

## **Town of Halfmoon Planning Board**

### **Meeting Minutes – November 10, 2014**

Those present at the November 10, 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

**Deputy Town Attorney:** Cathy Drobny

**Town Board Liaison:** John Wasielewski

**CHA Representative:** Mike Bianchino

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Mr. Ouimet opened the November 10, 2014 Planning Board Meeting at 7:00pm. Mr. Ouimet asked the Planning Board Members if they had reviewed the October 27, 2014 Planning Board Minutes. Mr. Roberts made a motion to approve the October 27, 2014 Planning Board Minutes. Mr. Nadeau seconded. Vote: 7-Aye, 0-Nay. Motion carried.

#### **New Business:**

#### **14.134 NB Bobrow Distributing Corp., 8 Enterprise Ave. – Addition to Site Plan**

Mr. Frank Herba from Herba Consulting stated the following: I'm representing Bobrow Distributing Company located at 8 Enterprise Avenue in the Industrial Park that is located on Route 146. The site that we're talking about, which is 8 Enterprise Avenue, and it is an 18.7-acre site of which a major portion of it is well treed and there are wetlands and so on that is a portion of that. The front portion that fronts the road is approximately 3-acres and that currently has a 29,400 SF building on it. In 2010 they contemplated putting a 5,100 SF addition onto the building, which was approved in May 2010. Due to the timing, the project was put on hold and they were considering possibly adding additional square footage in the back and a wetland study was done to determine what could be done. However, the Phase 2 major expansion was shelved as there were quite a few Federal and State regulations that were going to become almost prohibitive as far as trying to develop the site. So, now we're back to get a re-approval on the Phase 1, which is approximately a 5,100 SF addition to the existing 29,400 SF. This addition is going to go on to the currently developed site that's there. As you can see, what you have is the existing 29,400 SF building with a 5,000 SF addition to the side of it. It's

not going to impact any of the additional paving area and no additional paving will be needed. Currently they have sort of done an exhaustive study as far as what they require as far as parking is concerned and it doesn't come up to the zoning requirements for the parking, but there is potentially an expansion parking area for an additional 25 spaces that could be added here at any time and they're preferring to keep that green at this time until they find that they actually need to use that. So, what this is going to be is it's an addition off the side and it's going to be a continuation of the roofline down and the site grading is not going to change at all and the only thing that's going to be changed is a green area currently that splits up the parking is going to be where this addition goes. The parking and the loading have been considered so that we know that there's room to do what they want to do as far as backing in and moving around and so on. The greenspace for the site is overly abundant as there is a little bit better than 17-acres of greenspace on this entire site. The landscaping isn't going to be interrupted and basically what we're asking for is a re-approval of what was previously approved by the Planning Board. Mr. Ouimet asked is there any change to what was submitted in 2010? Mr. Herba stated no. Mr. Ouimet stated so; it will not be expanded, it's not contracted, it's not moved around, you will have the same number of parking spaces and the same number of landbanked spaces as well? Mr. Herba stated it will be exactly the same as what was approved previously.

Mr. Roberts made a motion to reaffirm the Negative Declaration pursuant to SEQRA. Mr. Berkowitz seconded. All-Aye. Motion carried.

Mr. Roberts made a motion to reapprove the Addition to Site Plan application for Bobrow Distributing Corp. Mr. Berkowitz seconded. All-Aye. Motion carried.

**14.135 NB                    Birch Briar Apartments, 1639 Route 9 – Addition to Site Plan & Special Use Permit**

Mr. Gavin Vuillaume from the Environmental Design Partnership stated the following: I'm representing Latham Construction. This application is part of an improvement to an existing apartment complex; the Birch Briar Apartments. The property is 4.87-acres in size and currently there are three apartment buildings on the property. The applicant wishes to install a new pole barn that would be a prefabricated pole barn made of steel and the garage would be used basically for housing maintenance materials and equipment. There is an existing parking lot that's at the center of the property and towards the end of that existing parking lot is the location that they have chosen to install the proposed pole barn that I think is about 2,400 SF. Mr. Ouimet asked is this an accessory structure just for the apartments? Mr. Vuillaume stated yes. Mr. Ouimet asked and it's not for any other use? Mr. Vuillaume stated I believe so and Ms. Wendy Hoffman is also here from Latham Construction. Mr. Ouimet stated since this is an expansion of a pre-existing, non-conforming use; we're going to have to hold a Public Hearing on a Special Use Permit. Mr. Vuillaume stated okay. Mr. Ouimet stated so; we're going to have to schedule a Public Hearing for two weeks from tonight. Mr. Vuillaume stated okay.

Mr. Roberts made a motion to set a Public Hearing for a Special Use Permit for Birch Briar Apartments for the November 24, 2014 Planning Board meeting. Mr. Nadeau seconded. All-Aye. Motion carried.

