

Town of Halfmoon Planning Board

Meeting Minutes – August 12, 2013

Those present at the August 12, 2013 Planning Board meeting were:

Planning Board Members: John Ouimet – Chairman
Rich Berkowitz
Marcel Nadeau
Tom Ruchlicki
John Higgins
Lois Smith-Law

Planning Board Alternates: Margaret Sautter
Robert Partlow

Director of Planning: Richard Harris
Planning Volunteer: Paul Marlow

Town Attorney: Lyn Murphy

Town Board Liaisons: Walt Polak

CHA Representative: Mike Bianchino

Mr. Ouimet opened the August 12, 2013 Planning Board Meeting at 7:00pm.

Mr. Ouimet asked the Planning Board Members if they had reviewed the July 8, 2013 Planning Board Minutes. Mr. Berkowitz made a motion to approve the July 8, 2013. Mr. Ruchlicki seconded. All-Aye. Motion carried.

Mr. Ouimet asked the Planning Board Members if they had reviewed the July 22, 2013 Planning Board Minutes. Mr. Ruchlicki made a motion to approve the July 22, 2013 Planning Board Minutes. Mr. Higgins seconded. Mr. Berkowitz abstained from the July 22, 2013 Planning Board meeting minutes due to his absence. Vote: 5-Aye, 0-Nay, 1-Abstention. Motion carried.

Public Hearing:

13.083 PH Evers Subdivision, 32 Smith Road – Minor Subdivision

Mr. Ouimet opened the Public Hearing at 7:03pm. Mr. Ouimet asked if anyone would like to have the public notice read. No one responded. Mr. Duane Rabideau, of Gilbert VanGuilder Land Surveyors, PLLC, stated the following: I'm here tonight representing Ed and Mary Evers for a proposed 2-lot subdivision. The parcel is located on the north westerly side of Smith Road and about 200 FT north of Vosburgh Road. The proposal is to subdivide an approximately 6.5-acre parcel into two lots. Lot #32 would encompass about 3-1/2 acres and it would include all of the existing house and improvements. Lot #30 would be for a new proposed house. Each of the parcels have public water and on-site septic. Since the last meeting, we have assigned each lot the

postal addresses and we have addressed the concerns of the Board about where the neighboring wells and septs are located on the parcel. Mr. Ouimet asked if anyone from the public wished to speak. No one responded. Mr. Ouimet closed the public hearing at 7:05pm. Mr. Nadeau stated the only comment that I had at the previous meeting was regarding the clearing of vegetation at the end of the driveway. Mr. Rabideau stated okay. Mr. Higgins asked where is the septic location on the existing house? Mr. Evers, the applicant, stated the septic is located off the back south side of the house and runs to the northwest. Mr. Higgins stated we'll need that located on the map before it can be signed. Mr. Rabideau stated okay.

Mr. Nadeau made a motion to approve the minor subdivision application for the Evers Subdivision with the conditions that the existing septic for 32 Smith Road be depicted on the subdivision plan and that the existing trees located near the proposed driveway for the new lot be removed to provide adequate sight distance for ingress/egress to Smith Road. Mr. Higgins seconded. All-Aye. Motion carried.

New Business:

13.084 NB Flanigan Subdivision, 37 & 39 Church Hill Road – Minor Subdivision (Lot Line Adjustment)

Ms. Kathy Suchocki stated the following: I'm here tonight on behalf of Mr. Ronald Flanigan and Mr. Richard Flanigan who are seeking a basic lot line adjustment between 37 Church Hill Road and 39 Church Hill Road. The proposal is for Mr. Ronald Flanigan, owner of 37 Church Hill Road, to give .22-acres or 9,525 SF to his neighbor's Richard and JoAnn Flanigan who are the owners of 39 Church Hill Road. Ronald Flanigan's property located at 37 Church Hill Road is presently 1.42-acres and after the approval for the subdivision is granted this lot would become 1.20-acres. Richard and JoAnn Flanigan's property located at 39 Church Hill Road is presently .94-acres and after the approval for the subdivision is granted this lot would become 1.16-acres. Both properties are zoned R-1 Residential and existing single-family homes are constructed on each of the parcels. Mr. Higgins stated the following: Being that these two homes are existing homes, we usually require that they locate the wells and septs on the maps. Mr. Polak stated both of the homes have public water and public sewer. Ms. Suchocki stated that is correct and that should be noted on the map. Mr. Higgins stated okay.

Mr. Nadeau made a motion to set a public hearing for the August 26, 2013 Planning Board meeting. Mr. Berkowitz seconded. All-Aye. Motion carried.

13.086 NB RGH Building Addition, 4 Liebich Lane – Addition to Site Plan

Per the applicant's request, this item was removed from the August 12, 2013 agenda.

