

**Town of Halfmoon Planning Board**  
**Meeting Minutes – September 8, 2014**

Those present at the September 8, 2014 Planning Board meeting were:

**Planning Board Members:** John Ouimet – Chairman  
Don Roberts – Vice Chairman  
Rich Berkowitz  
John Higgins  
Lois Smith-Law

**Planning Board Alternates:** Margaret Sautter  
Robert Partlow

**Director of Planning:** Richard Harris  
**Planner:** Paul Marlow

**Town Attorney:** Lyn Murphy  
**Deputy Town Attorney:** Cathy Drobny

**Town Board Liaison:** John Wasielewski

**CHA Representative:** Mike Bianchino

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Mr. Ouimet opened the September 8, 2014 Planning Board Meeting at 7:01pm. Mr. Ouimet asked the Planning Board Members if they had reviewed the August 25, 2014 Planning Board Minutes. Mr. Roberts made a motion to approve the August 25, 2014 Planning Board Minutes. Mr. Berkowitz seconded. Mrs. Sautter and Mr. Partlow abstained due to their absence from the August 25, 2014 Planning Board meeting. Vote: 5-Aye, 0-Nay, 2-Abstained. Motion carried.

**Public Hearing:**

**14.098 PH      Key Valley, LLC, Smith Road – Major Subdivision**

Mr. Ouimet opened the Public Hearing at 7:02pm. Mr. Ouimet asked if anyone would like to have the notice read. No one responded. Mr. Duane Rabideau from Gilbert VanGuilder Land Surveyor, PLLC stated the following: I'm here representing Key Valley, LLC in their request for a four lot subdivision located on the east side of Smith Road and the parcel is located about 1,000 FT north of Vosburgh Road. The request of action is to subdivide an approximate 3-acre parcel of land into four single-family residential lots. Lot A would be approximately 29,000 SF, Lot B would be about 20,000 SF, Lot C in a keyhole configuration would be about 1.1-acres and Lot D would be approximately 28,000 SF. The lots will be serviced by public water and by public sewer that was just put in and the lots will have common driveways. Lot A and B will have one common driveway and Lot C and D will also have a common driveway to cut down on the curb cuts. Also, we did get the actual street addresses for these lots which are not on the maps that you have, but on the maps that potentially will be signed. Mr. Ouimet asked if anyone from the public wished to speak. No one responded. Mr. Ouimet closed the Public Hearing at 7:06pm. Mr.

Higgins asked Mr. Rabideau if he said that the public sewer was just installed? Mr. Rabideau stated yes, in the last year or two and it was just approved and accepted by the Saratoga County Sewer District and it's a force main. Mr. Higgins asked from the duplex that was just approved recently? Mr. Rabideau stated yes and I think the line goes farther up the road maybe another 600 FT or so. Mr. Higgins stated okay because I wasn't aware that it was installed. Mr. Rabideau stated yes, it has been installed. Mr. Higgins stated is this piece a totally separate deed from the surrounding pieces that are owned by Ballard? Mr. Rabideau stated that is correct. Mr. Higgins asked how long has that piece been a separate deed, do you know? Mr. Rabideau stated it's been quite a while that's probably pre-zoning or very close to it. Mr. Higgins stated okay. Mrs. Sautter stated once again and he does own so much property around there, but I know that I was looking at this piece and it appeared on the Saratoga GIS map that the wetlands were more above where they are and when was this last delineated? Mr. Rabideau stated the following: It was delineated probably within the last four years and they get a jurisdictional determination from the Army Corp of Engineers (ACOE) to establish those lines. These parcels up here are up on where the sandbank is. Mrs. Sautter stated I think when I looked at it there were some wetlands just encroaching and was that from the north piece and are there wetlands up there? Mr. Rabideau stated the following: If you're looking at the parcel from the road, the wetlands are down on the larger lot that's in the back and I do have a key color code map that may help the issue of where the wetlands are. The wetlands are in this area right here and it goes back here and downhill and our lots are right here. Mrs. Sautter stated okay. Mr. Ouimet asked Mr. Harris if the referrals were made on this particular subdivision? Mr. Harris stated the following: Yes, we referred it to the Water Department, Highway Department and the Fire Department. We're presently awaiting a response from Clifton Park-Halfmoon Emergency Services Corp. We did receive responses from Water, Highway and Fire, but not the Emergency Services Corp. Mr. Ouimet asked were all those responses positive except for the Emergency Corp? Mr. Harris stated the councilman just said that he just heard word from the Ambulance Corp and that they had no concerns with the proposal.

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

Mr. Roberts made a motion to approve the Major Subdivision application for Key Valley, LLC. Mr. Partlow seconded. All-Aye. Motion carried.

### **New Business:**

#### **14.105 NB      Stewart's Shops #112, 1403 Route 9 – Addition to Site Plan**

Mr. Chris Potter from Stewart's stated the following: I'm here tonight to present our proposal to replace our existing gas canopy. Currently the site has a 20 FT x 40 FT canopy with two dispensers and we're proposing to demo that canopy which would allow us to install a 20 FT x 55 FT canopy with two dispensers. The new configuration is in parallel verses series so; it allows four vehicles to fuel at one time. Right now with them being in series, it really doesn't allow for that when somebody pulls up too far as it kind of blocks the other dispenser so; it will help alleviate congestion. The canopy itself is really in rough shape and esthetically we tried to paint it a number of times and the paint has not adhered. Recently we tried a rubberized coating and that has turned the underside of the canopy yellow. So, esthetically it's not pleasing to the eye. The existing tanks will remain as those were replaced a while back and those are fiberglass so; those are okay. Greenspace is proposed to be reduced by about only 1,000 SF. Parking will remain the same at 20 spaces. We're going to modify our access a little bit as right now Route 9

has just a right out to the north and that will be eliminated and then we also have just to the south of that a full access in with a right out and that will also be eliminated and we're proposing just a right in/right out onto Route 9. Both existing driveways on Church Hill Road and Terminal Road are proposed to remain as is. We'll also be adjust our signage and the free-standing sign will go away because that is in the place of where the new canopy is proposed to go and we'll replace that with two LED price signs that will be mounted onto the canopy fascia. Lighting on the site currently is LED so; we'll match with some new pole light at each entrance and also the canopy lights that will be proposed on the new canopy are a full flush mount LED. The "Welcome to Halfmoon" sign that's on our property will not be disturbed with this proposal and we'll also need an area variance for a front yard setback. Mr. Ouimet stated this Board can't do anything about the area variance and we would have to deny your application and then you would have to go to the Zoning Board of Appeals (ZBA). Mr. Potter stated right. Mr. Ouimet stated just so I understand exactly what you're doing here; are the number of dispensers the same? Mr. Potter stated correct and it's just really to improve the look of the site with a newer canopy and alleviate some congestion in the lot. Mr. Ouimet asked is the size of the canopy going to increase in this design? Mr. Potter stated yes, it will go from a 20 FT x 40 FT to a 20 FT x 55 FT. Mr. Ouimet stated so; this will give you more room between the pumps won't it? Mr. Potter stated correct. Mr. Ouimet asked will you lose any of the parking? Mr. Potter stated no, it will remain at 20 spaces. Mr. Ouimet asked are those all 9 FT x 20 FT spaces? Mr. Potter stated I believe so. Mr. Ouimet asked Mr. Harris if he had an opportunity to take a look at the request? Mr. Harris stated the following: Yes, we looked at the plan and we've got a few variances because Church Hill Road is also a front yard corner lot so; that's considered front yard. So, you have the two setback issues; the existing building for Church Hill Road doesn't meet the front yard setback and then the new canopy. Also, in terms of parking spaces; the existing site plan shows 20 spaces and 27 spaces are required under Schedule B. So, you have 20 spaces and you're not changing what exist, but there was a variation in the existing parking space sizes. Town Code requires spaces to 10 FT x 20 FT unless they're earmarked for employee parking and in that case the Board can approve 9 FT x 20 FT and there were a number of spaces that either didn't meet the length or meet the width as some were 9 FT wide and some were 18 FT long. So, you had 11 parking spaces out of 20 parking spaces that didn't meet the 10 FT x 20 FT. So, I think that unless you're designating some of those as employee parking as they're all right in front of the building right along the building frontage so; I'd be hard pressed to think that's employee parking because usually they are in the back or somewhere separate from there. I have a specific listing of space by space if the Board wants me to read it for the record. Parking spaces numbered 1, 2, 3, 5, 6, 7, 8, 9, 10 and 11 are only 9 FT wide and parking spaces 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 are only 18 FT long according to that plan. You're spaces that you conform to is about nine along the eastern southern boundary; those are all 10 FT x 20 FT and you labeled them such, which drew my attention to the spaces in the front of the building that were not labeled and that's one of the reasons why I measured them. Mr. Potter stated yes, I think what happened is that all the spaces around the building were existing and then a few years back we added the parking here and then when we did the entrance on Terminal Road, we conformed the new to the code. Mr. Harris stated the following: I think this Board has interpreted this as an expansion of the existing use so, that's why we looked at it exhaustively for applying to the code. The only other thing besides the two setbacks and the parking spaces is that you have a transition yard to the east to a Residential (R-1) zoning district and our code has an added provision for buffering there. So, there are two options and both you can't even come close to meeting and one is a 100 FT setback and it's something around 14 FT to the east residential property line or 50 FT with a landscaped buffer or fence combination and that would be up to the discretion of the Board. So,

