

Town of Halfmoon Planning Board

Meeting Minutes – November 12, 2013

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

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

Planning Board Alternates: Margaret Sautter
Robert Partlow

Director of Planning: Richard Harris
Planner: Paul Marlow

Town Attorney: Lyn Murphy

Town Board Liaisons: Walt Polak

CHA Representative: Mike Bianchino

Mr. Ouimet opened the November 12, 2013 Planning Board Meeting at 7:03pm. Mr. Ouimet asked the Planning Board Members if they had reviewed the October 28, 2013 Planning Board Minutes. Mr. Roberts made a motion to approve the October 28, 2013 Planning Board Minutes. Mr. Berkowitz seconded. Mr. Nadeau abstained due to his absence from the October 28, 2013 Planning Board meeting. Vote: 5-Aye, 0-Nay, 1-Abstention. Motion carried.

New Business:

13.113 NB Stewart's Shops Corp., 1859 Route 9 – Addition to Site Plan

Mr. Tom Lewis from Stewart's Shops Corp. stated the following: We are proposing to add a freezer to the Stewart's Shop located at 1859 Route 9. The proposed freezer would only be accessible from the inside of the building. I have brought a rendition for the Board of what the interior of the freezer is going to look like. Many, many years ago this Board had asked us to redo our existing shop that is located on Route 146 near Plant Road and that was a long, long process. At this point, all we can do at this location is to just add a freezer, which will open up a lot more room in the storage area and that in theory would mean a little bit fewer deliveries. This is the substance of what we are asking for at this time. Mr. Ouimet asked would the deliveries be through the store? Mr. Lewis stated yes and there will be no outside deliveries and everything would be internal. Mr. Ouimet stated so; the actual retail footprint would not change. Mr. Lewis stated the following: It is not going to change. There may also be some modification with newer shelves and at some point I would love to do a larger shop, but right now we can't get there from here. Mr. Nadeau asked what is the distance from the proposed freezer to the rear of the property line? Mr. Lewis stated it

is 190 FT on the east side and 32 FT on the south side. Mr. Ruchlicki asked do you know how far it is to the creek from the proposed freezer? Mr. Lewis stated it is probably 65 to 70 FT to the creek. Mr. Ouimet asked is this going to be stick built cooler or is it going to be something that is going to be fabricated off-site and then installed? Mr. Lewis stated the following: I don't know, but I would think it's not from the outside and I will find that out for you. I also know we can't move ahead this evening because this application still has to be reviewed by the County Planning Board. Mr. Ouimet stated the only thing that I would have a question about is if there was a catastrophic failure of the freeze and its proximity is close to that creek; is there a chance of contamination or is the freezer itself self-contained? Mr. Lewis stated the following: I'm sure they're self-contained and we have backup generators because over the years we have had a number of severe hurricanes/storms so, we bought a lot of extra generators. So, our shops never close. Mr. Ouimet asked have you ever experienced a failure in one of those freezers that have been attached. Mr. Lewis stated not that I know of, but I will look into that before the next meeting. Mr. Ouimet asked Mr. Harris if this application was referred to Saratoga County Planning? Mr. Harris stated yes it has and their next meeting is November 21, 2013.

This item was tabled. The application is subject to Saratoga County Planning Board review, which is expected at their November 21, 2013 meeting.

13.112 NB Bold/Dudek Subdivision, 151 & 155 Brookwood Road – Lot Line Adjustment

Mr. Greg Bold, the applicant, stated the following: We are proposing a lot line adjustment and Ms. Barbara Dudek presently has approximately a 2.5-acre parcel with frontage on Brookwood Road and my property is alongside and wraps behind hers, which is presently approximately 9.5-acres. The proposal is to take 1.54-acres off the backside of Ms. Dudek's lot and attach that to our property and that will leave her with 1-acre parcel that has her house on it. Mr. Ouimet asked Mr. Marlow if both lots would be conforming lots. Mr. Marlow stated yes, both lots would be conforming lots. Mr. Nadeau asked do you know what the remaining acreage is in that area? Mr. Bold stated the following: At this point, I think everything is done. The farm doesn't own any more land and the portion down across from the farmhouse went to Suchocki and Sala. I don't know if that came before the Board once or twice, but that was the last of the farmland. Mr. Nadeau stated okay.

Mr. Berkowitz made a motion to set a public hearing for the November 25, 2013 Planning Board meeting. Mr. Roberts seconded. All-Aye. Motion carried.