13.087 NB Precision Periodontics/Neda Azadivatan-le DDS, 1426 Vischer Ferry Road – Change of Tenant & Sign

Dr. Neda Azadivatan-le, the applicant, stated the following: I'm purchasing the building located at 1426 Vischer Ferry Road from Mr. Williams. Currently the building is a brokerage office and I'm planning to have my periodontal practice there. Basically we would be treating patients who have gum disease and we also do root canals. Mr. Ouimet asked the applicant to tell the Board how many doctors and how many staff you would employ at this building. Dr. Azadivatan-le stated the following: On any given day we would have one doctor and two staff members at this location. Patients would come to see the doctor and appointments are scheduled at 1-hour intervals. Most likely we would have about 4 to 5 people there on any given day. Mr. Ouimet asked will your hours

of operation be 5 days a week, Monday through Friday or will you have any extended hours. Dr. Azadivatan-le stated no, both of us work part-time and I will be there 2 days a week and the endodontist is there 2 days a week. Mr. Ouimet asked would it still be Monday through Friday? Dr. Azadivatan-le stated correct and we would have no weekend hours. Mr. Ouimet asked would you have a staff member there 5 days a week? Dr. Azadivatan-le stated yes, we have one individual there all 5 days for the purposes of answering our telephone. Mr. Ouimet asked how many treatment rooms will you have? Dr. Azadivatan-le stated we are going to have a total of 3 rooms; one room is used for examinations and the other two rooms are used for treatment rooms. Mr. Ouimet asked Mr. Harris if there was adequate parking at this location. Mr. Harris stated the following: Yes. The site has 7 paved parking spaces with a potential for at least 3 landbanked parking spaces. On the east side of the building where the staff members park and if they are going to be there all day, they could stack 2 cars. So, there would be 8 total parking spaces with room on the west side of the building for any overflow on a grass area that is relatively flat and dry for 2 more potential parking spaces. Mr. Higgins stated I just want to caution the applicant that we have had problems with previous occupants of that building parking on the road. I just want to make sure that you understand that your patients or employees cannot park on the road. Dr. Azadivatan-le stated sure. Mr. Ouimet asked the applicant if she also had a sign application. Dr. Azadivatan-le stated the following: From what I understand, the sign that we proposed is larger than the Town allows. So, we're going to go with whatever the Town's recommendations are. Mr. Harris stated in the Professional Office/Residential (PO-R) zone, signs are limited to 10 SF per side or less for a total of 20 SF and Dr. Azadivatan-le proposed sign application was for a 24 SF per side for a total of 48 SF. Mr. Ouimet stated so the maximum size sign permitted by the Town's ordinance is 20 SF, which is 10 SF per side. Dr. Azadivatan-le stated okay. Mr. Ouimet stated the following: I think what Mr. Harris is suggesting is that the sign that you proposed is much larger than what is permitted by our Town ordinance. So, how do you want to proceed at this point? Do you want to come back with a rendering, do you want to provide a rendering or we can approve only up to 20 SF for the sign? Dr. Azadivatan-le stated I'll just go up to 20 SF total per sign. Mr. Ouimet stated that is okay but we would want to see a rendering of it and how it's going to layout. Dr. Azadivatan-le stated okay. Mr. Ouimet stated all we can approve right now is 20 SF total. Dr. Azadivatan-le stated okay. Mr. Ouimet stated so do you want to amend your sign application to 20 SF sign? Dr. Azadivatan-le stated yes. Mr. Ouimet stated thank you and welcome to Halfmoon.

Mrs. Lois Smith-Law made a motion to approve Precision Periodontics/Nada Azadivatan-le DDS for a change of tenant/use application for a dental practice and the sign application contingent upon the applicant submitting a revised rendering to the Planning Department depicting a sign 10 SF or less per side. Mr. Ruchlicki seconded. All-Aye. Motion carried.

13.088 NB Rock's Precision Automotive, 190 Route 146 – Sign

Mr. Greg Rockefeller from Rock's Precision Automotive stated the following: I am proposing a 4 FT x 8 FT (32 SF) lighted sign that would be wall mounted on the building façade and also a 3 FT x 8 FT (24 SF) per side for a total of 48 SF on a monument/free-standing sign. Mr. Ouimet asked Mr. Harris if he had reviewed the proposed signage? Mr. Harris stated the following: Yes, I reviewed the square footage and the signage area, height and the proposed locations meet the requirements of the Town Code. Also, the location of the proposed monument/free-standing sign rendering shows that the sign would be located beyond the right-of-way. So, the sign would be on their own property, which is adjacent to the driveway that would be approximately 11 FT high. I also talked to Mr. Roberts about these signs and he found no issues with this proposal. Mr. Higgins asked is the 11 FT height from the existing grade? Mr. Rockefeller stated yes.

