

## **Town of Halfmoon Planning Board**

### **Meeting Minutes – August 27, 2012**

Those present at the August 27, 2012 Planning Board meeting were:

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

**Planner:** Lindsay Zepko

**Town Attorney:** Lyn Murphy

**Town Board Liaisons:** Walt Polak

**CHA Representative:** Mike Bianchino

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Mr. Watts opened the August 27, 2012 Planning Board Meeting at 7:04 pm. Mr. Watts asked the Planning Board Members if they had reviewed the August 13, 2012 Planning Board Minutes. Mr. Ouimet made a motion to approve the August 13, 2012 Planning Board Minutes. Mr. Roberts seconded. Motion carried. Mr. Watts abstained due to his absence from the August 13, 2012 Planning Board meeting.

#### **Public Informational Meeting/Public Hearing:**

##### **12.057 PIM      Westbrook Subdivision (Driveway Modifications Lot #'s 3, 7 & 11), Harris Road & Wesley Court – Revised Site Plan**

Mr. Watts opened the Public Informational Meeting at 7:04 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Mr. Robert Marini, Jr., of Marini Builders, stated the following: The Westbrook Subdivision has 4 lots remaining in the 21-lot subdivision. The 4 lots that remain are lots shown in green on the plans. Three of the lots were to be served by one common driveway. The subdivision has been built for about 5-years and we just can't market the shared driveway for the 3 lots so we put together a plan to have 2 separate driveways service Lot #3 and Lot #11. There would be no further impact to the wetlands. The proposal is for 12 FT wide drives with a 4 FT separation between the drives. Lot #18 would be serviced off of Harris Road directly across from Stage Run. I have a letter on file from Mr. Ted Serbalik from the Saratoga County Highway Department saying that he is okay with it. Mr. John Pingelski, the Town's High Superintendent, has been out to look at the situation and he concurs also that he doesn't have any objections. Mr. Watts asked if anyone from the public wished to speak. No one responded. Mr. Watts closed the Public Informational Meeting at 7:06 pm.

Mr. Berkowitz made a motion to approve the revised site plan application for the Westbrook Subdivision. Mr. Ruchlicki seconded. Motion carried.

**12.058 PH            Westbrook Subdivision, Harris Road & Wesley Court (Lot #'s 7 & 17)  
                             – Lot Line Adjustment**

Mr. Watts opened the Public Hearing at 7:06 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Mr. Robert Marini, Jr., of Marini Builders, stated the following: The proposed lot line adjustment is between two existing lots in the Westbrook Subdivision. The large portion of land shown in yellow was originally part of Lot #17. This lot has been unable to be sold within the subdivision because of the pond and the surrounding wetlands. So, from a marketing perspective it would be better to combine this large parcel of land with Lot #7 and make it almost a 4.5-acre lot. We are just merely taking this piece of property off of Lot #17 and adding it to Lot #7 creating a large lot over 4.5-acres off of Harris Road. Lot #17 would still comply with all the minimum subdivision requirements within the subdivision. Mr. Watts asked if anyone from the public wished to speak. No one responded. Mr. Watts closed the Public Hearing at 7:08 pm. Mr. Nadeau stated I mentioned at the last meeting that a note should be made on the map so whoever purchases that lot would be aware that that's a wetland area? Mr. Marini stated absolutely. Mr. Higgins asked what is the difference if Lot #7 has the wetlands or Lot #17 has the wetlands? Mr. Marini stated the following: Lot #7 is going to be a little more difficult to sell as it always was because it is a keyhole lot and Lot #17 is an easy lot to sell because it's within the subdivision. It has been looked at a number of times and nobody has ever purchased it over the last 4 ½ to 5 years because of the existence of the pond. So we would rather take a large lot and make an access off of Harris Road as kind of a stand-alone lot outside of the subdivision and just restore the other lot to a normal lot without any large ponds or wetlands attached to it. Mr. Higgins asked would that lot remain in the ownership of the developer and is there a Homeowner's Association (HOA)? Mr. Marini stated the following: There is no HOA and all these lots right now still remain with Paulsen Development. This just makes it a little bit easier to sell this lot without the existence of that pond.

Mr. Nadeau made a motion to approve the major subdivision/lot line adjustment application for the Westbrook Subdivision. Mr. Ouimet seconded. Motion carried.

**Public Informational Meeting:**

**12.060 PIM            CGM Construction Planned Development District (Equipment Storage Garage), 87 Button Road - Commercial Site Plan/PDD**

Mr. Watts opened the Public Informational Meeting at 7:10 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Mr. Chris G. Marchand, of CGM Construction, stated the following: We are applying for a Planned Development District (PDD) to enable us to construct a storage facility on Button Road. Before we started this process, we were hoping for an area use variance to keep it simple. There would not be a lot of traffic generated by this proposal. We feel that the residents in the area would generate more traffic than what this storage building would. We currently need this building for our equipment and tools. Right now we are spread out amongst 5 locations and that is not cost effective for our business. We are residents and we have lived on this street all of lives. Our construction company is based in Halfmoon. We did approach our neighbors before we started this process to make sure that there was no opposition and it wouldn't offend them. We are all about esthetics in keeping the area more rural and more farm-like. We're not looking to build just a rectangular ugly structure at this location. The lot is zoned R- , Residential. That original parcel was actually a garage that the