**14.136 NB                    Lands of T. McBride Jr. & S. Decelle (Mechanicville-Stillwater Youth Soccer League), 12 McBride Road – Minor Subdivision**

Mr. Gil VanGuilder from Gilbert VanGuilder Land Surveyor, PLLC stated the following: I'm representing the Mechanicville Soccer Club for the proposal to subdivide a 14.6-acre parcel of land out of the McBride Farm, which consists of about 85-acres. Back in 2003 this matter was before the Planning Board and the Mechanicville Soccer Club wanted to lease this parcel of land from the McBride's. They have constructed the soccer fields, the parking area and they have a snack bar and a couple of sheds that they use for keeping the maintenance equipment in and over the last year, they've been in negotiation with the McBride's to purchase that piece of land. There is no change in the configuration of the property and actually with speaking to staff, it was approved as a subdivision at that point in time and the map was never filed. There was a Public Hearing held on it and I think that we just want to ask the Board if because there have been no changes in the use or the configuration and the only changes is that an easement has been added over the existing driveway and along a driveway that services the softball fields that are behind the McBride house and an easement that the McBride's requested along the northerly property line; because this driveway goes back to this point, just so that they could access the rest of their property. So, those are the only changes that have been made to this parcel. In speaking with Mr. Harris about this matter; does the Board feel that it is necessary to have another Public Hearing to switch it from a leased parcel to a subdivision of the land when it was really considered to be a subdivision at that point in time? Mr. Ouimet stated the following: We had extensive discussions about this at our pre-meeting and it's the feeling of the Board that because the original configuration; even though it hasn't changed significantly other than the easements that you're proposing to the roadways, was approved by a prior Board in 2003 and that it would be unfair to the public if we didn't allow the public to at least comment on the subdivision at this point in time. So, I think what we would like to do, if we can have a motion from the Board; is to set a Public Hearing at our next meeting in two weeks. Mr. Higgins stated to Mr. VanGuilder; again, this was a long time ago, but some of the Board members and myself included remember something in a discussion about a trail easement that was going to be given to the Town in the event that a trail might be and do you remember anything about that? Mr. Bianchino stated the following: I think at the time when we looked at this; Adam's Pointe PDD was recently approved and part of Adam's Pointe included a trail that went down McBride Road from the north and I think there was a discussion of trying to get a trail network through to the parcels that are to the south that would then go out to Farm to Market Road. So, I think there was a discussion at that time about some kind of an easement around the parcel to allow us to do that in the future. However, I don't see it on the map, but I thought we had talked about that at the time. Mr. Higgins stated and I believe the trail easements also are on the back of the McBride property around where the softball fields are. Mr. Bianchino stated maybe that's what I'm thinking of. Mr. Higgins stated but that would tie into this and that was a long time ago and maybe we should take a look at that before the Public Hearing. Mr. VanGuilder stated I don't recall that, but that very well could be. Mr. Higgins stated again, it was a long time ago. Mr. Ouimet stated to Mr. Harris; with that being the case, why don't you make a referral to the Trails Committee to see if in fact there's some contemplated connection somewhere down the line. Mr. Harris asked do you mean prior to the next meeting? Mr. Ouimet stated yes. Mr. Harris stated okay, they do have a meeting next week so the timing works out. Mr. Ouimet stated okay, then you can look it from your angle too Mr. VanGuilder. Mr. VanGuilder stated the following: Yes. We'll go back over our file and see if we recall any mention of that. Mr. Higgins stated as I said; it was a long time ago, but I do seem to recall something about a trail. Mr. VanGuilder stated it could be. Mr. Ouimet stated the following: Should we push this out to our December 8, 2014 meeting? Do you think you're going to need more time to do this? Mr. VanGuilder stated the following: I think there is some

urgency as this matter has been stalled not due to any problem with the Town, but there was a legal issue with the McBride Trust and I know that the soccer club has been put under a lot of pressure to move this forward. So, if we could use this next two weeks to investigate it and still keep the Public Hearing and if it hasn't been resolved, we can hold it off.

Mr. Nadeau made a motion to set a Public Hearing for the November 24, 2014 Planning Board meeting for the T. McBride Jr. & S. Decelle Minor Subdivision. Mr. Higgins seconded. All-Aye. Motion carried.

