

Town of Halfmoon Planning Board

Meeting Minutes – March 11, 2013

Those present at the March 11, 2013 Planning Board meeting were:

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

Director of Planning: Richard Harris
Planner: Roy Casper

Town Attorney: Lyn Murphy

Town Board Liaisons: Paul Hotaling
Walt Polak

CHA Representative: Mike Bianchino

Mr. Watts opened the March 11, 2013 Planning Board Meeting at 7:00 pm. Mr. Watts asked the Planning Board Members if they had reviewed the February 11, 2013 Planning Board Minutes. Mr. Roberts made a motion to approve the February 11, 2013 Planning Board Minutes. Mr. Ouimet seconded. Motion carried. Mr. Ruchlicki abstained due to his absence from the February 11, 2013 Planning Board meeting.

Public Hearing:

13.027 PH

Christopher J. & Phyllis Abele Subdivision, Lower Newtown Road – Minor Subdivision

Mr. Watts opened the Public Hearing at 7:00 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Mr. Watts stated the following to Mr. Rabideau. Before you start your presentation, could you make sure that you explain that this is a subdivision and that it is not a Special Use Permit at this time, is that correct? Mr. Duane Rabideau, of Gilbert VanGuilder Land Surveyor, PLLC, stated the following: This is a subdivision and a Special Use Permit on Lot #1. Mrs. Murphy stated the following: Just so that you are aware, the public notice that went out was solely for the subdivision. So, you'll have to come back for the Special Use Permit and have a hearing on the duplex issue. Mr. Rabideau stated okay. Mrs. Murphy asked who is the owner of this property? Mr. Rabideau stated the following: On our map we have it as: Subdivision of Lot A, Subdivision Lands of Christopher J. & Phyllis Abele and that is really the official designation for this parcel of land that's filed in the County Clerk's Office. Pastor Duke purchased the property in December of 2012. So, Pastor Duke is the applicant. I think to avoid the confusion, we realized that after people had issues with this, we could have called it the Subdivision of Lands of Hergatt,

but being surveyors, we went with this. We have a deed to Pastor Duke for this parcel of land so, he is the owner. I'm here representing Pastor Duke in his request before the Planning Board for a 4-lot subdivision. The parcel is located just on the easterly line of the Clifton Temple Baptist Church. This parcel is approximately 11-acres. Our proposal is for 4-lots. Lot #1 would be approximately 2-acres and we are proposing a duplex for this lot, but apparently that action is not going to take place tonight, but hopefully we can get the lot created. Lot #2 is a flaglot configuration that is 2.1-acres. Lot #3 is also a flaglot configuration that is approximately 3.9-acres and Lot #4 is also a keyhole lot that is approximately 3-acres. This has been set up so that there would be one curb cut for the 3-lots and once it gets into the parcel, they are going to split the driveways. Each of these lots would be on individual water and sewer. Mr. Watts asked if anyone from the public wished to speak. Mr. Terry Palmer stated the following: I live across the street from the proposed site. You're looking at 5 families and I'm wondering if they are going to run municipal water and sewer to all of the homes on that road that are on hand dug wells. The last time the church built, this Board said they were done because they were worried about the over saturation of the leach lines to sewer and the water situation. I'm just wondering if anybody has looked into any of this. Mr. Rabideau stated the following: Prior to subdividing, we had an engineer go out and do perk test and test pits for a leach fields in 4 locations and our results are all under 20 minutes and anything under 30 minutes would be a standard septic system. So, the soils easily can take a septic from each of these individual homes. Mr. Palmer stated the following: There are a million gallons of water in the pond that runs along where those houses are proposed. Are there any leach problems with that and the water is coming from where? So, I'm looking at 5 families all on hand dug wells or drilled wells. I just put a new pump in my well. With the 5 families we don't know if they're going to have 5 kids, 50 kids or no kids. I'm worried about the water. Mr. Rabideau stated they would have to make sure that they have the water or it doesn't work. Mr. Palmer asked how do we do that? Mr. Rabideau stated they have to drill wells. Mr. Palmer stated the following: When they drill wells, what are the chances of that affecting my well, the neighbor's well or anybody else's well? I think we are over saturating that piece of property and that's my concern and I would hope that would be their concerns. Mr. Rabideau stated the following: We are in situation here, especially for the 3 houses. This probably drops off about 100 FT and right here there is a drainage corridor that wraps around like this and that's where the church pond is. So, there seems to be, at least on the surface, plenty of water. Your home is across the street and this well is going to be at least 600 to 700 FT from you and these would be at least 1,500 FT so, that wouldn't have any affect on you. Mr. Palmer stated the following: Well, that's my concerns. I worry about the leach lines, the sewer and the water and I would like to see some kind of testing done before we give any okay. Mr. Rabideau stated we have done the testing. Mr. Palmer stated did you do it for the sewer? Mr. Rabideau stated the following: Yes. The wells basically have to hit water or they don't get a building permit. Mr. Joe Lazare, stated the following: I have the house right next door to the church and our concerns are water and also the value of our property from what he has done. I have pictures of what we had before and what we're looking at now. Mr. Lazare showed the Board his pictures and stated that the pictures were all taken from the same angle. It has made a mess of our property. The trees in the front are all that's left of what we had and we would like those not to be removed. Otherwise, we'd be looking at whatever else is going to go back there. In addition to this, the lights from the parking lot now illuminate our house and there's a big floodlight on one of those buildings that lights up our master bedroom at night and the light is on until 9:00-10:00 pm. It also lights up our entire yard now and we didn't have any of that before this happened. I guess we'll talk about the Special Use Permit another time. Mr. Watts stated yes, they would have to come back relative to the Special Use Permit for the duplex. Mr. Lazare stated we have a lot of issues with that Special Use Permit. Mr.

