

Town of Halfmoon Planning Board**Meeting Minutes – October 14, 2014**

Those present at the October 14, 2014 Planning Board meeting were:

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

Planning Board Alternates: Margaret Sautter

Director of Planning: Richard Harris
Planner: Paul Marlow

Town Attorney: Lyn Murphy

Town Board Liaison: John Wasielewski

CHA Representative: Mike Bianchino

Mr. Ouimet opened the October 14, 2014 Planning Board Meeting at 6:58pm. Mr. Ouimet asked the Planning Board Members if they had reviewed the September 22, 2014 Planning Board Minutes. Mr. Roberts made a motion to approve the September 22, 2014 Planning Board Minutes. Mr. Ruchlicki seconded. Vote: 7-Aye, 0-Nay, 0-Abstained. Motion carried.

Public Hearings:**14.108 PH DiSiena Associates LPA, 115 Round Lake Ave. – Minor Subdivision**

Mr. Ouimet opened the Public Hearing at 7:00pm. Mr. Ouimet asked if anyone would like to have the notice read. No one responded. Mr. David Bogardus from Northeast Land Survey stated the following: This is an application for a 2-lot Minor Subdivision located at 115 Round Lake Avenue. The property is located in the Town of Stillwater, in the Town of Halfmoon and in the City of Mechanicville. We are proposing to subdivide a parcel of land that contains an existing building on it and the building is 14,171 SF. The parcel is a 10-acre parcel and we are subdividing out of it a 2-acre parcel and the remainder of the parcel would be 8-acres. The 2-acre parcel contains the existing building and it was designed to be zoning conforming and has the proper amount of greenspace, the proper setbacks around the existing building and the proper area. We have notified the City of Mechanicville that we were doing a subdivision and they said as long as the building was in the Town of Stillwater that they did not have any involvement in it. We also wrote a letter to the Town of Stillwater explaining to them that there was a small portion of this parcel that we were subdividing that was in the Town of Stillwater and I know that they wrote a letter back to the Planning Department in the Town of Halfmoon saying also that they didn't wish to have any involvement in the process as it was so small. There were issues that Mr. Harris had regarding how the property boundaries appeared to look different than on the tax map and I think those were resolved. The survey was reviewed by the Real Property Tax Service for

Saratoga County and they found it to be accurate. There were also some questions about frontage and when we subdivide Lot 'A' out of this parcel with the building on it; that leaves 300 FT of frontage on Round Lake Avenue and an additional 400 FT of frontage on Sheehan Avenue and the question was would they be in the Town of Halfmoon and no, they would not be as part of it would be in the Town of Halfmoon and the remainder of the frontage would be in the City of Mechanicville. Also, I was copied on a letter and I know that the Saratoga County Planning Board was notified, as they should have been, and I have a copy of that letter back saying that there was no Inter-Community Impact and I don't know if you got a copy of that letter too. The property is serviced by municipal water from the City of Mechanicville and it's also serviced by the Saratoga County Sewer District (SCSD#1) so there are no issues on the utilities. There is an access easement over this parcel that is cross-hatched in yellow that allows the remaining property that DiSiena's owns to access the utilities and visa versa. Electric, storm sewer and gas both have a reciprocal easement between both parties as well as an ingress and egress easement being granted for the remainder of the parcel. Mr. Ouimet asked if anyone from the public wished to speak. Mr. Pete Bardunias, President of the Chamber of the Southern Saratoga County, stated the following: Halfmoon is one of the towns that we represent with the Chamber. I just wanted to say that I sit on the Halfmoon Business and Economic Development Committee and it's exciting because we've talked a lot about bringing small type of manufacturing businesses to the area and ones that could take advantage of some of these right-of-ways and areas there along the railroad where there is a lot of property that is zoned for commercial use. I think this is a great first step to have a business like this; family owned, small entrepreneurs and people that have been in the community for a long time. I think it's going to be great to have them here and from the Chambers perspective we certainly want to be of any support that we can in helping the Town of Halfmoon to take advantage of these types of business coming here to make the town stronger and to help improve the quality of life for everybody. So, I just wanted to say that we're pretty enthusiastic about this and also eager to see more positive things happen that we can do in conjunction with the Business and Economic Development Committee. Mr. Ouimet stated thank you very much. Mr. Ouimet asked if anyone else from the public wished to speak. No one responded. Mr. Ouimet closed the Public Hearing at 7:06pm.

Mr. Roberts made a motion to declare a Negative Declaration pursuant to SEQRA. Mr. Nadeau seconded. All-Aye. Motion carried.

Mr. Roberts made a motion to approve the two lot Minor Subdivision application for DiSiensa Associates, LPA. Mr. Nadeau seconded. All-Aye. Motion carried.

14.110 PH Papa Subdivision, 67 Guideboard Road – Minor Subdivision

Mr. Ouimet opened the Public Hearing at 7:07pm. Mr. Ouimet asked if anyone would like to have the notice read. No one responded. Mr. Eugene Kim from S.Y. Kim Surveyors stated the following: I'm representing the Papa's for a two lot subdivision. The last time we were before the Board about a month or so ago, this was a Minor Subdivision because of wetland issues and maybe a few other factors and they decided that they required a Major Subdivision. So, we're back here after a few comments from the Planning Department and CHA. Mr. Pat Mitchell from my company was here at the last meeting, but we're proposing two lots as shown on the map with septic and water and I think what's kind of the big issue as it stands right now is the driveways. The Papa's would like two separate driveways onto the two lots and I think the comment that we got was to allow a single curb cut. So, we approached it under the New York State Department of Transportation (NYSDOT) regulations for the highway driveway design standard that we would provide a detail on our map that had explained and we're hoping provide one access point onto Guideboard Road and still maintain a five foot separation between the lot

lines of the two lots. I'm not sure if we provided this map for everyone to see. Mr. Ouimet asked Mr. Harris if we received a copy of that map before tonight's meeting? Mr. Harris stated no, we did not. Mr. Kim stated the following: I have one copy here and I didn't know if you would like to take a look at it. Also, we had a few comments at the last second that we're sifting through. Mr. Ouimet stated well, this is a Public Hearing so; please explain to the public what you want to do. Mr. Kim stated the following: This is kind of the first and foremost issue of trying to get two separate driveways, but with one single access point onto Guideboard Road and I guess we'll open it up to any comments or anything that would come up. Mr. Ouimet asked if anyone from the public wished to speak. Mr. Robert Duclos stated the following: I'm obviously related to Robert Duclos Sr. and Janet Duclos who actually own one of the adjoining parcels that would really be most affected by the proposed subdivision. I had submitted some comments to the Board prior to the last meeting and I would like an opportunity to express verbally what we had indicated were some concerns that we had relative to what is proposed. First of all I want to thank the Board for postponing this Public Hearing so that both my father and I could attend. Secondly, the Papa's have been a very good friend of my family in selling the original property to them. So, our comments hopefully will not be construed by either the applicant or the Board as anything overly negative, but we would like to see this done in a thoughtful way and obviously in a legal way with regard to the subdivision. So, as a matter of clarity, I heard the applicant indicate that this has been changed from a Minor Subdivision to a Major Subdivision and I actually live in Syracuse so for clarity; is that a correct statement because I was not aware of that, but I would just like to confirm that that is in fact a change that has been made. Mr. Ouimet stated actually, it's not a Major Subdivision and it's a Minor Subdivision as it is four lots or less. Mr. Duclos stated the following: Right, I didn't expect it to be a Major Subdivision so, I was just curious when that statement was made. I would like to rattle through our comments for the Board's consideration. First of all, from a historical perspective I think you may know that the land was originally owned by the applicant and was subdivided into three parcels that currently exist today. There is a parcel that my parents own, which is 71 Guideboard Road and there is another parcel immediately to the west, which recently a new home was built on that within the last ten years and then the vacant parcel that you're considering today to subdivide is the one that is before you today. So, prior to the original subdivision of the property that was owned by applicant; it was one parcel and then that was subdivided into three parcels and now it's being subdivided again into two more flaglots. So; from a historical perspective just to understand that this property was already subdivided once and now it's being subdivided again into two flaglots. I will get into a few details, but our primary concern that we would like the Board to consider in the review of this application is whether this subdivision is really consistent with the character of the community and the other properties along Guideboard Road and I would suggest that it's not. I understand that within 2014 the Board has changed your zoning ordinance to allow multiple flaglots in a subdivision and on the Town's website you were previously only allowed to create one flaglot per subdivision and the Planning Director had informed me that that was changed in the early part of 2014. So, that's water over the dam, but I think creating multiple flaglots as part of a subdivision and then constructing multiple driveways along a 70 FT wide strip of land that accesses Guideboard Road is really a very poorly conceived way to create more lots at the rear of this property for a number of reasons. First of all, as you know, obviously the Papa's have done their due diligence, they've hired a land surveyor, they appear to have gone out and done a wetlands delineation of their property to identify where the wetlands are so, if you can imagine and I have some maps and aerial photos to distribute to you for your consideration. Of this 70 FT wide strip a significant portion of that right adjacent to where you leave Guideboard Road is wetlands and it's clearly delineated as wetlands by the folks that were out doing it and further if you follow those wetlands, the wetlands not only continue along the 70 FT wide strip, but they also connect down to New York State Department of Environmental Conservation (NYSDEC)

registered wetlands that are down along Oregon Road. I personally walked those wetlands from the Guideboard Road intersection all the way down to Oregon Road and it is hydraulically connected, it is wet and there are cattails that go all the way down through. So, the proposal or the applicant's proposed subdivision not only disturbs those wetlands, but I think it exacerbates the situation by proposing two driveways to be installed within a 70 FT wide strip of land, which is really not very wide when you're considering building two driveways. Now along with that; as we expressed in our comments, how will power get back there? So, are there going to be overhead utility lines run adjacent to these two driveways to get power back there or is the power going to be run underground. So, if you have visited my parents property or if you have looked at the area there, they have a very significant amount of privacy in their property right now to the extent that they don't even have curtains or drapes required in their backyard because it is all wooded. So, if you can imagine if his subdivision is proposed as it is; because of the wetlands there and if you look at the maps that have been presented to you, the driveways that are shown on the subdivision map run immediately adjacent to my parents fence line. So, if you can imagine that you're sitting in the evening on your patio or your back deck, you know there is going to be headlights coming down the driveway flashing either into their bedroom, their living room and things of that nature. So, we have a lot of concerns about the proximity that driveways would have to be installed, the disturbance of wetlands that there would potentially be to put those driveways in and then the additional disturbance that would be required in order to bring power back to those sites. Lastly, for anybody who is familiar with Guideboard Road and all the development in the area, people drive very very fast along Guideboard Road and there are inadequate sight distances from my parents driveway, there are extremely inadequate sight distances from the property that was recently built within the last ten years immediately to the west and it's a very dangerous area. Often times because the lots are so narrow, we have to back out of the driveways to get out of our property, which as you can imagine, it's one thing to drive out of your driveway, but to back out onto Guideboard Road when people are travelling typically about 55 mph just by the nature of that road and it's a very dangerous situation. I don't mean to ramble on, but I think you're getting the gist of our concern. So, what is it that we would like to see; first of all I think I would question whether or not this property should be divided into two parcels given all the things that I have brought up relative to wetlands, how power would get back there, the amount of fill that would be required and has anybody looked at this from a drainage standpoint, has anyone consulted with this as there is a drainage easement for either Saratoga County or the Town of Halfmoon and does that easement preclude putting any fill into that easement? I have a drainage easement in my backyard and I am precluded from putting any fill, building any structures or anything into that easement for that matter. So, I'm curious if that matter has been discussed with either the County or the Town or whoever the appropriate parties are. So, that's really it in a nutshell and again, I didn't mean to be overbearing or to ramble on. I am a professional engineer in the State of New York so; I trust and hope that you would consider my opinions from a professional capacity in addition to obviously a family member of a property who would potentially be impacted by this. So, we would like to see it done in a more thoughtful way and I would also question whether a subdivision of this property again is really appropriate. So, thank you for your time. Mr. Ouimet stated the following: Thank you. I would also like to just remind you that we have copies of your email, we have looked at them and they will be part of the record of this Public Hearing. **(For the record: see attached email from Robert Duclos).**