**14.137 NB Gorski Subdivision, 61 Hayner Road, - Minor Subdivision & Lot Line Adjustment**

Mr. Gil VanGuilder from Gilbert VanGuilder Land Surveyor, PLLC stated the following: I'm representing the Gorski's in the subdivision of their property that is located on the easterly side of Hayner Road and it consists of 82-acres of land. There are a couple of facets of this application; there is a Lot Line Adjustment of a parcel that Walter and Bonnie Gorski were conveyed in 1967 and that has been their principle residence. We're enlarging that parcel a little bit to make it one acre of land and that includes their well, existing septic system and a garage that was built pretty close to the original property line and we're now giving it a full setback. The garage is up in the northeast corner of their property. When the sanitary sewer line was extended from Swatling Falls through lands owned by Abele, an agreement was struck whereby a sewer connection was left right by the Gorski's home and it is their intention to connect to that sanitary sewer for their residence in the future. At this point in time there's no public water in front of this property and there is a hydrant just to the south and the water comes up from the south and dead ends there and there is a hydrant right near the corner of their property. All of these lots are the subdivision of the property and they're all large lots. There are three lots consisting of 37.7-acres, 25.32-acres, which is on a flag connection which is 30 FT wide and then a 17.94-acre parcel of land. The reason this proposal comes about is that Walter and Bonnie Gorski are doing their estate planning and they have a son and daughter that they want to distribute the land between. It's their desire to keep it in agriculture, but they have to take care of the estate planning matters. So, they've worked with the family members and they've come up with this configuration with the hope of keeping the farm in active agriculture in the future. All of the lots greatly exceed the minimum area requirements of the A-R Agriculture-Residential zone and most of the agricultural land is up front and the land in the back is mostly ravines and stream corridors. So, that's why it's in the configuration that it is. There is active agriculture on the property and that's centered around these buildings here and that's expected to continue to stay in active use. Mr. Ouimet asked how much of the new proposed lots are buildable? Mr. VanGuilder stated the following: Primarily the buildable portions are towards agricultural where the fields are and as you can see, they are large areas. In these three areas, it is all fields. Mr. Higgins asked is the only access going to be the 30 FT easement? Mr. VanGuilder asked are you referring to this parcel right here? Mr. Higgins stated yes. Mr. VanGuilder stated yes, that will be the only access because they don't plan on ever developing the property and it could be a 20 FT wide ownership, but they wanted to go with 30 FT with the understanding that that could never be developed into a public road. Mr. Nadeau stated but also, I think you would want to make them aware and I think this Board should be aware that they would be kind of constraining themselves on that lot. Would you say that there is probably 12-acres left there of buildable property or how much acreage? Mr. VanGuilder stated probably 11-acres in that field. Mr. Gorski stated all going through the same person. Mr. Nadeau stated the following: Okay, I

understand that. In the future if that person decides that they would want to put some more lots in there, the frontage of it may restrict them on that and I just wanted to make you aware of that. Mr. VanGuilder stated yes, we reviewed that.

Mr. Roberts made a motion to set a Public Hearing for the Gorski Minor Subdivision and Lot Line Adjustment for the November 24, 2014 Planning Board meeting. Mr. Nadeau seconded. All-Aye. Motion carried.

**14.138 NB            Pro Cycles LLC, 1512 Route 9 – Change of Tenant/Use**

Mr. Jim Romeo, the applicant, stated the following: I'm the owner of Pro Cycles and we're located on Route 9. I currently occupy a northern suite of a three part building in Savemore Plaza. I am proposing to move to the southern side of the building in the same plaza in the same location and there would be no change in use at all. I'm just doing this because I'm going to get a significantly better deal on the rent. Mr. Ouimet asked is this a larger space? Mr. Romeo stated no, they're almost the same and I believe my old space was is 1,625 SF and this space is 1,750 SF. Mr. Ouimet asked so; you're not going to expand your operation at all, right? Mr. Romeo stated no, I'm doing this for a much better deal on the rent. Mr. Berkowitz asked will you be using the same sign? Mr. Romeo stated the following: I haven't decided that yet. I don't think we're going to change the sign at all because there is a sign there on the big pylon sign now and I don't have any plans to change that. Mr. Ouimet stated if you're going to change your sign at all, you're going to have to come back and apply for a sign permit. Mr. Romeo stated yes, I understand. Mr. Roberts stated I believe for a sign, he's going to have to put it on an existing structure that's there. Mr. Harris asked do you have any sign on the façade above your door and asked are you moving that over to the other side? Mr. Romeo stated no, I'm just removing the panel. Mr. Roberts stated yes, because we don't want a new structure on that site. Mr. Harris stated right. Mr. Romeo stated no, there won't be anything as I'm going to remove the panel from my old suite and will just be using decals for the new suite that I'm moving into. Mr. Harris stated okay, thanks for clarifying that.

Mr. Berkowitz made a motion to approve the Change of Tenant/Use application for Pro Cycles LLC. Mr. Higgins seconded. All-Aye. Motion carried.

**14.140 NB            ADK Auto Brokers, Inc., 3 Plant Road - Change of Use/Tenant & Sign**

Mr. Anthony Zappone, the applicant, stated the following: We have been operating for four years under ADK Auto Brokers. I'm presently operating out of my brother's dealership on Route 9 and he's expanding and we've expanded a lot. We've taken on my son as another person to work with us so; we decided to move instead of my brother expanding his dealership. So, we're looking for a Change of Use to relocate ADK Auto Brokers to 3 Plant Road. Mr. Ouimet asked can you tell us a little bit about the operating that you plan on running at 3 Plant Road. Mr. Zappone stated as you can see in my narrative; we are mainly a wholesale operation and our year to date we're just over 4,000 cars. We do have a retail license as part of New York State's Department of Motor Vehicles (DMV) and we have to hang that sign on the side of the building, which I had taken a picture of that is existing already. We have retailed ten cars this year to date and as it states in the narrative; four were to our children and the six other cars were just people that we knew that we happened to have cars in stock. We don't really want to get involved in a retail business as we're not geared for the retail business. One example; we had a 2,000 mile Lexus and our good friends were going to buy a brand new one so, we sold