that's something that we looked at due to the fact that you're expanding the use. Mr. Ouimet stated the following: Well, it's clear that you have to go to the ZBA so; we're not going to be able to approve your application tonight. When you go to the ZBA, obviously they can address all of these deficits that Mr. Harris just mentioned. You should make a comprehensive request to ZBA. Although we can make a referral to CHA right now so that they can start taking a look at it from an engineering standpoint the reconfiguration of the driveway in and out and any other engineering concerns that they might have. Mr. Higgins asked how are you going to get the fuel trucks into the site to make deliveries? Mr. Ouimet stated I think off of Terminal Road. Mr. Potter stated right, they will come in off of Terminal Road. Mr. Ouimet stated I think they do that now. Mr. Higgins stated so, they'll come up and block off six or eight parking spots along 12 to 17. Mr. Potter stated they'll be doing exactly as they do today. Mr. Higgins asked are they doing that on off hours? Mr. Potter stated I don't know if they're doing it off hours as I'm not sure on that. Mr. Higgins stated the following: You weren't here when this was redone a couple of years ago, but there were several things that we asked and some of the items that we asked for are now part of this plan. Also, the signage up on the canopy; how big are those signs going to be? Mr. Potter stated they're 9.5 SF each. Mr. Higgins stated so; it's going to be the LED type signs that you have at a lot of the other locations now? Mr. Potter stated it will be similar and they are on the canopy elevations and they just say "R-E-G" and then it's a LED price sign. Mr. Ouimet stated you have something different there now, right? Mr. Potter stated we have a free-standing sign that has an LED price in it, which is 32 SF and that will be removed and be replaced with the two 9.5 SF. Mr. Ouimet stated the following: We can't really get ahead of ourselves here and we have to do it one step at a time so; like I said, we're not in a position to grant your request for variances. Before we leave this, should we make a referral to CHA at this point in time or should we wait until you get whatever you get from the ZBA? Mr. Harris stated I think that it would be at Stewart's risk to set up an escrow account with CHA. Mr. Ouimet asked what's your preference; would you want us to make the engineering referral now or wait until the ZBA acts? Mr. Potter stated I think at this point we would probably like to just because we're trying to possibly do it this year. Mr. Roberts stated but you do know that it is at your risk. Mr. Potter stated right. Mr. Ouimet stated right, because the engineering review is at the cost of the applicant. Mr. Potter stated correct.

(1) This item was tabled and referred to CHA for their review.

(2) Mr. Roberts made a motion to deny the Addition to Site Plan application for Stewart's Shop #112 for a larger fuel canopy and consolidate the existing Route 9 ingress/egress due to a determination that such actions constitute an expansion of use of a pre-existing, non-conforming site. Mr. Higgins seconded. All-Aye. Motion carried.

**14.106 NB      Lands of M. Hickok & Lands of C. Ross, 25 Halfmoon Drive – Minor Subdivision/Lot Line Adjustment**

Mr. Duane Rabideau from Gilbert VanGuilder Land Surveyor, PLLC stated the following: I'm here representing Ms. Margo Hickok for a request for consolidation of her lands and also for a Lot Line Adjustment. The proposal for Lot A, which is the yellow and goes down to the blue line and over and she owns that parcel in a separate deed. Lot B is from the blue line to that blue line and that's the pink lot and this lot over here is basically Lot C around here to this and that's owned by Ms. Cheryl Ross. The request is for Ms. Hickok to combine Lot A and Lot B together and then do a Lot Line Adjustment with Ms. Ross so that Lot B is split about evenly with these lands going to Ms. Ross and this portion of Lot B is going to Ms. Hickok's lot to be consolidated into one parcel.

So, the bottom line is that they are eliminating one lot so; now there will only be two. Mr. Ouimet asked the Planning Staff if they have taken a look at this request and are they proposing conforming lots or not? Mr. Marlow stated yes we did and actually they'll be even larger lots so; it would be closer to conformance than they already are. Mr. Ouimet asked has this been referred to the County? Mr. Marlow stated yes it has.

Mr. Berkowitz made a motion to set a Public Hearing for the September 22, 2014 Planning Board meeting. Mrs. Smith-Law seconded. All-Aye. Motion carried.

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

Mr. Duane Rabideau from Gilbert VanGuilder Land Surveyor, PLLC stated the following: I'm here representing Ms. Aline Sturtevant in her request for a Lot Line Adjustment. The parcel is located at 36 Guideboard Road. The request is to do a Lot Line Adjustment between her lot, which is Lot A and her son's lot, which is Lot B. Mr. Rabideau showed the Board a plan of the lots, and stated the initial lot is this dashed blue line right here and they want to expand her son's lot to this configuration so that most of the driveway is on his lot and the portion that is still over the proposed line will be taken out. Mr. Higgins stated this is a non-conforming lot now, correct? Mr. Rabideau stated the following: That is correct as this lot was approved a few years ago and it was non-conforming by today's standards and basically the Lot Line Adjustment still makes it non-conforming per say, but a better situation. Mr. Higgins stated but there is sufficient property there to make it conforming, correct? Mr. Rabideau stated the following: That is correct. The two reasons for having this configuration is so that her son has been using this portion so he doesn't want to penalize his mother's lot because we have a situation where there's a wetland corridor that runs through here so it kind of splits and there is very little access to get over onto this side so this is really about the only accessible area to get back here and that's the reason why we want to leave enough room. Mr. Higgins asked is there an existing driveway there and where is the house located on Lot A? Mr. Rabideau showed the Board the house location on Lot A, and stated it's where the stop sign is and it's just about right at the intersection. Mr. Higgins stated and what you're saying is the middle of Lot A has a lot of wetlands. Mr. Rabideau stated the following: There is a corridor that runs from the intersection, through here and expands out so there is useable land here and there is useable land on this side. It would be very difficult to get over to this side from this area here because these are all out parcels. Mr. Higgins asked what is the road frontage, is it like 60 FT? Mr. Rabideau stated that's correct, right now it is 60 FT. Mr. Ouimet asked where it tapers down, how wide is it? Mr. Rabideau stated it's probably about 45 FT. Mr. Ouimet stated the following: Okay, thanks. Has this been referred to the County? Mr. Harris stated yes. Mr. Ouimet asked when will the County meet? Mr. Harris stated they meet on September 18 and potentially it's on their agenda for that date. Mr. Ouimet stated just to be clear; you're asking us to approve two non-conforming lots, correct? Mr. Rabideau stated no, one and it would be this one right here and this would still be conforming because she has road frontage over here. Mr. Ouimet stated but you have enough property to make that lot conforming, but you don't want to do that, correct? Mr. Rabideau stated that's correct because he doesn't want to penalize his mother's lot to fix the problem he has with encroachments on his lot. Mr. Ouimet asked how would that penalize his mother's lot? Mr. Rabideau stated the following: By blocking off the access here, then this whole area back here, which is developable land upland areas, basically locks it up. So, she would not have an easy way to get to it. Mr. Ouimet asked is there any way to get to it? Mr. Rabideau stated by going through the wetlands and things of that nature with getting permits and stuff to get access to it. Mr. Ouimet asked

