

## **Town of Halfmoon Planning Board**

**February 14, 2011**

Those present at the February 14, 2011 Planning Board meeting were:

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

**Senior Planner:** Jeff Williams  
**Planner:** Lindsay Zepko

**Town Attorney:** Lyn Murphy  
**Deputy Town Attorney:** Matt Chauvin

**Town Board Liaisons:** Paul Hotaling  
Walt Polak

**CHA Representative:** Mike Bianchino

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Mr. Watts opened the February 14, 2011 Planning Board Meeting at 7:00 pm. Mr. Watts asked the Planning Board Members if they had reviewed the January 24, 2011 Planning Board Minutes. Mr. Roberts made a motion to approve the January 24, 2011 Planning Board Minutes. Mr. Higgins seconded. Motion carried. Mr. Watts abstained due to his absence from the January 24, 2011 Planning Board Meeting.

### **Public Hearings:**

#### **10.106 PH Pipino/Vosburgh Subdivision, 127 Vosburgh Road – Minor Subdivision** **(Re-opened from the January 24, 2011 Planning Board Meeting)**

Mr. Watts re-opened the Public Hearing from the January 24, 2011 Planning Board meeting at 7:01 pm. Mr. Watts stated at this point we will have Mr. Rabideau give a summary of questions that were raised at the January 24, 2011 Planning Board meeting by the engineer and the public and we are asking Mr. Rabideau for his responses to those questions. Mr. Duane Rabideau, of Gilbert VanGuilder Land Surveyor, PLLC, stated the following: Regarding the stormwater management items; Mr. Jason Dell, of Lansing Engineering, did talk with Mr. Bianchino and I believe he did address all the answers and they just have to have time to modify the stormwater management plan and Mr. Bianchino can verify that. Mr. Watts asked when would that be done? Mr. Rabideau stated I would think in the next week or two, maybe quicker. Mr. Bianchino stated I did talk to Mr. Dell about his approach on what he is doing and I assume he is going to be fairly quick with his response. Mr. Rabideau stated the following: I will tell Mr. Dell that it is urgent. We also addressed the other items on the comment letter and it is my understanding that the comments have been adequately addressed. The project is a 3-lot subdivision located at 127 Vosburgh Road. The project is located on the north side of Vosburgh Road. We are subdividing the parcel into 3 lots; Lot #1

would be duplex lot, Lot #2 would also be a duplex lot, and Lot #3 would be a flaglot with a single-family residence in the back. These lots would all be tied into public water and they would all have private septic systems. The map has been modified to address the engineer's comment letter. Mrs. Murphy asked Mr. Rabideau to point out the changes that have been made that address the comments raised by the public. Mr. Rabideau stated the following: Regarding the septic areas; we positioned them so that they meet the side yard requirements and we have added the 50% expansion areas on each of the 3 lots. We have modified the note on the map with the existing well that is to be abandoned and we have modified it to say in accordance with the New York State Department of Health (NYSDOH) standards. Originally the map showed the septic areas schematically and now they are graphically correct. Some of the comments were in regards to the modifications on the map and the other comments were more or less general in nature. Some of the comments were incorrect and we have addressed those in our comment letter. Mr. Watts asked if anyone from the public wished to speak. Mr. David G. Hofheinz, 137 Vosburgh Road, stated the following: My home is located on a high water table and all the water runs on a seasonal creek. I have concern with anyone's septic going into my backyard because I have enough water. I run 365 days on a sump pump. I also have a well. I don't mind if you build houses; my concern is that I don't want my well contaminated because I'm not hooked up to public water. Also, I don't need any extra water draining my way because I'm on a low spot and all the water comes my way. You are going to do what you want but I've had privacy for the past 20 years. If you are going to build homes, put in some pine trees or something because that is my backyard. I also have chickens. I don't want to move out of this town, I like this town and I have been here 20 years. All I ask is that you give me a buffer or something like pine trees so I don't see those new homes. I single handily paid for my home and I'm almost paid off and I don't want to lose any money on my home by having duplexes there. I'm going to have 5 or 6 little kids in my yard now and I like my privacy just like any one of you do. So, in other words, if you are going to build, like I said, you are going to do what you want, just give me some pine trees or something because when I go out my back door, that's my yard because I don't have much of a front yard. Buffer my property so I don't see the duplex and also the house in the back. I'm all for being a good citizen and living next to any one of you but I like my privacy like all of you do. Mrs. Christina Lyons, 139 Vosburgh Road, stated the following: My neighbor who lives at 141 Vosburgh Road is out of town and he attended the last meeting and unfortunately he couldn't be here tonight so he wrote a letter and he asked me to read it to you: For the record Mrs. Lyons recited the following letter from Mr. Donald A. Baker: (see attached – Exhibit "A")

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January 27, 2011

Steve Watts, Chairman

Town of Halfmoon Planning Board

Halfmoon Town Hall

Re: Proposed Subdivision Development at 137 Vosburgh Rd., aka Pepino Development

Dear Mr. Watts:

My wife and I reside at 141 Vosburgh Rd. and have lived at that location for over twelve years. I only recently learned of the proposed development on the 5 acre plot three properties away from ours and in an effort to understand the scale and scope of the proposed development I attended the Planning Board meeting held on January 25. I did not offer any comments at the time as I was fairly unfamiliar with the proposed development. At the meeting a number of legitimate concerns were raised by my neighbors and by the engineer hired by our neighborhood group that I would hope cause the Planning Board to seriously consider changes to the proposed plans, incorporating modifications that would mitigate apparent safety and sewage disposal issues. Furthermore, I was more than a little surprised that there was no comment regarding the access and egress of emergency vehicles to properties located on a shared private driveway, especially with one of these properties set back approximately 500 feet from the road. Many communities will not permit the construction of cul de sacs, let alone keyhole properties with multiple residences, over emergency service access concerns and am surprised that the Town of Halfmoon has not adopted similar restrictions. Is there any record of the developer addressing this issue with affected fire and emergency service entities?