Jeske's converted into a residence and eventually turned into more of a junkyard than anything. So, when the Jeske's did leave, I don't think it offended anyone. As you can see from the maps, primarily commercial properties are on that street. We have spoken to the residents who are in close proximity to us to make sure that it wasn't going to be a conflict or problem to any of them. From all our experiences thus far, we have had no opposition. At the last meeting it was mentioned that the gravel mines could change or run out some day, which I don't think would happen in 4 or 5 lifetimes. Even if they did, what we're doing is not going to affect any residential development that could happen in the future. At that last meeting Mr. Nadeau made a comment that there was no public benefit. We employ 40 local people and we are a Halfmoon based company and we're growing. For us to remain cost effective, this proposal would be important to us. Mrs. Murphy stated the following: For clarification; the applicant, Mr. Marchand, stated that he had gone for an "area use variance" and he obviously went for a use variance and he can't legally meet the requirements of that. So, this would be the only legal way for Mr. Marchand to do what he is proposing to do and, as this Board is aware; public benefit is not their purview. That stands with the Town Board. Mr. Marchand stated the following: I had spoke to an attorney and someone else had brought up the fact about the 10-acres being the minimum for a PDD, which is not the case. I guess that each of these cases could be based on what is taking place for that specific parcel and that's why we're here hoping to get an approval for that PDD. Mr. Watts stated for the benefit of the public that is here tonight, although you may have discussed this at the last meeting; could you tell us about the building, the amount of equipment, the hours of operation and how that whole thing would operate. Mr. Marchand stated the following: Our hours of operation are 8:00 am to 5:00 pm. We would be storing a few of our smaller trucks and one larger truck. We would store our scaffolding, miscellaneous saws and other equipment in the facility. The traffic generated there would not be everyday and it would be pretty intermediate at best. It would be a quiet operation and no physical work would be taking place at the facility. So, we feel that it would have a zero impact on any of the neighbors. Mr. Watts asked if anyone from the public wished to speak. Mr. Jeremy Connors, Fire Chief of the Halfmoon Fire Department, stated at this point I would like to clarify that I've reviewed the plan that was submitted to the Fire District in regards to Mr. Marchand's project and the Fire District sees no issues with this proposal and we also support the project. Mr. Edward Dalheim, of 69 Button Road, stated the following: The parcel of property that Mr. Marchand is purchasing came from me and I have no problems with updating that area. Anything that Mr. Marchand does is topnotch and I'm sure it will be a nice looking facility. The facility would fit right in with the area and I don't think anyone on the entire street has a problem with anything that Mr. Marchand is looking to do at this point in time. It's definitely going to be a nice addition to that piece of property as far as I'm concerned. The property is not really suited for residential use; only from the standpoint that there is some truck traffic from R.J. Valente and different people in that area. So, I think this would fit right in with my property and if I ever look to add on to my facility also. I don't have any problems whatsoever with this project. Mr. Tom Koval, of 97 Button Road, stated the following: I'm sure you remember me from past adventures on Button Road. I've known Mr. Marchand for a long time, I know the quality of the projects he does and I know the way he keeps his own property and other facilities he has. I'm one of the closest neighbors that would have to deal with any adverse situation that might be created by this proposal. I have no issue with this project at all. I think it would be a far less impact than any residences would have. They're very rarely ever around their facility; Mr. Marchand keeps an extremely clean facility and builds a nice building. I'm totally in favor of the project. I have a feeling that a lot of the things that have happened with the restrictions here are kind of a knee jerk reaction to past experiences we've had. On behalf of my neighbors and myself, who have also been spoken to about the project, we don't have any issues with the construction of this proposed

facility. Mrs. Deanna Stephenson, of 7 Cindy Lane, stated the following: I'll preface this conversation by saying that I don't live on Button Road but I live at 7 Cindy Lane in Clifton Park. The only thing I want to talk about here is the use of the PDD legislation. I'm not against business development and I think if Mr. Marchand is doing a business that is wonderful, however, to use the legislation in this way and with no real tangible public benefit I think that is where I get hung up. I want a public benefit that's going to benefit all of the Halfmoon residents. I think if we allow this, we are setting a precedent that other people can come in with a 1.8-acre parcel and say this can happen. I just want to put that comment out there. Again, I'm not against business development but just the way that the legislation and the content are being used. Mr. Scott Earl stated the following: I'm a Halfmoon business owner as well. As everyone has stated, Mr. Marchand does an outstanding job. He has built quite a number of buildings in Halfmoon and employs a lot of Halfmoon people. I'd hate to see him go down to Colonie or across the bridge just because someone is concerned about PDD legislation. The flexibility in PDD legislation is just for this purpose. If in the zoning in this community you find a piece of property that's suitable for this and it may have been overlooked in a previous zoning or re-zoning, you have the flexibility to do that and I appreciate it. I enjoy the flexibility that this Town provides so that we can keep everyone together. Mr. Bob Schramek, of 89 Button Road, stated the following: This piece of property abuts my property. I don't have any issues with it at all. From what it was to what it's going to be, would be a major improvement and that way we wouldn't have any issues at all down there. Mr. Watts closed the Public Informational Meeting at 7:22 pm. Mr. Higgins stated the following: You have said that you are going to have water service into this building. Previously when you were before the Board, you said that you were not going to have any water service facilities. Are you now planning on having water and toilet facilities? Mr. Marchand stated the following: I would want to put water service to the building for washing the vehicles and I don't recall if we had mentioned that initially but yes, I would like to run water service in for cleaning the trucks. Mr. Higgins asked so you are not going to have any restroom facilities. Mr. Marchand stated no. Mr. Higgins asked would you have any outside storage? Mr. Marchand stated no outside storage. Mr. Berkowitz asked what is the building going to look like? Mr. Marchand stated we wanted to keep it more farm-like in character with a little wrap around porch on the end so it wouldn't be a basic rectangular ugly metal structure. Mr. Berkowitz asked would it have vinyl siding? Mr. Marchand stated I think we're going to do some stone in the front and we're not sure what we're going to use for the siding yet because we haven't made that final decision. Mr. Berkowitz stated would it be a sheet metal building? Mr. Marchand stated I don't believe so, no. Mr. Berkowitz stated you don't believe or what? Mr. Marchand stated the following: We haven't made that determination yet. We were thinking of a cultured stone and I don't know if I would do a two colored steel sheet scheme or whether we would do a siding. I didn't think that it would be that critical. Mr. Berkowitz stated the following: The only reason why I'm asking is because it is a residential area and this is a PDD to change the use of that piece of property and it's kind of a unique situation. Personally, I don't want to see a steel structure and if it were more residential looking, it would fit into the neighborhood. Mr. Marchand stated that was pretty much our feelings also. If the Board would rather see horizontal siding, that's fine with us too. Believe me, we are all about esthetics and all about pleasing to the eye. Mr. Roberts stated the following: I'm concerned about the precedent being set here by using the PDD legislation this way. It's a residential area and the Zoning Board of Appeals (ZBA) denied the application at their end, right? Mrs. Murphy stated the following: They had to legally. I was there as their advisor and one of the standards that they would have to meet was that it wasn't a self-created hardship and because Mr. Marchand is purchasing the property legally by definition, it is a self-created hardship. So, it wasn't that they thought it was an inappropriate use, it's that legally there was no basis upon which they could have granted it. Mr.