13.098 NB Lussier Site Plan Development, 1385 Crescent-Vischer Ferry Road – Commercial Site Plan

Mr. Jason Dell from Lansing Engineering stated the following: I'm here tonight on behalf of the applicant, Mr. Lussier, for the 1385 Crescent-Vischer Ferry Road site plan improvements. The project site consists of approximately 1.9-acres located along the northern side of Vischer Ferry Road. The existing site currently includes 2 existing buildings; one is located along the front of the property and contains a used car dealership as well as a machine shop and the building in the rear of the property contains Lussier's Auto Body Shop. The project site is zoned C-1 Commercial and the project proposes the demolition of the front building to make way for the construction of a new 5,600 SF building; the new building will be a two-story building. The first floor will be retail, as well as for the relocation of the used car portion. The second floor of that building will be for the administrative offices associated with the running of the auto body shop as well as the used car

dealership. The other half of the first floor is for additional retail space and the retail client has not been identified at this time. The existing body shop at the rear of the property will remain unchanged for the project. The new building proposes to connect to the municipal water system that is existing on Vischer Ferry Road and it will also connect to the existing septic system that is located in the back of the property. The existing septic system does have additional capacity so, it would be able to accommodate the new buildings. The proposed parking is in accordance with the zoning requirements and a total of 86 parking stalls are required. At this time, the applicant would like to propose that 17 of those 86 parking stalls be landbanked because he doesn't believe he needs those right now. However, we show those on the project plan for potential future use of that. Stormwater will be conveyed on-site via storm sewer and the required piping. We are here tonight to introduce the project to the Board and to answer any questions that you might have at this time and to ask that the project be referred to CHA for review. Mr. Nadeau asked in the parking calculation are you using the body shop and the new proposal for a total of 82? Mr. Dell stated yes and you will see a detailed breakdown on how it's all done right along the side of the plan. Mr. Roberts stated for esthetic purposes, did you consider moving the building closer to Vischer Ferry Road and putting the parking behind the building? Mr. Dell stated the following: At this point in time we pushed it back away in order to make enough room for parking in the front. I suppose that is something that we could look at if the Board would like to see that. Mr. Roberts stated I mention this because I drive by there all the time and it looks unsightly with all of the cars out in the front there. Mr. Dell stated we can certainly look at that. Mr. Nadeau stated the following: You're basing the parking on the retail, but you don't know what that retail will be. So, how do you know what the required parking will be? Mr. Dell stated it is based on what's in the code right now of 1 per 200 SF. Mr. Nadeau stated okay. Mr. Roberts stated is the applicant aware that whenever he fills that up that the use could be subject to what parking is available. Mr. Dell stated correct. Mr. Ouimet asked is this building proposed for all tenants to occupy or is Mr. Lussier going to run the car dealership on the first floor? Mr. Dell stated the following: Half of the first floor is proposed to be for the relocation of the existing business that is operating in the building that is there now. The other half of that is the retail component that's not known at this time. Mr. Ouimet asked is the second floor going to be for one tenant or two tenants? Mr. Dell stated the second floor would be used for one tenant and that would be the administrative daily operations for the body shop. Mr. Ouimet asked is there an office in that back building? Mr. Dell stated that I will have to find that out for you because I'm not aware of that. Mr. Ouimet stated I also agree with Mr. Roberts; I think you should take a hard look at moving the building to the front and the parking in the rear. Mr. Dell stated okay. Mr. Ouimet stated the other thing I don't see is any provision for handicap spaces. Mr. Marlow stated the following: The handicap spaces are labeled on the larger map. They might just be hard to see on the smaller map, but there are some shown on the larger map. Mr. Ouimet stated and again; the number is based on square footage? Mr. Dell stated it is based on the total number of parking. Mr. Ouimet stated right and the square footage of the building. Mr. Dell stated correct. Mr. Ouimet asked where is the vehicle display area proposed to be or is that not designated? Mr. Dell stated right now there are 6 vehicle sales stalls up front. Mr. Berkowitz asked how many cars are typically on sale? Mr. Dell stated I will have to find out the exact number that are typically there and get back to you on that. Mr. Berkowitz stated because if you are proposing 6 spots then the maximum would probably be 6 cars, right? Mr. Dell stated I will have to find out the exact number for you. Mr. Berkowitz stated okay. Mr. Ouimet asked is this all proposed to be a paved parking area, right and not crusher run or anything of that nature? Mr. Dell stated that is correct. Mr. Ouimet asked where is the dumpster location? Mr. Dell stated it might be tough to see on the smaller plan, but it is labeled on the larger plan. Mr. Ouimet stated even the larger plan it is tough to see. Mrs. Sautter stated if you did move that