Having spent my 41 year professional career with the New York State Department of Transportation, including the last several as the Director of Modal Safety and Security (highway programs among these responsibilities), I cannot help but question whether a private driveway to be used by five families can be constructed safely at the inside of the apex of a fairly tight curve along a rural highway that commonly has traffic operating at speeds significantly above the signed speed limit of 40 mph. I'm not in a position without seeing the engineering analysis to challenge the town's engineer's opinion that there is no line of sight issue at this location, but I would welcome the board to visit the site and have an actual demonstration of this before the town accepts this without question.

At the board meeting Mr. Brendan Lyons and the engineer representing the neighborhood group raised the issue of why the developer is choosing to use septic systems for these five units when a public sewer system is immediately available to the site and I did not hear any legitimate defense by the developer. As noted earlier I have lived at 141 Vosburgh Rd. for more than 12 years and can testify to the fact that the soil conditions and hydrology leave my property and those in the general vicinity incredibly wet for much of the year. In order for me to mitigate this problem I had to install French drains some years ago and Mr. Lyons followed suit this past year. I note this because the property proposed for development is at the lowest point on the west side of Vosburgh Rd. and after heavy rainfalls and spring thaws this

*Exhibit A - pg. 2 of 2*

property suffers flooding. My wife and I have actually taken pictures of the flooding at this location. I know my property has an extraordinarily high water level and our leach field has had problems operating properly from time to time and can only imagine how bad this situation would be at the proposed development. The town should insist that the proposed development tie into the available Saratoga Sewer District line immediately available to the property.

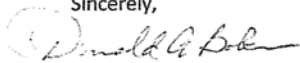
I would also like to bring up a point of clarification. At the meeting the developer claimed that the development would not diminish the property values of the neighboring properties, inferring, in fact, that the development would have properties significantly in excess value to the existing properties. It was also stated by one of the board members that duplexes are permitted under the existing zoning and I certainly wouldn't argue that point. I do take exception to the developer's characterization of the neighboring properties. Apparently, the developer characterized the properties in a previous hearing as a trailer park and \$100-200,000 homes. In reality, while there is a trailer park on the other side of the road, the single family homes on the same side as the development have significantly higher valuations.

Why the developer chose to diminish our properties to the board is disturbing and may call into question other aspects of the proposal.

While I agree that duplexes are permitted according to the zoning, I believe that as this development is proposed as a subdivision the board can take actions that mitigate the impacts on the surrounding neighborhood. These duplexes are, according to the proposal, rental units, not owner occupied duplexes which would clearly not be questioned. Does this development, then, represent a commercial development which may, in fact, fall outside of the zoning for the area? Under any case, the character of these units is clearly not consistent with the character of the rest of the neighborhood and the board has the jurisdiction to require mitigation of impacts, just as it has in other subdivision decisions. Such treatments as buffering through plantings should be considered. I would hope that the board would also specify that this development be entirely restricted to residential use and cannot be used for the storage of equipment or supplies for the construction business Mr. Pepino operates.

I regret not being able to present this to the board in person, but I am out of the area for an extended period. I trust the board will reasonably address the points raised here and by my more immediately impacted neighbors.

Sincerely,



Donald A. Baker  
141 Vosburgh Rd.  
Mechanicville, NY

Tel. no. - 665-0011

(End – Exhibit "A")

Mr. Nick Demos, of 45 Cary Road, stated the following: I'm the engineer who was hired by the homeowner's association to look at the proposed plans for this project. I reviewed the changes made by Mr. Rabideau and I think he did a great job with the updates and I have reviewed the letter that Mr. Scott Lansing sent in. Mr. Lansing mentioned that the Army Corp. of Engineers (ACOE) may not be concerned about the cutting of trees in their wetlands but I would recommend that the Board ask the applicant for a letter from the ACOE that says that. For the protection of the applicant, if construction starts, he cuts down trees and someone calls the ACOE to come out and take a look, there would be an enforcement action and that could be shortcut right off today if we get a letter from ACOE agreeing with that. Another item I would like to bring up to the Board is that I think it is in the best interest of the Board to see the survey boundaries filed with Saratoga County before we approve the plans. If you approve the subdivision plans today, there may not be any mechanism for the Board to follow up on the survey changes being made. Mr. Brendan Lyons, of 141 Vosburgh Road, stated the following: I have a letter I would like to submit to the Board and I would like to touch on some of the highlights. For the record: A letter submitted by Brendan and Tina Lyons (see attached – Exhibit "B")

*Exhibit B- pg. 1 of 4*

Planning Board  
Town of Halfmoon  
2 Halfmoon Town Plaza,  
Halfmoon, New York 12065

**Re: Proposed "Pipino Subdivision" 127 Vosburgh Road**

***Submitted to town of Halfmoon Planning Board/Public hearing Feb. 14, 2011***

To Whom It May Concern:

I am submitting this letter to document concerns regarding a proposed, three-lot, five-unit subdivision at 127 Vosburgh Rd. This proposal is filed under an application known as the "Pipino Subdivision."

1. The project does not conform to the pre-dominant characteristics of the immediate neighborhood. I characterize the "immediate neighborhood" as the stretch of Vosburgh Road between the Toll Brothers development and Cemetery Road. Along this portion of Vosburgh Road there are approximately 43 residences. Of those only three properties are duplexes; none were built in the past 20 years. This project would increase the number of duplexes on this area of Vosburgh Road by about 60 percent.
2. This project does not conform to the desires of an overwhelming majority of property owners and residents surveyed as part of the Northern Halfmoon Generic Environmental Impact Study. In a survey for that GEIS regarding "type of housing" 88 percent of respondents said they prefer single-family housing. The Planning Board has publicly cited those survey results in declining to approve multi-family residential applications, including on Vosburgh Road in 2003. On Nov. 24, 2008, the Planning Board reviewed a similar project on Johnson Road. The board raised concerns about a duplex being out of conformity with that neighborhood, then obtained the developer's consent that the only duplex would be "owner-occupied." The board also stipulated in its approval that another lot could not be used for construction of a duplex.
3. The subdivision of this "strip-style" five-acre lot is being proposed in an area that is replete with documented problems related to dangerous traffic, unfavorable soil conditions, high groundwater table, flooding and proximity to wetlands. The surveyor has brushed aside these concerns.
4. There are active wells within 500 feet of this project, including a well on our property. Septic systems are inappropriate given the location of a public sewer in front of this parcel.