Marchand stated the following: Just because of the nature of this area, as Mr. Dalheim mentioned, we adjoin his property. On top of that hill he has a permit to crush concrete and I don't imagine that anyone would want to build a residence within a couple hundred feet of that operation. If you are familiar with the street, it is primarily commercial uses. The residences that were built there, as Mr. Koval had mentioned, were done years ago and that was after all of these gravel banks existed. I say that it is more of a commercial environment than it's ever been residential on that strip. It just so happens that the Jeske's were there and they called it a residential lot. Other than that and again, was it a residential lot or was it more of a junkyard? So, I say in this case, it's not like we're infringing on any subdivisions or residential development whatsoever. This proposal would be a quiet operation that will get this property on the tax rolls and I see nothing but pluses for the Town of Halfmoon and myself included. Again, I'm a resident that grew up there and I knew all the neighbors on the street. Mr. Berkowitz stated the following: One question that we might have is if and when you do sell this piece of property, if the new owner would expand on that. From what I know, we have control over a new business or a new residence that would go there. Mrs. Murphy stated if a new building were to go there, then it would obviously have to be in conformance with the PDD but because it is being switched to commercial, they would have to come back before this Board to get approval to make the change. Mr. Berkowitz asked could it revert back to residential? Mrs. Murphy stated the following: They can always revert back but they would have to come back to the Town to go back to a residential standard. Again, it's a PDD so I could write the legislation to allow for residences and this use so then they wouldn't have to come back if they decided to put a residence on it. Mr. Berkowitz asked if another owner was to buy this could they further expand the use of this? Mrs. Murphy stated the following: Not without the Town approving. Again, it's an expansion of a PDD, which we would have to legislate. Mr. Ouimet asked so if we were to recommend to the Town Board, would they approve this as a PDD and would the legislation reclassify this property as commercial? Mrs. Murphy stated the following: Because it's a PDD, you could say you can have what he is proposing together with a residence. You create your list of appropriate uses just like you can say "but you absolutely can't do XYZ". Mr. Ouimet stated what we're being asked to do is to approve a commercial use in a residential area and the reason why you're asking us to do that is because you said the area really isn't residential, it's commercial. Mr. Marchand stated that is correct. Mr. Ouimet stated but the Town Board hasn't seen fit to reclassify or rezone the area as commercial given the fact that all of this commercial development has taken place, correct? Mr. Marchand stated the following: I don't think that is the case. I think it's because primarily across the street was farm property, which there hasn't been any reason to come to the Town Board. The properties that do exist all the way down the right side of Button Road are commercial in nature. There are some houses mixed with it but they are all commercial in nature. Again, the house that was in this hollow was pretty much, to me, never residential, not that the family didn't live there amongst all of the debris. It was more commercially set up because the people that did live there worked on vehicles. If any of you are familiar with this property over the years, you know what the property was like. Mr. Ouimet stated the following: I think we're all familiar that, over the years and before zoning, people did everything on their property. They did residential, they did commercial, they did industrial, they made things, they sold things and they did all kinds of stuff. Then we have zoning to control the use of land to some extent. But now we always find ourselves being drawn back to old days saying well all of this old commercial stuff is still around so we now have to make new stuff commercial too. I'm really struggling with this. This is a small piece of property, it has gone to the ZBA and the ZBA for whatever reason chose not to grant the use variance. Now it's coming to the Planning Board and you're asking us to approve it as a PDD. We have infrequently, if ever, approved a PDD this small to stick a commercial property storage facility in a residential area. Mr. Marchand stated the following: It is more of a