Richard Harris - Papa Subdivision

From: Robert Duclos <bduclos@cscos.com>
To: "rharris@townofhalfmoon.org" <rharris@townofhalfmoon.org>
Date: 9/8/2014 4:46 PM
Subject: Papa Subdivision

Good afternoon Richard,

I appreciate your assistance this afternoon in discussing the proposed Papa Subdivision on Guideboard Road. As I mentioned, I am representing the interests of my parents (Robert & Janet Duclos) who are the owners of the property on 71 Guideboard Road and would most principally be affected by the proposed subdivision. In its current form, my parents have a number of concerns regarding the proposed subdivision which are summarized below. I realize tonight's meeting is simply the initial presentation of the matter before the Planning Board and there will be an opportunity for concerned parties to provide input at a formal public hearing.

I understand from our discussion that there may be a public hearing scheduled for the next Planning Board meeting on September 22. As I mentioned, I will be on the west coast during that entire week and would respectfully request that the Planning Board give consideration to having the formal Public Hearing on this matter at its October meeting so that I could represent my parents interests. Their property would be most adversely affected by this subdivision.

As I mentioned in our discussion, the following are concerns related to the proposed subdivision:

- Based on the current Town of Halfmoon code that is published on the Town website, creating double flag lots is not in conformance the published zoning and subdivision laws. I understand from our discussion that there has been a recent modification of the laws, but I have not seen a copy of those modifications and they are not published on the Town's website.
- The proposed construction of 2 driveways along a 70 foot wide strip of land, which contains a significant amount of wetlands is a very ill-conceived concept. The driveways are proposed to be constructed immediately adjacent to my parents fence and essentially all of the vegetative buffer would have to be removed to construct the roads as presented. Being located immediately adjacent to my parents fence, the proposed driveways will eliminate any privacy that my parents currently enjoy at their residence.
- The road construction will involve disturbance of wetlands that will require permits from the Corps of Engineers and potentially the NYSDEC depending on further determination by those agencies. The wetlands along this 70 foot strip of land are hydraulically connected to the registered NYSDEC wetlands that exist along the Oregon Road area to the north.
- The town of Halfmoon has a drainage easement across the proposed 70 foot strip where the access drives are intended to be built. The Town should research what conditions are contained in this easement and provide clarification if this easement allows any fill in this drainage easement.
- The applicant should be required to demonstrate how they are going to address placing fill in an area that is currently reserved for drainage and is encumbered by wetlands.
- We would like to know how power will be brought back to these two lots. Will overhead power lines

also need to be routed along this 70 foot strip of land. Will the utility company install their power lines thru the wetland? It is our opinion that running overhead power lines to these lots would be a significant impact on my parents lot as well.

- This property was initially subdivided in its current form by the same applicant that is proposing this subdivision. The last subdivision created left this flag lot in its current form and it is now being subdivided further into two flag lots. While this may apparently be legal, it certainly violates the spirit and intent of the Town's zoning and subdivision regulations. The applicant owned a second lot to the west of my parents property which was sold and developed within the last 10 years. Prior to that sale, there was a much better opportunity to subdivide this parcel in a more appropriate fashion. Unfortunately, that parcel was sold by the applicant and a home was built there. Now the only remaining access to the rear parcel is the 70 foot wide strip of land encumbered by wetlands.
- Lastly, the site distances appear to be marginal for these lots and should be verified by a professional based on field observations. There is a curve in the road west of the proposed access drives and traffic is very busy in this area and people often travel well above the posted speed limit. My parents lot does not have adequate site distances and there have almost been several accidents over the years trying to access their driveway.

Thanks you for consideration of these issues. We will provide formal written comments on this subdivision when appropriate.

Thanks,
Bob Duclos

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Mr. Duclos stated the following: And what I would like to leave with you, if you don't mind, is I have brought you aerial photographs that basically show the cattails and the wetlands that are very evident to begin at Guideboard Road and then continue all the way down to Oregon Road. I think the NYSDEC really needs to be consulted when you have wetlands that are connected and are throughout to be continuous and often times the NYSDEC will take jurisdiction on both of those wetlands and if that is the case, I think you all know that that fits in the one hundred foot buffer criteria as part of building within the 100 FT of the NYSDEC wetlands and I'm not sure if the extent to which that matter has really been investigated. I think that the wetlands on the property that is being subdivided has been looked at, but I don't know if they have been followed along the other parcels that continue towards Oregon Road. Mr. Ouimet asked Mr. Kim if he would like to respond to any of the comments made so far. Mr. Kim stated the following: A lot of these we have deeply considered and they'll be part of this process. I would also like a record of Mr. Duclos' email and a record of what he's passing out also so, we can incorporate that into our process. I think I did misspeak about the Major and Minor Subdivision, but the difference was that CHA was coming onboard as a Town Designated Engineer (TDE) and we will be working with them as well as Halfmoon. Mr. Duclos stated one of them is blowup version and one of them is blown out version that will allow you to follow along Oregon Road and I highlighted the areas. Mr. Ouimet asked if anyone else from the public wished to speak. No one responded. Mr. Ouimet stated I think at this point that I'm not going to close the Public Hearing and I'm going to open it up to the Board if they have any questions or comments. Mr. Mike Papa, the applicant, stated the following: I am the owner of the property and I've owned it for 30 some years. We once had an approval for a five lot subdivision by the Halfmoon Planning Board and we didn't do the work because we didn't have the money at the time, but we had a full approval and it was just a matter of putting up a \$50,000 bond back then. So, we're not trying to make more out of the lot because we are reducing it. I just wanted that to be part of the record. Mr. Higgins stated we don't have the latest proposal drawing and is the latest proposal for one driveway? Mr. Kim stated our latest proposal has two separate driveways, but it is a single access point onto Guideboard Road. Mr. Ouimet asked how is that different from your last proposal other than the separation of the driveways? Mr. Kim stated we put five feet separation from the lot line onto the driveway. Mr. Ouimet stated so, it has not changed as it is still separate driveways, only it's wider in between, correct? Mr. Kim stated it is two separate and it is wider in between and we're meeting the standards for the NYSDOT highway design for driveways. Mr. Ouimet stated that's not in response to the County's comment that it lacked five feet of separation between driveways? Mr. Kim stated we have it now; the separation. Mr. Ouimet stated alright, but it's not in response to their comment and it was in response to your review of the NYSDOT regulations, correct? Mr. Kim stated we incorporated both. Mr. Ouimet stated it's my understanding that CHA also had a comment about driveways and asked that it be consolidated into one driveway. Mr. Kim stated we're just trying to compromise with the single point access. Mr. Ouimet asked have you been working directly with the CHA, the Town Engineer, on this project? Mr. Kim stated the following: We just started to receive emails and there were a few in the last week or so. So, we're starting that coordination process. Mr. Ouimet stated the following: Okay, I thought that would be pretty much handled between you and CHA from the time we had your initial presentation five weeks ago and today, but obviously that hasn't happened. So, that's why I don't want to close the Public Hearing because I think there is a lot more information that the public is going to need to know about this project before we go too much further. Mr. Kim stated okay. Mr. Berkowitz stated the proposed septic system on Lot 'B'; is that within the guidelines for distance from the wetlands and the other boundary? Mr. Kim stated yes, we have given the offsets and it's over 170 FT separation from the lot line. Mr. Berkowitz stated that's 170 FT because that's impossible? Mr. Kim stated oh, did you mean from the middle of the lot line? Mr. Berkowitz stated yes. Mrs. Sautter stated from the side line. Mr. Kim stated yes, that we have

12 FT. Mr. Berkowitz asked how much do you need according to the regulations? Mr. Kim stated from my understanding I thought our separation was from septic system to septic system. Mr. Berkowitz stated I don't know and you're the engineer and that's why I'm asking you. Mr. Kim stated to my knowledge that's what we were shooting for, which is to maintain a 100 FT separation. Mr. Berkowitz asked how about from the wetlands? Mr. Kim stated it's definitely not encroaching on the wetlands and I didn't know of any separation between septic and wetlands. Mr. Berkowitz stated I would think that there has to be some sort of setback because you can have a septic within a wetland. Mr. Kim stated it's not within the wetlands. Mr. Berkowitz stated well, within a certain number of feet. Mr. Kim stated I don't believe there is. Mr. Berkowitz stated also, personally, I don't like the two driveway situation. Mr. Nadeau stated I have a question on the five lot subdivision; that was never filed and is that the idea that that was never concluded? Mr. Kim stated that was a while ago and kind of before my time, but I know it was approved. Mr. Nadeau stated so, if it was approved erosion, how come we're not showing it on this map that it is a five lot subdivision? Mr. Papa stated the following: It was approved at the meeting contingent on me posting a \$50,000 bond at that time, which I didn't do. So, we let it go so and officially it's not approved. Mr. Nadeau stated right that was my question. Mr. Higgins stated with the two driveways; you are going to have two wetland disturbances; one for each driveway, correct? Mr. Kim stated the following: Yes, on one side it would be 1,300 SF and on the other side it would be 1,100 SF and it would be all within regulations. We can have that confirmed, but that's how we have it proposed at this point. Mr. Higgins stated also, do you realize that there are two drainage easements there; one for the County and one for the Town? Mr. Kim stated yes, we were asked about that before and we will probably have to get more information about that before I can answer that. Mr. Higgins stated the following: Okay. Are all the adjoining properties all on Town water and none of them are on private wells? Mr. Kim stated we are proposing public water. Mr. Higgins stated I understand that and that's why I'm asking about the adjoining properties and do any of the adjoining properties have private wells? Mr. Kim stated I believe they're on public water, but I haven't found that information for all of the adjoining properties yet. Mr. Ouimet stated I think these are all things that you're going to have to be prepared to answer at some point in time, but obviously you are not able to do it tonight. Mrs. Sautter stated the following: I just wanted to thank Mr. Duclos for doing such a great job in bringing in the pictures with the wetlands because that was very informative. I know that Mr. Higgins just brought up the easement because Mr. Duclos had brought that up a few weeks ago. The easement across the driveway is to the Town, but unclear of its purpose so; can you indicate on your map because we don't have that map. Again, can you indicate where that easement is because it's not shown anywhere? Mr. Kim stated it starts at the Duclos lot and it goes through the property. Mr. Sautter asked so; does it go east to west? Mr. Kim stated it's sort of follows along the opening here. Mr. Sautter stated the following: I guess it's just not on the map and asked if she could see Mr. Kim's map and stated because you both talked about it, but I can't find it. On the map that we have it's not anywhere close and it's just not on here. Is this where you think it is here and then where does it go to, does it just deadends? Mr. Kim explained to the Board where the easement goes to. Mrs. Sautter stated I would think that it would go a little further. Mr. Roberts stated just so we're clear here; what information is Mr. Bianchino waiting on from this gentleman? Mr. Bianchino stated well, we sent a couple of comments to the Planning Department regarding everything that I think the Board and the public has raised and we're just waiting on responses back and more detailed information. Mr. Roberts asked Mr. Bianchino if he had received any of that information back yet? Mr. Bianchino stated no, we haven't gotten anything. Mr. Roberts stated so; you understand what you have to get back to Mr. Bianchino, right? Mr. Kim stated yes. Mr. Ouimet stated can you make sure that the applicant gets copies of Mr. Duclos' email as well as the handouts that were provided to the Board. Mr. Harris stated sure and there was a letter from CHA, a County DPW letter and a County Planning letter that I