how does the Board feel about entertaining the request to continue a non-conforming lot? Mr. Higgins stated just so I understand; the wetland basically divides Lot A in half, correct. Mr. Rabideau stated correct. Mr. Higgins stated and it goes completely the entire length of Lot A, correct? Mr. Rabideau stated yes, I drove by there before I came to meeting and it's the drainage pattern from the intersection back down. Mr. Rabideau showed the plan to the Board and stated the following: Her house is here and it starts here from the culvert then it starts expanding out and with his parcel the request that we're after is over here. Then it's a situation where if you deal with the wetlands and get a permit, now you're dealing with another access onto Middletown Road instead of potentially off Guideboard Road. Mr. Higgins asked is there a reason why you didn't indicate the wetlands on the subdivision map? Mr. Rabideau stated the following: I didn't even think about that because with this issue, the Planning Department brought it up that it was a non-conforming lot and really it was going to be up to the Board to potentially approved the Lot Line Adjustment or deny it and go to the Zoning Board of Appeals (ZBA). So, it's kind of in the gray area where it wasn't an approved lot before and we're making it better. Granted it doesn't meet today's standards so; I guess it's the Board's call on it. Mr. Ouimet stated well, there's not much we can do tonight because we still have to wait for a County referral. Mrs. Murphy stated they're asking; at what intersection is the stop sign located? Mr. Rabideau stated where Guideboard Road and Middletown Road meet west of Harris Road and if you go through Halfmoon and go by Church Hill Road and just kind of head towards Middletown Road, it's that intersection there where you stop at the stop sign.

Mr. Berkowitz made a motion to set a Public Hearing for the September 22, 2014 Planning Board meeting. Mr. Partlow seconded. All-Aye. Motion carried.

#### **14.108 NB      DiSiena Associates LPA, 115 Round Lake Ave. – Minor Subdivision**

Mr. David Bogardus from Northeast Land Surveyors stated the following: I'm here tonight for DiSiena Associates with an application for a 2-lot Minor Subdivision. The purpose the subdivision is to subdivide out a parcel with an existing building on it that they've offered for sale. The parcel is located in the City of Mechanicville, in the Town of Halfmoon and the Town of Stillwater. The municipal boundaries are shown on this map in red, the pink is the entire property that remains with Lands of DiSiena, which is 10.4-acres and they are conveying a parcel that is 2.053-acres, which is highlighted in the green. The parcel fronts on Round Lake Avenue and Sheehan Street. The existing building is a 14,000 SF building right here and this is the furniture store for DiSiena. The cross-hatched area is an easement that is proposed for ingress and egress and to maintain the utilities that service both buildings. This portion of the property and the building is all located in the Town of Halfmoon and a very small portion that is at 544 SF is located in the Town of Stillwater and this portion from the red line to right is in the City of Mechanicville. I'm spoken with the City of Mechanicville and because there is no construction or building proposed they've deferred any action on that. Mr. Harris has a letter from the Town of Stillwater saying that 544 SF is of no concern to Stillwater and they will defer it to the Town of Halfmoon. There was a comment that Mr. Harris had given me via email last week that he felt that the tax map and my survey did not show that there was a discrepancy in the ownership along Round Lake Avenue. This survey is a survey that was done by me, but it is also consistence with a survey that is on file that was done by C.T. Male Associates in 1987 and I feel that this accurately represents the boundaries of Round Lake Road and this parcel. DiSiena owns about 12 parcels of land here that are all on one deed and there was quite a bit more land that they did own and they sold about 40-acres to the railroad a number of years ago. So, what's in indigo or pink highlighter is what they retain now. Mr. Ouimet stated and the green section is what they want to convey, correct?

Mr. Bogardus states yes. Mr. Ouimet stated at the pre-meeting we had an in-depth discussion about this request and asked what's the issue with the maps? Mr. Harris stated what he's showing according to deeds and a survey map; for the portion that's in the City of Mechanicville it does not line up with tax parcel data that I viewed on-line and also confirmed with the Town Assessor using County tax records, it's the small rectangular area on Round Lake Avenue and the bridge to Route 67, which shows it differently and it impacts frontage of the triangular lot that is Lot A to be conveyed to Empire Exhibits in the proposal because it shows that it adjoins a private piece of property and not a public right-of-way according to his map. Mr. Bogardus stated I would like to show Mr. Harris the map taken from the internet with a tax map on it because it shows us owning it. Mr. Ouimet stated I think you can take some liberty to show it to him, but my understanding is that these requests were made several days ago and went unanswered until tonight. Mr. Bogardus and Mr. Harris reviewed the tax map. Mr. Ouimet stated I don't think this is the time to go through this detail and I think what we'll do, unless anybody on the Board has other questions or any other ideas, is to just adjourn this and let the applicant and the Planning Department resolve the issue of what map controls what and then put this back on whenever that issue is resolved. Mr. Harris stated what isn't impacted by the debate over the lines is the Lot B proposal and that will not change under the tax map portion that we're talking about. Mr. Ouimet stated the problem that I have is that I'm really not comfortable acting on this while there is a dispute in maps. Mr. Bogardus stated I don't think there is a dispute in maps as we have two licensed professional land surveyors that have the same conclusion verses tax mapping, which is not supposed to be used for boundary work anyway. Mr. Ouimet stated the following: Again, I think that has to be resolved off-line and not at this meeting. So, we'll adjourn it and we'll put it on for the next meeting and hopefully you guys will be able to come to an agreement. So, we're going to adjourn it and I'm going to ask that you meet with our Planners, work out the issue of descriptions, boundary lines, maps and what controls what and then we'll put it back on for our next meeting in two weeks on September 22, 2014. Mr. Bogardus stated very good, thank you.

The Board tabled the proposed two (2) lot Minor Subdivision for DiSiena Associates LPA pending clarification of survey boundary information presented by the applicant.

#### **14.110 NB      Papa Subdivision, 67 Guideboard Road – Minor Subdivision**

Mr. Patrick Mitchell from S.Y. Kim Land Surveyors and I am representing Mr. Michael Papa for a Minor Subdivision on Guideboard Road where the applicant proposes to subdivide 3.9-acres into two flaglots of 1.9-acres and 2.0-acres with public water and on-site sewer. Mr. Higgins stated there is a drainage easement shown that you're going to build driveways over the top of, is that correct? Mr. Mitchell stated that is correct. Mr. Higgins asked what is that easement now; is it underground pipes? Mr. Mitchell stated it is all open swale so, we would have to do a hydraulic calculation to size pipe for that crossing or put an arch or some such conveyance in there. Mr. Higgins asked who has that easement; is it the Town of Halfmoon or is it the County? Mr. Mitchell stated the following: I do not know the answer to that, but I believe it is a private easement to the other adjoining landowner. So, unfortunately I do not know the answer to that. Mr. Berkowitz asked why have two driveways instead of one for less disturbance? Mr. Mitchell stated the applicant's son is proposing to build on Lot A and for reasons of selling the lots in the future the concern is adjoining driveways with such a length is sometimes difficult to sell. Mr. Berkowitz asked how close are the adjoining driveways from the neighbors? Mr. Mitchell stated I do not have the answer to that and the survey did not locate the neighbor's driveways and if the Board would like to see that, I can certainly provide that. Mr. Berkowitz stated you could have four driveways pretty close together. Mr. Mitchell stated that's a distinct possibility, yes. Mr.