farm-like structure than anything. With us calling it a commercial storage building is not going to be intrusive to the neighborhood. As far as all of your ideas about this PDD being a crisis, we were forced to go that route. We thought that the use variance would have been a walk in the park because we bought that property knowing that it was a residential lot, which to me it never should have been. We thought they would overlook that because each case to me has its own merits. After I spoke to an attorney, we were forced to go this route because it's our only option to get this change where we can construct this building. I would assume that the Town, if it were any other case, no one would be given a hard time over it. I don't think you're setting a precedent because you have to look at every case that comes before you on a singular basis. Again, we have no opposition and we're looking to do a stylish job that would not impact anyone in that neighborhood. So, where does the crisis come in? You have the ability to look at everything that comes before you on a singular basis. This opens the door to nothing in my eyes whether you approve me or don't or whether you approve the next hundred people. To me this isn't going to set a precedent, it's just the avenue that I have to take. I tried to pursue the 10-acre minimum to buy a right-of-way from a gentleman who has another piece that is along side my property, which couldn't happen. I struggled with that all winter and that is when I approached my attorney and this is the only avenue we had to pursue. It fits. It's my neighborhood. It's easy access. I have the ability to keep an eye on things down there and it just works well. Again, as you heard, no one has any opposition so I don't know what you are struggling with. Mr. Watts stated the following: Well, he is struggling with the fact that you haven't been to every Planning Board meeting and it's okay to struggle. People can struggle with things that come before them and that's part of the business and part of the nature of caring about what we do in our jobs. To say that I don't know what you're struggling with is a clear statement of a couple of Planning Board members here that have an issue with this, it is different and we are thinking about it. I feel the same way and you heard what Mr. Roberts said; we're thinking about what's happening, getting information and working on it because we care. We're not obstructionist and we're not bad people. We're just here trying to do the best for the Town of Halfmoon. Mr. Higgins stated the fact remains that you knew that this was zoned residential when you bought it. Mr. Marchand stated the following: That is correct. Again, only because we knew the situation and remember I lived there forever and we thought that it would be overlooked. Again, things have to be looked at singularly. This isn't like we went into a development and looked to have this changed. I'm sure you are familiar; do you classify that 90% of that street is commercial? Mr. Higgins stated there are a lot of pre-existing commercial applications on that road, yes. Mr. Marchand stated the following: That is the only reason why we didn't think it would be that difficult. We weren't looking to re-invent the wheel or create a problem for the Town. That is why we approached all the homeowner's beforehand to make sure that we weren't going to offend anybody. All the concerns that you have, we had before I even approached the Board and we were hoping obviously that we would be able to get this and that it would be fairly simple. Mr. Higgins stated the following: As Mr. Ouimet mentioned, there is a lot of sites in Town that pre-existed the zoning and this is not one of them. Also, even though you have good intentions, if you sell your company and this piece of property goes with the sale of that company, the next owner may not be as diligent as you are and if it's part of the PDD and it's approved as a commercial site, we have no recourse as far as the use of that for commercial if you sell your company. Mr. Marchand asked doesn't everything have to come before the Board for the change of use? Mr. Berkowitz stated if it were a change of tenant, we would still control it. Mr. Higgins stated if he sells his company and it's the same company, they don't have to come back before the Board. Mr. Watts stated they would have to come back to the Board for a change of tenant. Mr. Higgins stated only if it's a change of ownership. Mr. Watts stated no. Mr. Marchand stated the following: If it relieves your concerns at all, my son is obviously carrying in my

footsteps; I have grandchildren coming so we have intentions of going nowhere. Not that the impossible couldn't happen but we have no intentions. Again, we have been there all of lives and we're not looking to leave anybody with a bad situation. Mr. Berkowitz stated the following: But even under that situation, he cannot expand that. What is active there as far as the mines on the map and where does commercial start and where does residential start? Mr. Marchand showed the Board the commercial and residential locations on Button Road. Mr. Marchand stated the following: As I said, last winter I tried to set this up so we could include that in a larger PDD with Mr. Dalheim. There is a right-of-way to the Constantine property that they don't have a need to sell and I wanted to deed it back to them and I tried everything under the sun to keep it simple and I couldn't make it happen. Mr. Watts stated there are a couple of mining operations there, correct? Mr. Marchand stated correct. Mr. Watts asked are there any other business operations in that immediate area on Button Road besides the two or three mining operations? Mr. Marchand stated yes; Riberdy Diesel, Riberdy Contracting, the mining operations: Carver and Constantine and Riberdy's pit. Mr. Watts stated the following: There is a bit of difference with mining operations in terms of what control a municipality has relative to a mining operation. A mining operation is regulated by the New York State Department of Environmental Conservation (NYSDEC) and then there is reclamation plans for when the mining operation ends. I would dare say and some of the people who spoke earlier would well be aware of the efforts that the Town of Halfmoon made relative to making some of these mining operations be better neighbors and hopefully they have from what I've heard, they have. But there was a lot of difficulty that we had with the mining operations but I believe there have been numerous lawsuits with municipalities and the State of New York and the NYSDEC over the creation and/or regulation of mines. Mrs. Murphy stated the following: correct and they're not in our jurisdiction. The only exception is R.J. Valente who has a business that we do regulate and then they have mining that we do not. Mr. Watts stated I just want to make sure that people understand the various permutations. Mr. Ouimet stated the following: I want to be very clear on what I'm struggling with and what the issue for me is. The purposed of a PDD, I'm reading from Article XI, section 165-53 Purpose: The purpose of a planned development district classification is to provide for the rezoning of land to residential, commercial and industrial development zones either jointly or separately in conformance with provisions and standards which insure compatibility among all the land uses, foster flexibility and innovation in site planning and development and encourage sound design practices. Mr. Ouimet stated that is what the applicant is asking us to do is to foster flexibility, correct? Mr. Marchand stated yes. Mr. Ouimet stated the following: And we're required to do that as part of considering this and I can't get beyond the flexibility. I don't hear anything that leads me to get beyond the issue of flexibility. You're asking us to be flexible to approve this commercial use in a residential area and I'm okay with that. But give me more because there is no more here. There is nothing that addresses the issue of compatibility with other uses. Further down the road I understand the places that you pointed that are commercial developed sites and the people who came tonight and spoke about those are commercial owners. But there are residential lots on the same street. There are 2 or 3 mines and one thing that we can take away from mining operations is that at some point in the future they cease and at that point in time there is reclamation and there's a return of the property to a more useful purpose other than an empty hole. We have to deal with that and this is something that has to happen in the future and we have to plan for that and that's why we are here. I just can't past the fact that we're being asked to be flexible but we don't have anything else to deal with and that's my problem. Mr. Berkowitz asked Mrs. Zepko what the zoning was on upper Plant Road where Hoffman built her storage garage? Mrs. Zepko stated that is zoned commercial. Mr. Ruchlicki stated the following: I really don't know. I understand the way the legislation is written and I also understand that we will not really lose control over that parcel based

