Pentkowski stated the following: That is correct. We have 13 pieces of play equipment on the site right now and he had 20 units of sheds and things along those lines, 7 garages, 5 gazebos and then there are 5 miscellaneous items with gliders, small utility sheds, foot bridge, etc. Mr. Berkowitz stated okay, so this is current as of May 31, 2013. Mr. Berkowitz stated obviously things have probably been sold and asked have things been delivered? Mr. Pentkowski stated I can't speak to what has been delivered or not. Mr. Ouimet stated on the proposed site plan I noticed that you don't depict any area, other than a general area, for the display of 19 play equipment units. Mr. Pentkowski stated yes, that is correct. Mr. Ouimet stated yet on the description on the bottom you mention 20 units of play equipment, which is it? Mr. Pentkowski stated the following: If you recall, there was a number of play sets that were along the Route 9 frontage and we had pulled all of those into the site. We do depict 1 play set to remain along the Route 9 frontage and that's our 20. Again, we recognize the Board's concerns with respect to that and we did pull that in, but I did want to at least have some sort of representation of the play set. They are odd shaped units so, I used just a general symbol for the swings. Mr. Ouimet stated the following: If we were to entertain this proposed site plan, would you be switching out types of units for these spaces because now it currently calls for 3 pavilions to be displayed in the center of the display area? In theory could you switch that out to 3 garages? Mr. Pentkowski stated in theory it could, but that's what council here was also indicating and the product does change and he gets different product throughout the year and next year they might not have gazebos anymore. So, it could be similar types of products that are here, but this is a representation of what could be displayed in those general areas. Mr. Ouimet stated the following: Wouldn't you limit yourself to the size of the units because the pavilions are 12 x 16 while the garages are 24 X 24 and 12 x 24? Wouldn't you limit yourself to what you're depicting on square footage in the front? Mr. Pentkowski stated the following: I guess I would have to ask Garden Time specifically as this was a program that we had developed with them with respect to the types of units that they are currently selling right now. I would assume the size and the shape of these units could potentially change year in and year out as the product changes with respect to the style, shape and things along those lines. Is your question that we wouldn't exceed a square footage of product? Mr. Ouimet stated the following: I've looked at what you submitted and I picture it in my mind as to what I can visualize on Route 9 and then if there is no commitment, than I could be looking at 3 garages in the front as opposed to 3 pavilions. I could be looking at a play set and the next time it could be replaced by a 24 FT garage and some of those things don't look too good in the front. Mr. Pentkowski stated the following: Okay, understood. What I think we had previously done was to make sure that we had more forward facing types of units because I know that was a concern previously. I would assume that we would be pretty consistent with that to keep the product forward facing, but with respect to the size, the product could change. Mr. Ouimet stated the following: Okay, I just wanted to

know where we are at. I think at this point we are going to have to refer this plan to the County because this is a site that requires County review so we can put this item back on the agenda for the next Board meeting. Mr. Roberts stated the following: I noticed in your seasonal sales display area that you mentioned it was to be for Amish made items. Are you going to have mulch piles and topsoil piles that you would also be selling at that site? Mr. Pentkowski stated Garden Time is not selling that type of product at this facility. Mr. Berkowitz asked how about flowers or shrubs? Mr. Pentkowski stated right now that's not part of this proposal. Mr. Berkowitz stated I saw the commercials on the TV and that's why I'm asking. Mr. Pentkowski stated they do have other facilities that have that product and obviously when we do landscaping, we're going to have that product that they probably sell at some of their other sites because they do grow their own plants. Mr. Berkowitz asked do they sell Christmas trees? Mr. Pentkowski stated they do sell them but that is not proposed for this facility.

This item was tabled. The Board reviewed the revised site plan and deferred action until the next Planning Board meeting; June 24, 2013, in order to allow for Saratoga County Planning Board review.

Mr. Ruchlicki made a motion to adjourn the June 10, 2013 Planning Board Meeting at 8:44 pm. Mr. Higgins seconded. Motion carried.

Respectfully submitted,
Milly Pascuzzi
Planning Board Secretary