Ouimet asked if this proposal had been referred to the County. Mr. Marlow stated it has and hopefully it will be on their September 18 meeting. Mr. Higgins stated also, I don't see any locations of any wells on any of the neighboring lots and asked are all those houses on public water? Mr. Mitchell stated I do not know the answer to that either. Mr. Higgins stated okay, because we'll require that also and if there are any wells, we want to know where they are located and also if all of those houses are on public water. Mrs. Sautter stated regarding Lot B with the wetlands; what type of wetlands are they? Mr. Mitchell stated they are Army Corp wetlands. Mrs. Sautter stated also, I see that the proposed septic is so close to those wetlands and asked is that going to be an issue? Mr. Mitchell stated the following: That meets the New York State Health Code. If they were New York State Department of Environmental Conservation (NYSDEC) wetlands, there would be a 100 FT setback. Mrs. Murphy stated just following up on that; have you done perc and test pits? Mr. Mitchell stated the following: Perc tests were done and the applicant actually looked at subdividing this property about 20-years ago and never went through with that. So, perc test were done out there at that time and they have not been done recently. For the applicant to move forward with a Building Permit, he's going to have to get new perc tests and I think that property is probably got a little wetter in the last 20-years. Mr. Ouimet asked are you proposing any kind of buffering for the existing neighbors? Mr. Mitchell stated the applicant wants to leave as much growth as possible as the applicant does want a tree buffer between where they're building and the rear of the houses where they're behind. Mr. Ouimet asked have you had a conversation with the neighbors? Mr. Mitchell stated actually they went out and knocked on a bunch of doors and got several of the neighbors to talk about it, but some of them weren't home. However, he did get six of them to sign that they were okay with the project. Mr. Mitchell showed the Board which neighbors signed that they were okay with the project. Mrs. Sautter stated are you saying that Mr. Duclos is one of them? Mr. Mitchell stated Mr. Duclos was not one of them. Mrs. Smith-Law asked are you proposing any kind of a buffer along the driveways and these two existing homes? Mr. Mitchell stated the following: We are not as there is a 30 FT wide flag; so, there's 30.03 FT width here and this one is a little bit wide, but it's only because it flares out at the bottom and that is 57 FT. There is currently basically cattails growing in there and at the Board's request, we could put landscaping in there as a buffer that is outside of the wetlands. Mr. Ouimet asked Mr. Bianchino if other than the perc tests, which we already addressed, are there any other issues that you might see while we are looking at this proposal? Mr. Bianchino stated the Board brought up the issue of curb cuts, right? Mr. Ouimet stated right. Mr. Bianchino stated I think that it's a good idea to see where the existing curb cuts are. Mr. Ouimet stated I think that it won't be viewed favorably by the County. Mr. Bianchino stated yes, I would think that they could certainly separate the driveway. Mr. Ouimet asked how long would this driveway be? Mr. Mitchell stated a little over 200 FT. Mr. Ouimet stated that doesn't trigger a reinforced driveway, does it? Mr. Mitchell asked for fire access? Mr. Ouimet stated yes. Mr. Mitchell stated no. Mr. Higgins stated to Mrs. Murphy; I still have a question on that drainage easement. Mrs. Murphy stated the following: I made a note to myself to get a copy of the easement from our Assessor tomorrow so I can see what it is that we're dealing with. I can't tell off the map as it just says "drainage easement". Mr. Mitchell stated okay, I will follow up on that as well to kind of clarify and I will make sure that we get the wells located, the driveways located, I will follow up with the perc tests and I'll follow up on the easement and who the easement is to and from. Mr. Ouimet stated to Mr. Harris; it's my understanding that Mr. Duclos contacted your office today? Mr. Harris stated the following: Yes, the son of the property owner and I spoke late this afternoon in a phone conversation. I jotted down notes and I paraphrased some of his and his parent's concerns with this application and I noticed after the pre-meeting that he had sent me an email detailing their concerns, which I will



forward to the Board members. Mr. Ouimet asked what is the issue with the Public Hearing because we will have to have a Public Hearing? Mr. Harris stated Mr. Bob Duclos requested that when the Board schedules a Public Hearing that it not be at the next meeting due to his inability to be here and hear the comments and respond on behalf of his parents and he did submit information in writing, but he would like to be present at a later other than the September 22, 2014 Planning Board meeting for a Public Hearing. Mr. Ouimet asked when is the next meeting after September 22, 2014? Mr. Harris stated that would be Tuesday, October 14, 2014. Mr. Ouimet asked Mr. Duclos if Tuesday, October 14, 2014 would work for both of you? Mr. Duclos stated yes. Mr. Berkowitz asked are these single-family homes or duplexes? Mr. Mitchell stated single-family homes. Mr. Berkowitz asked would both homes be single-family? Mr. Mitchell stated yes, both.

Mr. Berkowitz made a motion to set a Public Hearing for Tuesday, October 14, 2014. Mr. Higgins seconded. All-Aye. Motion carried.

**14.115 NB Clifton Park Eye Care Optometric Associates, PLLC, 1618 Route 9 – Change of Use & Sign**

Ms. Reem Wlaschin, the applicant, stated the following: I am an Optometrist and I presently own the Clifton Park Eye Care Associates. I started the practice in 2003 and my practice has grown to a point where I've outgrown the area that I'm at right now. So, I would like to purchase the building located at 1618 Route 9. I have applied for a Change of Use for a less intense use to create practice for an optometric with a dispensary and a doctor's office. Mr. Ouimet asked how large of a staff are you planning on having in the building? Mr. Wlaschin stated the following: Right now I have two opticians, two technicians and one office manager and that's all I'm taking with me at this time. I do have a part-time doctor that helps me out on Mondays and Tuesdays so, most of the time I'm by myself. So, the same staff will stay and there is no increase in staff at this time. Mr. Ouimet asked the Planners if they had an opportunity to take a look at the parking situation around the building? Mr. Marlow stated yes, we have and they are required per our Town Code to have 20 spaces and there are 45 spaces in that parking lot. Mr. Ouimet stated so; there is sufficient parking. Mr. Marlow stated that is correct. Mr. Higgins stated just to make sure that we understand; is this the building that Saratoga Sweets is presently in now? Ms. Wlaschin stated that's correct. Mr. Higgins stated okay, thank you. Ms. Wlaschin stated I am looking forward to coming to Halfmoon. Mr. Ouimet stated one issue that I should bring to your attention; the existing tenant has a dumpster that is very visible from Route 9 and if you are going to continue to have a dumpster, we would ask for some kind of screening around it. Ms. Wlaschin stated no, there are going to be some upgrades to the whole exterior to make it look more like a professional medical building and even the interior; the whole interior is going to be redone also. Mr. Ouimet stated okay so, we don't have to worry about the dumpster being visible. Ms. Wlaschin stated no, that dumpster is going to be gone. Mr. Ouimet asked Mr. Roberts if he had an opportunity to look at the Sign application. Mr. Roberts stated the following: Yes, I have and I'm a little confused on the sign issue here. Is the sign going to be 10 FT high? Ms. Wlaschin stated the following: Yes, it's going to be about 10 FT high and the existing sign that they have is about 4 FT and it is not visible when you're going south and only visible when you're going north. So, I just wanted it to be a little bit taller so you can see it from both directions. Mr. Roberts stated and your have 12 FT pressure treated lumber? Ms. Wlaschin stated yes, 6 FT x 6 FT and it's going to be a 5 FT x 10 FT sign and it's going to be in the same location as the existing sign. Mr. Roberts stated okay, make sure that it's going to be on your property and not in the State right-of-way. Ms. Wlaschin stated absolutely. Mr. Ouimet asked is

the sign going to be lit? Ms. Wlaschin stated it has flood lighting. Mr. Ouimet stated thank you and welcome to Halfmoon. Ms. Wlaschin stated thank you.