on the way the legislation is written. If somebody else buys it or something else is proposed to go in there if it changes hands, it still has to come back before the Board. Other than that, I think everybody else has addressed most of the issues associated with it. I don't really feel I have anything else to add and I suppose I have to think about it a little bit. Most of my thoughts were relative to the residences on that road in the residential area but now I'm not sure. To sum it up, I'm not really sure. I came in here with a bunch of thoughts relative to the whole issue and now I'm not sure about it and I'd really like a little more time to think about it. However, I do know that we still have control over that parcel as far as if it were to change hands and it still would have to come back before the Board. Everybody else has covered most of the thoughts that I had and I don't have anything else to add to that. As far as the whole situation is, for myself personally, I just need a little more time to think about. I have more stuff to digest tonight than I did at the last meeting. I have heard public comment that I would like to digest. I understand that it is a residential area but yet I guess the proposal isn't as intense as one would think for that particular area. All in all I really need more time to digest everything that was said tonight and to think about it. Mr. Tom Koval stated the following: I would like to add a few comments. I've been through this process, as you all know with the last time I had an opposition to a large project directly across the street from my house on the same road. I heard all the arguments about mines and life of mines and I've F.O.I.L.'ed (Freedom of Information Law) every single letter there is about the life of mines, mine permits and all that nonsense. I know how long a business can stay there and I've heard everything about the commercial and non-commercial. We have very large residential lots on that road. We're not talking about putting a commercial property in the middle of the Farmview Development. We're talking about an area that's spread out and all our houses are very isolated from this proposed structure that is going to be there. It's not going to be a noise issue. We continue to deal with the mining permits, the mines and the truck traffic. I don't think the Town has heard any complaints about that lately. I know they haven't heard them from me and I know my neighbors haven't complained. Mr. Marchand is proposing a very subdued use of this that is no more than a large residential garage. I also have a commercial property that I've been in front of the Board with and it's almost the same thing and I probably have a little heavier use than what Mr. Marchand is proposing. I'm at my commercial property everyday at 7:00-8:00 am to 5:00 pm and I know the Town hasn't had any complaints about my facility. I think my main point is that this is in the middle of a road of commercial use properties. Whether they are grandfathered in and they are old properties or not; you have 3 or 4 mine facilities that have trucks coming every day. Just up the street from Mr. Marchand is R.J. Valente who has 100 trucks there every single day. They're not mining out of there. They're hauling them out of there every single day. No more complaints, everything has been taken care of. Mr. Marchand is by far one of the most standup guys handling any issues through his business. I've worked with Mr. Marchand in the past, I know how he deals with customers and I know how he deals with people. For me; the Board has heard all my complaints in the past about dealing with a commercial facility that is right across the street from my house. I don't want to get woken up in the middle night and I don't want to get woken up in the morning. If I'm willing to get up here and standup for Mr. Marchand, that should say something too. There is nothing but commercial facilities up the entire road. We are all very isolated properties. None of our houses are right on the road. My house is 1,000 FT back, my neighbors are 150 FT back and Mr. Schramek's house is 1,500 FT back. I don't think that should hold a huge bearing on your decision. I understand that you're changing legislation to allow a commercial facility but you're just extending what is already there without a lot of thought. It's not going to be a big problem for anybody. Mr. Watts stated the following: At this point we can take a vote, we can ask for some additional information, we can give ourselves 2 weeks to think about what we heard. Myself, I kind of see some value in terms of looking at exactly how many pieces of