them that car. We don't pursue the retail business and we're not interested in the retail business. Mr. Ouimet stated so; you're planning an operation that is an office only, correct? Mr. Zappone stated the following: It's an office. We have two girls that were hired; one is the office manager and one is a New York State Title Clerk. We have internet manager and because of a health condition he doesn't drive. So, there would be two cars parked there every day and I'm in and out a little bit and we have four retired people that move cars for us. Mr. Ouimet asked do you have any cars with dealer plates or transporter plates? Mr. Zappone stated the following: Only when I'm there and on Wednesdays we have just an operations meeting just to get our inventories together. There will be three to four dealer plates on the property at a time, which Mr. Dave Laier, who owns the property, said we could just park out back because I don't want to restrict Dave the Sign Guy that has a certain amount of parking as he needs the frontage and we don't. There will never be cars there for sale and like I said; we don't pursue that business. In my narrative it states that we have three retired people that we do have moving cars for us; we don't like them to drive after 3:00pm due to traffic because they are in and out of Albany. So, they may park three cars at night and those cars will be gone by 9:00am the next morning. When I said "parked there", I mean those cars would be parked in the back lot. Mr. Higgins stated to meet your requirements for New York State DMV with a retail license; don't you have to have display spots? Mr. Zappone stated we don't do an active retail business though. Mr. Higgins stated but you just said that your sign is going to say retail on it. Mr. Zappone stated it does say retail on it and you can see the picture of the sign. Mr. Higgins stated I did. Mr. Zappone stated we do not display cars though. Mr. Higgins stated but I thought according to the New York State Motor Vehicle Law; and we have been through this before, if you have a retail license, you have to have display spots on the site designated display. Mr. Zappone stated I can check with the DMV and it has never become an issue before and I have been doing it for 30 years and I've never displayed a car in 30 years and I don't plan on doing it. Mr. Higgins stated okay, because we have businesses that are wholesale only in Town and there has always been that gray area between the two. Mr. Zappone stated the following: I can understand that; it's in writing that we are not displaying cars and we will not do that. It's not our realm and an example of that; one of the cars that we sold I had to get a separate key made because I had to drive the car to a Ford dealership and get a key made, I had to get a bumper painted and it just takes too much time out of our day. We won't display cars on the lot and there won't be any retail spaces on the lot. Mr. Higgins stated okay so, if this Board decides to approve your application with those restrictions; that won't be a problem, correct? Mr. Zappone stated that would not be a problem at all. Mr. Ouimet asked can you tell me a little bit more about the three cars that may be there from 3:00pm to 9:00am the next morning? Mr. Zappone stated the following: We have four retired drivers that work for us probably three days a week. So, they would shuffle cars back and forth between dealerships, the auction and probably a cleanup shop. For instance; if a car is coming out of the auction and it has to be driven to Kingston or wherever we're selling the car, I don't like them driving at night because there is too much traffic and most of them are all out of Queensbury. So, right now we have them park the cars behind my brother's dealership at probably 3:30pm to 4:00pm at night and then by 9:00am the next morning, they're out and they pick up the car and they deliver it to wherever it is going. Mr. Ouimet stated so; there would be no more than three cars and those cars would be there no longer than when? Mr. Zappone stated overnight. Mr. Higgins asked where do they park their cars when they get there? Mr. Zappone stated the following? Well, they actually have a chase car that we have to drive around in so basically; my business partner father's is the one that kind of heads up that group. Like this morning; he was in the office at 8:30am, he got his orders that we put down on a piece of paper and then they

take off. It's a pretty clean cut operation as we don't have clean up shops, we don't have transfer orders, we don't repair cars and we mainly do title work. Mr. Higgins stated the following: Yes, I just wanted to make sure that each individual didn't drive their own vehicle there. So, they carpool with one vehicle. Mr. Zappone they carpool with a vehicle that we provide from my business partner's father. Mr. Harris stated Mr. Zappone does expect once a week a staff meeting where he might have six vehicles and asked are you okay with that? Mr. Zappone stated yes, it would be the two girls, my son, myself, my other business partner and possibly one other business partner, but that would be the maximum and we're there until 2:00pm and then we're gone. Mr. Roberts stated the Sign application looks good and will the sign be wall-mounted? Mr. Zappone stated yes, it is wall-mounted

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

**Number of Signs: 1**

1. Wall-Mounted
2. No lighting
3. 1'x 4' = 4 SF

Mr. Nadeau made a motion to approve the Change of Use/Tenant application for ADK Auto Brokers, Inc. with the condition that no more than three (3) automobiles be parked overnight in the rear of the building for the applicant's business. Mr. Higgins seconded. All-Aye. Motion carried.

Mr. Roberts made a motion to approve the Sign application for ADK Auto Brokers, Inc. Mr. Nadeau seconded. All-Aye. Motion carried.