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5. The surveyor's calculations related to vehicles accessing this site do not appear to take into account changes in road topography, including a dip in the road to the east of the proposed driveway. The line-of-site measurement to the west goes directly through a large evergreen tree in the front yard of the neighboring home at 135 Vosburgh Road. The proposed driveway is in the middle of a dangerous curve with a speed limit of 20 mph. However, the road also posts a 40 mph speed limit, most drivers ignore the reduce-speed signs and vehicles exiting this site will be ~~in~~ endangered.
6. No duplexes have been constructed on this area of Vosburgh Road in at least 15 years. The only building permits in this area in the past 15 years have been single-family residences, which represent the trend of this neighborhood.
7. At one of the first meetings the project surveyor, without documentation, opined that all of the homes in the immediate vicinity are valued at about "\$200,000." There are seven single-family homes within 1,000 feet of this project that are valued at \$350,000 or greater, including two built within the past 10 years. All homes adjacent to this site are single-family homes.
8. Mr. Pipino, the applicant, has indicated to neighbors he intends to occupy the single-family rear residence and manage two duplexes out front. These duplexes represent income-producing rental properties that are not in conformity with the surrounding single-family, owner-occupied homes. The board has not asked any questions of the applicant about the creation of what would be four townhouse apartments in a predominantly single-family residential area.
9. Upon information and belief, the applicant's family owns and operates a construction business that currently appears to be headquartered in residential properties in the town of Clifton Park on the west side of Exit 8-A. Town planners have not requested information about whether any portion of this subdivision would be used as a business office; to store construction equipment or vehicles, or, be in any way connected to the family's commercial business. The addition of construction vehicles, equipment, office space or employees would change the characteristics of the neighborhood.
10. At a Planning Board workshop meeting in early December the town's engineer indicated that the sewer line directly in front of this parcel is "private." That is not accurate. The applicant's plans reflect this erroneous information. Following last month's public hearing on this project I met with Grant Eaton, the collection system manager for the Saratoga County Sewer District. Mr. Eaton reviewed this site plan and sent an employee to check the area and the sewer line. Mr. Eaton said the sewer line in front of this proposed subdivision is part of the Saratoga County Sewer District No. 1. Mr. Eaton stated there would be several options to connect to that line and it would not be a hardship for this parcel to connect to the 6 1/2-inch sewer main on Vosburgh Road. I would add that anyone who conducted a site visit, including the surveyor or the engineers reviewing this proposal, would have easily seen that the manhole cover in front of this parcel clearly states "Saratoga County Sewer District No. 1." The revised plan, despite the board's

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instructions at the last meeting to examine this issue, ignores any mention of the sewer line.

11. The applicant's surveyor initially indicated they do not need to make any storm-water drainage provisions. This project, especially with a 600-foot driveway, three buildings, land clearing and large parking areas, would significantly increase the amount of runoff that flows to a point where the site meets two properties at 135 and 137 Vosburgh Road. This would exacerbate flooding issues already noted in that area. The applicant acknowledged they have not done a topographical survey and instead have relied on a USGS topography overlay, which may not be accurate. The applicant has not submitted a SWPP and therefore there is no way for the public to fully review the application because it is incomplete. Whether or not the board has allowed applications to be approved contingent on a stormwater management plan being filed later is not binding in this instance, and the town code requires a stormwater management plan be filed as part of the subdivision plan and review process.
12. The applicant has not proposed any buffering to protect the surrounding single-family residences. There is precedent for this board to require buffering to adjacent properties of subdivisions. This buffering should include berms with mature evergreens, and prohibit unnecessary removal of deciduous trees on the site.
13. At the first meeting on this proposal the Planning Board questioned whether emergency vehicles could safely access the rear parcel. That issue was dealt with in great detail when a similar, shared-driveway project was approved on Anthony Road. However, despite the board's instructions the applicant has not addressed that issue in its submissions.
14. The use of a keyhole lot to give this project the phantom "frontage" on Vosburgh Road does not restrict the building of a driveway through the keyhole in the future. This keyhole intersects wetlands and is directly adjacent to two single-family homes. It should be spelled out that the keyhole should never be subject to tree clearing or the construction of a driveway. The applicant stipulated that is their desire and the board should require it.
15. The applicant's surveyor stated to a neighbor that they would not construct five mailboxes in his front yard right-of-way across the street. However, the U.S. Postal Service will not allow erection of postal boxes on the north side of Vosburgh Road without approval. Such applications are rarely granted and require a site-safety inspection by the Mechanicville postmaster. That request must be obtained through written application. That has not been done.
16. The five-acre lot on which this subdivision is proposed is not suitable for multi-family residential construction. The town Planning Board is on record acknowledging that the most suitable land for development in this area has been depleted. The board has publicly acknowledged that developers are seeking to build on land that is less suitable and in many instances hampered by poor topography, dangerous traffic patterns and wetlands. This proposal is a testament to those concerns by the board.



*Exhibit B- pg. 4 of 4*

17. At the first public hearing Mr. Rabideau, in defense of the application, inappropriately highlighted what he believes are negative qualities of this neighborhood. Mr. Rabideau cited a nearby mobile home neighborhood and an grandfathered excavation company. However, the trend in this neighborhood has been toward well-maintained single-family homes. I and other property owners take exception to such a broad-brush characterization of our neighborhood by someone who is not a resident of this town. Boiled down, Mr. Rabideau's argument is that since he believes this neighborhood has unattractive qualities that this proposal would simply augment what he views as existing negative qualities.