think was forwarded by Mr. Marlow, but we'll get the Duclos' email forward to him too. Mr. Ouimet stated also, the comments from Emergency Services that you received to date as I don't know if Mr. Kim has seen them. Mr. Kim stated yes, I'm looking at the email right now and it just says it needs driveway details and a sign off on the Emergency Services. Mr. Ouimet stated okay, but you do have it as I just want to make sure that you get everything that you need. Mr. Kim stated yes, just from an email I have seven comments and are there more there? Mr. Harris stated yes. Mr. Ouimet stated the following: I think what we're going to do is we're going to adjourn the Public Hearing until our meeting on November 10, 2014 and that will give you four weeks in which to confer with CHA and the Planning Department and get answers to all the questions that were raised by the public and by the members of the Board. On November 10, 2014 we will reconvene the Public Hearing for the Papa Subdivision and let the public benefit in hearing the responses to all the issues that were raised and how the applicant plans to address them.

This item was tabled. A Public Hearing was held for the Papa Subdivision and the hearing was adjourned until the November 10, 2014 Planning Board meeting, pending submittal of a revised plan and response from the applicant on outstanding issues raised by the Town Engineer/CHA and other local agencies.

Public Informational Meeting:

14.089 PIM Halfmoon Healthcare Campus PDD, Route 146 – Amendment to PDD

Mr. Ouimet opened the Public Informational Meeting at 7:33pm. Mr. Ouimet asked if anyone would like to have the notice read. No one responded. Mr. Kevin Dailey, Esq. stated the following: I'm an attorney from Rexford and I'm here representing the Halfmoon Healthcare Campus. We are seeking a new application for a Planned Development District (PDD) approval from the Town Board and as you know, we must go to the Planning Board for a recommendation and we have now been before this Board for the last several weeks. Counting heads here tonight, I think that everybody at the dais, maybe with the exception of Mrs. Sautter, was here when with this PDD was originally approved in August of 2008. At that time the Town Board placed some restrictions on the how the PDD should proceed and we were expecting to have a hospital builtout here first. Some of you may recall that in May of 2011 in the lobby there was a press conference and the hospital announced that they were here to occupy this campus and they never came. Shortly thereafter, there was a merger and of course, the bottom fell out of the economy the following month so; a lot of things were put on hold and some things just never happened. Subsequent to that time, we came back seeking an approval for an Alzheimer Memory Care Facility and we were advised by the Town to seek the route of a new PDD for a portion the existing PDD and I know you've seen this repeatedly over the years. We came in and received a new PDD for 25-acres of the total of 81-acres and that PDD in terms of the first steps, we came back to this Board for a site plan approval and a subdivision, which you graciously granted last year and we're now expecting that project to basically break ground in the Spring of 2015. However, there is the remaining portion of the parcel that we're concerned about and I'll just note the map that in 2008 we had approvals for 467,200 SF of total space and the uses that were allowed at that time were for a hospital use, for a bio-medical research facility and we were looking into the Nano area and we still believe that there is some possibilities there and for doctor offices. The Town Board was insistent, and rightfully so, that 225,000 SF be set aside for a medical hospital type use and are consistent in that view today. So, the first map was what was approved in August of 2008. Moving forward to October of 2014; we have site plan approval for one lot, which is located there, and that is for the Memory Care Alzheimer Facility that we hope to break ground with. When I was here the last time, Mrs. Sautter asked me to set aside a portion of the map that would show where 225,000 SF of hospital type use space would go and we've

designated that in this general area and that would allow for medical space for that size. We had previously shown a parking garage there and we've now learned that parking garages in the suburbs are probably not doable given the expense, but we're showing that with one deck and that would be one level up for parking and we want to make sure that the doctors can park their BMW's underneath a sheltered area so, we don't want them to get any snow on them when they come to visit their patients. The rest of the area and after discussions with the Town Board, we've left it open. One of the discussions we've had was with Mr. Bianchino and Mr. Harris in the past and we know that there is a limit on the amount of square feet that can built at this location and that will be driven somewhat by the type of facilities that will be built there. If it's more Alzheimer type facilities, you will need less parking spaces because the patients don't drive. If on the other hand it is more medical and doctors' offices with a lot of people coming and going, that requires more parking spaces and hence less square footage. We've had numerous discussions with the Town Board and I've had discussions with the Town Attorney about how we would monitor this in the future and the PDD legislation that we've drafted, in which I believe the Town Attorney and the Town Board have seen, have put information into the PDD that allows us to look at this as we go forward into the future. This is a project that could take five or even ten years to develop out and I think the PDD is probably the best and the most appropriate planning tool, not only for this Board, but for the Town to basically be able to look at this and plan it to the best possible degree as we go forward. One of the things that we're also asking for is some additional uses. We were restricted to hospital type uses, bio-medical research uses and doctors' offices, but in the underlying zoning, which is R-1 Residential and by special permit there are certain allowed uses such as nursing and convalescent homes, proprietary adult care homes and hospitals are allowed medical facilities and we've added these uses, which are otherwise allowed in this area by special permit to the PDD. The PDD basically is stating a square footage, but as I stated earlier, that amount could actually go up or down depending upon what the final configurations of the buildings would be and the type of uses and activities that would go on there. I think that's it and hopefully I've been succinct and I know you've looked at this repeatedly and for that I apologize. Mr. Ouimet asked if anyone from the public wished to speak. Mr. Charles Trojan, 23B Pointe West Drive, stated the following: Mr. Boni's property, which is what you're discussing here, is directly in sight from my back windows and my back deck. Personally, I'd like to see nothing built back there. I specifically bought my plot and had a townhome build there because it was very very rustic and that was just four years ago. With that said, my biggest concern is that you protect the people that live there right now. If, indeed, things are going to get built back there, that the builder leaves a substantial wooded buffer to keep the rustic flavor of where we live and where we spent our money. Also, I'd hate to see something six stories high because I think that would just be deplorable as this is not Troy or Albany. I would love to see the height of the buildings limited so; we don't have to look at it. Mr. Dailey stated the following: In 2008 we did a balloon study and we actually put balloons up and looked at the wooded areas and there will be wooded areas retained around the edge. I'm not certain where Mr. Trojan lives, but I don't think that he would actually be able to see anything in the interior where we're intending on building. We went up as five stories and the balloons in only one direction from Route 146 were visible and they weren't visible from any other direction and we still have all that information available. Mr. Ouimet asked at this point Mr. Dailey are you considering building a five or six story building? Mr. Dailey stated no, the buildings could go as high as five and they could not go as high as six because of limitations with the fire apparatus. Mr. Ouimet stated but that's not being proposed at this point in time, is it? Mr. Dailey stated no. Mr. Rob Brash stated the following: I live in the same townhouse cluster as Mr. Trojan and my concern is this; we've watched that property for a couple of years as it was being cleared and looking to see what has been done there. So, I would have some concern as to whether or not the owner of the property has any real sensitivity toward buffering the large

townhouse development because that property was completely clear-cut. Also, you talk about wooded areas and things being shielded with trees and so forth; so, where are those trees going to come from and can you tell me why everything has been clear-cut? Mr. Dailey stated the following: The two gentlemen that have just spoken; I believe I know where they live now and the piece of property that they're looking at is owned by Dr. Jerry Bilinski and that's not our property as we haven't done any clearing on our property whatsoever. We're the next piece of property over so; if you see a sign that says "Waldorf Farm", that's Dr. Jerry Bilinski's who is a native of the Town of Halfmoon and he actually owns a real farm called "Waldorf Farm" and he's a very nice guy. So, if you have some questions, you should contact him because I think he can explain himself, but that is not our property and we're the next piece of property going west. Ms. Claire Karlicek stated the following: I live on Fort Hill Drive and I just wanted to know if there is any traffic study impact that's going to be done and what's going to happen with Route 146 because it's getting quite busy. Mr. Dailey gave Ms. Karlicek a copy of the most recent letter and stated the following: There was a traffic study done and by the way, those kinds of things are required when you're going for a PDD of this size. It makes certain recommendations at certain levels of development of the area and as you might expect; there's not only activity that would have to take place at this location, but there's background growth in the Town of Halfmoon that affects various intersections as you start to go out away from this area. My good friend, Mr. John Higgins who is on the Town's Planning Board is always very very interested in traffic concerns. When we looked at the Alzheimer facility, we had to do an update of our traffic analysis because we were actually saying at that point that we're actually lowering the amount of traffic with fewer trips and less impact and Mr. Higgins wanted to make sure that what I was telling him was true. So, we did a brief report and submitted that to the Planning Board. Likewise, going forward in looking at how valid that 2008 traffic study was given the fact that there has been growth in the Town since that time; we did an update and we got a letter from our traffic engineers dated August 25, 2014 analyzing what has gone on in the Town and what the impacts will be and at this point for at least phases, we won't have to do anything, but sometime in the future at full buildout and given the fact that that could be ten years from now and there's going to be additional background growth in the Town that could trigger some traffic improvements either out in front or elsewhere in the Town. So, we're aware of that, but as we proceed with this and come back for individual buildings as we go forward, each of these will require a separate site plan approval from this Board and we also need to go back and see the Town Board relative to community benefits. So, there are some checks and balances in terms of the planning process so, at some point this Board may say to us "okay, you've reached a certain threshold level in terms of traffic and now you have to do that improvement whether it be a turn lane or a signal or whatever might be appropriate at that point". So, your Town government has been on top of that. Mr. Ouimet closed the Public Hearing at 7:48pm. Mr. Higgins stated previously we've discussed a second access, which you made a commitment to this Board to provide the second access by a certain point in time in the future. Mr. Dailey stated that is correct. Mr. Higgins stated the following: However, I still feel that if there's a second building going up on this site, the second access needs to be in and dedicated to the Town prior to your Certificate of Occupancy (C.O.) for the second building. I've said that before and I'll say it again. Mr. Dailey stated I don't think we would necessarily be adverse to that because that's good planning. Mr. Higgins stated the following: Again, I want to be consistent and looking at this map again, you have a lot of wetlands to deal with trying to get that second access out. So, it's not going to be something that's going to be easy. Mr. Dailey stated the following: I'll tell you of a meeting that we've had with Ms. Christine Deslauriers from the Army Corp. of Engineers (ACOE). We showed her our map and there are a lot of areas that are like fingers of wetlands that come into our property and it really makes it difficult to try to do the planning to fit a building in between two fingers of wetlands, which you can do, but at some time in the future you know that with a