***Old Business:***

**14.083 OB Miranda Real Estate, 1482 Route 9 – Addition to Site Plan**

Mr. Brian Cooper from M J Engineering stated the following: I'm representing Miranda Real Estate. The last time we were in front of the Board was on September 22, 2014 and we presented a revised plan in which we received a revised denial letter. We attended a Zoning Board of Appeals (ZBA) Public Hearing on October 6, 2014 and from that meeting we did receive an approval for all the variances that we requested. We're here tonight just to receive direction moving forward from the Board. Mr. Ouimet asked do you have a summary of the approved variances from the ZBA? Mr. Cooper stated yes, we have for the 1480 Route 9 lot, we have a front variance setback, a side auxiliary structure setback, a lot size area and a lot width and for the 1482 Route 9 property; we have front setback, a side setback, parking count and a lot size area. Mr. Higgins stated on the drawing; which parking spots go with which building? Mr. Cooper stated parking spots 1 through 17 on the 1482 property are going to go to that building and parking spots 1 through 13, which are on the southern half of the parcel, are going to go to the 1480 property. Mr. Ouimet stated so; the variance that was granted was to reduce the number of parking spaces per parcel? Mr. Cooper stated no, the variance was granted, as discussed previously, because the parking spots labeled 6 through 17 are shared between the two properties. So, they granted us the remaining eight spaces because we have five that are solely on that property so; we got a variance for eight spaces although we have more proposed, we covered the minimum requirement from that variance perspective. Mr. Higgins stated so; those aren't shared spots and they're dedicated to 1482. Mr. Cooper stated they're dedicated to 1482, however, we have permanent easements that I think we're going to put together to allow somebody from the 1480 property to park on the 1482 side and vice

versa, so if the sale of the property and let's say that 1480 property was to be sold, they have rights to park in those spots. Mr. Ouimet stated the following: Right. However, are you aware that this Board has never approved shared parking on an adjacent parcel? Mr. Cooper stated the following yes, I am aware of that and that's why we got the variance and that's why we got the eight. Mr. Ouimet stated so; it's your belief that the variance that was granted by the ZBA negates our position on sharing parking places? Mr. Cooper stated at this point and I'll confirm with Mr. Miranda, but I think if it's going to move the project forward to make these dedicated to 1482 and that's what the intent is. Mr. Ouimet stated but you're not moving it from one parcel to another. Mr. Cooper stated that's correct, but in order for 1482 to park in those spots, they need a permanent easement from 1480. Mr. Ouimet stated that's what we don't approve, unless I'm wrong and I'll ask the other Board members. Mr. Roberts stated we haven't before. Mr. Higgins stated never. Mr. Ouimet stated so; unless somehow the ZBA's ruling trumps our position on not being able to share parking from an adjacent parcel. Mr. Cooper asked what if we remove the permanent easements off the table and we just stuck with the variance for 8 parking spots or reduced parking spots? Mr. Ouimet stated the following: I don't think that does it for you because it doesn't do it for me. I think what I need to do is to refer this to the Town Attorney for a legal opinion as to whether or not the ZBA ruling changes our positions. Mr. Nadeau stated I don't recall that we're approving off-site parking. Mr. Ouimet stated right, because the lots are separate and you're actually parking on another lot even though you're doing it pursuant to an easement. Mr. Cooper stated the following: Partially, yes. The lots are currently owned by the same owner obviously. Mr. Ouimet stated in my opinion that raises a legal question as to whether or not the ruling of the ZBA negates our prior practice of not approving parking on adjacent parcels to fit the count for what's needed on yours. Mr. Cooper stated correct me if I'm wrong, but doesn't the variance of eight parking spots and 13 are required and we had five and we got a variance for eight meaning that we obviously don't have the eight so, they are allowing us just to have five and that's my understanding with that variance, is that correct? Mr. Ouimet stated that's what the Town Attorney is going to tell us. Mr. Cooper stated okay. Mr. Ouimet stated the following; So, I think what we're going to do is; since this has gone to the County for review and the County has indicated that they are interest in seeing a drainage and grading plan in order to make their final determination. So, they have an opine so we can't do anything with your request tonight. So, what we're going to do is; we're going to refer this to the Town Engineer for review because they haven't seen it because you have changed it a couple of times and they've not looked at it. So, we're going to refer this to CHA and we're also going to request from the Town Attorney that she give us an opinion as to whether or not the ZBA's ruling changes our position on parking on adjacent parcels. Also, I'm going to ask that you provide the County with the additional drainage and grading, okay? Mr. Cooper stated certainly, yes. Mr. Ouimet stated and we'll put this back on for our next meeting in two weeks, which is November 24, 2014. Mr. Ouimet asked Mr. Harris if this can all be done in two weeks? Mr. Harris stated the following: Yes, the timing is right for the County. Also, you and I had a discussion about the grading plan because the County wants to see the grading plan. So, I'll need that this week. Mr. Cooper stated we're working for Thursday to submit all that information to everyone. Mr. Ouimet stated okay great, we're adjourn this until two weeks from now.

This item was tabled. The Board tabled the request for construction of a 699 SF addition to the existing 1890 SF building at 1482 Route 9, pending review by the Saratoga County Planning Board and the Town Engineer/CHA for technical review. The Board also requested clarification

from the Town Attorney regarding the variances approved by the Zoning Board of Appeals, as they relate to the proposed split/shared parking spaces.