Mr. Berkowitz made a motion to approve the sign application for Rock's Precision Automotive for a wall-mounted business sign and a free-standing/monument sign. Mr. Higgins seconded. All-Aye. Motion carried.

13.089 NB Burger King (Carrols LLC), 1699 Route 9 - Signs

Mr. Tom Brogan from Carrols LLC stated the following: Carrols LLC is the owner/operator of the Burger King located at the intersection of Route 146 and Route 9. We have made an application to the Town for a remodel at this facility. The remodel includes exterior façade, interior dining area, bathrooms and some ADA (Americans with Disabilities Act) required improvements. The exterior façade would include the removal and/or modification of some of the mansard roofing, the extension of the wall height over the former greenhouse area, as well as modifications to the signs on the exterior façade. Mr. Ouimet asked is there any proposed modification to the monument sign? Mr. Brogan stated no, there is not. Mr. Ouimet asked Mr. Harris if he had reviewed the sign application. Mr. Harris stated yes, the applicant is seeking approval for 5 new signs and Signs #1-3 are similar in size/content. The proposal for the signs is as follows:

- Sign #1:
 - Style = wall mounted (Burger King logo)
 - Size = 19.6 SF (5' diameter round)
 - Side(s): 1
 - Location of Sign: Drive-Thru (north façade/Rt. 146)
 - Lighted: yes (internal)
- Sign #2:
 - Style = wall mounted (Burger King logo)
 - Size = 19.6 SF (5' diameter round)
 - Side(s): 1
 - Location of Sign: Front Entrance (west façade/Rt. 9)
 - Lighted: yes (internal)
- Sign #3:
 - Style = wall mounted (Burger King logo)
 - Size = 19.6 SF (5' diameter round)
 - Side(s): 1
 - Location of Sign: Main Entrance (south façade)
 - Lighted: yes (internal)
- Sign #4:
 - Style = wall mounted ("Home of the Whopper" sign)
 - Size = 27.42 SF (14" x 23.5')
 - Side(s): 1
 - Location of Sign: Main Entrance (south facade)
 - Lighted: yes (internal)
- Sign #5:
 - Style = wall mounted ("Taste is King" sign)
 - Size = 14.67 SF (1.8' x 8')
 - Side(s): 1
 - Location of Sign: Main Entrance (south façade)
 - Lighted: yes (sconce lighting)

The total square footage for all signage (5 proposed signs/101 SF plus existing monument sign/132 SF to remain) is 233 SF. This total area is within the limits of the Town Code. Mr. Higgins asked how about the "Have It Your Way" sign? Mr. Brogan stated I will have to apologize as that I thought that one was blacked out and that picture depicts the elevation with the logo and the "Home of the Whopper". Mr. Higgins stated so, that's not going to be there, right? Mr. Brogan stated no, but there is a similar sign in a similar location that is in the package that say's "Taste is King". Mr. Higgins stated so, instead of "Have it Your Way" it's going to say "Taste is King". Mr. Brogan stated that is correct. Mr. Berkowitz asked how about the picture of the hamburger that says "Flame". Mr. Brogan stated the following: No and I'm not sure what got printed because there were 2 submissions. There was a preliminary submission that was provided to Mr. Casper and then we sent another package. So, there may have been some attachments in the earlier package that got printed. I think the later package was a little more streamlined where I tried to eliminate confusion. Mr. Ouimet asked Mr. Harris if he had reviewed these proposals with Mr. Roberts. Mr. Harris stated yes I did talk with Mr. Roberts a couple of times regarding the square footage of the signage and it is within the limit and the fact that they're not proposing changes to the existing monument sign.

Mr. Berkowitz made a motion to approve the sign(s) application for five (5) new wall-mounted business signs for Burger King. Mr. Higgins second. All-Aye. Motion carried.

Old Business:

**05.221 OB The Meadows of Halfmoon, Farm to Market Road – Major
Subdivision/GEIS (formerly Klersy Subdivision)**

Mr. Joe Bianchine, of ABD Surveying & Engineering, stated the following: I'm representing the Klersy's and Mr. Kevin Klersy is here with me tonight for The Meadows of Halfmoon. This project has been before the Board for a number of years and I think this spring we received preliminary approval on it. The parcel is located along Farm to Market Road and Angle Lane. This proposal is for a 49-lot subdivision and 44 of the lots are on internal streets and 5 of the lots would be located on Angle Lane. Over a third of the parcel or 32+ acres of the 90-acres are set aside for openspace as a Homeowner's Association (HOA). I believe at this point that we've have taken care of all Town comments and we have submitted the plans to the New York State Department of Environmental Conservation (NYSDEC) and the New York State Department of Health (NYSDOH). There were a couple of comments that they had that was the recent revision with some notes and so forth on that and I believe they're all set with one minor exception where they changed their forms in May so I have to update the form. Other than that, it is the same subdivision as you previous saw and approved during the preliminary phase. As I said, all comments have been addressed. Mr. Ouimet asked Mr. Bianchino if he reviewed the responses to the NYSDEC and the NYSDOH comments? Mr. Bianchino stated I didn't see anything in there that was significant. Mr. Bianchine stated it was just their standard notes about water separation. Mr. Bianchino stated the following: There were no changes to the plans and all of our outstanding comments appear to have been addressed. The one outstanding thing that we had was something related to water and that report was obviously addressed as the departments have signed off. A water agreement was signed and approved for the Water District Extension and it does outline that this project is in the Generic Environmental Impact Statement (GEIS) study area. So, there are mitigation fees associated with it, but the applicant is proposing to install some of the improvements that were included in the GEIS Capital Improvement Plan, so there will be credits and those are all outlined in the Water District Agreement. Mr. Higgins asked Mrs. Murphy if she needed to see a draft of the HOA agreement. Mrs. Murphy started typically those are approved by the State and Mr. Bianchine knows that he has

to include the language with regards to the foreclosure if the HOA fees are not paid and that's our big concern to make sure that the HOA doesn't become unfunded.

Mr. Nadeau made a motion to grant final approval for The Meadows of Halfmoon Major Subdivision/GEIS. Mr. Higgins seconded. All-Aye. Motion carried.

13.027 OB Christopher J. & Phyllis Abele Subdivision, Lower Newtown Road – Minor Subdivision/Special Use Permit

Mr. Duane Rabideau, of Gilbert VanGuilder Land Surveyors, PLLC, stated the following: I'm representing Pastor Duke Hergatt in his request for a 4-lot subdivision. The subdivision map that you have in front of you was as per the comments and the site walk by members of the Planning Board. The two major items that were addressed and looked at were that the end of the driveway is now not a cul-de-sac, but an actual hammerhead that basically would minimize impact visual and would work better. Also, some screening would be put along the line where the approximate pool area for a neighboring house is to screen this a little bit better. As far as any other comments from the Planning Board, I thought they realized that with the screening that is here more likely than not, that these people are not even going to see houses in the back because there is vegetation. We did make changes to the map where we added the distances to the neighboring wells and septs in the area. I just had some 8-1/2 in. by 11 in. so, I'm making new maps, but they are shown on the map. Mr. Ouimet stated the following: Here's the problem that I have; that's not the subdivision layout that was presented to the public at our public hearing. The subdivision layout that was presented to public had a circle at the end of the driveway. Mr. Rabideau stated that's correct. Mr. Ouimet asked Mrs. Murphy if we're going to be asked to approve a subdivision that was not shown to the public at a public hearing; do we need to schedule a new public hearing? Mrs. Murphy stated the following: It depends on the severity of the change of the layout and I believe there is still some miscommunication because our Planning Department is being told that the fire district wants a cul-de-sac and definitely does not want anything even resembling what is on that map. So, I'm not quite sure where the confusion is being based from. Mr. Rabideau asked was there any correspondence with the fire department after? Mr. Harris stated the following: Yes. I spoke with Assistant Fire Chief Brian Bordreau and he was surprised of that change because the prior version showing a cul-de-sac was their preferred design. Mr. Bordreau asked me where this change came about and why it is now going back to the prior variation of a hammerhead and I didn't have a good answer for him and I didn't know where this latest design of a modified hammerhead design came from. Then there was also some discussion at the pre-meeting that I believe you had asserted that you had spoken to a fire chief. Was it someone from the Halfmoon-Waterford Fire Department or was it someone else? Mr. Rabideau stated the following: I spoke with Mr. Mark Smith from the Halfmoon-Waterford Fire Department. There seems to be some confusion as far as whose district it really is and Mr. Joe Starr talked with the fire chief from what he believes was his district and he prefers the hammerhead. Mrs. Murphy stated the fire district for this proposal is Halfmoon-Waterford. Mr. Harris stated the following: If it's Halfmoon-Waterford Fire District., they've seen the earlier version of the plan that we showed him and he said they had come up with the proposal for the cul-de-sac. So, he frankly was surprised with where this change came from and I didn't have an answer for where it came from because I wasn't sure what happened at the site visit that produced a change of the design as I wasn't there. I'm not sure if Mr. Mark Smith is a chief because I don't know all of the chiefs' names, but we have contact names from each fire department and for Halfmoon-Waterford Fire District we have Mr. Rick Petuske and Mr. Brian Bordreau. Mrs. Murphy stated I believe that maybe the source of confusion is Mr. Smith. Mr. John Pingelski, the Town's Highway Superintendent,