equipment are going to be there, what's the maximum, what's the lighting around the building and what's the elevation of the building. Mr. Chris A. Marchand stated the following: My question revolves around a point raised about the flexibility. The PDD legislation requires each instance to look at separate of all the others flexibility but I'm trying to understand better what Mr. Ouimet's concern was. Mr. Ouimet said he sees flexibility but he didn't see much beyond that and my questions is: Is the concern of the Board members the use or is the concern simply the semantics of the fact that we're less than 10-acres? Would any of the Board members be nearly as concerned with this project if we were over 10-acres? To me that's just an unfair hole to put us in. To me there is already a PDD on the road just next door. So, it's not like other PDD's have not been approved with uses that are commercial in nature. So, it seems to me that we're almost doing more of an agricultural building in nature than commercial. I was hoping for some additional in depth understanding of what the hang up is because I don't think the hang up would be the use itself. Am I correct, if it was over 10-acres, would this be nearly as difficult as it has become? Mrs. Murphy stated the following: The Board is still required to look through the different factors and weigh them appropriately in determining whether or not their recommendation to the Town Board would be positive or negative. You are definitely now seeing more consternation on the part of the Planning Board based on the fact that it's less than 10-acres because the local law requires them to do that and you spoke about that. The Board is concerned that somebody else is going to come in, and I don't want to speak for the Board, but based on the questions that I've been asked, that somebody else is going to come in with a 2-acre lot in the middle of some regular development and say "well they did it, why can't we?" They're looking for you to tell them why this is a different situation and I think that you've done that. I think they're going to asking for more information with regards to the layout, working with our engineers, so that they can see what you're going to do as opposed to think of it. So, you have taken a big step tonight as far as explaining some of their questions but I'm hearing them tell you that they have additional questions as well. Mr. Chris A. Marchand stated the following: I brought a site plan that was submitted but I don't know if that helps. The site plan does show the building. Mrs. Murphy stated just so you know, the next step in this process normally would be a referral to the Town's engineer. Mr. Chris A. Marchand stated I would like to get to the next step. I'd rather provide any information I have tonight. Mr. Watts stated the following: We are not going to go on too much longer and at this point there is not an obvious full comfort level with everybody relative to where we're at with the information that we did get. The Planning Board gives close scrutiny to any PDD application whether it's 10-acres or 200-acres. We do that based upon all kinds of issues; traffic, noise and what public benefit is being offered to the Town. This is part of the thought process. So, there are many things that the Planning Board thinks about. If you are reading the meeting minutes than you have seen that there have been a couple of recent projects and projects before that. This Planning Board made a negative recommendation to the Town Board for a PDD in regards to the density of that project and the Town Board voted a little differently. That's all part of the process and that's all part of the democracy. So, relative to the PDD process, this Planning Board has regularly and routinely evidenced our concerns with projects be it 10-acres, 2-acres or 250-acres. We think about the impact of any project on everybody. We all live in this Town and we want to do the right things. Mr. Marchand stated obviously we wouldn't even of come before the Board if there wasn't so much pre-existing commercial and my son gets his impatience from me. Mr. Watts stated the following: I'm going to ask you to provide us with information relative to the points that were raised and submit that to the Planning Office. Based upon what we receive from you, we may refer this to CHA or we may not, depending upon the information that we receive. This is not an easy one and we are working on it.

This item was tabled by the Board for the applicant to provide additional site and architectural details.

**New Business:**

**12.069 NB Recognize LLC, 1595 Route 9 – Change of Tenant & Sign**

Mr. Kevin Hedley, the applicant, stated the following: I'm here tonight with my partner, Mr. Rusty Gallagher, for Recognize LLC. We're an awards and promotions company that provides team awards, plaques and event sort of things. The purpose of the business is to sell awards, plaques, trophies and that sort of thing to corporations, teams and sporting teams. The hours of operation would be roughly about 9:00-10:00 am to about 5:00-6:00 pm. Typically we expect 3 to 5 cars a day and there would not be any overnight vehicles. Primarily the building is going to be used for a showroom of the products so customers can come in to see the different displayed items and to see different trophies and different awards so they don't have to pick everything out of a catalog. A typical UPS truck would deliver the products to us. The customers would either come in to pick up the products or we would deliver them to the customers. Mr. Higgins asked is this business taking the entire original building? Mr. Hedley stated it's taking the entire building, yes. Mr. Higgins asked would you have any outside storage? Mr. Hedley stated the following: There would be no outside storage whatsoever. All of the inventory would be either samples or items ordered by the customers that are delivered to the site and then those items would be shipped to the customer. We won't be stocking inventory like a car dealership or something of that nature. Mr. Watts asked would you engrave the trophies, etc. at your site? Mr. Hedley stated the items would be engraved off-site. Mr. Watts asked what is your estimate of the number of people coming to the site? Mr. Hedley stated the following: We don't see more than 3 to 5 or 4 to 6 cars per day and we have plenty of parking at the facility. Also, the hours of operation for this proposed change of tenant would be opposite from Adirondack Tae Kwon Do school. We also have a sign application. We currently have a freestanding sign and we wish to replace an existing tenant panel on that sign. Half the sign would have Adirondack Tae Kwon Do and the second half of the sign on the lower part that is internally lit will have the logo of Recognize LLC. We are debating between 3 logos and if the Board would like to offer their opinion on which logo to use, we will take that under advisement. It will probably be the bottom one on the page. The Board agreed with Mr. Hedley's decision. Mr. Watts asked the applicant to please advertise that they are located in the Town of Halfmoon.

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

Sign – Recognize LLC - Replace Existing Tenant Panel

**Proposed Sign Dimensions:** 2 ft x 4 ft

**Sided:** ☐ one-sided ☒ Two-sided

**Location of Sign:** in front of the existing building

**Total Height:** 10ft.

**Lighted:** ☒ Internal ☐ Flood

Mr. Ouimet made a motion to approve the change of tenant application for Recognize LLC. Mr. Higgins seconded. Motion carried.

Mr. Berkowitz made a motion to approve the sign application for Recognize LLC. Mr. Ruchlicki seconded. Motion carried.