**14.093 OB                    Northway Surgical & Pain Center, LLC, 1596 Route 9 – Commercial Site Plan**

Mr. Gavin Vuillaume from the Environmental Design Partnership stated the following: I'm representing the applicant, Northway Surgical. This project was last in front of the Board in September for concept and I believe at that point it was a revised concept and it had been in front of the Board before that as well. The focus at that Planning Board meeting was mostly on the secondary access to the site. Subsequently, we have submitted the site plans to the New York State Department of Transportation (NYSDOT) to make sure that we would get permission for that second access and we did receive permission rather recently on the secondary access from the NYSDOT. So, I'm glad to say that we do have that second access to work with. From what I understand; Emergency Services may still want to have a full access driveway as opposed to just a one-way in or a one-way in and one-way out. Again, the applicant really is going to defer to the NYSDOT to whether or not that's acceptable to them, but we'll certainly go with whatever driveway that Emergency Services feels would be the most adequate for this type of facility. As far as the layout goes; everything is basically status quo as the detailed plans still situate the building essentially in the center of the property. I believe at that time we were not showing an overhead canopy at the building entrance as there is a drop off area right in front of the main entrance to the building and the architect has been working with the client on trying to hopefully construct a covered canopy over the front of the building there. Obviously, those get somewhat expensive so, there may be a cost affect to that, but for now we are showing that as an option to have a covered canopy at the entrance. As far as circulation and as traffic goes; again, we've been through all of that at the last meeting. Everything else parking wise all stayed the same once we did the detailed plans. The grading in the rear of the property was rather challenging with the way the topography drops off and there is a retaining wall approximately six to seven foot high in the rear. We did speak to the adjacent landowner and we met with them on-site and the applicant has signed an agreement with the landowner adjacent to us to install that retaining wall and partially access their parcel to construct it. So, they're satisfied with this site plan and the construction of the retaining wall since it's rather close to the property at the rear. The only other thing I think that may not have been discussed that much, but I can just quickly show you a little bit for the off-site sewer. We did not present this at the last meeting, but we are connecting as you can see from this off-site sewer connection plan from our property to the south to an existing sanitary manhole out on Sitterly Road. So, that's where the sewer would be connecting. This actually will be done by the current landowner, DCG Development, who will also be making some modifications to an existing force main on another adjacent parcel across Route 9 that's going to need to be relocated in the same trench as our proposed force main. So, that's the sewer. Stormwater is fairly simple as we presented it at the last meeting; we do have porous pavement as one of our green infrastructure techniques. We've got rain gardens and vegetated swales throughout the property with everything discharging to the rear of the property. I think that's really all I had and there was obviously a letter from CHA and we formally addressed all of their comments from the last submitted and then they just generated another letter, which again, I think I've covered pretty much all of the important issues that are in that letter as there is some technical stuff that can be worked out I think between now and the stamping of the plans. Mr. Ouimet stated I'm still confused about the emergency access and I'm confused by what you said Mr. Vuillaume because you said that you're going to do whatever the NYSDOT says and

what about Emergency Services? Mr. Vuillaume stated well again, we're open to having it either way. Mr. Ouimet stated Emergency Services makes a valid point because they have to travel down Sitterly Road, which is going to be the quickest way for them to get to the facility from their station at the Crossings. Mr. Vuillaume stated yes. Mr. Ouimet stated so; there is no way that they're going to go the other way and come south on Route 9 and go into the as designed emergency entrance to the north. Mr. Vuillaume stated right. Mr. Ouimet stated if you don't have a full access curb cut, basically what you're telling Emergency Services is; "too bad". Mr. Vuillaume stated well, we do have a full access curb cut here and that one is a full access and this one originally was not intended to be full access. Mr. Ouimet stated I understand that, but the issue then becomes if they were to pick up a patient and have to go to a hospital, chances are they're not going to go north on Route 9 to any hospital that I know of. Mr. Vuillaume right now we have it setup so the emergency vehicle could park at the back corner of the building and once they pick up the patient, they could easily go back out the other entrance to exit or we could try to get right-in/right-out here. Mr. Ouimet stated I think you're going to need to get a full access curb cut as requested for both and if the NYSDOT doesn't give it to you, then I don't know. Mr. Vuillaume stated the following: Well, if you would like, we can certainly make that a condition for the project because I don't see where they would have a problem with it, but again, you just never know. When we presented it to them, we did present it to them in this fashion. Mr. Ouimet stated I know, but I'd like to see those kinds of problems resolved before they come to the Board for final approval. Mr. Vuillaume stated I would have liked to have known about myself and apparently I just found out this evening that Emergency Services was looking for this. Mr. Ouimet asked for a full access? Mr. Vuillaume stated yes. Mr. Ouimet asked Mr. Bianchino if all of CHA's comments have been addressed other than the ones that just came? Mr. Bianchino stated the following: Yes, I think the major ones have been addressed. The biggest issue that we really had was regarding the retaining wall and I think there was a letter that went out on Friday that does have just some clarifications and some things we need to work out, but they're just technical engineering things that we can work through. Mr. Ouimet asked do you have an opinion on the full access curb cut on the emergency side? Mr. Bianchino stated the following: As I said during the pre-meeting; I'm pretty sure as I haven't been in an emergency vehicle in a while, but I pretty sure that they come with a reverse thing and I think the way he has it laid out it can work the way it's proposed where they come to the back corner and back in and then move back around. However, if the Board wants two access points, I can call Mr. Kevin Novak at the NYSDOT and see if they have any objections to that if we want to go full access. In talking with Mr. Vuillaume before in the hallway, he did indicate that if that's what emergency services wants, he can widen the driveway. Mr. Vuillaume stated yes because we have plenty of room to do it. Mr. Ouimet stated but would you still limit it to an emergency entrance only, right? Mr. Vuillaume stated yes. Mr. Ouimet asked the Board what their opinion was. Mr. Roberts asked should we wait until we hear the final verdict from the NYSDOT before we act? Mr. Ouimet stated well, that's what I'm thinking. Mr. Roberts stated that's what I think too. Mr. Vuillaume stated unfortunately, we're running out of time on our end and I hate to bring this up again. Mr. Roberts asked is two weeks going to make a big difference? Mr. Vuillaume stated the following: Two weeks is going to make a huge difference for these guys. If we were in July, I would say two weeks does not make difference, but we're in November. Mr. Higgins stated yes, but they may have to change the building because if the NYSDOT doesn't give you dual access, you may have to move the area where the patients get picked up to the other side of the building. Mr. Vuillaume stated then following: well, then we'll just go into a whole new site plan probably next year because unfortunately it's either now or never for these guys. I have