building up and move the parking to the back, I'm going to assume that those 6 vehicle sales stalls would not move because you would want those cars out front, correct? Mr. Dell stated the following: We would have to work and see how we can get the building in the new layout because the layout also hinges upon the front yard setback, which is not too far forward of the building right now. So, we would have to see what we'd be able to do with even fitting the parking in the back, but we'll take a look at that and we'll be able to answer your question better. Mrs. Sautter stated just because the idea would be to have those out front on the road to sell them. So, I think that was a concern about the placement of those cars too. So, just to be clear about not just the parking, but the display also. Mr. Nadeau stated on the cars that are shown there, what is the distance of the greenspace there to the right-of-way because it looks quite narrow. Mr. Dell stated right now it is approximately 5 FT. Mr. Bianchino stated the following: Just looking at the request that the Board had there in terms of the building, the front setback on that road is 50 FT. If you put the building 50 FT off the property line, I don't think you can get a single row because you can't move the building close enough to the roadway to get 2 rows of parking in the back. So, that would leave you a row a parking in the front and a row of parking in the back, which increases the amount of impervious area and also it makes the parking in the front almost go up to the front property line or beyond the front property line. It's pretty tight and I'm not sure it will work. You can look at it, but I think you have a problem with that scenario. Mr. Nadeau asked do you know if that rear section where that green area is located, is that sloped like the problems they had with the body shop because there was quite an embankment there? Mr. Dell stated right now we only have the one topo line and we'll have to verify that. Mr. Bianchino stated I think Mr. Nadeau is right because I think it goes pretty steep up the hill. Mr. Ouimet stated I think a lot of that has been cut back already because I noticed a tow truck parked on the eastside of the proposed lot of the existing building and there is space in the back where I noticed things in the back. So, you can go back and take a look at some of the options. You've heard what the Board's concerns are at this point and go back and talk with Mr. Lussier and see if he's willing or able to make some of the changes that we've suggested. Mr. Dell stated sure. Mr. Ouimet asked what does the Board think about the 5 FT distance in greenspace? Mr. Roberts stated well, I think Mr. Dell will have to look at this and see what he can do. Mr. Ouimet stated I would like to see something deeper than 5 FT because I don't know if you're going to have the space. Mr. Roberts stated like Mr. Bianchino said; he may be limited on what he can do and he will have to look at that. Mr. Dell stated we may be able to accommodate more than 5 FT, but we would have to then push the building back further. Mr. Ouimet stated I don't know if he can and that is something that they will have to look at. Mr. Marlow stated just for clarification; for retail it is 1 per 200 SF plus 1 per employee. I know that they gave us a projection with 4 employees and I don't see how realistically they are only going to have 4 employees in 2,300 SF of retail or whatever they are claiming. So, they might want to downsize the building a little bit to accommodate for that and that might accommodate for some of the setback issues and whatnot. So, that might be something that you want to talk to him about. Mr. Dell stated okay. Mr. Ouimet stated this project has been contemplated for years now and there have been a number of appearances in front of this Board and the Zoning Board of Appeals (ZBA) by Mr. Lussier with discussions at various stages of the replacement on that front building. Do you know what the planning is at this point in time; is this purely a concept that you're looking for a concept approval or is this something that's going to happen in our lifetimes? Mr. Dell stated the following: What I'm aware of is that it is something that is going to happen and we are looking to move the project forward. I'm not aware of all of the history leading up to this point of where we are now with this plan, but my discussions with Mr. Lussier is that he does want to advance this project forward. Mr. Ouimet stated at our pre-meeting we had a conversation about this. Mr. Nadeau stated the following: Yes and with the previous approval with the body shop that shortly I

thought that that front building was to be removed. So, we may want to review the past meeting minutes and see where that came from. Mr. Ouimet stated the following: I guess I'll have to ask the Planning staff to take a look at the past approvals for the body shop. I know within the last 6 or 7 years there was an approval by the ZBA for an addition to the body shop and I think during conversations or during Board appearances during those projects, there were discussions about the front building. So, why don't you take back to your client what you've heard from the Board and the issues that we have with the proposal as presented tonight and let's go from there and let's see what we can do. Mr. Dell stated okay, thank you.

This item was tabled and the application for a Commercial Site Plan was referred to the Town Engineer/CHA for further review.

Old Business:

12.101 OB

Victor's Farm Subdivision, Farm to Market Road/Smith Road – Major Subdivision

Mr. Jason Dell from Lansing Engineering stated the following: I'm here on behalf of the applicant for the Victor's Farm Subdivision. The plans that I just handed out to the Board are smaller versions of these 2 plans and the colored version does not show the level of detail that the black and white version shows. The black and white plan is our LMG sheet with the nuts and bolts of it; the grading and the utilities, whereas the rendering just shows globally what it will look like with the greenery, the road and the buildings. The project remains very similar with respect to the lot numbers that we had before where we had the 1 existing lot and 12 proposed lots for a total of 13 lots along Farm to Market Road. We have the one entrance and if you recall, the original plan called for 2 entrances; 1 on Farm to Market Road and 1 on Smith Road. That has since been revised to be the one entrance now from Farm to Market Road. The project plans were submitted to CHA and the Town and we have gotten several rounds of comments from CHA and we've revised the plans accordingly. There are a couple of the bigger points and comments that both this Board made as well as CHA's comments that I would like to touch upon here tonight. Those include intersection improvements to the intersection of Smith Road and Farm to Market Road; you may not see it on the colored version, but on the black and white version you can see the proposed improvements to the intersection there with the additional pavement area as well as the striping. In one of CHA's comment letters they provided a sketch plan of what the preferred revised intersection would look like and we revised the plans according to the sketch that CHA provided. Basically, it will "T" up the intersection a little bit better and we believe that it will help with the traffic conditions that some of the public had brought forth at the public hearing. One of the other items was the date of the jurisdictional determination for the wetland boundary and that was a question as to whether or not the wetland boundary itself would change with the Army Corp of Engineers (ACOE). However, the jurisdictional determination is valid until May 20, 2014. So, that date is still valid and the wetlands that are shown on this plan are still valid per the ACOE. One other big item that was asked to be addressed was emergency services and hydrant locations. We did receive an email response from Mr. Steffen Buck, Director of Code Enforcement/Clifton Park Fire Department Fire Chief, indicating that he is agreeable to where we show all of the proposed hydrants for the project. We also submitted the plans to Mr. Frank Tironi, Director of the Town's Water Department. I spoke with Mr. Tironi today about the project and clarified a couple of questions that he had with respect to the existing driveway for the existing lot. So, at this point Mr. Tironi is good with the hydrant locations. We did have some further discussion with respect to a connection of the proposed waterline to the proposed waterline for the Klersy Subdivision (The Meadows of Halfmoon) across the street. So, he and I ironed out that detail earlier today about

how that mechanism would work. Also, one of the other bigger items that was brought forth in Mr. Bianchino's letter was meeting with the postmaster and making sure that our mailbox location is acceptable to them and that they'll deliver mail to this subdivision. Ms. Julie Hagen, Mechanicville New York Postmaster, indicated that she was agreeable to what we had there as long as we have the provided pull-off and the concrete pad that we showed there. So, she was happy to see what we had and she said that that was agreeable to them. At this point we are here to answer any additional questions that the Board may have and to ask the Board for an approval on this project. Mr. Ouimet asked Mr. Bianchino if all of CHA's concerns were satisfied? Mr. Bianchino stated the following: I think the one thing that we had brought up on several iterations was the grading around the 3-lots at the south westerly edge of the subdivision. We did point out for the Board's information that from an engineering standpoint I think those lots can be constructed. However, our concern has always been to make sure the Board is aware that the lots, because of the wetlands and the wetland buffers and so on, have a fairly small backyard, which always impacts the build ability of those lots long term in terms of future improvements on the lots, pools, decks, patio's, etc. So, we point that out that the way the lots are graded, and again these lots are graded based on building footprint, which may or may not be the building that's proposed, but the flat area of the backyards is fairly narrow, which is 25 to 30 FT for those 3 lots. That issue is an issue that again, from an engineering standpoint, you can build it and it's just a matter of whether or not that is considered acceptable from a long term usability standpoint. Mr. Ouimet stated so, that would be Lots #11, #12 and #13, correct? Mr. Bianchino stated correct. Mr. Ouimet asked do you know how the proposed rear yard configurations are for Lots #11, #12 and #13 compared to the other building lots? Mr. Bianchino stated the following: I think those lots are smaller than what remains in the other lots. I think the other lots have a bit more room behind the houses. Mr. Ouimet stated I think it would matter if it's a bit more or a lot more. Mr. Dell stated the following: Correct and as Mr. Bianchino mentioned those lots are fairly narrow, which is 25 to 30 FT for those 3 lots and that's based on this particular house footprint which may or may not be what is actually built out there. There are many things, as we've all seen driving around subdivisions in our area, and there are a lot things that the homeowners can do with retaining walls, with different styles of houses with drive-in garages and all sorts of different things that you can do on a lot in order to generate additional rear yard, side yard and front yard. The one lot that Mr. Bianchino was mentioning that is all the way to the south and west, and if somebody wants it shifted up the hill a little bit further and they don't want that large of a footprint of a house, that would have a substantial impact on the size of their lawn. So, we feel that with the engineering that we have shown here; these lots do work and we can build these lots. If additional rear yards are something that this Board wishes us to show on these plans at this point in time, we would certainly work with CHA in developing maybe individual lot plot plans to show a different style house and how the retaining walls could work. We're not talking massive retaining walls, we're talking something on the scale of a yard for a 4 FT or 6 FT retaining wall that could be stepped and they could be very nice looking features on a lot too and not just straight down. While they are narrower rear yards, we do feel that we could make them bigger with retaining walls and different house designs. Mr. Ouimet asked were there any other issues that were raised by CHA? Mr. Bianchino stated the following: I think the only other issue was that we had made a comment, again for the Board's information, and we had recommended a mixture of plantings along Farm to Market Road and I think what was proposed on the plan is white spruce. I think that we were suggesting that perhaps a mixture of some of the white spruce, but some deciduous as well to just kind of mix it up a little bit that was our suggestion. I just was asking if the Board had an opinion one way or the other on that. Mr. Dell stated the following: We would certainly be willing to add whatever the Board wanted to see up there. If you wanted some additional types of trees up there, we'd certainly be

