

Town of Halfmoon Planning Board

September 11, 2006 Minutes

Those present at the September 11, 2006 Planning Board meeting were:

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

Alternate

Planning Board Members: Jerry Leonard

Senior Planner: Jeff Williams
Planner: Lindsay Zepko

Town Attorney: Lyn Murphy

Town Board Liaisons: Mindy Wormuth
Walt Polak

CHA Representative: Mike Bianchino

Mr. Watts opened the September 11, 2006 Planning Board Meeting at 7:00 pm. Mr. Watts asked the Planning Board Members if they have reviewed the August 28, 2006 Planning Board Minutes. Mr. Roberts made a motion to approve the August 28, 2006 Planning Board Minutes. Mr. Ouimet seconded. Motion carried. Mr. Watts abstained due to his absence from the August 28, 2006 Planning Board Meeting.

Public Hearing:

06.207 PH Fairview Lane (Summit Hills), Lots 23 & 25 – Lot Line Adjustment

Mr. Watts opened the Public Hearing at 7:01 pm. Mr. Watts asked if anyone would like to have the Public notice read. No one responded. *Mr. Duane Rabideau, of Gilbert VanGuilder and Associates, stated the following:* He is representing Belmonte Builders in their request for lot line adjustments between Lot #23 and Lot #25 Fairview Lane in the Summit Hills Subdivision. The applicant wishes to convey a 5 FT strip of Lot #25 to Lot #23 to increase the side yard for a side load garage. Mr. Watts asked if anyone from the Public wished to speak. No one responded. Mr. Watts closed the Public Hearing at 7:03 pm.

Mr. Nadeau made a motion to approve the lot line adjustment for Lots 23 & 25 Fairview Lane located in Summit Hills. Mr. Higgins seconded. Motion carried

Old Business:**06.102 OB Lawrence Circle Commercial Site Plan, Lawrence Circle – Commercial Site Plan**

Mr. Warren Longacker, of Lansing Engineering, is before the Board to present the preliminary plan for the Lawrence Circle Commercial Site Plan. *Mr. Longacker stated the following:* The parcel under consideration is located entirely within a loop created by Lawrence Circle, and the north side of NYS Route 146 and Old Route 146. The parcel is located approximately 1,500 FT east of the intersection of Route 9 and Route 146. The parcel is currently 3 separate parcels totaling 1.54-acres. Two of the parcels have existing residences and 1 parcel is currently vacant. The applicant proposes to construct a 2,000 SF Dunkin Donuts drive-thru and an 8,000 SF retail site. Access to the site would be on the western side of Lawrence Circle. By request from the Board and the Saratoga County Planning Board the eastern light has been removed to improve access to Lawrence Circle, which is 14.5 FT wide, to meet Town standards. Two lanes would be provided; one for cars to queue at the drive-thru and an outer loop for cars to utilize the site. This site is within the Town's consolidated water district Zone #2 and is serviced by the Saratoga County Sewer District. Topography of the site flows from the northeast to the southwest and this has been utilized for the proposed storm water management facility with an infiltration basin located along the southern portion of the site. Mr. Berkowitz asked the width of Lawrence Circle. Mr. Longacker stated that Lawrence Circle is between 12.5 FT to 15 FT. Mr. Berkowitz asked what the Town's specifications were for a Town roadway. Mr. Longacker stated he believes the Town's standards are between 12 FT to 15 FT wide. Mr. Bianchino stated the standards were 14 FT with two 2 FT wings. Mr. Berkowitz asked what would prevent people going west on Route 146 to take the first right hand turn on to Lawrence Circle and loop around the entire circle. Mr. Longacker stated if the one access was eliminated then the cars would have to utilize the traffic signal. Mr. Berkowitz stated that most cars would loop around the circle to bypass the traffic signal by accessing the site through the substandard road at the first entrance through the residential area in the early morning hours. Mr. Longacker stated they would review this to see what improvements could be made to Lawrence Circle. Mr. Watts asked how many residences there are along Lawrence Circle. Mr. Longacker stated there are 6 to 8 homes. Mr. Higgins stated there would be safety concerns with the volume of traffic that would be going around Lawrence Circle. Mr. Higgins asked what type of retail businesses would be located in the proposed 8,000 SF retail space. Mr. Longacker stated they did not know at this time. Mr. Higgins stated that the Board has concerns regarding traffic and access to this site and the NYSDOT has also commented on traffic concerns with this project and with the future project of Mr. Tanski's that is across from this site. Mr. Berkowitz asked if a study was performed with school buses. Mr. Longacker stated the study was done over the AM peak hour for a 2-hour period and he does not believe there were any school buses in this count. Mr. Higgins asked if the existing vegetation along the front of the site would remain. Mr. Longacker stated that some of the vegetation would be removed in the storm water basin area but the rest of the vegetation would remain. Mr. Ruchlicki asked if the treed area was located in the Town's right-of-way. Mr. Longacker stated some were located on the site and some are located in the Town's right-of-way. *Mr. Watts stated the following:* The Board is concerned with the unknown tenants for the proposed 8,000 SF retail building because this site could have the potential to be very busy with various types of businesses. If the site were smaller it would be of less concern. Dunkin Donuts historically is a very busy operation and suffers from its own success. When the Board receives a response from the County regarding the proposed project,

there may be issues that need to be addressed before a Public Informational Meeting could be scheduled.