stated that Mr. Mark Smith and Mr. Brian Bordreau are with the same fire department. Mrs. Murphy stated right, they are in the same fire department, but the contact for Planning purposes is that they go through is Mr. Bordreau and Mr. Petuske. Although, Mr. Smith is a member and could give you his personal opinion, it's not what this Board is typically driven by. Mr. Joe Starr stated the following: I'm working with Pastor Duke Hergatt and Mr. Rabideau on this project. The day of the meeting I was just coming up that way and I used to live on that road and Mr. Smith was my neighbor and I know that he's the chief and I thought of that district. Mrs. Murphy stated Mr. Smith is a member, he's not the chief. Mr. Starr stated the following: Oh, okay. I did see Mr. Smith and he had the chief's car and when I spoke to him, he spoke with authority and he said "this is what you need to do". Mrs. Murphy stated Mr. Smith is an assistant and he would have a vehicle. Mr. Starr stated the following: Okay. So, I would say that this whole change came from that conversation on that day and on my behalf. Mrs. Murphy stated unfortunately Mr. Smith isn't the representative from that agency that's designated to make recommendations to this Board. Mr. Starr stated the following: Okay. Would it be unheard of if I went and spoke to them about this and possibly have a meeting with them? Mr. Harris stated that would upset our time clock because we already held the public hearing. Mrs. Murphy stated the following: This Board wants the cul-de-sac as well and it's not just for his sake. The Planner is advising this Board that the purpose of it really has to do with fire suppression having a water tank on-site that can fit in the cul-de-sac and the cars can still get around it as opposed to with the hammerhead design they cannot function as affectively or efficiently as with the cul-de-sac. So, they're very specific about wanting that and this Board will speak for itself. Mr. Harris stated in a supplement to that, Mr. Bordreau also had a concern with the 90 degree angle turns to each of those driveway and he felt that their trucks would have a hard time making that turn to the two end driveways. Mr. Starr stated more than likely and I hate to say that the map is wrong, but coming in it would be more of a "Y" and I can understand the confusion. Mr. Polak stated the following: For clarification, Mr. Jeremy Connors is actually a fire chief and I believe Mr. Brian Bordreau is the assistant and Mr. Rick Petuske is the Commissioner. Mr. Bordreau and Mr. Petuske do all the reviews for Chief Connors and they are allowed the cars. Mr. Ouimet stated the following: My real problem is that it seems like at this point in time you're asking this Board to vote on that particular configuration. That's not what was presented to the public at the public hearing. If you want the Board to vote on that particular configuration, we would have to reschedule the public hearing. In the interim time, you can work out the details with the fire district to make sure that fire service is okay with either one or both of those proposals. We just can't vote on a proposal that hasn't been in front of the public and the hammerhead was not, the cul-de-sac was. Mr. Rabideau stated so basically, if we don't vote on this and we'd have to go back to another public hearing for the hammerhead or we'll go back to the cul-de-sac and then we wouldn't need to do another public hearing, is that correct? Mr. Ouimet stated if you go back to the cul-de-sac, you don't need another public hearing because that is what the public commented on. Mr. Rabideau stated okay so, you can vote on this tonight if we go back to the cul-de-sac, is that correct? Mr. Ouimet stated yes. Mr. Higgins stated the following: There would be a stipulation that the cul-de-sac has to meet the fire department approval as far as the diameter or radius of the cul-de-sac. Mr. Rabideau stated okay. Also, because the cul-de-sac drawing did not show any buffering that you were going to add in that open area, there would also have to be a note on that previous drawing to add those pines that you're showing in the open area. Pastor Duke Hergatt stated the following: We are willing to do that because it's not a problem and I plan to do that. The new people who bought the house actually are attending my church now and we've become very good friends. I was just at their home on Saturday and they said "oh, look at this beautiful view", so they may not want those trees. I'm submitted to whatever the Board says and whatever they want because I don't have a problem. Mr. Higgins asked is this