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

Sign 1:

- 5' x 10' = 50 SF (100 SF total)
- Two-sided
- Free-standing/Monument
- Flood Lighting
- Height: 10"

Mr. Roberts made a motion to approve the Change of Use and Sign applications for Clifton Park Eye Care Optometric Associates, PLLC. Mr. Partlow seconded. All-Aye. Motion carried.

**14.113 NB      Jaeger-Flynn Associates, Inc., 30 Corporate Drive – Change of Tenant & Sign**

Mr. Tom Flynn, the applicant, stated the following: We are applying for a Sign change and we're just going over the existing signs that are currently there and we're not changing where the sign is located and we're not changing the size. Currently there is a sign on the side of the building that says "Travel Leader" and "Albany Travel" and we're just asking to take the plexiglas off and have their name removed and our name and logo put on and have it put right back into the existing light box. We're changing our logo a little bit and we're the primary tenant in that building now so, the sign that's out by the road on Corporate Drive we're just asking to put our name on the top and their name on the bottom. In the process of putting in for the Sign permit, something came up with that we're not recognized as being in the building. So, we've been there and the original building was built by the folks that owned Albany Travel and in 1997 we became the other tenant with them in January 1998 and we've been there since then. We then bought the building from them in August 2005 and we've been gradually growing and they've been gradually shrinking. Other than that, nothing is changing. Mr. Ouimet stated so; this is the building that you see from Sitterly Road as you come around that corner? Mr. Flynn stated yes, it's one-story and it's right on that corner. Mr. Ouimet asked the Planners if they had an opportunity to look at this request. Mr. Harris stated the following: Yes and we had a few conversations by email regarding this. There was never an approval for a Change of Tenant and with the sign request, we thought it was a good opportunity to bring them into conformance with our Change of Tenant rules and approval for the sign that they are slightly changing. In the future slight changes probably won't have to come to this Board as there was a recent amendment at the Town Board, but here's a chance to bring you up to speed on everything and the site and sign both comply with the site and sign ordinances and they do have adequate parking for the use and everything meets the Zoning Ordinance.

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

Number of Signs: 2

Sign 1:

- 3' x 8' = 24 SF
- Wall-Mounted
- Internal Lighting

Sign 2:

- 5' X 5.5' – 27.5 SF (55 SF total)

- Two-sided
- Free-Standing/Monument
- Flood Lighting

Mr. Roberts made a motion to approve the Change of Tenant and Sign applications for Jaeger-Flynn Associates, Inc. Mr. Higgins seconded. All-Aye. Motion carried.

**14.117 NB      Nurse Practitioners Association of New York, 12 Corporate Drive – Change of Tenant**

Mr. Brian Sleasman from ABD Engineers & Surveyors stated the following: I'm here on behalf of Mr. Ed Abele from Sitterly Associates. This proposal is for a Change of Tenant change located at 12 Corporate Drive for Nurse Practitioners Association of New York. This tenant is currently there and they occupy 1,500 SF and this proposal is for them to expand to a 1,900 SF area in the building that was formerly occupied by Sheriff's Insurance who is no longer at this location. They will have ten employees with normal offices hours from 8:00am to 5:00pm, Monday through Friday. Mr. Ouimet asked the Planning Staff if they had an opportunity to look at the parking situation around the building? Mr. Marlow stated yes, there is more than sufficient parking at this location as they would require 10 parking spaces and I believe there are 40 plus parking spots there. Mr. Ouimet asked was there a request for a sign? Mr. Sleasman stated I was not informed of that and I'm assuming that they will just use the sign that they have since they are already in that building. Mr. Ouimet stated so; they are already there? Mr. Sleasman stated yes.

Mr. Berkowitz made a motion to approve the Change of Tenant application for the Nurse Practitioners Association of New York. Mrs. Smith-Law seconded. All-Aye. Motion carried.

**14.118 NB      New Spaces Realty, 12 Corporate Drive – Change of Tenant**

Mr. Brian Sleasman from ABD Engineers & Surveyors stated the following: I'm here on behalf of Mr. Ed Abele from Sitterly Associates. We are proposing to have New Spaces Realty move in and occupy the 1,500 SF that was previously occupied by the Nurse Practitioners Association of New York. They are a real estate company with pretty much one employee with five independent realtors underneath them. The space is going to be used mostly by appointment only. Maybe in the future they might be open daily from 9:00am to 5:00pm and 9:00am to 3:00pm on Saturdays. Most of their business will be conducted over the telephone so, there might be a few office visits, but it's not really expected to be many people. Mr. Ouimet stated so; I take it to be that there won't be a big parking requirement. Mr. Marlow stated it's an office for office swap with no more of an intense use than what was there before. Mr. Ouimet stated it sounds like it might be a less intense use than what was there. Mr. Marlow stated that's the impression that I'm getting also. Mr. Ouimet stated so; there won't be any problems with parking. Mr. Marlow stated correct.

Mr. Higgins made a motion to approve the Change of Tenant application for New Spaces Realty. Mrs. Smith-Law seconded. All-Aye. Motion carried.

**14.119 NB      Love My Pet NY, 1532 Route 9 – Change of Tenant**

Mr. Brian Sleasman from ABD Engineers & Surveyors stated the following: I'm here tonight on behalf of Mr. Ed Abele from Route 9 LLC. Love My Pet NY is proposing to occupy 2,100 SF at 1532 Route 9. The space was previously leased by Companion MRI, which was just like a pet MRI. Love My Pet NY sells pet invisible fencing. The way I understand it; a customer would

come in and they would discuss what they would need and what they would want. So, they'll come out and they'll measure it and then the items would be shipped directly to their home. So, there is no real transaction at the office and it would only be to discuss what the customer would need. Their normal business hours would be 9:00am to 5:00pm Monday through Friday, 10:00am to 3:00pm on Saturdays and they will have six employees. Mr. Ouimet stated I was kind of confused when it was presented as a retail operation as I wouldn't think of buying an invisible fence in a retail store. Mr. Sleasman stated yes and the way I understand it; it's just a place to go for someone to discuss what they might need. Mr. Ouimet asked the Planning Staff if they looked at the parking situation at the site and asked if this was the same location as First Niagara Bank? Mr. Sleasman stated yes. Mr. Marlow stated the following: Yes, we did look at the parking situation and I should make note that there is a shortage of about eight spaces for the parking, but the Board does have discretion with that as it's not a very intense use. I don't think there is going to be a lot of foot traffic so, it's really up to the Board as you do have that waiver provision. Mr. Ouimet stated I personally can't see the need for eight spaces. Mr. Sleasman stated no, I don't think so either and I think it's more for the employees to a base and I think it's going to be a lot of house visits to do measurements for the invisible fencing. Mr. Ouimet asked are the employees all going to have desks inside the building? Mr. Sleasman stated I don't know. Mr. Ouimet asked have we had any issues with parking at that site. Mr. Marlow stated not that I'm aware of to date. Mr. Ouimet stated I didn't think that we did. Mr. Roberts stated in any event; as long as you are aware that there is no parking allowed on Route 9. Mr. Sleasman stated yes. Mr. Roberts stated so; if something goes bad, just so we're covered. Mr. Higgins asked how about the installer's trucks; are they parked there overnight? Mr. Sleasman stated nobody told me anything about that so, unfortunately I cannot answer your question. Mr. Higgins stated that following: I was just curious. Do you know anything about the status of them tying into the sewer? Mr. Sleasman stated no. Mr. Higgins stated because I know every time they come up, we talk about that and there was some discussion at one time that they were trying to get an easement through the back. Mr. Ouimet stated I think that's why Mr. Tom Andress is not here tonight. Mr. Higgins stated oh, okay. Mr. Sleasman stated I'm not sure why he could not make it here tonight. Mr. Higgins stated okay, like I said; I was just curious about that. Mr. Ouimet stated we welcome the invisible fence business to Halfmoon.