Lazare asked would we be notified when that will be? Mr. Watts stated yes, there was some confusion in terms of the notification process and that's why we pulled it because we wanted to make sure that everybody got notified of the Special Use Permit, which would be for the proposed duplex. Mr. Lazare stated the following: Okay. Right now our concerns are what we're looking at now and what could be done to rectify that problem and that concern. Also, we'll meet again for the Special Use Permit. Mr. Watts stated that is correct. Mrs. Lynn Lazare stated the following: What's been done so far with the clearing of hundreds of trees was done with no permit, no application for a permit or any notification of any kind to you or to us or to anyone. Mr. Watts asked when did that occur? Mrs. Lazare stated the following: In the last 3 weeks or the last month. We woke up to hear chainsaws and bulldozers. The whole lot has been cleared of hundreds of trees. Again, there was no permit. We didn't say anything when they cleared behind the pond, which were another hundreds of trees, but now it's right next to our house. Mr. Watts stated the following: Yes, we just learned of that at tonight's pre-meeting. Mr. Watts asked Mr. Rabideau what he knows about the tree clearing, the extent and the acreage? Mr. Rabideau stated the following: I have photos here and I think it would be easier to explain it. Mr. Rabideau showed the Board the photos. The photo is from the Saratoga County GIS. The parcel where the asterisk is and where it says "The Town of Halfmoon", apparently those trees within that area have been cut for clearing. Mr. Watts stated "apparently", they have been cut? Mr. Rabideau stated the following: Yes, the trees have been cut. I believe that was a nursery plantation of spruce trees. He did leave trees in the front and 50 FT along the Lazare parcel. I didn't see the photo of what he is looking at. Mr. Watts asked what would your estimate be of the total acreage that was cleared there? Mr. Rabideau stated the following: I would say 1 to 1.5-acres of trees. You can see that the whole parcel is not treed right behind the plantation, which is basically a grown up open field pasture and then it goes down into that wetland swale. Mr. Rabideau showed the Board the area where the trees had been cleared, the open field and the wetland corridor. You can also see a second row of evergreen trees, an opening and then another row of evergreens and when we had that big ice storm 3 or 4 years ago, Mr. Chris Abele cut a whole bunch of trees down there because they were all birches and they were destroyed. I'm not sure if that has grown up or not because I haven't been back there. Mr. Watts asked did you obtain a Soil Disturbance Permit since you exceeded an acre? Mr. Rabideau stated probably not. Mr. Richard Harris, Director of Planning stated the following: I spoke to the Building Department about that today. When the Building Department learned that trees were being cleared, they determined that over an acre or approximately 2-acres were cleared and they issued a Stop Work Order pending the applicant providing enough information to issue or consider a Soil Disturbance Permit, which is what was needed in order to cut those trees. So, right now the Town has issued a Stop Work Order and is waiting for the applicant to respond back. Mr. Watts asked Mr. Rabideau if he understood that. Mr. Rabideau stated the following: I understand it, yes. I wasn't involved with that so I don't know. A gentleman from the public, who didn't identify himself, stated: The notice that I received says Christopher and Phyllis Abele. Who are we talking about here? Are we talking about Pastor Duke or Chris Abele or what? Mrs. Murphy stated the following: The engineer attempted to explain that. Apparently, the Abele's sold the property to the person you referred to as Pastor Duke and it's his application, but because the sale happened so recently, the maps at the County still have it in the name Abele. So, in an effort to avoid confusion I think it may have created confusion. Pastor Duke has purchased the property. The gentleman stated: So, can we consider tabling this until everything is right and all the necessary permits have been obtained? Mr. Watts stated I'll continue the public hearing at this point since people are here and we want to give them a chance to be heard and then when we're done with that, the Board may have some questions for the applicant and then at that point we'll decide where we go with this. Pastor Duke Hergatt stated