parking lot and a building there those fingers of wetlands are going to start becoming degraded. So, we said "look, we have enough room here and we would like to perhaps fill some of those fingers and create wetlands on-site as mitigation on-site over the minimum that you usually see which is under .5-acres, which you can do under the Nationwide Permit System". We were a little bit surprised that she responded favorably and she said "well, you have to do an individual permit, which is a little bit more complicated, but that we would entertain that and keep it all on site and show us how we actually end up with wetlands that are better than what we've got and we'll work with you on that". So, that was actually a very pleasant result at least from our perspective and it shows that occasionally they ACOE will work with you. Mr. Higgins stated well, that's good news and again, when that happens somewhere down the road, as I said, we'd like to see that second access before that second building is dedicated. Mr. Dailey stated I don't think that's unreasonable. Mr. Nadeau stated the following: One of my previous concerns that I had before was that in the PDD itself, although I liked the concept, I'm concerned with what's to come and I don't know if we've done PDD's where we really don't know what's going to be in the PDD in designing the PDD and I really have a problem with that. Do you understand what I'm saying? Mr. Ouimet stated yes. Mr. Nadeau stated we're designing a PDD, but we don't know what's going to be in it. Mrs. Murphy stated the following: The uses are limited by the language proposed in the PDD somewhat because you just can't go put in a circus. So, there are the limitations as to the use, but you are correct as you have not previously done a PDD where you are not aware of the public benefit until the new proposals come in. Mr. Nadeau stated also, my concern is; call it the first phase should this get done and then it creates a hardship then we'll be forced to finish this PDD on something that we normally probably wouldn't do and that's also a concern. Mrs. Murphy stated I don't know that I'd necessarily understand that statement. Mr. Nadeau stated well, if this first phase was builtout and then for whatever reason they ran into a hardship and then it's not going to be what we felt was going to be there, if you can understand that. Mrs. Murphy stated I do understand what you're saying, but both Boards' would then have the authority to just not go forward. Mr. Dailey stated the following: In terms of the first phase; which is the first lot, out of the purchase price that we're receiving, we're actually putting about half the money back into the project and we're actually building the initial road in down to a turnaround, we're putting in a very expensive sewer pump station, which basically can pretty much take all the sewage from the entire area and if that was the only thing that was ever done, you've then got to complete building and all the infrastructure necessary for it and that's what the site plan requires. I can tell you that with the improving economy and the fact that we'll have a building on the corner and a road going into the site, we believe that that is a wise investment that will actually open up the rest of it for us. Mr. Nadeau stated I understand that Mr. Dailey, but knowing the history of this site, we've had numerous changes to it and I guess that's the reason why I'm concerned. Mr. Dailey stated oh, tell me about it because I've lived through it. Mr. Nadeau asked do you agree? Mr. Dailey stated sure, we agree. Mr. Roberts stated the following: As you stated when you first began, we've been looking at this since 2008. Maybe you can't answer this, but do you have any idea when we're going to start seeing something out there? Mr. Dailey stated as I understand it, they should be ready to break ground, depending on what the Town will let them do out there in terms of site; they would like to get on the site this winter to do some clearing and do some of the basic infrastructure work and steel to go up next Spring for the initial building. Mr. Roberts stated so; I may actually see something before I die, hah? Mr. Dailey stated yes and that's if I outlive you, but I'm not certain about that. Mr. Ouimet stated we've been down this road before. Mrs. Sautter stated the following: I was not here in 2008 so; by annexing this property into it and I'm sorry, but you may have answered this a few weeks ago, are you going to going back to the State Historic Preservation Office (SHPO) and doing that? I know you have to have a new delineation. Mr. Dailey stated the following: Actually your Planning Department is all over this in terms of what we have to do next. Our

wetland delineation has expired and Ms. Deslauriers from the ACOE basically commented on that and told Mr. Harris that they have to do a new wetland delineation. We will be doing that and we're waiting for the proposal to come in and we'll get that work done. In terms of dealing with SHPO; wetland delineations have a shelf life and they're good for five years. Fortunately for us, archeological sites where you have things that are buried like arrowheads, they're not going to move and they stay in the same place if they were there. We could go ahead and do a complete new archeological study, but there are five sites. There's the Carver site that's out in front, which is an old house that was probably raised in the 1950's and there are four other sites as it is pretty big parcel with 81-acres. Mrs. Sautter stated we just didn't know if the entire parcel had been done. Mr. Dailey stated the following: Oh yes, that had all been done previously and I dropped a copy of the map off to Mr. Harris showing each archeological site. I also talked to SHPO probably in the middle of last week and they said "we already have all of this stuff and you've done Phase I and Phase II studies, we have it and we have an application number and a file number". So, they do not believe that we'll have to go and do completely new studies to find the same archeological sites that we already found. So, that's good for us. Mrs. Sautter stated the following: Okay, I just wanted to clarify that it was done on the entire parcel because it was annexed. I also remember that you had an avoidance plan for this specific building, correct? Mr. Dailey stated right, we do, but we just worry that they'll find a new endangered species out there or something like that, but that's the risk of doing these projects. Mr. Ouimet stated just so I'm clear; the only building that's being proposed to actually become reality right now is Crestmoore, correct? Mr. Dailey stated that is correct. Mr. Ouimet stated and all the other ones are just proposals and concepts, correct? Mr. Dailey stated just proposals with the proviso that we must always reserve 225,000 SF for medical facilities, which could be a floor of an urgent care or an OBGYN or neonatal. Mr. Ouimet stated well, it's whatever the Town Board determines is appropriate. Mr. Dailey stated the following: Right, whatever the Town Board feels is appropriate, but that is an agreement that Mr. Ouimet, Mr. Polak and I had. Mr. Polak was very adamant about that and that that be reserved feeling that that was something that was important for the Town. Mr. Ouimet stated but that's not a determination to be made by this Board and it's the Town Board, correct? Mr. Dailey stated no, correct? Mr. Ouimet stated so, at this point in time I think we're at the point where we can entertain a motion to make a recommendation to the Town Board.

Mr. Roberts made a motion to refer the application back to the Town Board with a Positive Recommendation to add approximately 55.8-acres and additional medical-related uses to the PDD. Mr. Berkowitz seconded. All-Aye. Motion carried.

New Business:

14.126 NB Paar Estates of Halfmoon PDD, 33 Farm to Market Road – Planned Development District Recommendation

Mr. Roberts recused himself from this item. Mr. Jeff Williams from Bruce Tanski Construction & Development stated the following: I'm here tonight with Mr. Bruce Tanski who is the applicant and the principal behind our new project for a Planned Development District (PDD) and it's called Paar Estates of Halfmoon PDD. The site is located at 33 Farm to Market Road and some of the locals may recognize it as the Leggett Farm. The site itself is east of the Pruyn Hill and Farm to Market Road intersection and west and closer to the Farm to Market Road and Route 146 intersection. The site consists of 80.96-acres and the site is all situated on the northern side of Farm to Market Road. The site is currently zone Agricultural/Residential (A-R) and the A-R zone in the Town Code permits single-family residents and also allows two-family duplex structures through the Town's Special Use Permit process. The property is relative flat with moderate to well-drained soils and there are some associated Federal and State wetlands and some steep

slopes and we're doing our best to avoid those sensitive areas. We are also showing three wetland crossings to place our road network. The Paar Estates of Halfmoon PDD consists of 74 twin townhome or two-unit townhome buildings. The 74 twin townhome buildings will have a total of 148-units. Along with the twin townhomes, a 9-hole executive golf course is being proposed to be constructed and intertwined amongst the proposed residential development. This concept is all modeled after the very successful and attractive Fairway Estates PDD that was built in the northern part of Town in the early 2000's. These twin townhomes will all be owner occupied and each individual unit will be placed on its own deeded property to own and maintain. The townhome unit itself consists of 1,700 SF with an attached two car garage, a full basement with 3 bedrooms and 2-1/2 bathrooms. The proposed density was calculated by taking the total acreage of 80.96-acres and we subtracted 11.21-acres of wetlands, we then subtracted 14.47-acres of steep slopes, we then subtracted 8.90-acres for infrastructure and that gave us 46.38 net or buildable acres. We take the 46.38 buildable acres and divide that by the number of proposed unit of 148 and that gives us a density of 3.19-units per acre. Per Town Code the A/R zone allows single family developments at a maximum density of 2-units per acre and the Town Code says multi-family PDD's are allowed a maximum of 10-units per buildable acre. So, as you can see, we are close to the allowed density in the A/R zone and well below the maximum density allowed for multi-family PDD's. Again, we are proposing 3.19-units per acre while providing 84.1% open greenspace for the total project. The infrastructure that we're proposing is a road system that will have two access points off of Farm to Market Road, which is a County Road and the roads are proposed to be dedicated to the Town. Water will be provided by extending a 12-inch water main from the Pruyn Hill/Farm to Market Road intersection in an easterly direction and this is the same water line that has already been proposed and engineered for two Light Industrial/Commercial PDD's that are located off of Route 146. Sanitary sewer will be provided by connecting to the Saratoga County Sewer District's (SCSD#1) large gravity trunk line that runs along Route 146 and this will be done via an easement through the remaining lands of Leggett to the south and across from Farm to Market Road. Stormwater will be managed on-site following the New York State Department of Environmental Conservation (NYSDEC) and Town's stormwater guidelines. As we move forward, a site specific Stormwater Pollution Prevention Plan (SWPPP) will be prepared. We are proposing a Public Benefit via a letter to the Town Board and it's to offer the engineering and the construction of approximately 1,650 linear feet of a 12-inch water line in the westerly direction of Tabor Road from the Tabor/Cary/Johnson Road intersection. According to the Town's Director of Water this will assist the Town in moving the Town's water source closer to the Saratoga County's Water Authority system. Also, as a side note; the waterline will alleviate an ongoing problem with water quality and quantity issues for those living on Tabor Road. It is our belief that the proposed Paar Estates of Halfmoon PDD will be found consistent with the Town's Zoning Ordinance and its objectives listed in the Planned Development Districts and also be found consistent with the Town's North Halfmoon Generic Environmental Impact Statement Study (GEIS). In closing, we believe the proposed project will provide its residents a unique living style that provides the owner occupant a more efficient living and property space to own and maintain while offering the added benefit of having a large expanse of open area and recreational golf in their own backyard. That's my proposal tonight and I would be happy to field any questions that you may have and we're hoping that the Planning Board would consider referring this project to the Town Engineers for technical review as we move forward through this phase, which is for a recommendation of a creation of a PDD. Mr. Ouimet asked is this a maintenance free project? Mr. Williams stated well, the golf course itself will have to be maintained, but there is no Homeowner's Association (HOA). Mr. Ouimet asked will the homes be sold as maintenance free or will the individual owners have to maintain their own homes? Mr. Williams stated it is proposed that the individual owners will take care of their own property. Mr. Ouimet asked will the roads be dedicated to the Town as Town roads? Mr. Williams stated yes.