the same person that was at the public hearing that said he wanted the buffer? Pastor Hergatt stated the following: It was the lady of the house and the husband is who I saw. I don't know who was here because I was in Europe at that time. So, it is not a problem for me either way but they like the view right now. Mr. Ouimet stated the following: I think the issue of the screening was an issue that was raised in public comment at the public hearing. So, if it is the same family that moved in, I'm sure that you can work it out with them. Mr. Higgins stated you just have to make sure that the husband and wife agree. Pastor Duke Hergatt stated yes and I know that the wife likes the view. Mr. Ouimet asked so; we're going to go back to the cul-de-sac, correct? Mr. Rabideau stated that's correct. Mr. Higgins stated and with the screening if it is required by the neighbor. Mrs. Murphy stated and the no-cut buffer because it's on your map there, but it's not on the cul-de-sac map. Mrs. Smith-Law stated and I think the proposed septic sites weren't on the other map either. Mr. Rabideau stated yes, that's correct. Mr. Higgins stated so; basically everything that is updated on this map would have to be updated on the map with the cul-de-sac. Mr. Rabideau stated the following: Yes, it would be this map with just a change to the drive and we can do it that way. So, everything that you see on this map will be on the new map with the cul-de-sac. Mr. Ouimet stated Mr. Polak said that any approval would be conditioned on the applicant supplying us evidence that the fire district has reviewed and approved the plan. Mr. Higgins stated also, it has to specify the size of the cul-de-sac.

Mrs. Smith-Law made a motion to approve the minor subdivision application for the Christopher J. & Phyllis Abele Subdivision with the following conditions: (1) the driveway design will be revised on the final plan to reflect the cul-de-sac design shown on the plan revised 6/27/13; (2) a letter be provided by the Applicant indicating the Halfmoon-Waterford Fire Department has reviewed and approved the driveway design, including the width/diameter of the cul-de-sac; (3) the revised plan shall include revisions depicted on the plan revised 8/5/13, including native white pine tree buffering along the western property line, the 25 FT "no-cut buffer", and wells and septic systems on the existing, proposed and adjacent parcels; (4) the driveway for the lot fronting on Lower Newtown Road to be addressed 116 Lower Newtown Road (former Lot 1), shall connect to the proposed combined driveway for the proposed 110, 112, and 114 Lower Newtown Road; and (5) if a single family home is proposed for 116 Lower Newtown Road (former Lot 1), it shall have a front yard setback of at least 120 FT. Mr. Berkowitz seconded. All-Aye. Motion carried.

Mr. Ouimet stated we will now discuss the application for a special use permit to build a duplex. Mr. Rabideau stated the following: Also, at the site meeting, an issue came up about the special use permit for the duplex. The Board members who were present at the site visit wanted the duplex moved back another 50 FT and this map represents that. Basically, since there is already an existing curb-cut through the vegetation, we would have to angle the drive to get to this and those are our changes for the special use permit. Mr. Nadeau stated I took a ride down in that area and there are some previous duplexes further down in that area, but up in this area there are some very nice homes and I would be opposed to approving the duplex on this lot. Mr. Ouimet asked are you saying that based on your review of the properties in the area that this is not in keeping with the surrounding area? Mr. Nadeau stated yes, that is my opinion. Mr. Higgins stated the following: I agree that we did talk about moving the front of the house back 50 FT, which I see you did and now you have it back about 120 FT. I know I mentioned previously and I still can't see why you can't do it all with one curb cut and just have the single-family house that's closest to the road come over and tie into the driveway for the other 3 houses. Pastor Duke Hergatt stated that is not a problem. Mr. Higgins stated when we were at the site, we talked about the sight distance and I think if you could pull that driveway over and have one curb cut for the 4 houses, it would be a

much safer environment there if that's not a problem with you. Pastor Duke Hergatt stated that would not be a problem. Mr. Ouimet stated other than Mr. Nadeau, are there any other comments from the Board on the application for the special use permit. Mr. Higgins stated I expressed my opinion during the site visit that I don't feel that a duplex is appropriate for that site and I did tell you that during the walk through and that's my opinion. Mr. Berkowitz stated I also feel that it is out of character for that part of the road. Mrs. Smith-Law stated and I would agree based on the site visit, especially because we heard the other 3 homes are potentially going to be pretty impressive and I just think it would be more in character to have a fourth single-family home up front that would be more in line with the other 3 houses. Mr. Ruchlicki stated the following: I agree with the rest of the Board members because I feel that it would probably be in better character as far as that section of the road. I know that there are duplexes further down the road, but for that particular parcel and the way it lays out with what you are proposing with the other 3 houses I think a single-family residence would probably be more fitting. Pastor Duke Hergatt stated the following: That is not a problem for me because I can probably sell that lot to my children and buy a lot in Mechanicville that already has septic, water and power. So, I'm not offended with that at all. Mr. Ouimet stated okay. Mrs. Murphy stated the following for the record: The denial is for the special use permit application and that you're just reminding the applicant that he agreed to carry forward the pages that are depicted in that map, which include the setback and he has also agreed to the single access, but that isn't part of the denial. It is part of the approval for the subdivision portion of this application.