the following: When we purchased the church property in 1981, everything was a field and when Mr. Chris Abele purchased the property, they were in the nursery business and planted an assortment of trees that were mostly pine trees. Over the years some of those trees were harvested for nursery work and others grew up and it was about an acre and a quarter acre and a half that were cleared. There were no bulldozers. There were just big trucks to chip up to clear. Our proposal is to replant some fruit trees across an area and some berry bushes in the back to raise cherries and berries is the plan. So, the trees were a nursery that were planted trees and they were planted in probably the early to mid 80's and they've grown up. We left a 50 FT corridor between the property so the site line has not been altered from there. The site line has been greater altered from the front, but from here the site line and the other trees that are there don't belong on my property. Mr. Chris Abele cleared a big patch in the back about 3-years ago, but mostly it was the pine trees. Mr. Watts stated the following: Relative to that, our Code Enforcement who issued the Stop Work Order will be looking at the site and making determinations as to what happened and what happens since a permit wasn't obtained and that must be why they issued the Stop Work Order. Like I said, we just learned of that at the pre-meeting tonight. Mr. Lazare stated I would like to bring your attention back to the photos that we gave you that the site line has been altered and you can clearly see that in those pictures. Mr. Roberts asked Mr. Lazare's where his house was located. Mr. Lazare showed the Board where he lived, which is right next door to this proposal. Mr. Lazare stated the following: With all the trees that were there, none of that was exposed to us. Now that the trees are gone, the front of our house is still private, but all through here, our house is a clear shot right to the parking lot and that is shown in those photos that I passed out. This was previously Mr. Abele's house and we purchased the home from him 2 or 3 years ago. Mr. Rabideau stated the following: On the Stop Work Order; what is considered soil disturbance? The cutting of trees or were the stumps left in or after stumping? Mr. Bianchino stated our Zoning Code has a definition of soil disturbing activities: "Any activity affecting one or more acres which directly or indirectly changes the natural topography or vegetative cover of a parcel either by excavation or tree clearing." Mr. Rabideau asked with or without stumps? Mrs. Murphy stated it changed the vegetation and I think we're all very comfortable with that. Mr. Rabideau stated the following: That could be harvesting by the New York State Department of Environmental Conservation standards (NYSDEC). Mrs. Murphy stated we are not using NYSDEC standards, we're talking about our code and our code is very clear. Mr. Rabideau stated I'm just bringing that up because we've run up against this with the NYSDEC and the question always is: "were the stumps taken out or not?" Mrs. Murphy asked did the NYSDEC issue the Stop Work Order? Mr. Rabideau stated no, and I understand that, I'm just stating why there is confusion on our part. Mr. Watts closed the Public Hearing at 7:30 pm. Mr. Berkowitz asked have you dug any wells or a test well to see how far down you have to go to see if there is any water there? Mr. Rabideau stated no. Mr. Berkowitz stated so, you don't know if these lots are saleable yet because if there is no water, you can sell these lots. Mr. Rabideau stated that is correct. Mr. Berkowitz stated so wouldn't it be a good idea to test the wells to see if it's actually a saleable lot? Mr. Rabideau stated that's the chance that they take and I do understand. Mr. Higgins stated the following: I just want to confirm that this has nothing to do with the church. Pastor Duke owns this property himself and he is the applicant that is subdividing and who is going to sell these 4 lots? Mr. Rabideau stated yes, Pastor Duke and his wife. Mr. Higgins stated the following: Okay, so it has nothing to do with the church. As far as the 3 driveways that are going into the back, are those going to be designed to handle full fire equipment? Mr. Rabideau stated yes. You were talking about 600 FT to the neighbor across the street and I think it is more in the neighborhood of about 200 FT looking at the pictures that you gave us. Mr. Rabideau stated that's the other house that's directly across from the church, so it's like 1,200 FT. Mr. Higgins asked which house is