agreeable to that and we would work with CHA to come up with an amicable compromise. Mr. Roberts stated I think that is a good idea and to work with Mr. Bianchino as far as to what types of trees would go in there. Mr. Nadeau stated the following: As you get to Angle Road; with the buffering that's there, which I think is a no-cut buffer, has anyone look at that because esthetically it looks nice, but it looks unsafe. I have brought this up before, but has anything been discussed on removing some of that or not because what happens in the summertime is once the greenery comes in, that whole corner is a blind corner and for the cars that are going on to Cary Road, you're guessing when to jump across there. So, if that is a no-cut buffer, is there any exceptions we can make to that being that it creates a safety factor or would it make it better that we could take that down? Mr. Bianchino asked are you talking about vehicles that are traveling westbound on Farm to Market Road? Mr. Nadeau stated no, going eastbound from Route 9 and there is a long drawn out curb there. Mr. Bianchino stated the following: *(Mr. Bianchino spoke without a microphone therefore; some portions of his conversation were inaudible for transcription)*. If the Board feels that it's appropriate to reduce some of that green area to improve sight distance in that area, then certainly that would be acceptable and the Board can make that a condition with a note for the reason why. We have been talking about the State Environmental Quality Review Act (SEQRA) with this project as it relates to the Generic Environmental Impact Statement (GEIS) findings and one of the GEIS findings is to leave as much of it as natural as possible, but this is an issue that was noted with a document in the file. Mr. Ouimet asked would all of that property be owned by the individual homeowner? Mr. Dell stated correct, it is in a land preservation area. Mr. Ouimet stated right and none of that is part of Homeowner's Association (HOA) property. Mr. Dell stated the following: Actually it will be owned by the homeowner, but it will be deed restricted as a land preservation area. Was there a particular dimension that Mr. Nadeau wanted to see? Mr. Nadeau stated the following: It is hard to describe, but I think if you were to be in a vehicle and you were to look in that area, anything above would be help is what it amounts to. I'm looking at the map again and that may be in the County right-of-way so, I don't know what the jurisdiction is there. I think if you look at it, you'll see what the issue is, especially in the summertime when it really fills out. Now it's not too bad, but it is still a problem and they do drive pretty quickly on that road. Mrs. Sautter stated the following: Regarding Lots #11, #12 and #13 in the corner, you indicated that homeowner's could come and say "oh, I really like that lot, but I want to make a smaller footprint, let me make it a smaller sized home". So, just to be clear, even if you showed us another map in a few weeks that showed the home smaller, if I were to actually come to you as a buyer and said "I really want a really big house there"; there's nothing stopping anyone from doing that, right? So, you could show us anything. You could put it smaller there and say "this is our conceptual plan", but it's really about what the buyer's choice is. Mrs. Murphy stated the only caveat to that though is; the Building Department issues the building permit and they're not going to issue a building permit for a home that's inappropriate for the lot. Mrs. Sautter stated the following: Correct, for the size. However, right now we all talked about that this is appropriate legally, but we're looking at it as, which I think we talked about earlier, that in the future and with the amount of wetlands, we're wondering if it's really the right way to go just for those few lots. We really kind of question that and one of the reasons being is that if it is a homeowner's lot that they care for it the way it should be cared for. That they're not aware of it or they don't know about it, they don't know it's a wetland and they don't know what it really means to eco system. So, I guess that we're just thinking about that area and I know you can't tell us what we want to hear, but I think that we need to make a decisions based upon what we think might be best for the future for that area. Mr. Dell stated the following: Just to put it in perspective, the footprint for that house and that lot, granted it does include a garage, but what we're showing there is approximately 2,200 SF and that's just the first floor boundary. So, that's actually quite a sizeable