Mr. Higgins made a motion to deny the special use permit application for the Christopher J. & Phyllis Abele property for a two-family (duplex) home due to the project being inconsistent with the character, harmony and orderly development of the district and neighborhood, pursuant to Section 165-83A(1) of the Town Code. Also, if the site is approved as a single-family home, the driveways would be combined to one driveway and it shall have a front yard setback of at least 120 FT from the road. Mrs. Smith-Law seconded. All-Nay. Motion carried.

13.069 OB Halal Meat Market, 1683 Route 9 (St. John Plaza) – Change of Tenant & Sign

Mr. Tom Pratico from the Rexford Group stated the following: I'm here tonight on behalf of St. John Plaza. At the previous Planning Board meeting the Board denied a change in tenancy for Halal Meat Market's proposal to occupy the previous tenant space in St. John Plaza for Revolutionary Velo-Watts. At the Board's request we went to the Zoning Board of Appeals (ZBA) to obtain a variance for the parking ratio, which was granted by the ZBA. We're back before the Planning Board for reconsideration of a change of tenant & sign for Halal Meat Market. Mr. Harris stated the following: The ZBA approved the variance with 2 conditions. One condition was for all 14 currently marked landbanked parking on the current site plan be striped and shown as parking for 10 parking spaces behind the building and 4 parking spaces in the parking lot that are not currently marked for parking. Also, an additional 12 parking spaces along an existing grass area between the bank and Route 9 be marked with what is called "grasscrete" or some suitable material that the Building Department signs off on that can handle the weight of a car. Mr. Pratico stated the following: The product that Mr. Harris is referring to goes down on a base, then it is filled with topsoil and seeded and vehicles would be able to park on that surface. Fire trucks can park on it and this material is used in areas where you can't decrease your greenspace but you still need maneuverability. So, employees would park in that area at times whenever it may be needed. Mr. Harris stated the only other thing was the potential for a revised site plan showing this because the current site plan that we have doesn't show the parking spots where the greencrete material

would go. Mr. Pratico stated I did bring those revised site plans in when I re-applied for the change of tenant and sign application. Mr. Harris stated okay. Mr. Ouimet asked are those conditions acceptable to you? Mr. Pratico stated yes. Mr. Harris stated the following: Signage for the Halal Meat Market is as follows:

Number of signs: 3 (1 wall-mounted business sign; 2 insert panels for existing plaza sign)

- Sign Size (Sign #1): 20 SF (1.66' x 11.9')
 - Style: Channel letters and electric box spelling "HALAL Meat Market"
 - Sided: one-sided
 - Location of Sign: wall-mounted on building front facade
 - Lighting: internal illumination
- Sign Size (Sign #2): 3.65 SF (9.25" x 4'7")
 - Style: insert panel for existing plaza sign (monument) stating "HALAL Meat Market"
 - Sided: one
 - Location of Sign: plaza sign near road ROW
 - Lighting: internal illumination
- Sign Size (Sign #3): 3.65 SF (9.25" x 4'7")
 - Style: insert panel for existing plaza sign (monument) stating "HALAL Meat Market"
 - Sided: one
 - Location of Sign: plaza sign near road ROW
 - Lighting: internal illumination

Mr. Berkowitz made a motion to approve the change of tenant/use application for Halal Meat Market with the conditions imposed by the Zoning Board of Appeals for the variance granted on August 5, 2013, including the requirement that the fourteen (14) existing landbanked parking spaces be striped and made available for parking and that "grasscrete" or a suitable substitute be utilized to provide twelve (12) additional parking spaces along the current grass area along Route 9, as depicted on the revised site plan date 7/3/13 (received 8/6/13). Mr. Higgins seconded. All-Aye. Motion carried.

Mr. Berkowitz made a motion to approve the sign application for the Halal Meat Market for three (3) signs, with (1) wall-mounted façade sign and two (2) insert panels for the existing plaza free-standing/monument sign. Mr. Higgins seconded. All-Aye. Motion carried.

13.059 OB West Crescent Fire District, 1440 Crescent Road – Minor Subdivision (Lot Line Adjustment)

Mr. Harris stated the following: The West Crescent Fire District's Minor Subdivision (Lot Line Adjustment) public hearing scheduled for the August 12, 2013 Planning Board meeting was postponed awaiting an Owner Authorization Form from the adjacent landowner, Mr. Adam Jusino, and we have now received it. Mr. Jusino would be the recipient of the property from the West Crescent Fire District that would rectify the existing non-conforming situation where a deck was partially built at some point in the past on the West Crescent Fire District's property. When Mr. Jusino acquired the property, the deck was already located on West Crescent Fire District's property.

Mr. Higgins made a motion to set a public hearing for the August 26, 2013 Planning Board meeting. Mrs. Smith-Law seconded. All-Aye. Motion carried.