This item was table awaiting Saratoga County's response, as the use of Lawrence Circle is substandard.

06.190 OB Carlito's Extreme Detailing, 1428 Route 9 – Change of Tenant & Sign

Mr. Joe Lito is representing his wife Kathy Lito for Carlito's Extreme Detailing, LLC. *Mr. Lito stated the following:* They are proposing a new sign and have submitted a site plan. *Mrs. Murphy stated the following:* When the applicant was last before the Board there was some concern regarding the ability of the applicant to have car sales either new or used from this site. Since this time she has received a letter from the applicant's attorney and it has been filed with the Planning Board wherein they detailed that there will not be car sales of any type from the site. I believe this answers one of the concerns for the Board that was outstanding. I do note for the record that the sign application currently states "Auto Sales" so I would have some question with regards to that. Mr. Lito stated that they could take the "Auto Sales" out of the signage if the Board desires. Mr. Watts stated that this would make sense. Mr. Lito asked if they could put "retail sales" on the signage as they do sell other car products such as cleaning products and wheel rims. The Board suggested they could put "Auto Parts", "Auto Accessories" or "Detailing Accessories". Mr. Watts asked who owned the 2 cars that are for sale on this property. *Mr. Lito stated the following:* They were located on the landlord's property and the landlord stated that he has been selling cars from this property for some time. The letter that they sent to the Board from his attorney stated they would not display any vehicles for sale and his landlord has their lease agreement stating what operations would be performed from this site. Mr. Higgins asked if they would be leasing the entire piece of property. Mr. Lito stated that they were just leasing the garage portion not the entire property. Mr. Higgins asked who would have the piece of asphalt that Mr. Watt's is referring to which is adjacent to the garage. Mr. Lito stated this area would be used for customer parking for their detailing. Mr. Berkowitz asked if the landlord would still operate his current business while they operate their business. Mr. Lito stated the landlord did not operate a business from this site but he does live in the residence on the property. Mr. Higgins asked if the landlord would remain living in the home. Mr. Lito stated yes. Mr. Ouimet asked if there was anything written in the lease that the landlord would cease selling cars from this site. Mrs. Lito stated they did not because they wanted to see if the Board would approve this project first. Mr. Lito stated the agreement was if they received an approval from this Board then the landlord would not be selling cars from this site because he would be leasing a portion of the property to them. Mr. Roberts stated this statement is not directed toward the applicant, but the Board has heard these stories before and they have to make certain that this does not happen. Mrs. Murphy stated this then becomes an enforcement issue because the approval of this application would be conditioned on the applicant not having cars for sale and if they do have cars for sale then code enforcement could enforce that condition by stopping their use. Mr. Berkowitz stated the number of parking spaces and the size of each parking space would need to be shown on the site plan. *Mrs. Murphy stated the following:* The Town's zoning regulations require that everything be detailed on the site plan as code enforcement would have no ability to enforce parking restriction if there are no detailed plans showing that the approval mandated that cars be parked in a certain location. Mrs. Murphy stated if the Board approves this site plan it would be conditioned on no car sales regardless of who is selling them. Mr. Watts stated the sign should be worded as Carlito's Extreme Detailing & Accessories. Mr. Lito agreed. The sign dimensions would be 4 FT x 6 FT and 8 FT high, 2-sided and flood lit.

Mr. Roberts made a motion to approve the change of tenant and sign applications for Carlito's Extreme Detailing contingent upon no vehicle sales from this site, site plan is to show parking with the number of parking spaces and the sign will not be located in the Route 9 NYS right-of-way. Mr. Nadeau seconded. Motion carried.

06.210 OB Halfmoon Jewelers.com, 1686 Route 9 – Commercial Site Plan

Mr. Duane Rabideau, of Gilbert VanGuilder and Associates, is representing Mr. Art Curto for Halfmoon Jewelers.com. *Mr. Rabideau stated the following:* Mr. Curto wishes to set up an internet jewelry business in an existing single-family residence located at 1686 Route 9. The business is a very low intensity use business. Mr. Curto would run the business part-time and he would have 1 part-time webmaster and 1 part-time assistant. People would come to the site on an appointment basis only. Most of the sales would occur over the internet but on higher priced items the people would come to the site and view the jewelry that is being designed. There would be 5 parking spaces with 1 handicap space. There is public water and sewer available. There is an existing curb cut at the site. Mr. Nadeau asked where the driveway was located. Mr. Rabideau stated there are asphalt pavers just south of the guardrail. Mr. Watts asked if they had a curb cut permit. *Mr. Rabideau stated the following:* There is an existing curb cut but he did not know if it requires a revision from the NYSDOT. They are going under the assumption that the curb cut already exists for the residence and they are not sure if they need a modification for the NYSDOT. Mr. Bianchino asked the width of the curb cut. Mr. Rabideau stated 25 FT. Mr. Bianchino stated that the 25 FT curb cut might not meet NYSDOT standards. Mr. Rabideau stated there is room to make modifications to this curb cut to make it larger. Mr. Watts stated if they are required to get a NYSDOT curb cut permit, I don't want to have cars going in and out of the site off of Route 9, which is very busy, if it is not appropriate from a safety issue.