directly across the street, how close are we to that house and where's that house's well? Mr. Rabideau asked from what, the actual driveway or the proposed duplex? Mr. Higgins stated the following: Normally if you're putting in wells and septics, we require you to locate all the wells and septics that are located around the proposed building lots. All you're doing is giving us the wells and septics on this site and you did not give us any of the neighboring wells and septics. Mr. Rabideau stated the closest their well could possibly be is.....(*Mr. Rabideau did not complete his statement*). Mr. Higgins stated the following: I don't care how close it is because you are supposed show that on the drawing. Our requirements are that you show the wells and septics of the neighboring parcels on the drawings. Mr. Rabideau stated it's over 500 FT across the road. Mr. Higgins stated the following: I don't care where it is. Are they a neighboring parcel? It's a requirement of the Town that you show the neighboring wells and septics and I don't see it on this drawing. Mr. Ouimet stated the following: What about parcel B? You didn't show any wells or septics there and that's the occupied parcel. Mr. Rabideau stated okay, comment noted and we'll take care of it. Mr. Ouimet asked if there were any plans to re-vegetate the side of Parcel B? Mr. Rabideau stated that 50 feet of trees were left on that lot. A neighbor from the audience approached the Board and showed where the pictures that were submitted were taken from. She stated that only about 4 to 5 trees deep were left the length of that boundary. Mr. Watts stated that a stop work order has been issued for the site and no further clearing shall occur on the site until these issues have been resolved. The Town Code Enforcement and the Town Stormwater Management Officer will visit the site again to review what has been cleared.

This item was tabled for the Planning Board to consider the proposal after the applicant addresses issues raised in the Building Department's Stop Work Order. A Stop Word Order was issued last month due to the applicant's clear cutting of trees without a Soil Disturbance Permit.

New Business:

13.023 NB

**Grace Fellowship Church, 1 Enterprise Ave. – Addition to Site Plan
(Temporary Modular Classroom)**

Mr. Tom Andress, of ABD Engineers & Surveyors, stated the following: I'm here tonight representing Grace Fellowship Church to propose a temporary classroom to be placed in the rear of the building to be used for the youth education services. He showed the Board where the modular structure would be placed on the site to the rear of the building. The church has experienced great success in the youth program in the last four years and has experienced a growth of approximately 45%. We have worked with the original architect to look at some modifications to the building to add space and we are still working through that process. The church has an immediate need for the classroom space. This modular unit would provide 28' x 70' of space with the three main areas for 2 classrooms and a worship space. It will not have plumbing. Access to the restrooms would be in the main building. A chaperone would assist the children anytime they move between the proposed building and the modular classroom space. We positioned the building so that there would not be parking lot traffic moving in that area so there would not be a safety issue. Mr. Roberts asked how temporary would this modular unit be? Mr. Andress stated that the church is hoping that they would be able to make the modifications to the main building within a couple of years. Mr. Watts asked Mrs. Murphy if the Town Ordinance allowed for the use of this temporary structure. Mrs. Murphy stated that the PDD language states that uses incidental to the church are permissible. The Board may wish to ask the church to come back to this Board on an annual basis to renew the application. Mr. Andress stated that if there were a requirement within the Building Code to add plumbing to the modular unit, they would have to add that. Mr. Ouimet asked if the existing space in the main building that was used for the youth program would remain. Mr.