plenty of room to put in the two-way access if the NYSDOT okays it. If they don't, I don't know what to tell you because we may have to go back to Emergency Services but I don't understand why that couldn't just be broken down. Mr. Ouimet asked is there any reason why you couldn't do both with going back to Emergency Services and the NYSDOT? Mr. Vuillaume stated sure. Mr. Ouimet stated the following: If Emergency Services drops their objection, then I don't think we have one, but as long as their objection stands, then I have a problem if that isn't a full access curb cut. If we approve this contingent on that being a full access curb cut and then the NYSDOT doesn't approve it, then what? Mr. Vuillaume stated well, then we're done. Mr. Ouimet stated but I don't know how that helps you. Mr. Roberts stated I find it hard to believe that two weeks is going to make a big difference and I'm sorry, I don't believe you. Mr. Vuillaume stated the following: Well, unfortunately it does. I wish I had known about this earlier myself, otherwise we could have hopefully gotten an answer a lot quicker. Mr. Ouimet stated well, if we did a full access curb cut or the dropping of the objection by Emergency Services that would give you two ways at it. Mr. Vuillaume stated right. Mr. Ouimet stated but if you don't get it, then it's not approved. Mr. Vuillaume stated right, that's fine. Mr. Ouimet stated unless we make it contingent on those two things and I mean, why hold them up? Mr. Roberts stated go ahead as I said my peace, that's all. Mr. Vuillaume stated obviously, if I had known this, we probably could have maybe gotten an answer. Mr. Harris stated I have to interrupt on that because this did come up at the September 8<sup>th</sup> meeting and whoever represented your firm then did talk to the Board about it and indicated that it would be something that they would address with the NYSDOT during the design process so, this just didn't come up. Mr. Vuillaume stated no, the driveway didn't, but as far as configuration of the driveway, nobody ever told us that it needed to be a full access and that was never brought to our attention. Mr. Harris stated a full access and not two-way; just a left turn or a right turn. Mr. Vuillaume stated right, with this one here being a full access and that was never contemplated as being a full access as far as I know. Mr. Ouimet stated it never was from the Board's standpoint, but we didn't hear from Emergency Services because the referral was late. Mr. Vuillaume stated I know and I understand that. Mr. Ouimet stated but I can't ignore them. Mr. Vuillaume stated the following: No and we're not ignoring it either and I want to make sure that it gets taken care of. I think probably what we would do is start with them first to see how strong they are about it and if it's something that they really really feel is necessary, and then we would go to the NYSDOT and try to see if a full access is acceptable to them. I don't think they will have trouble with that. Mr. Higgins asked Mr. Harris when did we get this notice from Emergency Services? Mr. Harris stated it was in advance of the September 8<sup>th</sup> meeting when they were on the agenda. Mr. Higgins stated so; it's been almost two months? Mr. Vuillaume stated did it say "full access" in the recommendation? Mr. Ouimet stated didn't they say redesign or something? Mr. Harris stated the following: I believe that I have an email from whoever it was from your firm that spoke in September regarding that second point and the first point of Emergency Services was the elimination of the gate and I have an email in the file that you're willing to get rid of the gate, but that the other issue regarding allowing a left turn in and right turn in, I'll call it, was something that you wanted to address with the NYSDOT during the design process. This was fully discussed at the September 8<sup>th</sup> meeting and it's not anything new and you had since gone to the NYSDOT and you forwarded me an email that they're okay with having a second curb cut, but you would discuss the details of the design and the configuration of it during the design process. Mr. Vuillaume stated the following: Right and that does sound right to me. So, we will go back to them to see if they would allow for the secondary or the full access if in fact Emergency Services feels strong about that. Maybe a right-in or a right-out could be good too and do you think that might be something that would