In conclusion, the Northern Halfmoon GEIS took note of the importance that the town, in its planning decisions, does not abandon the residents whose homes are located along what are becoming known as "feeder roads." In the GEIS the consulting engineers cautioned that these roads, such as Cary, Plant, Vischer-Ferry, Smith, Anthony, Vosburgh and Werner, should not become the speedways to the many PDDs and major subdivisions undergoing development. This is our neighborhood and we are asking that the board give this proposal careful scrutiny and please consider our rights as property owners.

Thank you in advance for your patience in hearing these concerns and thank you for your continued careful review of this project.

Sincerely,

Brendan and Tina Lyons  
139 Vosburgh Road  
Halfmoon, NY 12118

(End – Exhibit “B”)

Mr. Watts closed the Public Hearing at 7:25 pm. Mr. Nadeau stated the following: I think we need more information and Mr. Rabideau needs to respond to it as well as many of these questions that were presented here tonight. The question that I would have would be on the GEIS master plan pertaining to this area. I would like Mr. Bianchino to review that and bring the Board up to date on that. Mr. Bianchino stated I can certainly do that but unfortunately the findings for the GEIS do not apply to subdivisions that are minor subdivisions. Mr. Ouimet stated the following: I think we have heard an awful lot of comments at the last two public hearings. I'm just speaking for myself, and I don't know as if I'm in a position to vote one way or another at this point in time. I think that we need to hear more from the engineer, especially in the area of stormwater management because we haven't seen that yet and Mr. Rabideau has even indicated that this information was a couple of weeks away. Mr. Rabideau stated that would be at the farthest, but we can push it up and we'll make it happen. Mr. Ouimet stated the following: But I think the absence of that would certainly give me pause in considering the application at this point. There are a couple of things on this particular reprint of this plan that I don't understand. On Lot #2 there are two proposed septic sites, is one going to be used verses the other or are you planning on two separate septic systems? Mr. Rabideau stated it would be two separate septic systems; they can be split. Mr. Ouimet asked they can be or they will be? Mr. Rabideau stated they can be if we can keep it one, we'll keep in one and if not, we'll split them. Mr. Ouimet stated okay; in other words you need the capacity that the two would provide you, correct? Mr. Rabideau stated well upon getting out there and actually getting the test pits we proved here that we can do it maximum with two and if we can do it with one, we will do it with one. Mr. Watts asked what's the status of the Saratoga County Sewer District #1 (SCSD#1), the sewer corporation that I believe is turning that sewer corporation over to the County. Mr. Rabideau stated eventually, yes. Mr. Watts stated the following: Eventually, yes and asked how does that impact upon our decision process? If that it turned over, is it the intention of the applicant to hook up to the County Sewer District? Mr. Rabideau stated no, because I also talked with Mr. Grant Eaton and there is no requirement to tie into the system. Now the question comes up; have the neighbors tied into the system? Mr. Ouimet stated the following: I don't think you can answer a question by asking a question. I think that all of the comments that we've heard at the last public hearing and tonight's public hearing as well; the neighbors have raised a significant number of issues with respect to the high water table and the fear that there may be leaching from septic systems. I think we really have to understand if there is an option to connect to a sewer system; be it public or private, why you think that the concerns that the neighbors have posed are not anything that you want to address or anything that the developer wants to address. Mr. Rabideau stated the following: Well, one thing is the cost; we meet all spatial requirements and all NYSDOH requirements of separation for a septic system. One of the things why they have trouble with their systems is because the wetland corridor runs through their property and ours is high and dry. Just because they have problems, they're interpreting to say that we're going to have problems and we're not. Mr. Ouimet stated the following: No, I think you missed the point. They're not saying that you're going to have problems; what they're saying is your development is going to exacerbate their problems. Mr. Rabideau stated no it's not. Mr. Ouimet stated well, that is what you have to address and I want to hear somebody actually address that issue; why the development of this lot or lots will not pose an increased risk to the neighbors. Mr. Bianchino stated Mr. Rabideau's letter to the Board mentioned that the soil information was on the plan and you described what the soil conditioners are and the depth of the ground plate. Mr. Rabideau stated they did a deep test pit and they went down 3 feet and basically they are getting percolation rates of 5 to 10 minutes, which is ideal conditions. Mr. Bianchino asked what are the soil conditions? Mr. Rabideau stated they are sandy, brown sand with gravel and clay silt. Mr. Higgins stated you mentioned about realigning some of the adjoining property owner's lines and asked do you have anything in writing