**12.070 NB                    Ann McDowell Clinical Therapist, 1471 Route 9 (Crescent Commons)**  
**– Change of Tenant**

Mrs. Murphy recused herself from this item. Mr. Mike Klimkewicz, owner of Crescent Commons, stated the following: Ms. Ann McDowell is also with me tonight. Ms. McDowell is going to be opening a therapy facility on the second floor at Crescent Commons. Ms. Ann McDowell, the applicant, stated the following: I have been in the field of grief loss and life transition for more than 20 years and I have worked in a variety of settings. I have worked with my partner, Mr. Bernie Amyot, for the last 17 years. We are looking forward to moving in and sharing space. We will have 2 offices next to each other with a shared reception area. This field is nothing new to us but we are looking forward to working in this community. We have worked in Albany, Troy and Schenectady. I have been in 13 different school districts. We worked out of a Schenectady office and we are looking forward to being in this community. Mr. Higgins asked do you have group sessions at the facility or do you go out to other locations. Ms. McDowell stated we would really like to have occasional groups at the facility. Mr. Higgins asked how large of a group would you have? Ms. McDowell stated probably eight would be in the group. Mr. Higgins asked would you have any more than a dozen people total including you and your partner? Ms. McDowell stated the following: It would be eight in addition to the two of us. That is generally what our groups have been and that way everybody has a chance to share in that time. Mr. Watts asked what time would these group meetings occur? Ms. McDowell stated we have not worked out the times but they would be during business hours. Mr. Watts asked Mrs. Zepko if there would be any issue with the parking. Mrs. Zepko stated there would be plenty of parking available. Mr. Klimkewicz stated I believe the meetings would be after normal business hours. Ms. McDowell stated that would be ideal because of peoples work schedules. Mr. Ouimet asked would your hours of operation be 9:00 am to 9:00 pm Monday through Friday? Ms. McDowell stated I wasn't sure that 9:00 pm would be available at night so, maybe 8:00 pm. Mr. Berkowitz stated if you want to be open on the weekends, you might as well do it now and even if you're not open on the weekends, it doesn't effect you. Ms. McDowell stated okay, and then there may be a Saturday as an option because we deal with a lot of people who are widowed and it just depends. Mr. Watts stated so we will include Saturday also. Ms. McDowell stated okay that would be wonderful. Mr. Roberts asked if the applicant would have a sign. Mr. Klimkewicz stated there would be no sign.

Mr. Ouimet made a motion to approve the change of tenant application for Ann McDowell Clinical Therapist. Mr. Berkowitz seconded. Motion carried.

**12.072 NB                    Prestige Kitchen, 1675 Route 9 (J&S Watkins Plaza) – Change of**  
**Tenant**

Mr. Scott Earl, the applicant, stated the following: The proposal is for Prestige Kitchen located at the Watkins Plaza in the Town of Halfmoon. Currently Prestige Kitchen is located in the Town of Clifton Park. Originally we were going to move the kitchen to 4 Enterprise Avenue area and that area was not suitable for a kitchen. It is basically built out now as warehouse/storage and we enjoy that facility. This kitchen where we cook and prepare meals for a few hours in the morning serves Saratoga County Meals on Wheels. We start about 6:30 am getting things ready and by 9:30-10:00 am we have to have the food out the door. We deliver the food in bulk in two trucks and we go through the County. Our deliveries go to the Halfmoon Senior Center and the Ballston Spa Senior Center in Ballston Lake. The food is packaged and reheated at those facilities and then the meals are distributed to the elderly residents. We also prepare meal deliveries but not in Saratoga County. I'm sure you are aware of Mr. Jack Watkins and Watkins Cakes that has been there since Mr. Watkins built the plaza but the economy has just knocked him silly and he is down

to about 2 employees. We've agreed to reduce his active space from 6,100 SF to 3,100 SF and Mr. Watkins is fine with that. Mr. Berkowitz asked how many deliveries would you have a day, I know the output but what about the input? Mr. Earl stated the following: As the owner of the plaza, I don't want any impact either. The impact is that the food and everything in bulk that comes from Sysco is stored at Enterprise Avenue and the chef requests what he needs. That food would be delivered about 6:15 am from Enterprise Avenue and the meals would be prepared there on that day. The whole operation would be shutdown around 11:30 am to 12:00 pm. Mr. Roberts stated the following: I know you said that you have the trucks take the food out. Would there be any occasion where people would come in individually to pick up food? Mr. Earl stated the following: Absolutely not. No, we won't have a storefront, we won't have front door accessibility and everything would be done inside the backroom. If you were to walk into Watkins', you would see a showroom with cakes, cupcakes and cookies and you would have no idea that the County Meals on Wheels were being prepared there. We also need the approval of the New York State Department of Health (NYSDOH) to approve the kitchen. Mr. Ruchlicki asked do you order your food on-line? Mr. Earl stated the following: Some of it is done on-line on the computer and then we have salesmen that follow up at 4 Enterprise Avenue. 4 Enterprise Avenue is the central purchasing for 5 states now in the vending company. So, different salesmen would stop in during the day. Believe it or not; we still have a lot of people coming there looking for oxygen and it scares me because I've seen a couple of them who could barely make it from the car to the building and they're looking for oxygen and we don't have any. That company is in Latham and I think they have done a bad job because they've been gone for 3 years and they never told people that they weren't there anymore. Mr. Higgins asked would there be 2 to 3 vans that load up at the same time? Mr. Earl stated the following: There are, but we would schedule those. We have them scheduled 15 minutes apart and our food is prepared in accordance with the delivery schedule. Halfmoon would be the last one and the farthest one is Galway. We take off with Galway and Broadalbin first. Mr. Higgins asked is there any problem with parking the vans in the rear of the site? Mr. Earl stated the following: No vans would be parked in the rear of the site. All of the vans are stored at 4 Enterprise Avenue. Mr. Higgins stated I was referring to loading purposes. Mr. Earl stated the following: No, the vans would be stop and go. The food is prepared in Cambros hot boxes and it's out the door, into the van and on the way. Mr. Higgins asked is all that done in the rear of the building? Mr. Earl stated yes it is, right at the rear back corner next to the dumpsters.