be beneficial? Mr. Harris stated the following: I don't think anybody wanted any entrance or egress onto Route 9 and it's Emergency Services talking about the ingress from Route 9; coming from the south heading north and they wanted to be able to make a left turn and the way it is configured now it is an emergency entrance. Mr. Vuillaume stated okay so, they want a full access and it has to be a full access. Mr. Harris stated it's not a two-way access and not an in and out. Mr. Ouimet stated the following: Right, not in and out. Not as a working in and out and just as an emergency entrance. Mr. Vuillaume stated right and I understand, from both directions. Mr. Ouimet stated they want to be able to instead of jumping a curb to go south, they want to be able to go out. Mr. Vuillaume stated the following: Okay, that's fine. I don't think the NYSDOT personally is going to have a problem with it. Mr. Higgins stated the following: Now I'm confused. I thought the northerly access; Emergency Services wants that to be a full curb cut, in other words, unlimited in or out. Is that not correct? Mr. Ouimet stated I think you're correct because I think they want to be able to turn south on Route 9 from that curb cut and the way it was designed it was restricted only as an entrance from the north. Mr. Vuillaume stated correct. Mr. Higgins stated correct. Mr. Vuillaume stated now I think they want full access and a full access to me means in and out. Mr. Ouimet stated right, they want to be able to go in from the south and leave going south. Mr. Vuillaume stated yes. Mrs. Sautter stated I thought they wanted to be able to come in from the north and the south, but not exit and I didn't understand that part of it. Mr. Ruchlicki stated it would be used as an exit as well. Mr. Ouimet stated yes and they want that side to be the emergency portal, if you will, in and out. Mr. Ruchlicki stated but they want to get in from both north and south and coming out they wanted to restrict it and I guess the point to that was that you or I wouldn't drive around the parking lot because no one is coming out that way. Mr. Vuillaume stated right, it would just be used for emergency vehicles only. Mr. Ruchlicki stated then I would think signage within the facility should take care of that. Mr. Vuillaume stated right that should help. Mr. Ruchlicki stated not that it's 100%. Mr. Vuillaume stated yes. Mr. Higgins stated so; would there be a sign that says "right hand turns by emergency vehicles only" or "do not enter unless it is an emergency vehicle"? Mr. Vuillaume stated yes, something like that. Mr. Harris stated the following: Here's what Emergency Services response said; Mr. Joe Dannible met with Mr. Joe Santiago from the Clifton Park and Halfmoon Emergency and this is in the ambulance corps words, "The emergency entrance to the lot should be opened as much as possible to allow entrance of an emergency vehicle from both northbound and southbound traffic. The current configuration allows for easy turning access from one direction and we would ask that this entrance be expanded to allow for the turning of long and wide emergency vehicles safely into the facility to avoid having to stop and readjust while the rear of vehicle remains in traffic". So, they want to be able to enter the site in the emergency access both northbound and southbound, but the exit was not part of that. Mr. Ouimet stated that response was dated September 5<sup>th</sup>. Mr. Vuillaume stated okay. Mr. Ruchlicki stated that's exactly how I remember it. Mr. Vuillaume stated okay so it is a right in and a left in? Mr. Ouimet stated right. Mr. Vuillaume stated okay, got it. Mr. Ouimet stated regarding the issue with the grading easement in the back; do you have a note from the adjoining landowner Mr. Harris? Mr. Harris stated yes, we have a signed agreement between the applicants and Mr. Erik Bruhns, and I forget the name of the company that owns the land to the west, indicating their agreement with use of their property for a temporary construction entrance to construct the retaining wall proposed on this parcel and install the landscaping and grading. Mr. Vuillaume stated and to preserve the trees as there are some trees there that we will be flagging and making sure that they're protected. Mr. Ouimet asked does that need to be in whatever resolution this Board passes?

Mr. Harris stated yes, I would suggest that we incorporate that in the resolution per the agreement. Mr. Vuillaume stated yes.

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

Mr. Berkowitz made a motion to approve the Commercial Site Plan for Northway Surgical & Pain Center, LLC. The Board approved the request to construct a 10,000 SF medical facility, with conditions relating to the temporary construction agreement with the adjacent property owner (Thermal Environment Sales), finalization of the emergency entrance design with the Clifton Park-Halfmoon Emergency Services Corps and NYSDOT, and submittal of a final site plan that addresses all outstanding technical items raised by the Town Engineer/CHA. Mr. Ruchlicki seconded. All-Aye. Motion carried.

**14.105 OB                    Stewart's Shop #112, 1403 Route 9 - Addition to Site Plan**

Mr. Chris Potter from Stewart's stated the following: Since the last time I was here, we appeared before the Zoning Board of Appeals (ZBA) and we had made a slight modification to the plan for the parking. We reconfigured the parking around the building to meet the requirement of the 10 FT x 20 FT parking spaces and we also gained an additional spot to decrease the variance that we would need for the number of parking spaces. Mr. Ouimet stated but you didn't eliminate all of the variances, correct? Mr. Potter stated the following: We did not eliminate all of the variances. So, since we changed the plan from what you guys had denied and they wanted us to come back to show the changes and then we go back to the ZBA.

Mr. Roberts made a motion to deny the Addition to Site Plan application for Stewart's Shop #112 due to changes in the proposed Site Plan by the applicant during review by the Zoning Board of Appeals, the Planning Board issued a new denial of the proposed plan to construct a new gas canopy and consolidate ingress/egress from Route 9. Mr. Berkowitz seconded. All-Aye. Motion carried.

Mr. Ruchlicki made a motion to adjourn the November 10, 2014 Planning Board Meeting at 8:00pm. Mr. Nadeau seconded. All-Aye. Motion carried.

Respectfully submitted,  
Milly Pascuzzi  
Planning Board Secretary