house right there that we're showing right now. As far as the wetlands go over here; you can see that the ACOE wetland finger comes up over here and over here. However, this area here is encumbered further to the south by the New York State Department of Environmental Conservation (NYSDEC) buffer line and then wetlands further to the south. So, there is a bit a room to shift this house up and over a ways and work with retaining walls in order to make a viable lot there to be very nice. Mrs. Sautter stated you're not putting up the retaining walls and that would be the buyer's choice and something that they would have to do. Mr. Dell stated the following: Correct. We could show a conceptual location right now and show how it could work with that size footprint and then, as Mrs. Murphy mentioned, through the building process we could even do an individual site plan for just that lot when somebody came in. That would be very easy to do to see if that particular house works and show the homeowner exactly what they are going to get. If they come in with a house that is bigger than that or small than that, it would all have to work in with the grades. Mrs. Smith-Law stated the following: Is there any possibility at all that you could consider not building one of those houses to give larger side lots because this is a pretty typical suburban subdivision and people who are going to want to build decks and pools will happen. I have some concerns about leaving it up to the homeowner to decide on that retaining wall. Also, I agree with Mrs. Sautter because I have the same issue in my backyard and you could read your deed and you get all this stuff from the NYSDEC, but it really doesn't mean anything to the average homeowner. So, I guess that I would ask; is there any possibility of eliminating one house? Mr. Dell stated the following: To speak for the applicant, I know this is the amount of lots that he would like to move forward with at this time and the average lot size out there right now is approximately 1.67-acres per lot. So, what we could actually build and what we are building; we feel that we have minimized it quite a bit and this is what the applicant would like to move forward with. Mrs. Murphy stated just to go over what Mr. Dell said; are you offering to put a condition that Lot #11, #12 and #13 would be subject to additional review at the time of building? Mr. Dell stated yes, we would do that. Mr. Harris asked what kind of additional review? Mr. Dell stated basically at the building permit level where we would show the actual footprint of the house that the homeowner would like to build and we show that on a plan of just that lot to make sure that they're happy as well as the Building Department is happy with the configuration. Mr. Harris stated so; you're going to do individual plot plans, right? Mr. Dell stated yes, we would do individual plot plan. Mrs. Murphy stated the following: For edification of the Board members who aren't aware, for the Building Department typically to issue a building permit; is not as detailed as what he is describing. So, if they would consent to that and I think that was what Mr. Bianchino was talking about earlier, may be some sort of separate review for those 3 lots. Mr. Ouimet stated not to take that off the table; you heard Mr. Dell say that for Lots #11, 12 and 13 engineering wise those lots are buildable. Does Mr. Bianchino agree with that or disagree with that? Mr. Bianchino stated I would say the same thing. Mr. Ouimet stated so, Mr. Bianchino agrees with that and from an engineering standpoint, those lots are buildable lots. Mr. Bianchino stated that is correct. Mr. Ouimet stated so, you can build a house on a lot that contains a 3 to 1 slope. Mr. Bianchino stated sure. Mr. Ouimet stated so, they're standard lots and they are greater than the minimum lot size and the only problem is that the lot isn't 100% buildable because of the wetlands. Mr. Dell stated the following: Right. It should be noted too that the rear yard where you see the swale in the back yard there; that's actually at a 4 on 1. I think what Mr. Bianchino's letter was referring to was between the houses instead of a 3 on 1 slope. Mr. Ouimet stated the following: Right, but I have a concern about the backyards being too small. The bigger the house is the more incentive it is on the owner to add things such as a shed, a patio, a deck or whatever especially if you have cutaway at a 3 to 1 slope in the back of your house and you're either going to want a walkout basement or you're going to want an elevated deck or you're going to want both. You're going to want a

walkout basement with a patio on the lower level and a deck on the upper level. While I'm not so sure that the average homeowner is going to be smart enough to know that all the restrictions to what you can build and what you can't build based on the presents or absence of wetlands or side lots or everything else because we run into this problem all the time and if it's a buildable lot, it's a buildable lot and they are going to come to us later if we approve the subdivision and say "you approved these buildable lots and I can't do anything with my lot". Their definition of anything is whatever they want to do. So, those are the issues that I think we're struggling with. Mr. Roberts stated the following: I feel better about the fact that Mr. Dell offered to do individual site plans for these 3 lots and as you've said they are buildable lots. I think by them going the extra step and providing individual site plans the potential homeowner is going to see what they are getting and the Town is going to see what they are getting. I don't see how we can be any more restrictive than that and this is my own opinion. Mr. Dell stated the following: The individual homeowner at that point in time would actually see on paper exactly what those restrictions would be on that house and they would see what the slopes would be on that house or lack thereof. If it is a smaller house and reconfigured; at that time we would also show any potential retaining walls. Mr. Ouimet stated I guess things have gotten a lot better than when I bought my house because I didn't see any of that stuff. Mr. Harris stated the following: For clarification regarding your conversation with Mr. Frank Tironi today; what was agreed upon in terms of the water connection out to Farm to Market Road and the installation to the Klersy project? Mr. Dell stated the following: The water loop is going to come along and it's going to connect into the future water main that will run down Farm to Market Road for the Klersy project and what Mr. Tironi was questioning was this connection and how this connection over to here someday is going to be guaranteed that it's going to be made because the one for the project across the way isn't built for 5 years, how's that going to be connected? So, what was agreed to was that the applicant would run the water line to the other side of the street and at that time if that water line has been installed, we would connect with a tapping sleeve and valve and if it's not installed, we would put an 8-inch gate valve and an 8 x 12 "T" with caps on either end and that way when the water line is run down in either direction they just connect right to it and go. So, that way the applicant and the Town are protected and it would be a seamless connection at that point in time. Mrs. Sautter stated I know that Mr. Dell said that this is what the applicant wants to propose and he also mentioned that the lot size is 1.6-acres, but how much of that is buildable because there is a huge difference of what I'm seeing between the wetlands and the NYSDEC? Mr. Dell stated I don't have the exact square footage of each lot. Mrs. Sautter stated the following: It can be just an average because it's not 1.6-acres and I don't think you should say that, but yes it is if you want to include a swamp. Right, because that is what the wetlands are? You're considering all of this in one lot. Mr. Dell stated correct. Mrs. Sautter stated so, you're saying 1.6-acres and I got that, but really what is the buildable? Mr. Dell stated the light green area shown on this side of the road is the buildable area of that lot. Mrs. Sautter asked approximately what size are we talking about? Mr. Dell stated off the top of my head I'd say between 20,000 and 30,000 SF of it and that's a rough guess. Mrs. Sautter asked so would that be 1/2-acre or 3/4-acre? Mr. Dell stated some of the lots have buildable acreages that are larger, but I don't have that exact square footage. Mrs. Sautter stated the following: I just think the concern that we're talking about is that yes, it is buildable and we can keep going back and forth. Yes, it is what it is, but I personally would not buy that piece of property and I don't if anybody here on the Board would knowing that those wetlands are there and knowing that there is problem and I think that that was our concern because we don't want people coming to us later saying "what is this, what has happened, what happened with all the people living here saying look at all the wildlife that is being destroyed". I think that that is something we're looking at with those 3 lots and I just want you to understand that. Mr. Dell stated the following: Just to clarify; elevation wise it is not