Mr. Roberts made a motion to approve the Change of Tenant application for Love My Pet NY with a waiver of the parking requirement. Mr. Berkowitz seconded. All-Aye. Motion carried.

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

Mr. Berkowitz and Mrs. Smith-Law recused themselves from this item. Ms. Jeslyn Bell, the applicant, stated the following: I'm the regional director for American Para Professional Systems, Inc. I am looking for a Change of Tenant at 1673 Route 9. We're a paramedical company and we help to arrange and execute physical exams for Life Insurance and Long Term Care Benefits for Upstate New York. Mr. Ouimet asked do you conduct examinations in the office. Ms. Bell stated the following: Yes and we do one to two clients per hour and usually one. We see on the average between 10 and 15 applicants a week in the office. Mr. Ouimet stated at our pre-meeting tonight we were a little unclear what space you were actually in. Ms. Bell stated previously it was Back In Motion Massage and when you enter the building to the main gym entrance, which is the "C" entrance, it's back to the rear right that is approximately 1,100 SF that is mostly office use. Mr. Ouimet asked is that your understanding Mr. Marlow? Mr. Marlow stated yes. Mr. Roberts stated before we go any further and this is nothing against the applicant;

Mr. Marlow, are there any outstanding issues with this building? Mr. Marlow stated the following: Yes and like Mr. Roberts just said; it's nothing against you guys. The Building Department brought it to my attention today that some walls were changed internally around there and as a result; more sprinkler heads are required per Building Code. Code Enforcement has talked to the owner of the building and the owner of the building is well aware of it and the owner has been given until September 28, 2014 to install those sprinklers. The fire inspection and everything has passed and they are good to go on that and it's just that they need some additional sprinkler heads. I just wanted to make sure that that was known. Again, this is nothing against the applicant or your occupying the building, but this is something that is required to be in compliance with the New York State Building Codes. Mr. Ouimet asked is that in the site that this applicant proposes to use? Mr. Marlow stated the following: What I was told by the Building Department was that it refers to the building as a whole and I was not told specifically this site and I was just flagged when the Building Department saw that building address. So, it may in fact be a different portion of the building as I was not told specifically and it was just that building in general was in need of additional sprinkler heads. Mr. Ouimet stated I don't know how the rest of the Board feels about that, but I'm not feeling very comfortable at this point in time. Mr. Dean Taylor stated the following: I'm the listing agent here and maybe I can step in with some information regarding that. What we're here for tonight is to get the use and before the applicant can get her tenant permit, the building will have to meet through the Building Department. So, the purpose of tonight is strictly to get the use approved and the owner is well aware that there is a sprinkler problem and it's a \$1,600.00 fix and I don't know what the status of that is because the owner just came back from Spain. So, what we're here for tonight is to just get the use and going from a chiropractor and massage therapy to a place that draws blood; it sounds like we should be able to get that use approved tonight. Mr. Ouimet asked when will the tenant move in? Mr. Taylor stated the tenant can't move in until they get the Certificate of Occupancy (C.O.) or is it a tenant permit. Mr. Harris stated it is called a "tenant set-up", but it's a Building Department approval, which they won't grant until they fix the sprinklers. Mr. Ouimet stated then the tenant won't be able to move in until the sprinklers. Mr. Taylor stated the following: That's correct. So, that's why tonight we have to get by this step first and then we'll go to through the Building Department. Mr. Ouimet stated it would have been nice if the owner of the building was here. Mr. Taylor stated well, what we're looking for is the use and then any issues with the Building Department we would like to deal with that with the Building Department. Mr. Ouimet stated well, Mr. Taylor, you've been at these meetings enough to know that this Board doesn't like to do anything when there are outstanding issues involving the building. Mr. Taylor stated the following: I understand that, but I believe that we should be able to get the tenant use approved by this Board and then handle the building issues with the Building Department. I mean that's the way you guys do it, but I don't know if I'd agree with that as we're here before the Planning Board to get the use approved and then the Building Department handles the building issues. Mr. Higgins stated typically if there is an outstanding violation on the site, a lot of times it never even gets this far. Mr. Ouimet stated this is the first that I heard of it and it wasn't discussed at the pre-meeting. Mr. Higgins stated I agree that it wasn't discussed at the pre-meeting that I'm aware of. Mr. Ouimet stated it wasn't and I personally don't feel comfortable with this until the building issues are resolved. Mr. Higgins stated I'd like just a confirmation because apparently again, at the pre-meeting there was some discussion of exactly which spot this is and is this a vacant area of the building right now? Mr. Taylor stated it's currently being used as a massage portion, but it's under the umbrella of the Healthplex. Mr. Higgins stated no, the reason why I asked that and our pre-meeting write-up says that it's vacant presently and that's why we weren't quite sure exactly which piece of the

Healthplex Building this is. Ms. Bell stated it's at the entrance of the building and there is a gym receptionist straight ahead of you as you enter the building and it's on the rear right-hand side where there is a small office space and we're in the empty space to the right of that. Mr. Higgins stated is it empty/vacant right now? Ms. Bell stated yes, they're waiting for this to move forward on getting a Change of Tenant. Mr. Ouimet asked on fixing the code issues? Ms. Bell stated I'm sorry as I was unaware of that until it was just mentioned. Mr. Ouimet stated well, I was too and our next Planning Board meeting in on September 22, 2014. Mr. Taylor stated this is outrageous and I can't understand this because we're here to get the use and the Building Department handles the building issues. Mr. Ouimet stated yes, but you are here for a substandard building. Mr. Taylor stated the following: Okay. Can we get the use approved based on the contingency that the building meets the code. You guys have no idea what you're doing when you're trying to get business as she has a lease that she has to get out of. There has to be timing issues and you need to know that you can get the use. This is a Change of Tenant and it's not a Change of Use so, all we're looking for from the Board tonight is if this use can be permitted provided that the building meets the proper code. I don't know where the Planning Department comes into the Building Department and this is a Building Department issue and it is something that is being worked out and we're not looking for the tenant permit and we're looking for the use. Mr. Ouimet asked will that be worked out in two weeks? Mr. Taylor stated I don't know that it will, but are you saying that we have to come back in two weeks? Mr. Ouimet stated I didn't say that yet, but will it be worked out in two weeks? Mr. Taylor stated I don't know and I can't answer that, but I can tell you that they can't move in until it's worked out and that we understand and we accept that. Mr. Ouimet stated if this Board acts in two weeks or acts tonight, you're still not going to be able to move in. Mr. Taylor stated the following: Well, the Building Department is not going to come over and do the inspection until we get past this Board. All I'm looking to do is to get past this Board for the use and this is a use. Mr. Robert stated I disagree with your Mr. Taylor because that's not true. Mr. Taylor asked what's not true? Mr. Ouimet stated the Building Department will come and look at the building irrespective of what this Board does tonight. Mr. Taylor stated okay. Mr. Ouimet stated there is an outstanding code violation, there is an order to fix it and when it's fixed, the Building Department will look. Mr. Taylor stated yes, but then the Building Department has to come over and do a fire inspection on the whole space. Mr. Ouimet stated the limit that I have, quite honestly, is approving a tenant moving into a substandard building that I know is not up to code. Mr. Taylor stated the following: But you're not approving us moving in and you will be only approving the use. We can't get in unless we get the C.O. Mr. Ouimet stated I think that's a difference without a distinction. Mr. Taylor asked Mr. Harris if anyone was going to weigh in on this. Mr. Harris stated what do you want me to weigh in on? Mr. Taylor stated you can't issue a tenant permit. Mr. Harris stated correct, but this Board has recently not acted due to Building Code violations or Building Code issues. Mr. Ouimet stated that's not recent because we have not been acting on outstanding building code issues for as long as I have been on the Board, which is nine years. Mr. Harris stated the following: While the Planning Department doesn't issue Change of Tenant set-ups or fire inspections, we do work in tandem with the Building Department and in the past, the recent past and further past, the Board asks if there are any outstanding Building Code violations and if there are, and there have been a few recently in the past, the Board has not acted until those were resolved. However, I don't know that a Code Enforcement Officer won't go and inspect the sprinklers being fixed and I think you're saying that the Code Enforcement Officer won't go look at and if you fix the sprinklers tomorrow are you saying that a Code Enforcement Officer is not going to go? Mr. Taylor stated no, if we don't have an approval here and the process usually is that we come here and we get the approval and then a Code Enforcement Officer comes over. Mr. Harris stated but you have to