Andress stated, yes, these classrooms would be in addition to that space. Mr. Ouimet asked if the changes to the main building would take 2 years to complete? Mr. Andress stated that the applicant is trying to be conservative and give the Board a time frame that would include design, funding, and construction of the future addition to the main building. Mrs. Murphy stated that the Board might wish to review the site in a year and decide if it is working. Mr. Andress stated that the applicant would abide by whatever the Board asked them to do.

This item was tabled and referred to CHA for review to include parking spaces, water supply and other related matters. Mrs. Murphy asked the applicant to review the handicap parking on the site as the Planning staff felt this needed further review.

13.028 NB The Lofrumento Agency-Allstate, 1859 Route 9 (Stewart's) – Sign

Mr. Mark Rizzo, of Marshall Sign Co., stated the following: He is here tonight to replace a couple of the faces on the pylon sign and the wall sign that is currently there with new faces. Mr. Roberts stated that he had reviewed the application and it all meets the requirements of the Town Code.

Mr. Roberts made a motion to approve the sign application for The Lofrumento Agency-Allstate. Mr. Higgins seconded. Motion carried.

13.029 NB William Monast, 131 Vosburgh Road – Special Use Permit (Duplex)

Mr. William Monast, the applicant, stated the following: I own the property at 131 Vosburgh Road. I guess in order to have a legal in-law apartment with a kitchen, it has to be zoned as 2-family residence. So, my wife and I are proposing to construct our house and have a legal in-law apartment. I provided the Board with maps showing the land and also what the house would look like. The proposed home would not look like a duplex, it would look more like a single-family residences. I also have talked to two of my neighbors and have provided letters to the Board from my neighbors saying that they were okay with our plan and what we are proposing to do with our property. I understand that when Pipino subdivided the property that there were some issues with neighbors with respect to duplexes going in on the front two lots, which have already been done and that's why I took the liberty to talk to two of my neighbors, but I was unable to get in touch with one of the neighbors. I didn't bother with the neighbor Mike in the front with the two duplexes because he knows me and I'm sure he's fine with it too seeing that he owns two duplexes in the front. Mr. Watts stated the following: Yes, the ordinance was changed by the Town Board to require a Special Use Permit so that it gives the public an option to come to the Planning Board and ask questions. So, that's the process that we're in the middle of now. Is this proposal on what was the Pipino property? Mr. Monast stated yes, this is actually Lot #3 of the Pipino subdivision. Mr. Watts asked was this originally going to be a single-family home? Mr. Monast stated the following: Yes, but there was some confusion there. When I first talked to Ms. Zepko from the Planning Department, she was under the impression that it was zoned for a duplex and then after I got into asking more and more questions to her about it and with the grandfather clause, as she was calling it, she looked back into the documents and found out that it was originally zoned for single-family. This is why I'm here tonight because she told me in order for me to legally have an in-law apartment with a kitchen, it would have to be zoned two-family. Mr. Watts asked Mrs. Murphy if that was correct. Mrs. Murphy stated yes. Mr. Nadeau asked is this the house that Pipino said he was going to live in forever? Mr. Monast stated Lot #3 is the back lot that I purchased and it's my understanding that Pipino bought the land and subdivided it. Mr. Nadeau stated I think one lot was going to be for himself and then he was going to live there. Mr. Monast stated yes, the lot in the rear is the lot that Pipino was going to build his home on, but something