Mr. Ouimet stated can we talk about the 9-hole executive golf course and asked who is going to own that? Mr. Williams stated Mr. Tanski's company would own, maintain and run that and it's to be used by the people in the development. Mr. Ouimet stated so, will they have deeded access to the course or how do you do that? Mr. Bruce Tanski, the applicant, stated the following: I will own the course and they will not have deeded access and they'll just have the right to use it and we will offer a lawn and snow removal program for the people if they want them and we currently have about 50 people at the Fairway Estates that take advantage of that situation. So, we would plow their driveways and take care of their lawns. Mr. Ouimet stated okay so, Fairway Estates also has a 9-hole executive course, correct? Mr. Tanski stated correct. Mr. Ouimet stated if I remember correctly, I heard something and this was before that was approved and it was a project that was done before I was on the Planning Board, but I heard that there were some issues with that golf course that people weren't using it and they were going to be denied access or there was some kind of controversy over that executive 9-hole course and is that pending? Mr. Tanski stated no, that got worked out. Mr. Ouimet stated but it's going to be run pretty much the same way as the existing 9-hole executive course, correct? Mr. Tanski stated correct and it's been very successful and it has worked real well. Mr. Ouimet asked will there be a clubhouse? Mr. Tanski stated there will be no clubhouse. Mr. Ouimet asked would there be no access by the community? Mr. Tanski stated no access by the community. Mr. Ouimet asked is that by design? Mr. Tanski stated yes. Mr. Ouimet stated Mr. Williams mentioned a Public Benefit being the extension of the water line on Tabor Road and when would that be done? Mr. Tanski stated the following: Yes. As soon as the legislation is approved by the Town Board, I will instruct my engineer to start the engineering and we could probably start construction some time depending on when this is approved or if it's approved and hopefully mid-summer. So, as soon as the legislation is approved, I will spend the money to have Mr. Scott Lansing go ahead and design it. Mr. Berkowitz asked is there a maintenance facility for the golf course? Mr. Tanski stated no, everything will come over from the existing golf course. Mr. Berkowitz asked how about irrigation? Mr. Tanski stated yes, we will put irrigation in. Mr. Nadeau asked in a Conventional Subdivision, how many homes can be done there? Mr. Williams stated I'll do a quick guess and with the 46.38 buildable acres; I think it would be around 92 single-families and we already subtracted the wetlands, the steep slopes and the infrastructure out of that equation. Mr. Ouimet stated Mr. Williams I think you should be prepared to refine your rough guess for the Public Informational Meeting. Mr. Williams stated certainly, I can do that. Mr. Nadeau started regarding the traffic for this area; what area do you feel that they are going to use the most? Mr. Tanski stated I think basically that they're going down toward Mr. C's and make a right hand turn and go toward the Northway or they could go up to the intersection, take a left and come out by Vosburgh Road. Mr. Higgins stated Mr. Williams said "owner occupied" so, does that mean that there are going to be restrictions for no rentals? Mr. Tanski stated my intent is to sell these and if somebody buys it and decides to rent it, that's out of my prevue. Mr. Higgins stated but the intention is to sell to each individual homeowner. Mr. Tanski stated the following: Correct, the intention is to sell and I can't control what somebody does. If somebody decides to buy one and rent it to his daughter or his son, I can't say that that's never going happen, but at Fairway Estates there might be two rentals out of 150-units and usually I think it's a relative that has done it. Mr. Higgins stated but you're not anticipating somebody buying half of the project and just making it straight rentals? Mr. Tanski stated the following: I think that Mrs. Jean Malonie and Mr. Frank Tironi, Sr., who are both present tonight, can attest to this; when we first started Fairway Estates, we had somebody from Boston who came and wanted to buy five units to rent them and we said no. So, my intent is not to rent them and I would even put that in writing as I have no problem with that. Mr. Berkowitz asked what school district is this in? Mr. Tanski stated Mechanicville. Mr. Nadeau stated the following: I assume that Mr. Bianchino will do traffic engineering on this and on the previous project that we did on Farm to Market, I'm sure there will

be numerous people going to Route 9 and with the two new subdivisions and another one being proposed on Farm to Market, we were never able to get Smith Road corrected the way we felt we wanted it to. I know years ago that they had a lot of issues with Pruyn Hill and they finally issued a 4-way stop. So, when you look at that, could you look at Smith Road to see if possibly they could do a 4-way stop there? Also, we need to look at the red light on Route 9 because again, a lot of this traffic will be going that way. Route 9 in the morning going from Farm to Market is very difficult to make a left turn going south on Route 9 so, that needs to be looked at. Mr. Higgins asked also, is this in the GEIS area? Mr. Williams stated yes it is. Mr. Higgins stated the following: So you're aware of the GEIS fees obviously associated with it plus 20% quality greenspace along Farm to Market Road. So, we just would need to show that that is. Mr. Williams stated I believe we meet that quality greenspace with the 20% as we have 86% greenspace and I think it does take some of the Farm to Market Road frontage and it's contiguous. Mr. Higgins stated yes, well we would like to just see that obviously. Mr. Williams stated yes, okay. Mr. Nadeau stated the property to north maybe as I don't see a direction, what properties border your site? Mr. Williams stated to the north it's mainly wooded and I believe the Board saw Schuyler Hollow on this road at one time and to the west it's basically farm fields, there are some residential dwellings and to the east it's more farm field and I believe the Pino PDD touches this top part here. Mr. Nadeau stated so, that's Abele's. Mr. Williams stated yes, Abele's piece is right here and then across here there are some residences along here and there some farm and there is also a mixed commercial over in the triangle. Mr. Nadeau stated okay, thank you. Mrs. Sautter stated our maps indicate the wetlands and are they New York State or are they Federal? Mr. Williams stated the following: I believe they're a mix of Federal and State. We had an expert wetland specialist go out and kind of identify them for us and we haven't done a jurisdictional determination on them yet, but we will do that at some point, but it was to just give us a feel of where we can place our buildings and stuff like that. On your colored map the wetlands are kind of shown as a real pale green. Mrs. Sautter stated so, do we know if we have a 100 FT buffer around them or we're not sure yet? Mr. Williams stated I think we're dealing with more Federal wetlands than State wetlands and the State wetlands ask for the 100 FT buffer.

This item was tabled and referred to the Town Engineer/CHA for their technical review.

14.127 NB Tiger Kings Realty (Dudick Chiropractic), 377 Route 146 – Site Plan
Mr. Joel Peller stated the following: I'm an attorney here in Halfmoon with Block, Colucci, Spellman & Peller and I'm representing the applicant, Dudick Chiropractic. This is an application for a modification of a site plan. As you recall, the project was before you back in 2005. Back when the applicant had purchased the property and at that time Old Werner Road was open to Route 146 and there was not a closure with a guiderail. So, we are here because Dr. Dudick has experienced difficulty with his patients coming to his office because they can't seem to find the turnoff to get into the office. Also, Dr. Dudick has had a lot of difficulty with deliveries where the delivery trucks are stopping on Route 146, climbing over the guiderail and then bringing the delivery to his office. So, we come before you because we would like to obtain a curb cut for a new driveway on the western side of the building and its proposed that it would be 16 FT and it would be an entrance only. Dr. Dudick would continue to keep his parking lot as is, which currently has a two-way entrance and exit onto Old Werner Road. We have talked to Mr. Bianchino from CHA and the Town Supervisor and we asked for some options with one of the options being could we reopen Old Werner Road, which is not an option due to the sight distance and also could we remove the guiderail and that's not an option. So, what was recommended to us was to come before the Planning Board to modify the site plan to allow a curb cut on the western side. The applicant has spoken to his neighbor and there is no objection. We do understand that a New York State Department of Transportation (NYSDOT) approval is necessary

and the applicant has spoken to Mr. Kevin Novak at the NYSDOT and has been advised that if it passes this Board, you will be kind enough to forward it onto them for their review. So, that's the basic outline and I'd be more than happy to answer any questions. Mr. Ouimet stated so; the proposed driveway is between the two existing houses, correct? Mr. Peller stated the following: That's correct and it's my understanding that years ago there was a shared driveway between the two residences when they were owned by relatives. So, that was a way back when kind of situation. The other thing too is; there's a bus stop at that site right now so, a Shenendehowa bus is stopping and picking up kids who live across the street on Fellows Road. So, as far as the practicality of stopping on Route 146 in that area, the school district is doing it currently. Mr. Ouimet asked are you referring to the Fellows Road part that is closed off? Mr. Peller stated correct and those folks would be a neighbor across Route 146. Mr. Nadeau stated I think in our approval of this site; originally I think it was stated that there would be no access on Route 146 and that it would only be accessed from the current driveway. Mr. Peller stated I think too that at the time, it was because Old Werner Road was open and it wasn't necessary at that time. Mr. Nadeau stated well, we knew all along that both sides were going to be closed, which I think we may have stated that. Mr. Higgins stated I agree with Mr. Nadeau because at that time the applicant was aware of the fact that the road was going to be closed. Mr. Peller stated I guess my thought would be that irrespective of that; the difficulty that he has had with his patients trying to find access to the building now at this point warranted us to come back to see if there was something that we could do. Mr. Ouimet asked is there a current driveway for the neighboring property? Mr. Peller stated my understanding and my belief is that it would be to the west of that property so; it would be down Route 146 more and it's on the other side. Mr. Ouimet stated so, there is. Mr. Peller stated yes, on the other side just for that home only. Mr. Ouimet stated so; you would have two driveways in close proximity to each other then, but just separated by that existing house. Mr. Peller stated yes. Mr. Nadeau asked have you checked with the NYSDOT to see if they would be issuing a curb cut for that area? Mr. Peller stated we did check with the NYSDOT and what we ended up hearing was that if it was okay, obviously with this Board that they would review it and they didn't seem to express any kind of discontent with it and understood that Old Werner Road is now closed, but the guiderail is there and it would be beneficial to this business. Mr. Ouimet stated it would seem to me that if this Board was to consider the request favorably, it would have to be a one-way in drive clearly marked and clearly designed so as to discourage any patients from leaving that way. Mr. Peller stated the following: Yes and also to discourage a cut through that somebody could cut through and go through his parking lot and then out. So yes, we had discussed that with Mr. Dudick and we are prepared to have appropriate signage and only use that as an entrance. Mr. Ouimet stated the following: But I think the more important thing raised by the other members of the Board is that the NYSDOT's curb cut permit is going to be a necessary requirement. I'm not so sure that they're going to look at it favorably. Mr. Peller stated okay. Mr. Ouimet stated I don't know as I'm not sure. Mr. Nadeau stated I would think the same being that we closed both roads off for that safety reason. Mr. Ouimet stated the following: But a driveway is different than a road I guess and that could be looked at differently by the NYSDOT I would assume. It is kind of disheartening to hear that the school bus still stops on Route 146 to pick up and discharge students especially in that location because it's right at the crest of the hills. Have you done any study to look at sight distance from that proposed driveway? Mr. Peller stated the following: We did provide Mr. Dudick with some photos that were done and obviously I'll let him speak for himself. My understanding was that he did review the sights and it didn't appear to be a problem coming up the crest if you were coming up from Mechanicville and that way you would kind of get to the crest of the hill and then it levels out. Mr. Ouimet stated the following: And since cars are not pulling out there and they go right or left when they're leaving. Is that your understanding Mr. Bianchino from your review? Mr. Bianchino stated the following: Well, when I met with the