from that property owner agreeing to these changes? Mr. Rabideau stated the following: Not in writing but they have been discussing it and they're going to do it once this parcel gets conveyed to Pipino. We already have it written up. Mr. Higgins stated I thought Mr. Pipino already owns this property. Mr. Rabideau stated no, it is contingent upon. Mr. Higgins asked if Mr. Pipino is purchasing this property. Mr. Rabideau stated that is correct. Mr. Higgins asked do you have anything in writing from ACOE saying that it's okay to clear those trees in the designated wetlands? Mr. Rabideau stated the following: We don't have anything in writing. No one says that this is going to be clear-cut. As long as you don't fill or disturb the soil, which means taking the stumps out, you can go at it. They don't care. The key is soil disturbance. So, if you cut the trees down and take them out, you're okay with that. Mr. Higgins stated regarding the driveway; I believe that was discussed a number of times and as far as I know the applicant, from what Mr. Rabideau has said at previous meetings, has agreed to build the driveway to a standard that would support emergency vehicles. Mr. Rabideau stated that is correct, it's note #1. Mr. Higgins asked is that for the entire driveway including the hammerheads? Mr. Rabideau stated that's correct. Mr. Ouimet stated regarding the clear-cut area; the clearing easement that is shown on the drawing, are you saying that that's permitted under ACOE regulations? Mr. Rabideau stated that is correct; ACOE and the New York State Department of Environmental Conservation (NYSDEC). Mr. Ouimet stated if I recall correctly, that's the reason why you proposed the clearing easement is to improve the sight distance on that radius, is that correct? Mr. Rabideau stated that's correct. Mr. Ouimet stated so, if the ACOE should tell you that you can't cut these trees, what does the applicant propose to do with respect to the sight distance issue, which I raised at the first meeting that we had on this subdivision? Mr. Rabideau stated they allow the cutting of trees. Mr. Ouimet asked are you absolutely certain that they will not prohibit it? Mr. Rabideau stated they will not prohibit it. Mr. Higgins stated as I have said, a letter from the ACOE to that affect would be appropriate. Mr. Ouimet stated I agree with Mr. Higgins because I think the clearing of that corner of that wetland is being offered by the developer to support to the sight distance question that was originally raised by this Board and I think they need to be able to provide that or some kind of assurance from the ACOE that they're not going to prohibit it. Mr. Rabideau stated we can do that. Mr. Ouimet stated okay. Mr. Nadeau stated near the Ballard property; what is the distance of that well to the closest septic area? Mr. Rabideau stated it's over 200 FT. Mr. Nadeau asked Mr. Bianchino if the separation per Town code was 100 FT? Mr. Bianchino stated yes. Mr. Higgins stated but that's also 200 FT downhill, correct? Mr. Rabideau stated the following: No, it's 100 FT and if it's up gradient, it has to be 200 FT. Now the question comes up is that 200 FT because of surface or subsurface leaching? Mr. Higgins asked Mr. Rabideau if he just stated that this area is all uphill from the neighbors. Mr. Rabideau stated the following: Yes, this is up gradient from one area but the hydraulic nature is bringing everything down across the road. One of the septic is 200 FT from the nearest well on the neighboring parcel, there is a wetland area and there is no way that that well can even be touched surface or subsurface. Mr. Higgins stated as it was stated previously, I know I mentioned about tying into the sewer before and regarding the conditions on-site I personally would like to have the applicant take another look at that. Mr. Watts stated the following: I just talked with Mrs. Murphy relative to the sewer issue; obviously there is some question relative to whether or not it is the Central Halfmoon Sewer Corp. or the SCSD#1 and asked who's line it is? Mr. Rabideau stated the following: Belmonte said it was the Central Halfmoon Sewer Corp.'s line and Mr. Eaton indicated it was Belmonte's line. We even called Mr. Peter Belmonte's office and they faxed us over a tie-in sheet with costs on it. Eventually the line will go to the SCSD#1 and all their system would eventually go there. Mrs. Murphy stated the manhole would still say the Central Halfmoon Sewer Corp. District. Mr. Rabideau stated no, because eventually it will go to the SCSD#1 and they would just put their cover on it. Mrs. Murphy stated it's all maintained by SCSD#1. Mr. Lyons stated the following: When I met Mr. Eaton, he sent a gentleman up to the site and I had the previous subdivision plan in front of him and he indicated that, as I understood what he said, that I think the discrepancy here is that the line may come through an area on the south side of Vosburgh Road. Mr.

Eaton said that they own the line on Vosburgh Road and the guy that came back, while I was there with Mr. Eaton, looked at them in front of me said "that's our line, it's a 6.5 inch main". I then asked him "but is it a hardship for Mr. Pipino to do this and is it going to cost him too much"? His position was that the cost of the septic systems would far exceed the \$500 or so fees to tie into this line and he said he could do it different ways; he could come along the road and hookup past the manhole, he said he could also cross Vosburgh Road and come back across on the west side of the manhole and hook in there. But, I would say unequivocally, he indicated that that's the County's line and I just noticed that their name was on the cover as well. Mr. Watts stated the following: I think we have a couple of issues here and we would like to try and get as much of this resolved as we can tonight because there are still issues. What is your position on this sewer hookup? Mr. Paul Pipino, the applicant, stated the following: Our issue is we have our own equipment to do a septic system ourselves. We're meeting all the regulations, we're not affecting anybody's property, why is this an issue? If they have water on their property because they built on a wetland, it's kind of their own doing. First they should worry about hooking themselves up if they are worried about water on their own property. If you have a leach field on our own property, to me you're creating your own problem and I'm not. So, I don't think that it's an issue for us to have to hook into it and have to pay for it with grinder pumps and everything else. It's not a gravity system especially if you're going 600 FT back. Mr. Watts stated the following: You may not feel it's an issue but it's an issue because the public has spoken and I think you've heard Mr. Ouimet and other people speak about it. It is an issue and I wanted to ask the applicant what his position was relative to it and why, which Mr. Pipino has stated. Mr. Pipino stated right. Mr. Watts stated that's fine, thank you. Mr. Berkowitz asked are you going to be storing any construction vehicles or materials? Mr. Pipino stated the following: No, I currently don't do that at my own residence. The way the construction industry does it is; we build homes, we don't have a lot of large equipment and the only way to stay in business for us is to have our large equipment on a jobsite. I have never stored my equipment at my current residence and my neighbors don't even know that I have equipment. My work truck is a standard pick-up truck that I drive home everyday. I have some small generators and compressors that go in the garage just like your lawnmower and snow blower. Mr. Watts stated we have raised issues that we still need a response to. Mr. Roberts stated we are waiting on the drainage information as well. Mr. Watts stated yes, we are waiting on the Stormwater Pollution Prevention Plan (SWPPP). Mrs. Murphy stated the following: They're asking if there is a time issue. Mr. Watts just closed the public hearing and we still don't have the SWPPP so you have a minimum of 62 days to make a decision, so you're okay. Mr. Watts stated we have closed the public hearing and then we'll be evaluating your responses. Mr. Rabideau did verbalize the answer, but we would like those in writing also. Mr. Rabideau stated the following: Okay. What are the specific questions? I know we have clearing and we need a letter from the ACOE stating what you can and can't do. Mr. Watts stated also, whether or not you would hook up to the sewer, the storage of equipment and the SWPPP. Mr. Higgins stated and regarding the straightening out of the property lines. Mr. Williams stated also, there was a question on the possible buffering for the existing neighbors' parcels. Mr. Rabideau stated they are already wooded lots and they are asking for pine trees that would not grow under the tall canopy of the deciduous trees. Mr. Watts stated the following: When we ask a question, it doesn't mean that we're telling you to do it. There are things that are brought up at public hearing's that make sense, there are things at public hearings that have questions that have to be researched and there are things that are brought up at public hearings that make no sense at all. But, they have to be responded to. Mr. Rabideau asked do we have to respond to the values in a neighborhood because that seems to be a core issue? Mr. Watts stated no, that's not an issue. Mr. Williams stated the two letters that were submitted tonight by Donald A. Baker and Mr. and Mrs. Lyons also have to be responded to. Mr. Watts stated again, we can put it on the agenda for two weeks hence but you have to get this SWPPP done for people to review on a timely basis and the answers to these questions because it doesn't do anybody any good to have a meeting again and to say; "well, we're going to get it shortly" because that's not helping anybody. The next time we meet, whether it is