all swampland right there and what you're looking at is the 100 FT buffer associated with the wetlands. So, they are quite a bit above the swamp. Mr. Nadeau stated initially won't the purchaser be able to see this lot and know the restrictions or non-restrictions? Mr. Ouimet stated sure. Mr. Nadeau stated the following: So, I'm a little confused. How is it then that it would create such a problem if you knew going in what your restrictions are; that's what it is. Mrs. Smith-Law stated that would be my issue too, who enforces it? Mr. Nadeau stated well, we have many other projects in Town that we put buffer areas in and I can go by and show you today that that's not the same buffers that we install, but who is it infringing upon? Mr. Roberts stated we can't be the policemen for every development in Town and I think we are over reacting. Mrs. Sautter stated no, I'm just thinking of all the neighbors because I remember all the neighbors coming in and talking about these specific issues and they are not here tonight to speak for themselves and I remember all their letters. Mr. Ouimet stated the following: I'm not sure that their issue was the build ability of the 3 lots that we are talking about. I don't think they were speaking to the issue of 3 to 1 slopes. Maybe we are overthinking it a little bit. I think it's clear that from an engineering standpoint they're buildable lots, they work and it is a standard subdivision. We seem to have gotten some concession from the developer. I don't think you need to go back and do another complete engineering redesign because I don't think that is going to get us anywhere unless you're willing to reconsider those 3 lots and make them 2 lots. I don't know. Mr. Nadeau stated the following: I think we've done this before when we've had certain conditions on certain lots that didn't work and we had them put in the deed the specifics of those lots. So, again there are no surprises. In fact, I think we went through this on the trail in the Fairways that we said that these people need to know up front what they're buying. Mr. Ouimet stated I think that was a different issue because these lots work from an engineering standpoint. Mr. Nadeau stated I agree. Mr. Ouimet the lots are greater than the minimum lot size for a standard subdivision so they don't violate any of the code and they work. We do have our reservations and they have been expressed tonight. I know Mr. Dell is here and he would like a preliminary approval. Mr. Roberts asked Mr. Bianchino if all his comments have been met because I know that he had a 3-page response letter. Mr. Bianchino stated yes, they have responded to my 3-page letter yesterday and they did address the rest of our comments other than the ones that I mentioned tonight, which were; to just make the Board aware that the 3-lots have landscaping issues along the front. Mrs. Murphy stated which they have agreed to. Mr. Dell stated correct. Mr. Roberts stated I just don't want to act without Mr. Bianchino's concerns being satisfied. Mr. Ouimet stated the applicant did agree to work with CHA on the landscaping issues. Mr. Roberts stated I know he had a bunch of comments. Mr. Ouimet asked is there anything that we want to say about the cuts on the existing vegetation along Farm to Market Road. Mr. Nadeau stated yes, that is a safety factor. Mr. Ouimet asked would that be an issue for something in the individual deeds? Mrs. Murphy stated you can put for the purposes of the preliminary approval that the applicant agrees to work with CHA to ensure the best sight distance available consistent with the GEIS, but understanding the safety issues. Mr. Berkowitz asked is that a no-cut buffer just for the homeowner or for the developer also? Mrs. Murphy stated the following: It is a no-cut buffer and the GEIS is based on the SEQRA being done and approved. So, the applicant doesn't have to go through SEQRA. So, that no-cut buffer is there pursuant to the SEQRA review that was done by the Town, but we can for articulable reasons modify that and this is a safety and health issue. So, we can modify that without having to redo the entire SEQRA. Mr. Berkowitz asked was the GEIS was done 10 to 15 years ago? Mrs. Murphy stated correct. Mr. Berkowitz stated so this has probably grown in those 10 to 15 years. Mrs. Murphy stated that's correct. Mr. Berkowitz stated so, they cut it back to pre-levels that were probably safer. Mr. Ouimet stated if the engineers work together, I think we'll get an acceptable solution. Mr. Berkowitz stated so, they can't cut. Mr. Ouimet stated right. Mrs. Murphy asked Mr.