Supervisor and Dr. Dudick, I provided some street view google maps photographs and suggested that when the application comes in, and that the NYSDOT would require them to submit some kind of documentation on actual sight distance measurements. We have not done a sight distance measurement and we just provided for discussion purposes with the Supervisor what the existing photograph looks like from that driveway location. Again, as I said in the pre-meeting, the sight distance from this proposed driveway is certainly better than it is from the closed part of Werner Road because it's farther away from the crest of the hill. Mr. Ouimet stated also, the fact that it's one-way in only. Mr. Bianchino stated the following: Yes, the vehicles would be even farther away when they are making a left turn in and the right turns in are pretty straight forward I think, but the left turns is where you really have to look over the crest of the hill to see and there is a pretty good distance there even at the speeds that people travel on Route 146. Again, just to clarify; I did not do a sight distance study to make sure that it complies with standards and that's something I suggested that they needed to do as part of their application to the NYSDOT. Mr. Peller stated were certainly not adverse to doing that. Mr. Ouimet stated like I said, I think the keystone here is the NYSDOT's approval for a curb cut as they may not approve it and if they don't, there is no way this Board is going to approve it. Mr. Peller stated the following: Are you suggesting that we should go to the NYSDOT first because it appeared to me that they were kind of confused and said "no, Halfmoon will send it us"? Again, we have no problem doing that with making the application to the NYSDOT first, but I don't know procedurally how that works between the two of you. Mr. Ouimet asked is the Board inclined to entertain an application contingent on a NYSDOT approval? Mrs. Murphy stated the following: We can't do a resolution contingent upon a different agencies approval as the agencies approval is something that he requires regardless of what this Board does. So, with this Board, the courts have found it would be kind of not going forward with their responsibilities to try to make another agency make the determination for them. Mr. Ouimet stated well, that makes it easy as we can't do anything until you get an approval from the NYSDOT. Mrs. Murphy stated yes and we're still waiting for the County too. Mr. Harris stated yes, the County meets this Thursday and is expected to take it up so, you can't act tonight either on this application. Mrs. Murphy stated the following: Just so I'm clear; I'm not saying that you have to wait for the NYSDOT to make an approval, but your approval can't be contingent on the NYSDOT's actions. So, the NYSDOT is going to act as a separate entity and they're going to need their permit regardless of what this Board does unless this Board denies it. Mr. Peller stated so, even if this Board approved and the NYSDOT didn't approve it the project couldn't go forward. Mrs. Murphy stated that is correct. Mr. Ouimet stated the following: Well, we still can't act on tonight because we're waiting for the County's response. So, in the interim between now and our next meeting, could you approach the NYSDOT and get a determination from them as to what they want to do? Mr. Peller stated okay. Mr. Ouimet stated the following: I'm not all that concerned about a sight distance issue because the cars are just turning in and they're not turning out so you don't have to worry about them crossing Route 146. There is a driveway right next door to it too though. Mr. Bianchino stated the following: One thing that I can do too is; Mr. Novak from the NYSDOT and I have talked about this project and we talked about Werner Road when the requests were made to reopen Werner Road. So, we've had multiple conversations about the intersections. So, I can contact Mr. Novak between now and the next meeting and we'll have a conversation and I can get some read from him.

This item was tabled. The application to add a commercial driveway with a direct access to New York State Route 146 was tabled pending County review and the receipt of NYSDOT and local agency comments.

14.130 NB Capital Renegades Baseball, 217 Guideboard Road – Change of Tenant

Mr. Randy Zielinski, the applicant, stated the following: I'm here tonight representing Capital Renegades and we originally had a temporary use at 217 Guideboard Road for an indoor facility for our youth players and that expired on May 1, 2014. So, wintertime is coming back up again so, we're just reapplying for that temporary use again. Mr. Ouimet asked would you be doing the same operation as you did the last time? Mr. Zielinski stated yes, the same operation, everything would be the same and nothing would change. Mr. Ouimet stated I know your parking was limited the last time to three parking spots. Mr. Zielinski stated yes, we were limited to three parking spots. Mr. Ouimet stated so; did that work out alright the last time? Mr. Zielinski stated yes, that worked out perfectly. Mr. Higgins asked will they have to get some kind of an occupancy inspection again like they had to last year? Mr. Ouimet stated yes. Mr. Harris stated yes and last year the Board did include conditions on the approval not only for you guys, but also for Halfmoon Baseball regarding no events, no tournaments or something like that. Mr. Zielinski stated this would be just for training. Mr. Ouimet stated okay so; this would be the same as last year and it would just be a continuation of last year's approval. Mr. Roberts stated now you encourage the parents not to stick around, right? Mr. Zielinski stated the following: That's correct and it would be just a drop off and the children are there just for a couple of hours and then the parents will return to pick them up. Also, you mentioned something about that I have to get another fire inspection because I just had one back in March so, does that have to be done again? Mr. Ouimet asked was the building vacated? Mr. Zielinski stated it's been the same and it's just been locked up. Mr. Ouimet stated yes I know, but you haven't used it since then and I think you are going to have to get another fire inspection or a tenant set-up inspection. Mr. Zielinski stated okay. Mr. Harris stated I'll check with Code Enforcement tomorrow because I know that fire inspections are good for one year, but I don't know how they handle fire inspection that is still good when there was a vacancy in between. Mr. Ouimet stated only Code Enforcement can waive that requirement so, you can work with the Planning Department. Mr. Harris stated I'll find out so, give us a call tomorrow. Mr. Zielinski stated okay.

Mr. Roberts made a motion to approve the Change of Tenant application for Capital Renegades Baseball to allow the temporary operation of a youth baseball program with the following condition(s): (1) no charity events or clinics may be held; (2) the tenants are limited to the use of three parking spaces; and (3) the tenant must vacate the space by May 1, 2015. Mr. Nadeau seconded. All-Aye. Motion carried.

14.131 NB Glen Meadows Planned Development District, Upper Newtown Road – Amendment to Site Plan

Mr. Gavin Vuillaume from the Environmental Design Partnership stated the following: I'm here tonight with Mr. Chris Abele. We're here to present Phase II of Glen Meadows Planned Development District (PDD). The project was originally approved back in 2010 and subsequently two years later the Planning Board approved Phase I for filing and I think that was in 2012. So, since 2012 the project has been under construction successfully. All the roads have been installed in Phase I and also actually in Phase II a lot of the roads are also constructed. The roads in Phase I have been dedicated over to the Town and the roads in Phase II will most likely be dedicated very shortly. So, all the work has been completed and we're here this evening to get Phase II filed with the County Clerk and then the lots will be put up for sale. I guess while we are here at some point I'd like a quick opportunity maybe just to discuss Phase III, IV and V, which are the future phases and we can do that after we can talk about Phase II maybe or however you want to do it. Mr. Ouimet stated I think that we'll just talk about Phase II tonight. Mr. Vuillaume stated okay, that's fine. Mr. Ouimet asked what are you changing in Phase II? Mr.

Vuillaume stated nothing actually as the number of units pretty much stays the same and I think there were two units that we're taking out of Phase II and are going into Phase III so, there will actually be two less units than what was originally we had shown back in 2012. So, Phase I had 35 single-family and two twin homes and Phase II will now have seven single-family and ten twin homes for a total of 17. Mr. Ouimet asked what was the original for? Mr. Vuillaume stated 19. Mr. Ouimet stated it was 12 twin homes and now you're going down to ten, correct? Mr. Vuillaume stated yes. Mr. Ouimet stated I take it from the background information that you're going to resurrect those two units somewhere else. Mr. Vuillaume stated yes, we will resurrect those in Phase III. Mr. Ouimet stated alright, but right now you're asking for an approval of Phase II with two less units, correct? Mr. Vuillaume stated yes, that's it.

Mr. Nadeau made a motion to approve the Amendment to Site Plan for the Glen Meadows PDD to amend the existing final subdivision layout, resulting in a reduction of units in Phase II. Mr. Higgins seconded. All-Aye. Motion carried.

Mrs. Murphy stated I'm assuming that you're making that approval based on your determination that the prior SEQRA approval hasn't been affected by this minor change? Mr. Nadeau stated correct, that's what I've assumed. Mr. Higgins stated I agree.

14.132 NB Prestige Water Company, 1613 Route 9 – Change of Tenant

Mr. Dean Taylor from RE/MAX stated the following: I'm a licensed New York State Real Estate Agent and I live in Clifton Park. This is the new building that's going up and it's almost completed located beyond the Halfmoon Sandwich Shop. The Contemporary Athlete will be located on one side in about 4,500 SF of tenant space and the Prestige Water Company will occupy 4,600 SF of tenant space on the other side. It's strictly a facility for Prestige Food Services and they now will have a water division. In the summertime there would probably be one truck every week and in the wintertime there would be a tractor-trailer every two weeks. They will be bringing in the five gallon jugs and the smaller containers would all be palletized and it will come right off the truck, go into the warehouse and everything would be stored inside on racks. They'll be two employees and the hours of operation would be 6:00am to 4:00pm Monday through Friday. It's basically what we feel is exactly what the Town was looking for when we got this site approved. Mr. Ouimet stated this is the new building, correct? Mr. Taylor stated yes, the new building. Mr. Ouimet stated I was under the impression that it was the old building Mr. Harris. Mr. Harris stated the following: So were we so, I apologized for any confusion. It is in the building that is presently being built. Mr. Taylor stated yes, it is right next door to Contemporary Athlete. Mr. Ouimet asked is there going to be a showroom in connection with this proposed new tenant? Mr. Taylor stated this is strictly a wholesale operation and the tractor-trailers will bring in the bulk product in pallets and they break it down and then they put it in vans and there would be two to three per day going out to deliver to the end-users. Mr. Roberts stated so, there will no outside storage? Mr. Taylor stated zero and particularly because of the nature of the product and you can't keep it outside in the winter either. Mr. Ouimet asked what about the vending machines that the product is dispensed from? Mr. Taylor stated the vending machines are currently in the old building so; some of this will be dispensed, but it will go to the van to where the vending machine is. Mr. Ouimet stated but the vending machines themselves will not be in this warehouse space, correct? Mr. Taylor stated this is strictly for the water. Mr. Ouimet stated because we did have an issue in the other building with the vending machines as they were kept outside for a period of time. Mr. Taylor stated okay. Mr. Ouimet stated the following: I understand that Coca-Cola didn't pick them up or something of that nature, but that has since resolved itself so that's not a problem at the moment. However, I don't want to see that again in the other place. Mr. Higgins stated these two sites were supposed to be retail. Mr. Ouimet

stated I don't think so. Mrs. Murphy stated the following: The site that has already been approved is retail and there is some storage that's incidental to the retail use because warehousing isn't allowed in a C-1 Commercial zone. So, it's my understanding that this was always proposed to be that type of retail and there was some storage there of what they were selling and it was ancillary to the retail. Mr. Taylor stated okay, we were not planning to do it at this site and the thing that we liked about it was that there is limited parking and there are no parking issues here as we're going to have two employees. Mrs. Murphy stated you would have to get a use variance to do a warehouse in a C-1 Commercial zone. Mr. Taylor stated okay. Mrs. Murphy stated I know the last time when Mr. Scott Earl presented and he was very particular about articulating it that way. Mr. Taylor stated okay. Mrs. Murphy asked so; is that what you're doing? Mr. Taylor stated I will have to go back to him so; I'll have to come back again. Mr. Ouimet asked so; do we have to deny this or just adjourn it? Mrs. Murphy stated no, I think we can table it and let Mr. Taylor talk to the applicant and we'll try to determine whether maybe there is another option with regards to doing a Special Use Permit at that site for the warehouse basically, but it wouldn't be appropriate for the Board to act tonight.