two weeks from now or two weeks from then, I want to have everything in place. Mr. Roberts stated the following: At our last public hearing there was a letter also and asked if they responded to all the concerns in that letter because we haven't seen any. Mr. Roberts stated they also need to respond to all the concerns in the two letters that were submitted tonight. Mr. Watts stated that is correct. Mr. Pipino stated the following: Are those the concerns and are those the items that we have to address? I just want to make sure that that's our goal because it seems like every time I've come in for this project we answer things and things get reiterated and we have to go back and rework similar situations. Mr. Watts stated the following: At this moment in time those are all the questions that we have. I don't know when you respond to something and it raises another question. So, would we have to be a little more thorough? Sure. Nobody moves, I don't think, with any more diligence or quicker than the Halfmoon Planning Board and our engineers are fair to everybody; applicants and everybody. I feel very strongly that we do an excellent job, so we'll do our usual excellent job here in moving things along but information has to be in our hands. Mr. Pipino stated definitely. Mr. Lyons stated the following: Would the Board allow us the ability to submit at least just written comments. In other words, we're at a disadvantage because the SWPPP hasn't been presented and it is supposed to be part of the application. We would like to have our engineer look at it, review it and be able to submit comments. Also, on the issue of the sewer, I'd like to submit something in writing on that as well because initially it was stated in their application that it was a private line and that they couldn't hook into it and now we're learning that they don't want to hook into because it's not cost effective for them, which is a completely disingenuous response based on the application and the representations that have been made. All I'm asking is can we, even though the public hearing is closed, be allowed to submit something in writing that the Board could still consider. Mr. Watts stated yes. Mr. Rabideau stated the following: Mr. Lyons is making statements that we are saying that things are incorrect; he's twisting things around since he's been here. Mr. Watts stated I chose to ignore the disingenuous remark. Mr. Rabideau stated thank you. Mr. Watts stated some people hear something one way and some people hear it another way and that is the nature of the business. We're the impartial adjudicators.

This item was tabled for the applicant to respond to public comment/concerns. This item was tabled and referred to CHA for their technical review.

#### **11.009 PH Jill Poisson, 82 Ridgewood Drive – In-Home Occupation**

Mr. Watts opened the Public Hearing at 7:49 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Ms. Jill Poisson, the applicant, stated the following: I'm requesting permission to move forward with my in-home business of a hair salon. I believe I meet all the requirements that the Town of Halfmoon code requests, for instance; off-street parking with no more than 3 cars. I plan on only doing 10 to 15 clients per week. My salon would take up less than 30% of the in-home living space. Mr. Watts asked if anyone from the public wished to speak. No one responded. Mr. Watts closed the Public Hearing at 7:51 pm. Mr. Nadeau asked have all of the adjoining landowners been notified in that area? Mr. Watts stated yes. Mr. Higgins stated we did talk to the applicant at the last meeting that she cannot have any retail sales of products as part of her in-home occupation. Ms. Poisson stated that is correct. Mrs. Murphy stated correct, there cannot be any retail sales of products in an in-home occupation.

Mr. Roberts made a motion to approve the In-Home Occupation for Jill Poisson contingent upon there are no retail sales of products. Mr. Berkowitz seconded. Motion carried.

**New Business:****11.012 NB Hoffman Car Wash, 1672 Route 9 – Sign**

Mr. Ronald Levesque, of the Sign Studio Inc., stated the following: I'm here tonight representing Hoffman Car Wash for the addition of a sign to their existing freestanding located in the front of the site. The sign also falls within the allotted square footage that's allowed for that site.

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

**Hoffman Car Wash, 1672 Route 9, Sign**

Sign Size: 21.8 SF

Sided: ☐ one-sided ☒ Two-sided

Sign Dimensions: 40in x 40in

Total Height: 16 ft

Location of Sign: freestanding sign in front of site

Lighted: ☒ Internal ☐ Flood

Planning Board Date(s): 2/14/11

Brief Description: In January of 2010, this applicant gained PB approval for a new freestanding sign with a total area of 160 SF. During the Building Department's inspection of the sign it was noticed that there was an added sign to the approved sign. The Building Department told the applicant that they would need to appear before the Board to get the additional signage approved.

The applicant wishes to place a 40 in. x 40 in. double-sided sign (21.8 SF) underneath the approved freestanding sign. The proposed sign states, 'Dirty Car Dirty Shame'. No change to the existing and approved 16 ft total height of the sign is being proposed. The total area of the proposed and approved freestanding sign will be 181.8 SF.

Mr. Roberts made a motion to approve the sign application for Hoffman Car Wash. Mr. Nadeau seconded. Motion carried.