fix those sprinklers regardless of whether this applicant came tonight so, it's not tied to this approval. Mr. Taylor stated exactly. Mr. Harris stated I mean in terms of the sprinkler issue, but when the Board hears that there is an outstanding with the building and it might be in a different section of the building and that doesn't mean they are forced to approve a new tenant. Mr. Ouimet stated I think this Board has been consistent in not approving any action brought by an applicant where there are outstanding code violations on the property. Mr. Roberts stated I think by not taking action tonight, this will put the owner of the building on notice to get the sprinkler system fixed by our next meeting and then we can move forward and that's very simple. Mr. Ouimet stated well, unless somebody from the Board thinks it's different than we have in the past. Mr. Roberts stated the following: No, we haven't. Once again Ma'am, it's nothing against you as this is a Building Department issue. Mr. Taylor stated I understand that it's nothing against her, but it is against her. Mr. Roberts stated well, then the owner of the building should get moving. Mr. Ouimet stated with all due respect, it's not against her. Mr. Taylor stated well, she is the one that has to suffer. Mr. Ouimet stated it's the policy of this Board and you know very well that it is and if there are outstanding violations on a particular property that's being brought to us by an applicant, we don't act on it until those are resolved and you know it and you don't agree with it, but you know that has been our position. Mr. Taylor stated I don't think that that's right. Mr. Ouimet stated unless I'm overruled by the majority of the Board, I'm not going to call for a motion on this. Mrs. Sautter asked Mr. Taylor when he knew about the sprinkler issue or did he just find out at this very meeting. Mr. Taylor stated the sprinkler issue came in at the last inspection that we had after we had an approval on a tenant. Mrs. Sautter asked which was when? Mr. Taylor stated it was for the move in of the Bright Horizons Colonie Seniors. Mrs. Sautter stated okay, so that was a month ago because I was here for that. Mr. Taylor stated no, they didn't move in until the Code Enforcement Officer was there on August 28<sup>th</sup>. Mrs. Sautter stated the following: Well, she's standing here and she did not know and at what point were you going to tell her? If we didn't catch it, at what point was that going to be fixed or was she going to be moved in there? That's the only thing I have to say. Mr. Taylor stated the following: Here's what the story was; the inspection came over for that tenant and there was a sprinkler head and there were some sprinkler issues worth about \$1,600.00 that needs to be done. The owner was in Spain and so, now he comes back and we still got that tenant in because it didn't affect that area. So, now he has a period of time that he has to get that fixed before any other tenants can get their tenant permits. Mr. Ouimet stated and you're here asking for it before it's fixed. Mr. Taylor stated you're not giving me a tenant permit; you're giving me an approval of the use. Mr. Ouimet stated actually, we're not because we're going to adjourn this until the next meeting and you'll be on for September 22, 2014 meeting. Mr. Roberts stated so; he's got two weeks to get it fixed. Mr. Taylor stated two weeks is nothing to you, but it is something to her for the record. Mr. Ouimet apologized to the applicant. Ms. Bell stated thank you.

This item was tabled for the Change of Tenant application for American Para Professional Systems, Inc. for a professional office (medical testing) due to outstanding Code Enforcement/Building Department code requirements.

### **Old Business:**

#### **14.097 OB      Grace Fellowship Church, 1 Enterprise Ave. – Addition to Site Plan**

Mr. Jason Dell from Lansing Engineering stated the following: I'm here on behalf of the applicant for Grace Fellowship Church. We were here two weeks ago requesting a 12-month approval for the temporary classroom as well as for a consideration for constructing a 14 FT x 24 FT shed. At that meeting the Board had indicated that we needed to wait for input from the County and the

County has responded to the Planning Department indicating that they don't have any issue with the proposal. Since the last meeting as well we had mentioned that the temporary storage bins that were on there; one of which has been removed and the second one of the storage units has been ordered to be removed and the applicants are currently awaiting for that to be removed. Mr. Ouimet stated okay so; if we put this back on in two weeks, that other storage bin will be removed because both of the units was promised to be removed. Mr. Justin Yim from Grace Fellowship Church stated the following: They actually came to pick up both and then they had an issue with putting both of them on the trailer and they said they would come back. We've done everything that we can and we emptied out both trailers, we continue to call them every day to please come back and pick up the storage unit and they're just saying "we'll come and get it". So, there is nothing else that we can do other and I guess that we're starting to annoy them that we're calling them every day and we'll continue to do that until they do take them, but we're a victim to their schedule. They said there was a problem loading the second one on when they came to pick up the one and we have emptied out everything and put our stuff in temporary storage until this is resolved. So, there is nothing else that we can do as an organization. Mr. Higgins stated the following: I think we have another dilemma where the site is not in compliance. So, in my opinion we shouldn't entertain it until the second one is removed. Mr. Ouimet stated I don't know how we can approve this after what we've just been through. Mr. Roberts stated Mr. Dell you know this. Mr. Dell stated yes. Mr. Ouimet stated it's not a question of playing hardball; it's just the way we do business. Mr. Yim stated I totally get it and it's frustrating for us. Mr. Ouimet asked do you think it will be gone in two weeks? Mr. Yim stated the following: Literally we are calling them every day and they said that they would be there soon and it could be gone by tomorrow morning for all I know. It's just a matter of when are they going to come out. Mr. Ouimet stated I guess the question is; what do we do in two weeks if it's not gone? Mr. Yim stated the following: I'm hoping that it is not here in two weeks and I'm hoping it's gone by this week because we're having issues with them sighing very loudly into the telephone when we keep calling them every day. So, it could be gone now for all I know as I have not driven by and we're just victim to their schedule. Mr. Harris stated I drove by about 3:00pm and it was still there so; I don't what has happened since 3:00pm. Mr. Roberts stated this may or may not help, but when you call them again tomorrow morning, just explain to them that you can't move forward until that is gone. Mr. Yim stated we will and I actually agree with you that you have to be consistent with policy. Mrs. Murphy stated my question to you; we did a temporary permission for them to continue with the school and asked did we put a date on that? Mr. Harris stated no, it was pending approval of the County on the County review and we did get that back. Mrs. Murphy stated because they were going forward on it and they have a school I assume, correct? Mr. Ouimet stated why don't we just extend the temporary approval until our next meeting. Mr. Dell stated okay. Mr. Ouimet stated we'll extend the temporary approval until our next meeting on September 22, 2014 so that you can continue to do business the way you need to do it and at our next meeting hopefully you'll be here and you'll tell me that the storage container is gone and then we can act on the entire proposal permanently.