This item was tabled.

Old Business:

14.021 OB Rafferty Subdivision, Middletown Road/Brookwood Road – Minor Subdivision & Special Use Permit

Mr. Jamie Easton from M J Engineering stated the following: On August 14th M J submitted a revision to the plans, a SEQRA form and a few other documents that CHA and the Planning Board was looking for. After our August 14th submission CHA submitted a letter to us on September 18th and this is basically the first response back to that September 18th letter in getting in front of the Board and basically setting up the Public Hearing for this project so, it can move forward to get the Special Use Permit that it needs for the duplex homes. Currently the site is located between Middletown Road and Brookwood Road and it is zoned R-1 Residential. Obviously the proposed use is two duplex homes on two individual lots and thus the use variance that we are seeking for the project. We have reviewed CHA's September 18th letter and we have no objections to their ten comments and we will provide in our next submission set everything that they want in that letter and we'll go from there. Really tonight is just for setting up the Public Hearing for the Special Use Permit. Mr. Ouimet stated can you tell us a little bit about the character of the neighborhood as far as whether or not there are other duplexes on the road or nearby. Mr. Easton stated the following: To be honest, there are no true duplexes nearby. In saying "nearby" what I mean is in a relatively small area. You could use the word "nearby" by stretching the words, but I'm not going to stretch that imagination. There are different homes and different home styles within the area and that's how I would phrase them from ranch to split levels to different architectural styles throughout the area. Mr. Ouimet stated but there are no multi-family homes, correct? Mr. Easton stated there are no, multi-family homes directly in this vicinity. Mr. Ouimet stated so; what you're doing is proposing to put multi-family homes in a neighborhood of single-family homes. Mr. Easton stated the following: I personally don't have an objection to that and I understand this is why we are asking for a Special Use Permit. Twin homes certainly can be attractive, I think there is some stigma associated with those and the value of those homes and the brand new construction that's associated with it and I think it would be an enhancement to the neighborhood, but that's my opinion of it. Currently the property owner does have a buyer for these two lots to make them into duplex homes and to start right away on them, but again, we would need a Special Use Permit for those duplex homes at these sites. They would be serviced by Town water and would have a septic field utilizing for the two homes. Mr. Ouimet asked if this Board were not to be inclined to approve the duplex

request, would you still go forward with the subdivision? Mr. Easton stated the following: I would have to ask my client if it's financially feasible to progress down that road and whether his investment in the current property would make it worthwhile to do that or would he have to hold onto it for a longer time for a merger with different parcels and do something else with it per say. So, that's an economic decision that he would have to make. Mr. Higgins stated based on the fact that the area is predominantly single-family homes and if this Board is going to take a look at that, I would recommend that we have a committee put together to go out and take a look at the area and see whether or not duplex homes are appropriate in that location. Mr. Ouimet stated I agree with Mr. Higgins that we should have a committee go out and take a look. Mr. Ouimet stated the Planning Board member committee will be Mr. Roberts, Mr. Higgins and Mrs. Sautter. Mr. Roberts asked has CHA had any of their concerns addressed? Mr. Ouimet stated I think that CHA are in the process of having them addressed. Mr. Bianchino stated the following: I think that one of our main concerns was about the septic system. There is some soil information on this set of plans that was submitted; there is a septic system with expansion areas shown. So, between that and some additional information that they're supply, I think we're at a point where we can certainly continue. Mr. Roberts asked is it okay for the committee to go out now or should we wait? Mr. Bianchino stated I think you're fine to go out now. Mr. Easton stated the following: I just want to let the Board know that tomorrow we are actually doing additional test pits. The test pits that were performed on the site aren't within the septic field areas anymore. So, I have to go back out there tomorrow and as CHA mentioned in their comment letter; they were concerned about realistically showing the amount of impact due to clearing and being underneath that one-acre threshold. We are in concurrence with CHA right now that we will be over one-acre on this project site and subject to New York State Department of Environmental Conservation (NYSDEC) Stormwater Regulations for this project site. So, we understand that tomorrow's test pits are also for septic and also for stormwater to figure which measure is the best use for the parcels. Mr. Ouimet stated that leads me to consider how far out we need to schedule these hearings for and obviously, the engineering concerns need to be addressed. Mr. Easton stated the following: We will have the test pits done tomorrow. We have 50% of the stormwater complete and we have approximately about 85% of the septic done based upon the preliminary percolation tests that were done in the soil tests. Our goal is actually to have everything back into the Town by next Monday, which would be October 20th and from there the only outstanding item would be the State Historic Preservation Office (SHPO) in accordance with their letter. We did receive a correspondence back from SHPO today; a Phase IA and a Phase IB archeological they're requesting because it is in a shaded area so; that test and that report will take a little while to go through. I think we can progress along and in my client's best interest I would want to know if the Special Use Permit was issued before I spend \$3,000 to \$5,000 on an archeological report and a stormwater management report to see if that's issued. I guess that's where I'm at. Mr. Ouimet stated the following: That's kind of a catch 22 and I don't think we're willing to accept it on our behalf. I think that you're going to have to make some business decisions and you're going to have to make some choices. In the interim, we are going to send a committee of three of our Board Members out to take a look at the area because I'm concerned with the character of the area as to whether or not two duplexes are going to fit into an area full of relatively high priced single-family homes. That's a concern that I have and they may very well fit and they may very well not fit, but the engineering is one thing, the neighborhood and its character is also something that's got to be considered by this Board. So, what I think what I'll do is; I'm going to give you enough time to get this all done. So; we'll set the Public Hearing on the Minor Subdivision and the Special Use Permit for November 24, 2014 Planning Board meeting. Mr. Easton stated okay, I think the November 24, 2014 meeting will give me enough time to get the information back to CHA and give them enough time to review everything. Mr. Ouimet stated

okay, then the Planning Board committee can go out at their leisure and review the neighborhood.

14.121 OB American Para Professional Systems, Inc., 1673 Route 9 – Change of Tenant

Mr. Berkowitz recused himself from this item. Mr. Dean Taylor from RE/MAX stated the following: When we were here previously I mentioned the wrong tenant space so, I'm back in front of the Board to ask that we can have the approval extended to what was the nursery space. Mr. Ouimet asked what's up with the fire alarms or the fire suppression system? Mr. Taylor stated they have been repaired. Mr. Ouimet stated not that I know of and asked Mr. Harris if Code Enforcement indicated that that has been done? Mr. Taylor stated today I supplied Mr. Harris with a receipt of that being repaired. Mr. Ouimet asked again, has this been reviewed by Code Enforcement? Mr. Harris stated as of 4:00pm today Code Enforcement had not received the inspection from a third party certifying that the work was done, but this afternoon Mr. Taylor did drop off a work order that was signed by the person that performed the work indicating that it was completed. So, Mr. Taylor and his tenant have indicated that it has been completed, but Code Enforcement does not have the final inspection. Mr. Ouimet asked what tenant space is American Para Professional going into? Mr. Taylor stated it used to be the nursery space and it was a space that I was sure it was the last time. Mr. Ouimet stated okay, it was misidentified as the Back in Balance tenant space, right? Mr. Taylor stated yes.

Mr. Roberts made a motion to approve the Change of Tenant application for American Para Professional Systems, Inc. conditioned upon the building owner satisfying all outstanding Code Enforcement concerns prior to the tenant moving in. Mr. Nadeau seconded. All-Aye. Motion carried.

Mr. Taylor asked on the approval for the 1613 Route 9 for the site plan approval: was it a certain percentage of the building or did each tenant have to have a retail space because the front space is technically all retail because it's 4,600 SF. Mr. Ouimet stated it's the warehouse that's the issue; the storage. Mr. Taylor stated oh, it has to be ancillary to that particular use? Mr. Ouimet stated ancillary to a use in that building. Mr. Harris stated the approval was just for one perspective tenant or use and it was 80/20%; 20% retail and 80% warehouse related. Mr. Taylor stated but actually on the building elevations it shows two different tenants. Mr. Harris stated well, because you got the gym approval since that time so, the remaining space, depending on what percentage the Board applies, but if you follow that logic of the remaining space, 20% of that 4,600 SF would need to be retail and the remaining 80% would be for storage. Mr. Taylor stated the following: Okay so, then I'll get with you to see if it's a variance or it's a Special Use Permit. Is that fair enough? Mr. Harris stated in the phrasing, if I recall, was not that its warehouse space; its storage related to the principal use because every retail store has some storage so; I think that was the logic if I remember correctly. Mr. Taylor stated okay, I'll get with Mrs. Murphy on the method, right? Mrs. Murphy stated yes and you're going to talk to your client regarding this. Mr. Taylor stated yes so, we need to know if we can come in with either or. Mrs. Murphy stated right. Mr. Taylor stated alright, thank you.