happened and he ended up selling all 3 lots. Mr. Higgins stated it shows city water and asked if there were going to be septic in the back? Mr. Monast stated the following: Yes, it is city water. Right now there is a possibility that it will be septic, but my understanding is that they're extending the public sewer system. I just don't know when they're planning to do that. Mr. Higgins asked are you going to wait for the sewer system to build? Mr. Monast stated that depends on when it will be coming in. Mr. Bianchino stated initially as part of a public benefit of a Planned Development District (PDD) there was an extension of the sewer proposed on the east end of Vosburgh Road, right at the bend, and it was going to go far enough west to pick up just the low lying houses, and I now I think it would extend a little further up the hill, but it doesn't go this far. Mr. Watts stated the following: So, what we had approved before was septic for this site. If this proposal gets approved and as you get further down the process, you'll want to make sure where you're at. Mr. Monast stated I know it has already been approved for septic and there has already been a perk test done. Mr. Watts stated the following: Before you spend the money and if something is coming, but it doesn't sound like sewer is coming. I'm sure the Town will try to help you with that. Mr. Higgins asked as a duplex, is he required to have 2 separate septic systems? Mr. Nadeau stated that was going to be my question because we approved it as a single-family lot and now with the duplex, would that lot be strong enough? Mr. Bianchino stated I believe the duplexes in the front were proposed to have a single septic system. Mr. Monast stated the following: That is correct. They do. Mr. Watts stated the Town's Building Department would get involved with that. Mr. Monast stated the following: But as part of that, I am looking at possibly having 2 separate systems. So, I might do another test pit in the back part of the lot and see if it's feasible for septic back there. Mr. Ouimet stated the following: Do we need to refer this to CHA to take a lot at the engineering here? Because the engineering that we approved in the original subdivision was for a single-family and now the game has changed. There was a lot of public comment when the original Pipino proposal came through dealing with the ability of the property, the back lot specifically, to deal with the adjacent wetlands and to make sure that there was no contamination on the sewer system because it sits higher than the adjacent properties. Mr. Watts asked Mr. Bianchino if those issues were resolved. Mr. Bianchino stated they were, but could I get a copy of the map before the public hearing so I can look at it in lieu of referring it? Mr. Ouimet stated there really isn't enough in the proposal because we don't know where they're proposing the septic system to actually be sited or the well because none of that is here. Mr. Monast stated there is public water, there is no well and I believe the septic is proposed on that map. Mr. Bianchino stated and it's in the area where it was originally proposed on the original Pipino subdivision. Mr. Monast stated the following: Yes. This was VanGuilder's drawing originally and my architect took it and put our house on here. The septic was just to the left of the circular driveway. Mr. Higgins stated that will need to be shown and if there are any wells on the adjoining properties, that will also need to be shown with the approximate distances. Mr. Monast stated okay, I know one adjoining property has a well, but they also have public water. Mr. Higgins stated but if the well is still utilized, we have to take that into consideration.

Mr. Berkowitz made a motion to set a public hearing for the March 25, 2013 Planning Board meeting. CHA will review the proposed septic system and the applicant will provide the Planning Department with revised plans indicating the proposed septic system. Mr. Ruchlicki seconded. Motion carried.

Old Business:**12.076 OB****Anna's Place Residential Subdivision, 95 Werner Road – Major Subdivision**