**11.013 NB Complete Building Solutions, Inc., 1471 Route 9 (Crescent Commons) - Change of Tenant**

Mrs. Murphy recused herself from this item. Ms. Tina Castillo, the applicant, stated the following: I'm the office manager at Complete Building Solutions and I'm here to represent John Arduini who is the President and CEO of the company. This would be a general office and there would not be any on-site equipment storage or chemical storage. The office would occupy the owner and myself. We would utilize 2 parking spaces. Our office hours would be between 9:00am and 5:00pm. Mr. Watts asked would employees for your business be coming to this site that are going to go to other places to clean things? Ms. Castillo stated no, our storage facility is located down in Albany. Mr. Watts stated so; there would be no storage of chemicals at this site. Ms. Castillo stated that's correct. Mr. Watts asked would any of your employees be coming to this site to park their cars while they are out doing their janitorial service? Ms. Castillo stated no. Mr. Watts stated please advise as Complete Building Solutions, Inc. of Halfmoon. Ms. Castillo stated okay.

Mr. Nadeau made a motion to approve the change of tenant application for Complete Building Solutions, Inc. conditioned on no cleaning chemicals being stored at the site. Mr. Higgins seconded. Motion carried.

**11.014 NB Aflac, 21 Corporate Drive – Change of Tenant**

Mr. Tom Andress, of ABD Engineering & Surveying, stated the following: This is the old NFC building located at 21 Corporate Drive. Currently, half of this building is vacant; we only have about 24,000 SF out of the 50,000 SF that's leased. So there is plenty of room for parking. Aflac would occupy 1,600 SF. Aflac

will be occupying the tenant space previously leased to Reach America. Aflac would have 7 employees and their hours of operation would be Monday through Friday 7:00am to 6:00pm, Saturday 8:00am to 1:00pm and closed Sunday. Mr. Roberts asked if there would be a sign application in the future? Mr. Address stated I believe there is a monument sign there but I will check with Mr. Abele.

Mr. Berkowitz made a motion to approve the change of tenant application for Aflac. Mr. Ouimet seconded. Motion carried.

**Old Business:**

**08.051 OB Loomis Subdivision, 114 & 116 Harris Road/81 & 83 Lape Road – Minor Subdivision (Re-approval)**

Mr. Watts stated the following: This minor subdivision has already received an approval from the Planning Board so, this is a resubmission based on time constraints that occurred with the application. As a matter of interest, why was it delayed so long? Mr. Duane Rabideau, of Gilbert VanGuilder Land Surveyor, PLLC, stated the following: Through a coordinate review with the New York State Department of Environmental Conservation (NYSDEC), it took time to have the archeological study signed off on. The final letter basically said there is no impact. Also, since this is a public sewer, the New York State Department of Health (NYSDOH) and NYSDDEC need to have the State Historic Protect Preservation Office (SHPPPO) comments. Mr. Watts asked from when you submitted it where SHPPPO started to review it, how long was that? Mr. Rabideau stated over 2 years. Mr. Watts stated over 2 years for a 3-lot subdivision? Mr. Rabideau stated the following: That's correct. That's one of the major problems as people try to develop their land consultants is the archeological and there is no rhyme or reason to it as far as time and costs. You could get a letter within a week saying "go to it" and other times you end up in situations like this and this is definitely one of the longer ones. Mr. Watts stated okay I hope the new governor does better than our previous governor who signed legislation into affect to have this SHPPPO thing and I don't know which governor signed it and how long it goes back but it's awful. Again, as we spoke at a pre-meeting earlier tonight, I think the Town really intends to make our feelings known so the applicant's don't get stuck with a delay like this. Mr. Ruchlicki asked was there anything relative to that site that would have led them to believe that there was some historical stuff going on there? Mr. Rabideau stated yes, there were rumors and there were some local people who had some concern regarding something going on there with an underground railroad or things of that nature.

Mr. Roberts made a motion to set a Public Hearing for the February 28, 2011 Planning Board Meeting. Mr. Higgins seconded. Motion carried.

**11.010 OB Elevate Cycles, Inc., 1581 Route 9 – Change of Tenant & Sign**

Mr. Tom Address, of ABD Engineering & Surveying, stated the following: Our original proposal for this application was held at the January 24, 2011 Planning Board meeting. Currently, Elevate Cycles is across the street from DeVoe's where Soccer Unlimited is located. The applicant is proposing to move to 1581 Route 9, which is the plaza that is immediately adjacent to the Hess Gas Station. They are proposing to occupy a total of 5,200 SF of space (2,600 SF of retail on the 1<sup>st</sup> floor and 2,600 SF for service and maintenance on the lower level). They would lease the space previously occupied by Schenectady Electric. At the last meeting there was a lot of concerns in reference to one of the items that we were proposing to do, which was training on bicycles or spinning where you would be training on your own bicycle with a trainer. Because of that, we ended up having a site walk to look at everything and we worked with the Planning Department and we tried to come up with what the demand was for the entire plaza from a parking standpoint. I think Mr. Williams ended up with a final summary of a 59 parking space demand and we have 61 parking spaces available. We are pretty much right at the maximum and that would allow us