13.076 OB Searles Subdivision, Werner Road – Minor Subdivision

Mr. Duane Rabideau, of Gilbert VanGuilder Land Surveyors, PLLC, stated the following: I'm here tonight representing Bob and Jennifer Searles in their request for a 2-lot subdivision. Since the last meeting, the Planning Board members made a site walk visit and the only changes that we made to the site plan is to add the actual 911 numbers. One lot would be #90 and the other lot would be #92. Mr. Ouimet asked have all of the adjacent wells and septic systems been located on the site plan? Mr. Rabideau stated the existing lot is currently on public water and public sewer and the newly created lot would tie-in to public water and public sewer. Mr. Nadeau stated the following: The Planning Board committee went to the site and there were some issues of drainage to the lower site. I think that between the two neighbors, we did end up coming up with an amicable solution. The drainage issue was really not a subdivision issue because the subdivision itself does meet the Town requirements. However, when they did the subdivision, they didn't stake it and that was a little puzzling to me. Mr. Rabideau stated the following: We stake it after the approval because the Board could potentially change something so, we don't stake it and pull the stuff out. That's just a policy that we have and the stakes are there now by request of the committee from this Board. Mr. Ouimet stated the following: The one thing that I wanted to say is that the engineering of these new lots, assuming that it will be approved by the Board, has to be such that it doesn't impinge on the neighboring lots. In other words, you're not going to design a building that adversely affects the drainage from your up-water, so to speak, landowners and any engineering faults that may lie in the design of the new structures that are going to occupy these two lots have to be borne by the engineers. It is up to the engineers not to design something that is going to impinge on the neighbors. These are conforming lots and this is a proper development for this particular part of Town. It's just a caution and I know I don't have to caution Mr. Rabideau because he knows he is an engineer and you guys are responsible for what you design. So, I just wanted to state that for the record because I know at our public hearing there was a considerable amount of controversy over the way the lots were maintained to the detriment of the neighbor. Mr. Higgins stated even though these 2 lots may be tied into sewer, if there is not an easement setup, you should at least show the septic systems for the surrounding houses and the proposed septic. Mr. Harris stated one lot would meet the zoning requirements if they don't have both public water and public sewer and the other lot is under 30,000 SF so, they have to connect to water and sewer for the smaller lot. Mr. Higgins stated the following: Do you have an agreement to tie into the sewer at this point? Otherwise, we can't approve it, correct? Mrs. Murphy asked Mr. Rabideau if they have an approval from Saratoga County Sewer District. Mr. Rabideau stated no, but we will get it. Mrs. Murphy stated they can get an approval for the subdivision, but they just can't get a building permit until they hear from the Saratoga County Sewer District. Mr. Rabideau stated that is correct. Mr. Higgins stated I think we need to go on record that the lots have to tie into public water and public sewer to be buildable lots. Mr. Ouimet stated I believe that was Mr. Rabideau's original presentation. Mr. Rabideau stated yes, and we have it noted as such. Mr. Higgins stated also, you should have located or at least indicated the approximate location of the septic on the neighboring lots because it is a requirement in the Town that even if you're using water and sewer on these, you're supposed to show the location of the surrounding septic systems. Mr. Rabideau stated okay, we will show them to the best of our abilities. Mr. Higgins stated okay, that's fine and that's all we can ask for. Mr. Nadeau stated I believe the lot with the name "Werner" on it; that septic is fairly close to the lot line according to what they told us at the site. Mr. Higgins stated that's why it should be shown. Mr. Rabideau stated okay. Mr. John Pingelski, the Town's Highway Superintendent, stated the following: I didn't realize until this afternoon that there was an issue with drainage between the two properties. Today we addressed some washout issues that were happening from #100 at the top of the hill going towards Cemetery Road that is constantly washing out going down. We

are actually doing from #100 down past Dater Woods to address the constant washout issues. I just want to go on record that we're not changing any direction of the water and where the water is running; we're putting in big rock like we did on Fellows Road and Lower Newtown Road. Again, we are not changing any direction of the water and we're just taking care of what has been washing out. I didn't realize this was happening until I read the Planning Board Topics this afternoon that there was an issue going on and again, we are not redirecting any water, we're just taking care of washouts.

Mr. Nadeau made a motion to grant a Negative Declaration pursuant to SEQR and also made a motion to approve the minor subdivision application for the Searles Subdivision with the condition that any single-family home constructed will connect to public water and public sewer and that a revised site plan be submitted showing all adjacent wells and septic systems. Mr. Higgins seconded. All-Aye. Motion carried.

Mr. Ruchlicki made a motion to adjourn the August 12, 2013 Planning Board Meeting at 7:59pm. Mr. Higgins seconded. All-Aye. Motion carried.

Respectfully submitted,
Milly Pascuzzi
Planning Board Secretary