Mr. Roberts recused himself from this item. Mr. Jason Dell, of Lansing Engineering, stated the following: I'm here tonight on behalf of the applicant Mr. Bruce Tanski. The project is located on 19.22-acres on Werner Road. The proposal is to create 27 single family lots located in the A-R (Agricultural-Residential) zone. Access to the project will be off of Werner Road as well as a connection to Kelly Lane. Municipal water will connect from Werner Road and County Sewer will be provided via a gravity sewer that will connect down to the south. Stormwater will be managed on site. Plans have been submitted to CHA and their technical comments have been addressed. Concern from the Public Meeting involved the site distance with the location of the access off of Werner Road. Creighton Manning has provided additional analysis and CHA has agreed that mitigation for this should include intersection-warning signs. Mark Nadolny of Creighton Manning is here tonight to present that. Mr. Nadolny stated that one of the comments received was the timing of the original analysis and that there may have been inclement weather at that time that could have swayed the results. Upon review of the data, any weather did not seem to affect the speed on Werner Road that people were traveling. We have also developed a plan for the placement of the intersection warning signs. Mr. Nadolny showed the Board the placement of the warning signs on a map on both the north and south bound sides of Werner Road. The goal is to install the additional signage, relocate some existing signs, and to avoid sign clutter. Mr. Jason Dell stated that with that, they are here tonight to ask the Board for consideration of preliminary approval. Mr. Nadeau asked if there had been anything done to address the concern of the resident that was worried about the traffic lights shining into their house. Mr. Tanski stated that he had his surveyor place a marker where the entrance would be. Mr. Bianchino and Mr. Polak visited the location. Mr. Polak stated that he was at the site and while it is not an ideal location for the entrance to the subdivision, it does work. He hopes to possibly lower the speed limit on Werner Road to 30 MPH. Mr. Bruce Tanski, the applicant, stated the following: He is willing to place arborvitaes on the property to mitigate lights if it becomes a problem, but he does not feel that it will be. Mr. Nadolny stated that they also reviewed the accident report from DMV for Werner Road and there were three between April 2009 and April 2012. Two of them were on the entrance to Cold Springs Drive and one was at the intersection with Cemetery Road. Mr. Watts stated that Mr. Bianchino was mentioned several times regarding the remaining comments for engineering review from CHA. Mr. Bianchino stated that the remaining comments had been addressed regarding stormwater. The only outstanding comments had been those that involved the need for the intersection warning signs as a result of the review of the traffic study. Mr. Watts asked if the traffic concerns have been addressed. Mr. Bianchino stated yes, traffic engineers from CHA reviewed the study and are satisfied. Mr. Ouimet stated that he was happy that the applicant and his engineers listened to the public and that the project had been reduced in size for the original proposal of 165 apartments to 27 single family lots. He stated that he believes that both the applicant and the Town's engineers had adequately addressed the site distance issue. He understands that the neighbors would rather not see any development in that area, but he feels Mr. Tanski has now presented a reasonable development after a series of public hearings and reviews by this Board concerning the density of this project. Mr. Ouimet also stated that he feels that the placement of the signage will effectively mitigate the concern of the site distance. Mr. Watts stated that a public hearing was held and those issues have been adequately addressed. There are rights of property owners to develop property provided that safety and health concerns have been reviewed and the project meets the zoning ordinance. Mr. Higgins stated that he visited the site twice and backed his car in to where

the entrance to the site will be. He had, and still does, have some concerns as far as the site distance up the hill on Werner Rd. He agrees, however, with what Mr. Ouimet and Mr. Watts have stated, that the 27 single-family homes that the project is now proposing is reasonable.

Mr. Ouimet made a motion to grant preliminary approval for Anna's Place Residential Major Subdivision. The applicant proposed planting arborvitae to shield the house directly across the street from the Werner Road entrance to Anna's Place. Mr. Ruchlicki seconded. Motion carried.

12.101 OB Chauvin LLC Subdivision, Farm to Market Road & Smith Road – Major Subdivision/GEIS

Mr. Duane Rabideau, of Gilbert VanGuilder Land Surveyor, PLLC, stated the following: I'm here tonight representing Chauvin LLC for a continuation of the concept plan for a 13-lot subdivision on Farm to Market Road and Smith Road. There were several comments that the Board had and CHA gave us a comment letter and I believe we have addressed all of Mr. Bianchino's comments and this latest drawing represents that. Mr. Ouimet stated the following: Could you tell me exactly how you addressed the Board's comments? What did you relocate, if anything? What didn't you relocate that we asked you to relocate, if anything? Mr. Rabideau stated we addressed Mr. Bianchino's technical questions and questions from his comment letter. Mr. Ouimet asked Mr. Bianchino if the applicant had addressed any of CHA's comments? Mr. Bianchino stated the following: The biggest comment that we had was that the development doesn't comply with the GEIS. The intent of the GEIS Statement of Findings is to discourage this type of development along existing roadways. The lots fronting on existing roads should not be permitted in major subdivisions with an internal street system and that minor subdivisions along existing roads should be limited. While neither reflects exactly the circumstance of the proposed subdivision, the intent is to maintain the integrity of the existing road network both visually and operationally. We may want to investigate the feasibility of a cluster-type development that could be concentrated behind the existing vegetation along the southwest end of the parcel. We are concerned with the development of the long private drives serving up to 8 single-family residential homes. It does not appear as though the design incorporates typical residential services, such as mail service, deliveries, school bus pick-up, garbage pick-up, etc. The design does not provide an adequate turn-around for vehicles at the end of the private drive. Some of these concerns may be resolved by connecting the two dead end drives, to create a thru connection that does not require vehicles to turn around. Mr. Ouimet stated and we had those same concerns if I remember correctly. Mr. Higgins stated the following: I expressed serious concerns with this and I was on the GEIS committee for 2-years and we came up with what we felt were reasonable requirements. This proposal does not fulfill a majority of those requirements. We talked about shared driveways rather than Town roads. There were a number of items that were discussed at the previous meeting that apparently were not taken into consideration by the applicant. Mr. Rabideau stated the following: our applicant did talk with the Town and their preference is this layout. They did not want a cluster development of any sort. Mr. Watts stated you're talking to the Planning Board and this is the process, you submitted your plan and we're making a decision. Mr. Rabideau stated I understand that, but this is what other segments of Town prefer. Mr. Watts stated the following: This is public forum and that is how our meetings are held. You've heard what we said. Mr. Rabideau stated the following: Right. How does this not follow the GEIS? Mr. Higgins stated the GEIS calls for 20% quality greenspace; it talks about preserving the roadsides and put the houses back away from the roadside so that you have the quality greenspace. Mr. Rabideau stated which we have. Mr. Ouimet stated the following: I think it as matter of opinion. You think you have it, we don't think you have it. So, what do you want to do now? Do you want to take the proposal