14.107 OB Lands of W. Sturtevant, A. Sturtevant & R. Noradki, 36 Guideboard Road – Minor Subdivision/Lot Line Adjustment

Mr. Duane Rabideau from Gilbert VanGuilder Land Surveyor, PLLC stated the following: I'm representing the Sturtevant Lot Line Adjustment. For further discussion in the reason why we want to leave that frontage on Guideboard Road; we have identified a corridor of Federal wetlands through here so, that makes a natural buffer between Ms. Aline Sturtevant's house and

the remaining portion of her parcel. This is the parcel that they want to do the Lot Line Adjustment on, the black dash line is the lot line where it is now and we want to propose it for where the yellow line is and basically leave access to this portion of the parcel on Guideboard Road. Also, with the photo that we gave; we have one of a street view of the intersection of Middletown and Guideboard. So, by looking at this; this appears to be more of a safety issue as far as potentially trying to further subdivide the Sturtevant parcel. So, we feel on that aspect that by having access to this piece here, the entrance here would be a lot better for safety. Mr. Ouimet stated the following: How do the wetlands impact on the decision to bring the access to the other side? Can you cross those wetlands? Mr. Rabideau stated the following: We could cross the wetlands and get a permit, yes. I think the biggest issue is the proximity to the intersection. Since this is not a "T"-intersection, people have a tendency to go probably a little bit faster than they should. Mr. Ouimet asked is that controlled with a yield sign or not? Mr. Rabideau stated no, there is a stop sign right here going this way. Mr. Ouimet asked is that for Guideboard Road? Mr. Rabideau stated the stop sign is on Guideboard Road and when you're at that intersection, it's not as good. Mr. Ouimet stated the following: The real issue here and I know you're aware of it because we talked about it at the last meeting; is the fact that the County has reviewed this request and said they are not in favor of what you want to do. They suggested that you have the ability, given the fact that you own the entire parcel, to make both non-conforming lots conforming. However, I think what that does for you is if you were to do that, you would lose accessibility to the back portion of that of lot, is that correct? Mr. Rabideau stated that is correct and that's our main concern because as far as approximate areas where the Sturtevant house is now is about 1.25-acre and of the useable land in the back by her son's parcel, that's approximately 2.5-acres. So, it definitely constrains the usability of it. Mr. Ouimet stated well, you wouldn't have access and if you made the two lots conforming, you would not have access to that back lot, correct? Mr. Rabideau stated that is correct. Mr. Ouimet stated the County has recommended that both lots be made conforming since you have enough property to do that. Mr. Rabideau stated the following: Oh, okay. This lot, which is conforming now and this one; that is correct, but I don't think they were aware of the physical features out there or the physical constraints of the parcel. Mr. Ouimet stated and by that; I'm sure you're referring to the unique existence of the wetlands, correct? Mr. Rabideau stated of the wetlands and the proximity to the road. Mr. Ouimet stated right, to the road and the safety issues created. Mr. Rabideau stated that's right and that's our two concerns right there. Mr. Ouimet stated it's my understanding Mr. Harris and Mr. Marlow that the County recommended that this request not be approved, but there was no reference to any health, safety or general welfare issues from the County's approval, correct? Mr. Marlow stated correct. Mr. Rabideau stated I believe that even this Board didn't have the location of the wetlands for their review. Mr. Ouimet stated right, but I think what we did have was a denial by the County. Mr. Rabideau stated no, the County knows nothing about the wetlands. Mr. Ouimet stated no, at the last meeting we had the denial by the County of your request. Mr. Rabideau stated the following: That is correct and basically that's what this Board saw, which did not have an actual location of the wetlands. I did mention it, but there was no visual of that. Mr. Ouimet asked have you discussed with the applicant what they intend to do with that back parcel? Mr. Rabideau stated the following: At this point in time there is nothing planned for it and basically it's just strictly to address the issue of the encroachments on her son's parcel onto to hers and that's it. There has been no discussion as far as a further subdivision or any of that. Mr. Rabideau showed the Board the son's parcel and stated that the dash line is where the parcel is now and we want to adjust the line here basically to get all of the encroachments onto his parcel and they will remove this little piece right here of the crushed stone, parking or whatever that is. Mr. Nadeau asked where is the access to the remainder of the parcel? Mr. Rabideau stated this is others and it's either here across the wetlands, something off by the intersection or right here. Mr. Nadeau stated the following: Okay. So, we would be

creating a flaglot of an 18 FT flaglot, which this Board could not approve and 18 FT flaglot. Mr. Ouimet stated you would need 20 FT so, there would be no access through that stem so, that really doesn't get you to where you need to be. Mr. Rabideau asked what are you referring to? Mr. Ouimet stated it's the stem that you're leaving. Mr. Rabideau stated basically, it's 60 FT here and it's probably 40 FT right here so, the maximum potential buildout would be two lots and that has not been discussed. Mr. Ouimet asked but do you have 20 FT of access. Mr. Rabideau stated we actually have 60 FT. Mr. Ouimet asked where? Mr. Higgins stated no, if we approve it the way he wants it, he's going to have 60 FT. Mr. Berkowitz stated they're not changing the frontage on the road and they're just changing the direction of the line. Mr. Rabideau stated that's correct, we're pushing the line closer. Mr. Berkowitz stated but the frontage on the road stays the same. Mr. Rabideau stated this is correct and that is the same point. Mr. Berkowitz stated so; the maximum that you can have is two flaglots. Mr. Rabideau stated that would be the maximum possible buildout from what we're seeing. Mr. Berkowitz asked is this by Town ordinance or by choice? Mr. Rabideau stated by Town ordinance and it does narrow down to 40 FT from 60 FT. Mr. Ouimet stated I think where Mr. Nadeau got a little confused is that if these lots were to be made conforming; you would only have 16 FT. Mr. Rabideau stated yes, that is correct. Mr. Ouimet stated if we were to approve your request the way it stands; you have 60 FT narrowing down to 40 FT, correct? Mr. Rabideau stated that's correct. Mr. Nadeau stated I understand and did Mr. Rabideau say that the County hasn't seen all of this information? Mr. Rabideau stated the County has not seen the color rendering and they based it on the first map that we showed. Mr. Nadeau asked could we refer it back to the County again because looking at this map here, I don't see an issue here. Mr. Ouimet stated I think the issue is that if the County is steadfast in their opinion that these lots need to be made conforming, there won't be any access to that back parcel. Mr. Harris stated without getting a variance at a later time for a flaglot driveway. Mr. Ouimet stated but I think that driveway is going to be way too small for a variance if he's going to talk about two houses back there. Mr. Harris stated well, it would be enough for a single dwelling. Mr. Ouimet stated that's a lot of property for that, but we can certainly send it back to the County. Mr. Harris stated or you could vote on it. Mr. Ouimet stated the following: I guess it depends on what the Board's pleasure is. If you want to send it back to the County, we can send it back to the County. If you want to vote on it, we can vote on it or I should leave it up to Mr. Rabideau as it should be up to you. The Board has to have five votes to override the County and if you want us to vote on it tonight, we can certainly do that or we could refer it back to the County with more detail that you've provided tonight to us and to see if the County would change its opinion based on the additional detail presented in this map. Mr. Harris stated and it's our understanding in talking to the staff was; once the County Board heard there is available frontage to make this lot fully in conformance, they made their decision based upon that. Mr. Ouimet stated well, there is available frontage, but that shuts off the rest of the lot. Mr. Harris stated correct, but the application is to do a Lot Line Adjustment and they're only fixing one of two issues that exist. Mr. Berkowitz stated would it be easier for the applicant to appear before the County. Mr. Harris stated I don't think that they actually appear there. Mr. Berkowitz asked would it be unusual for you to go there and state your case? Mr. Ouimet asked can they do it by a Memorandum of Understanding (MOU) because we can ask for that? Mr. Harris stated yes, we can ask for that, but I don't know if they would do it or not. Mr. Ouimet stated so; we can do a MOU explaining just like they did to us tonight? Mr. Harris stated the following: Sure and we do the referral. So; if you want to give me any verbiage or wordage on how you want to phrase it. However, we can use what we know here, which is you're claiming a hardship due to the wetland issues and we'll send that to them as a new referral because it has been revised and we have new information. So, this is the paradox of how early do we send things to the County verses holding it off until the end and then you end up getting delay two months because we missed the cutoff. So, we can do that and we can send it to the County. I don't have an opinion

of whether that will make a difference or not because they didn't base it upon the additional information. Mr. Ouimet stated I don't either and I don't have an opinion as to whether or not that there is five votes up here to approve it the way it was submitted. Mr. Roberts stated I would feel more comfortable giving the County a second chance to look at this. Mr. Ouimet stated the following: I'm going to leave it up to Mr. Rabideau to determine what he wants to do. Do you want us to re-refer it to the County based on the more detailed description? Mrs. Murphy stated also, in passing you brought up the traffic concern safety and I think it is very important that the County be made aware of that. Mrs. Sautter stated yes, that was a really important point. Mrs. Murphy stated right, which was never made before. Mrs. Sautter stated I think that's why it is important that it goes back to the County as there are two very important things. Mr. Rabideau stated we prefer to send it back to the County for additional information so; they can base their decision on that. Mr. Ouimet asked how quickly can we get it to the County and can this make their next meeting and asked is their next meeting tomorrow? Mr. Harris stated the following: The County's next meeting is on Thursday, October 16, 2014 and we can ask for it by a MOU. I'm confident that we might get that because they've already reviewed it once and so, they have kind of a background on it. Although, the issue that you run into is when they call up two members and you don't have a full Board weighing in on that MOU. So, we can do a MOU and that's usually when the staff thinks they have a very good prediction of what the outcome is going to be in their own mind or their recommendation otherwise you wait until their November meeting, which is a month away. Mr. Ouimet stated the following: I'm starting to get uncomfortable leaving this hanging around as these poor people can't get a decision one way or another. So, if the Board is inclined to make a motion tonight, we'll take a vote tonight without having to make them go through another referral to the County. So, it's up to the Board and this will be a roll call vote.

Mr. Berkowitz made a motion to approve the Minor Subdivision/Lot Line Adjustment for the Lands of W. Sturtevant, A. Sturtevant & R. Noradki. Mr. Nadeau seconded. Mr. Ouimet asked for a roll call vote. Vote: Mr. Roberts – Aye, Mr. Nadeau – Aye, Mr. Berkowitz – Aye, Mrs. Sautter – Nay, Mr. Ruchlicki – Aye, Mr. Higgins – Nay and Mr. Ouimet – Aye. Vote: 5-Aye, 2-Nay. Motion carried.

Mr. Berkowitz made a motion to declare a Negative Declaration pursuant to SEQRA. Mr. Nadeau seconded. Vote: 5-Aye, 2-Nay (Mr. Higgins and Mrs. Sautter both voted no). Motion carried.

Add on to Agenda:

14.120 OB Lands of Sabourin, 29 & 33 Church Hill Road – Minor Subdivision/Lot Line Adjustment

Mr. Duane Rabideau from Gilbert VanGuilder Land Surveyor, PLLC stated the following: For the record; this is a continuation of where we need to go forward with this Lot Line Adjustment. So, I'm asking for the Planning Board's Town Attorney's opinion or Mr. Ouimet's opinion. Mr. Ouimet stated Mrs. Murphy has reviewed this and there's some issue with whether or not there is a need for a variance here. Mrs. Murphy stated the following: Yes, the applicant is basically doing a Lot Line Adjustment and the way the lot currently is there are structures that were built prior to zoning that don't conform with our current setback requirements. So, usually you guys are seeing pre-existing, non-conforming uses, but the use is conforming and it's just the location of these buildings is not conforming. So, they will have to get denied and go to the Zoning Board of Appeals (ZBA) for an area variance with regards to these barns that have been there prior to zoning.

Mr. Higgins made a motion to deny the Minor Subdivision/Lot Line Adjustment for Lands of Sabourin due to inadequate side yard setbacks for the existing accessory structures therefore; there is a need for an area variance from the ZBA. Mr. Ruchlicki seconded. All-Aye. Motion carried.

Mr. Ruchlicki made a motion to adjourn the October 14, 2014 Planning Board Meeting at 9:13pm. Mr. Berkowitz seconded. All-Aye. Motion carried.

Respectfully submitted,
Milly Pascuzzi
Planning Board Secretary