Mr. Roberts made a motion to extend the approval for Grace Fellowship Church for the temporary classroom for two weeks and require the removal of the existing storage container before further action would be taken on this application. Mr. Higgins seconded. All-Aye. Motion carried.

**14.080 OB      Kivort Steel, 380 Hudson River Road – Addition to Site Plan**

Mr. Dan Tompkins from the Environmental Design Partnership stated the following: I believe we discussed this project in late July and at that time the County still had to look at it and also, it



was given to CHA for their engineering review and we did receive review comments and we responded to them. They had requested that the finished floor elevation be shown on the drawing and that was added. They also asked for the proposed method of conveying roof runoff from the addition and that would be a downspout and what we've done is we also introduced a rain garden to intercept the water even though this is not a Stormwater Pollution Prevention Plan (SWPPP) level project, we introduced a rain garden to intercept the roof runoff and that detail was added on the plan as well as some erosion control detailing. Additionally, they are looking for the location of the existing septic field and we approximated that in this vicinity here. We did have a firm location of the septic tank and an affluent pump, but there are no available records for the exact configuration of the leach field. What I can say is; Kivort has been there for 15 years and they haven't expressed any issues with it and it's the same system that was acted on in the previous application for the addition, which was approved on the north side and not constructed and the pending application that we had talked about in some detail the last time about a much larger expansion that they backed away from. They haven't had any issues. This addition will maybe add two more employees, but that was almost more me adding that to the form to round up for parking and they don't have any immediate plans to add employees, they don't use process water and there is not a lot of hydraulic load on that. So, I'll just leave it at that and that's really how we answered the four comments. The first comment was that it was an unlisted action and that a Short Environmental Assessment Form (SEAF) should be completed and that was submitted with the original package so, you folks do have that. Mr. Ouimet asked Mr. Bianchino if all of his comments have been addressed? Mr. Bianchino stated yes. Mr. Ouimet asked Mr. Marlow if all the referrals been made and have we gotten responses from all the interested parties? Mr. Marlow stated yes, we did hear from the County and they are okay with it and the fire department is also okay with it. Mr. Ouimet asked was the fire department fine with it? Mr. Marlow stated correct.

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

Mr. Roberts made a motion to approve the Addition to Site Plan application for Kivort Steel for the request for a 7,648 SF addition to the existing steel distributor warehouse building. Mrs. Smith-Law seconded. All-Aye. Motion carried.

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

Mr. Dan Tompkins from the Environmental Design Partnership stated the following: I'm representing Northway Surgical & Pain Center. I'm standing in for Mr. Joe Dannible tonight in his absence. As I understand, there were several points that Mr. Dannible wanted to cover so that the project could move forward as it's still in the concept stage. From what I understand there was a good deal of discussion about the proposed limited access emergency vehicle curb cut and Mr. Dannible apparently met with Mr. Joseph Santiago, the Executive Director for the Clifton Park-Halfmoon Emergency Corp. and he was quite emphatic that he really would prefer that it not be gated and that it be left open and in fact, I think he was pressing Mr. Dannible to make sure that the thing was setup properly from a radii standpoint to make sure that an emergency vehicle could get in there without much fuss. I can only convey what the gentleman had said other than just to put in my own two cents as I would tend to not want to gate it myself as in emergencies people tend to go on automatic a little bit and I don't know that you could necessarily want someone to go out there and be mindful to try and unlock it or something. I know there are

Knox boxes, but I think leaving it un-cumbered might be the best solution and that's my own personal opinion. Obviously, the New York State Department of Transportation (NYSDOT) is going to have to issue a permit on that and we're going to have to go through their screening process and their agreement so, anything that we discuss here is pending that as well. There was another point that Mr. Dannible was concerned about is that as I understand it there was some discussion about leaving the existing trees in this vicinity and Mr. Dannible felt that much of that area was stressed and not in great condition. So, Mr. Dannible is proposing and it would be reflected in the detailed phase to take the majority of that down and just re-landscape it with landscape quality trees and shrubs. Mr. Dannible felt that by the time you were done with this you wouldn't have what you would expect to have seen based on the aerial and sometimes aerials can be bit misleading. So, that was Mr. Dannible's comment on that. So, I'm here tonight for is to discuss these items with you and I believe that most if not all of the other comments can be addressed during the detailed phase, but before we have our staff move forward on this we need the necessary level of comfort that we're on the right ground with you folks. Mr. Ouimet stated just so I understand; you met with the Ambulance Corp. and they've issued their opinion as to what needs to change as far as the layout is concerned, correct? Mr. Tompkins stated Mr. Dannible met with the person in person out at the site from what I can see here and he sent an email and asked if they saw the email. Mr. Harris stated yes, I did see the email and I paraphrased it in the topics for you and in summary they oppose a limited access gate at the emergency entrance and request that the emergency entrance be expanded and widened to allow for a better emergency access for emergency vehicles from both the northbound and the southbound lanes on Route 9 and that was about it. Mr. Tompkins stated okay, there was a little bit more, but that's the gist of it. Mr. Ouimet stated right, but he hasn't made any changes yet to concept plan, correct? Mr. Tompkins stated no, no change has been made on this plan yet and we would anticipate doing that in the detailed phase. Mr. Ouimet stated I know Mr. Bianchino had a number of comments when he looked at the original proposal, right? Mr. Bianchino stated the following: Yes, the original proposal is obviously a concept plan as Mr. Tompkins has indicated and we made some comments regarding information that we want to make sure is in final detailed design plans. One of the issues, which was more of a concept level, was that we wanted the Board to be aware of the full extent of the clearing that's being proposed on the site so that it could be addressed and understood as to what additional buildings may become visible behind this site as a result of some of the clearing. So, we just wanted to make sure that the final plans are clear in terms of the limits of grading and clearing that's proposed and as Mr. Tompkins has indicated, the proposed landscaping because again, when you go behind this site, there is some other uses back there that at this point are not readily visible from Route 9, but they could be in the future. Otherwise, most of our comments are related to the preliminary plans. Mr. Ouimet stated the following: The conceptual plan that we have doesn't show what's behind the building. Do you know what's behind there? Mr. Tompkins stated I don't know. Mr. Bianchino stated it's the Southview Apartments and it's the backend of Twin Lakes, but Mr. Don Greene had the parcel off of Sitterly Road that there were some additional apartments built. Mr. Tompkins stated yes, the narrative does say it is the Southview Apartments. Mr. Higgins asked where is the sanitary sewer connection; in the front or in the rear of the building? Mr. Tompkins stated I believe it's going to be the rear and I think it's in this vicinity here. Mr. Bianchino stated I think that was one of the questions; on how they are going to access the sewer because there is sewer on Sitterly Road that goes to the Mobil station and that sewer goes back to Abele's Corporate Park and it was extended to serve the Mobil station and the convenience store there. Mr. Higgins stated because every time we talk about that area on Route 9 it's always been that they are trying to figure out how to access it. Mr. Bianchino yes and I believe the narrative was

to tie into that sewer along Sitterly Road. Mr. Tompkins stated it's marked on the application as "public" and it must have been anticipated, but I honestly don't know enough about it. Mr. Higgins stated so; they are going to have to get an easement or something. Mr. Bianchino stated unless they go down the right-of-way as they can go down Route 9 in the right-of-way and then turn the corner and tie into where the Mobil station ties in. Mr. Higgins stated so; they would have to do a force main or something then. Mr. Bianchino stated yes and I would expect that that's what they were going to do anyway. Mr. Ouimet stated I think we're still at the concept stage because we are not going to know those fine details until you actually get a little further along.

This item was tabled pending submittal of revised plans and further technical review.

Mr. Higgins made a motion to adjourn the September 8, 2014 Planning Board Meeting at 8:34pm. Mrs. Smith-Law seconded. All-Aye. Motion carried.

Respectfully submitted,  
Milly Pascuzzi  
Planning Board Secretary