Bianchino if he had another concern. Mr. Bianchino stated no, but I was going to mention the cut area. Mrs. Murphy stated so, those 3 conditions are attached to this proposal. Mr. Ouimet asked do we need a condition about the water connection on Farm to Market Road? Mrs. Murphy stated yes, you can have that as a condition and they would do it as a matter anyways, but it can't hurt. Mr. Berkowitz stated this is a preliminary approval anyways so; we can always come back and put these conditions on for final site plan approval. Mr. Ouimet stated right.

Mr. Berkowitz made a motion for preliminary approval for the Victor's Farm Subdivision with the following conditions: (1) additional landscaping/trees be installed along Farm to Market Road to enhance buffering of the project; (2) removal of existing vegetation along the turn of Farm to Market Road to protect sight distances to the satisfaction of the Town Engineer/CHA; (3) the development of Lot #11, #12 and #13 shall require individual detailed plot plans, which include the restrictions and conditions indicated on the subdivision plan, to be submitted as part of the building permit applications; and (4) the applicant shall install a connection to the waterline along Farm to Market Road proposed as part of the Meadows of Halfmoon (formerly Klersy) residential subdivision, and the final subdivision plans shall be revised accordingly. Mr. Nadeau seconded. All-Aye. Motion carried.

13.105 OB Joe Cars LLC, 1648 Route 9 – In-Home Occupation/Special Use Permit

Ms. Brenda Vanier from Joe Cars LLC stated the following: I was absent from the scheduled public hearing meeting for Joe Cars LLC located at 1648 Route 9 because I wrote down the wrong date for the meeting and I apologize for that. Just to recap what I do; I buy cars at auctions and ship. I need to have an office out of the home and that is why I'm before the Board tonight. Mr. Roberts stated and you understand that there can be no cars stored on-site. Ms. Vanier stated the following: Correct. I have a transporter car, which is the only business vehicle. Mr. Roberts stated and there will be no customers coming to your building. Ms. Vanier stated correct. Mr. Berkowitz asked are you considered wholesale or retail? Ms. Vanier stated wholesale. Mr. Berkowitz asked even though you sell to individual customers. Ms. Vanier stated we have customers throughout the area that we ship the vehicles to and it's a different license and permit for retail. Mr. Nadeau stated the following: With a wholesale license, you are not allowed to sell retail. You have to have a retail license. Mr. Berkowitz stated I remember from the last time that there are different rules as far as display cars and everything. Mr. Nadeau stated being that it's not retail; she is not going to have a display. Mr. Ouimet stated if it were retail, you would have to have the space for the display, correct? Ms. Vanier stated correct. Mr. Nadeau stated a wholesale license and a retail license are two separate licenses. Mr. Berkowitz stated okay because that was the hang up at the last meeting. Mr. Ouimet asked would you have two personal vehicles plus one transport vehicle on your site? Ms. Vanier stated we have two vehicles; one personal vehicle and we have one vehicle for a transporter, which has a transporter plate that we use to pick up the vehicles because we go state to state and locally. Mr. Ouimet asked would there be any other vehicles on the property? Ms. Vanier stated no. Mr. Ouimet stated so; the vehicle that you purchase at auction never goes to the site, is that what you're telling me? Ms. Vanier stated the purchased vehicles from auctions; our trucker comes and picks up for the customers to deliver. Mr. Ouimet stated at the auction and not at the site. Ms. Vanier stated at auctions, correct. Mr. Ouimet asked so; there would never be more than two vehicles on-site, correct? Ms. Vanier stated correct.

Mr. Roberts made a motion to schedule a public hearing at the November 25, 2013 Planning Board meeting. Mr. Nadeau seconded. All-Aye. Motion carried.

Mr. Ruchlicki made a motion to adjourn the November 12, 2013 Planning Board Meeting at 8:01pm.
Mr. Berkowitz seconded. All-Aye. Motion carried.

Respectfully submitted,
Milly Pascuzzi
Planning Board Secretary