to have 2 spinning stations in the lower level and then we could have whatever we wanted to do from the retail standpoint at the upper level. If they wanted to have some work training or spinning on the upper level, it was already counted into the parking spaces. Originally we were looking to add 6 spinners, but when we went to the site we were talking about possibly 10 spinners. I think the conclusion was that we could have no more than 2 parking spaces at the lower level. Mr. Berkowitz stated originally you weren't going to have any spinning on the upper level, is that correct? Mr. Andress stated the following: We weren't going to have any spinning up top and we were going to do it all on the lower level. Then when we met out on site, the concern was the overall ratio of parking that we have there to floor space and the suggestion was to do the spinning at the upper level, which is what the owner does at his Saratoga location. At the Saratoga location they move the bikes around and have it in the main retail area. So, we can still have it in the retail area; we just have to move a few bikes around. Mr. Chris Pitts, the applicant, stated the following: The way this business works is; generally it's private and the customers would have their own bike and they would be on a trainer that hooks onto the back of the bike. It doesn't take up much room; maybe 6 SF total and hopefully we were going to have a spinning room downstairs. There were parking concerns in the back of the building where there are 18 parking spaces. We would be doing it on off hours from all the other businesses at this site but it was brought to my attention that the way you do the zoning laws, you have to factor in square footage for the parking. For me; doing 2 stations on the lower level is no big deal. We have plenty of parking upstairs so we could also do them on the upper level. That's what I do at my current place of business in Saratoga. We just move some of the racks out of the way and set-up. Mr. Watts asked what is the maximum number of people you would have in there at any time on a bike spinning? Mr. Pitts stated well, we shot for 10 people so we could have 10 people. Mr. Watts asked what times would they be there? Mr. Pitts stated on our application we put down that we were going to do Monday, Wednesday and Friday at 6:30am and then Tuesday and Thursday evening at 8:00pm. Mr. Watts asked is that the only times they would come in and that is all you are asking for? Mr. Pitts stated yes. Mr. Nadeau stated didn't you say that it would be 6:30 to 8:00am and then that portion of it would be done with. Mr. Andress stated yes, they would come in early verses their regular hours. Mr. Pitts stated yes, 6:30am and it would be an hour to an hour and a half long and then they are done when the shop opens up. Mr. Watts asked would these people prefer that they were all in one spot to do this and isn't there some comradery with that or don't they care? Mr. Pitts stated the following: Yes, definitely when you are doing it, it motivates each other and you get to talk. Say you get a team of 6 guys who are on the same team and they all want to spin together. They are all going to be on the same training program and that's what they want to do. Mr. Nadeau stated the following: I think the objective here was to determine how many parking spaces were actually allocated to that plaza. So, knowing that, would it be a great problem? Possibly not. Mr. Watts asked are you talking about putting them all in one spot or all of them downstairs? Mr. Higgins stated the following: We explained to the applicant, the engineer, and the real estate woman that this Board does not have the discretion to deal with hours of operation verses other businesses in the plaza as Mrs. Murphy mentioned previously. So, we explained that one way to fit into the existing parking would be to utilize area upstairs for some of the spinning and then downstairs for the rest. However, at the pre-meeting we discussed the fact that the basement with your service and with the spinning actually falls into an "other" consideration within our purview as far as this Board. So, I think what we discussed was if it's okay with your applicant, if the spinning goes on downstairs, it would fall under the "other" consideration and we would just put a stipulation in the approval, if this Board does vote for an approval, that if there is a problem within a year, then at that point the applicant would have to come back in and appear before the Board again for a discussion. If there is no problem obviously, then after one year your approval would go into effect. Mr. Pitts asked is this in regard to disturbing the other tenants at the plaza? Mr. Higgins stated no, it strictly has to do with parking considerations at the site. Mr. Watts stated the following: Based upon the utilization of that site, we've have a bit of a dilemma and we try to be business friendly but we also work with the ordinances. If you look at our ordinance, and to



be honest with you, if you look at the Verizon Store in the plaza, they require 8 parking spaces. Well, there is one person working in that store. I walked in there once and they said they couldn't fix my phone and they told me to go over to Clifton Park and I left. So, we have a dilemma with the parking, we're trying to work with you and that's why we talk it out. Mr. Berkowitz asked for the total square footage of the plaza. Mr. Higgins stated 16,000 SF between upstairs and downstairs. Mr. Address stated I think it was 10,500 SF that was approved as full office use and the rest of the building was approved for storage. Mr. Higgins stated the following: The original application had the 8,000 SF upstairs and I thought it was 2,800 SF of the downstairs that was able to be used for as retail or office and the rest was strictly for storage. Obviously, you want to talk to the owner of the building because if something changes drastically with one or the other locations there and they want to come in with a high intense parking use, we would have to have that discussion at that time. Mr. Watts stated the following: Yes, the same as we did with Papa John's and we haven't had any issues there. It's a dilemma with the parking, where damn if you do or damn if you don't, but we try to keep the businesses coming in to Town. Please advertise that you are located in Halfmoon. Mr. Pitts stated I will.

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

**Elevate Cycles #1 Sign:**

Proposed Sign Area: 32 SF plus 8.3 SF logo = 40.3 SF

Proposed Sign Dimensions: 2ft x 16ft plus a 30in x 40 in logo

Sided: ☒ one-sided ☐ Two-sided

Location of Sign: above the storefront.

Lighted: ☒ Internal ☐ Flood

Planning Board Date(s): 1/24/11, 2/14/11

**Elevate Cycles #2 Sign:**

Proposed Sign Area: 18 SF

Proposed Sign Dimensions: 3ft x 6ft

Sided: ☒ one-sided ☐ Two-sided

Location of Sign: on the south elevation of plaza building.

Lighted: ☒ Internal ☐ Flood

Planning Board Date(s): 1/24/11, 2/14/11

Brief Description: The applicant wishes to place two business identification signs on the Plaza Building. One sign will be above the storefront and the other on the south side of the plaza building. The total area of the two signs add up to 58.3 SF whereas there is 58.8 SF of signage available for the whole plaza. These signs conform to the Town's Sign Ordinance.

Mr. Higgins made a motion to approve the change of tenant and sign application for Elevate Cycles, Inc. contingent upon a maximum of ten "spinner" mechanisms being used at any one time with "spinner" class hours of Monday, Wednesday and Friday from 6:30 am to 8:00 am and Tuesday and Thursday from 8:00 pm to 9:30 pm. This approval is also conditioned on; if parking should become an issue within 1-year, the applicant would need to re-visit the Planning Board to resolve those parking issues and spinning can be downstairs with the service area. Mr. Nadeau seconded. Motion carried.

Mr. Roberts made a motion to approve the sign of tenant application for Elevate Cycles, Inc. Mr. Ouimet seconded. Motion carried.

Mr. Higgins made a motion to adjourn the February 14, 2011 Planning Board Meeting at 8:14 pm. Mr. Ruchlicki seconded. Motion carried.

Respectfully submitted,  
Milly Pascuzzi  
Planning Board Secretary