Mr. Roberts made a motion to approve the change of tenant application for Prestige Kitchen. Mr. Berkowitz seconded. Motion carried.

**12.073 NB      Spiritual Path, 1675 Route 9 (J&S Watkins Plaza) – Change of Tenant**

Mr. Scott Earl, the applicant, stated the following: This is also at J&S Watkins Plaza and I'm the owner of that plaza. The suite number is 106 and it is next to Allure Salon and Spoon & Whisk. Mr. Roberts asked do you own Spiritual Path. Mr. Earl stated I am a partner in Spiritual Path as well and the other partner is Arlene DeAngelus. I believe the hours of operation are about 10:00 am to maybe 5:00-6:00 pm. Mr. Watts stated the following: The application stated that you would be closed Monday, 3:00 pm to 9:00 pm Tuesday through Thursday, 12:00 pm to 9:00 pm Friday and 10:00 am to 6:00 pm Saturday and Sunday. Do those hours make sense to you? Mr. Earl stated the following: They do. When I looked at this, I judged all the parking in the plaza as well. I had someone go to the plaza at 7:00 pm on Saturday and there were 2 cars in the whole plaza. The businesses that we have in the plaza don't cater to evening hours. I expect Spoon & Whisk may have some evening hours around the holidays. We have 3 separate lots and we have plenty of parking there. Mr. Roberts asked could you explain what you do at Spiritual Path? Mr. Earl

stated the following: When you enter the front door on the left, Ms. DeAngelus is proposing about an 800 SF gift shop with angels, little trinkets and gifts, playing cards and things like that. She has private reading rooms where she'll do a physic reading for you and tell you what's coming in the future. Mrs. Murphy stated that would be for entertainment purposes only. Mr. Earl stated exactly, for entertainment purposes only. Then they'll have a classroom to understand reiki therapeutic touch and the classroom would hold a maximum of 10 students and that would be held on a Saturday scheduled for about 3 hours. Then they have a gathering room in the back for about 20 people in the evening hours on Friday or Saturday. Mr. Berkowitz asked does she need a masseuse license for that? Mr. Earl stated no she doesn't and reiki is totally non-touch. Mrs. Murphy stated I know we have joked but honestly fortune telling is a crime; so it's for entertainment purposes only. Mr. Higgins asked would the 20 people be the largest group? Mr. Earl stated yes, and most of the people travel in cars together. Mr. Watts stated we did discuss the hours of operation and in our approval should there become some issues with parking there, we will notify you and we will do adjustments if need be. Mr. Earl stated absolutely. Mr. Roberts stated right and the main thing is no one can park on Route 9. Mr. Earl stated okay. Mr. Berkowitz asked would the plaza now be full after these last 2 proposals? Mr. Earl stated yes, it would be totally complete. Mr. Roberts asked do you plan on having a sign? Mr. Earl stated we would come back for a sign but it will be on the main monument sign.

Mr. Roberts made a motion to approve the change of tenant application for Spiritual Path contingent on no parking of vehicles on Route 9 and should parking issues arise, further review by the Board would be necessary. Mr. Ruchlicki seconded. Motion carried.

### **Old Business:**

#### **12.053 OB**

#### **Rock's Precision Automotive, 190 Route 146 – Commercial Site Plan**

Mr. Greg Rockefeller, the applicant, stated the following: I own Rock's Precision Automotive in Troy, New York and I'm proposing to build a shop located at 190 Route 146. Mr. Jason Dell, of Lansing, of Lansing Engineering, stated the following: The proposed project involves the construction of a 2,500 SF garage located along the eastern side of Route 146. The entrance would come off Route 146 and you would head east to the building. There is room for 21 parking stalls and right now we are proposing 8 of those to be banked stalls. So, we would meet the parking requirements. Sewer and water would be provided to the site from the municipal waterline that is located along Route 146 as well as the Saratoga County sewer force main that is also located along Route 146 so we would be tying into that sewer line. We did receive a sign-off from CHA pertaining to the engineering technical issues for the project. There were a couple of items that came up at the last meeting that included a question regarding car sale on the property and there is no proposal for car sales on the property. Another question was regarding bodywork being done on the site and there will not be any bodywork done at the proposed site. Also, there was one other question pertaining to a night drop-off and there will be night drop-off services at the property. We're here tonight to answer any further questions from the Board and to ask for an approval for the commercial site plan. Mr. Ouimet asked is this going to be your only shop? Mr. Rockefeller stated yes it is. Mr. Ouimet stated so you're going to close your Troy operation when you come to Halfmoon. Mr. Rockefeller stated yes I am. Mr. Ouimet asked for the night drop-off would there be designated spots for the people to park? Mr. Rockefeller stated usually you would just park in a parking spot and there would be a drop box that is secure to put your key in. Mr. Higgins asked Mr. Bianchino if all of CHA's engineering concerns have been addressed? Mr. Bianchino stated yes they have. Mr. Watts wished the applicant good luck and to please advertise that they are located in Halfmoon. Mr. Rockefeller stated oh yes, I'm in Halfmoon.

Mr. Nadeau made a motion to approve the commercial site plan application for Rock's Precision Automotive. Mr. Roberts seconded. Motion carried.

Mr. Ruchlicki made a motion to adjourn the August 27, 2012 Planning Board Meeting at 8:17 pm. Mr. Berkowitz seconded. Motion carried.

Respectfully submitted,  
Milly Pascuzzi  
Planning Board Secretary