back and rework it? Do you want us to set a public hearing and you take whatever happens as a result of that public hearing? Mr. Rabideau stated yes, I would like a public hearing. Mr. Ouimet asked and you don't want take an opportunity to rework any of these issues that we brought to your attention from before. Mr. Rabideau stated the following: We've looked at this very extensively. They're not creating a public road; we have more than the GEIS with a strip along here. We have substantial good quality greenspace and because of the wetland constraints here and if we were to put a road through here, then you have issues of trying to meet the 60 FT right-of-way, a 50 FT setback and basically that doesn't work. So, we came up with this idea of minimizing curb cuts to meet all the standards and it fits with the terrain. Mr. Higgins stated maybe you're trying to put too much on that site. Mr. Ouimet stated the following: It's your option Mr. Rabideau. You could take it back and try to rework it and talk to your clients to see if they want to change things around. You know what we feel about it and I don't like the layout. So, you have six other Board members to convince that the layout is appropriate. I don't hear a lot of that, but maybe you can. If you want a public hearing, I will make a motion to set a public hearing for our next meeting and you can convince the public that this is an appropriate project. Mr. Rabideau stated that's not going to happen, but yes, absolutely. Mrs. Murphy stated the following: The applicant is entitled to his public hearing if he wants it. Typically an engineer would go back to the applicant and say that the Planning Board has some very real concerns before asking for the public hearing, but that's his purview. Mr. Rabideau stated we've looked at this very extensively and we're extremely limited on our options. Mr. Watts stated exactly, which is what the Planning Board has said. Mr. Rabideau stated we feel this plan works. Mr. Watts stated the following: There are some pieces of property in Town that work. Then there are others that are sort of/maybe, and there are others where it doesn't work. As a Planning Board we have looked at this proposal and we've said it doesn't work. So now we're going to schedule a public hearing and there is a certain amount of expense with that. The public will come in, they can review our minutes and read what we've said, read what the statements were tonight and they can come in for the public hearing if they so desire and say what they want. That's how it works and we'll listen. Mr. Higgins stated the following: If we're going to schedule a public hearing; because of the way that the geography is set up, I recommend that we go for an extended list of people being notified because the applicant actually owns the property directly across from this and if we're looking at adjacent property owners, you're only going to have about 3 people that are going to be notified. Mr. Watts stated okay and the Planning staff will take a look at that. Mr. Higgins stated the neighbors on Farm to Market, on Cary Road and up on Smith Road are the people who are going to be directly affected by this in the new development should all be notified.

Mr. Ouimet made a motion to set a public hearing for the March 25, 2013 Planning Board meeting. Mr. Higgins seconded. Motion carried.

This item was tabled for the Planning Board to discuss the applicant's failure to address several issues raised by both the Board and CHA. Understanding those matters, the applicant's representative requested a public hearing to be scheduled.

Note: On March 12, 2013, Mr. Chauvin requested that the public hearing be canceled.

Mr. Ruchlicki made a motion to adjourn the March 11, 2013 Planning Board Meeting at 8:30 pm. Mr. Berkowitz seconded. Motion carried.

Respectfully submitted,
Milly Pascuzzi
Planning Board Secretary