This item was tabled and referred to CHA.

New Business:

06.211 NB Ladyfingers - a boutique, 1410B Route 9 (Garden Gate Plaza) – Change of Tenant & Sign

Ms. Donna Connelly, the applicant, stated the following: She is before the Board for a change of tenant and sign application. The site was previously a retail sporting good store. The proposed business would be boutique sales including clothing, accessories and home décor. The proposed sign would be added on Garden Gate Plaza's freestanding directory sign at the front of the plaza. The sign size would be 2.16 SF, 2-sided and flood lit. There is no other signage proposed at this time other than lettering on the door. There would be no reconstruction or remodeling of the existing space.

Mr. Roberts made a motion to approve the change of tenant and sign applications for Ladyfingers-a boutique as presented. Mr. Nadeau seconded. Motion carried.

06.212 NB Schuyler Hollow Subdivision, Pruyn Hill Road – Major Subdivision/GEIS

Mr. Lynn Sipperly, of L. Sipperly & Associates, is representing Mr. Dennis Deeb, a partner in CAL Real Estates Assets LLP. *Mr. Sipperly stated the following:* They are proposing a 112-lot single-family subdivision. The property is located on the south side of Pruyn Hill Road opposite the intersection of Johnson Road. The parcel is approximately 179-acres. The property was formerly a farm. Currently the landowner is the Johnson Estate Trust and Mr. Deeb has a purchase contract on the property. The property has a varied topography with a meadow field, some steep slopes and ravines. The property has 1,250 FT of frontage on Pruyn Hill Road.

Public water and sewer are available to this site. Boundary and topo surveys have been performed along with wetland delineations conducted for this site plan. They have commenced a Phase I archeological survey to see if the site has any cultural importance. A traffic study has also been performed. The proposal is to develop the property for 112 residential lots for single-family homes. Each lot would have the 20,000 SF minimum size requirements and each lot would have the 100 FT minimum frontage at the front building setback line. We are proposing 5 new streets: Schuyler Blvd., Bennington Way, Hudson Court, Green Mountain Way and a stub street to an undeveloped parcel of land for a future connection at a later date. They are proposing an entrance road (Schuyler Blvd.) off of Pruyn Hill Road and the first 500 FT of this roadway would be a proposed boulevard entrance which would be 24 FT wide on each side and capable of handling two-way traffic should one side of the roadway be blocked for any reason. At Schuyler Blvd. and Bennington Way there would be two cul-de-sac streets, which would service the easterly side of the property. They proposed to extend the sanitary sewer westerly along Pruyn Hill Road that would service the full subdivision with the exception of Green Mountain Way, which would have gravity service. They are proposing a series of detention basins that would discharge into an existing stream system. They originally proposed a Planned Development District for this project and have since withdrawn the PDD application and are now proposing a conventional subdivision. The existing Johnson Farm entrance shown would be best suited for the subdivision's entrance due to site distance along Pruyn Hill Road. They are proposing a paved asphalt trail system that would be 10 FT wide. They are proposing to construct an emergency access/entrance to this development along a portion of the trail system that would be 16 FT to 18 FT in width. There would be a barricade on both ends so that it would not be available to vehicles but for emergency vehicles only. This area would be plowed in the winter. They are proposing 90-acres of open space which would be 55% percent of the parcel. They are also proposing a Homeowner's Association (HOA) established as part of the subdivision with passive maintenance of the open space. One of the impacts to this project would be an increase in traffic on Pruyn Hill Road. They estimate approximate 117 trips in the PM peak hour and 78 trips in the AM peak hour. They estimate the build out of this project to be around 4 to 5 years. This subdivision would be located in the Mechanicville School District and they estimate at full build out approximately 135 new school aged children. We believe the Mechanicville School District has the capacity to accept the new students at 25 to 30 new students per year. We met with the Mechanicville School Superintendent when the project was proposed as a PDD and we planned to meet with the Superintendent again with the new project proposal and the new student projection. Mr. Deeb stated he is looking forward with the trail system and it should build out to be a wonderful community. Mr. Watts and members of the Board stated that the project narrative was excellent and very well done. Mr. Ruchlicki asked for a further description of the ravine that is located in the open space. Mr. Sipperly stated that the numbers on the plans represent the wetlands and wetland boundaries in the ravine area. Mr. Ruchlicki asked if they were aware of any classification on any of the streams that run through the ravines or if they empty into a classified stream. Mr. Sipperly stated he believes the streams are classified as Class "C" and they eventually discharge into the Hudson River. Mr. Nadeau stated there has been some flooding and wetland issues regarding drainage from other areas of Town that Mechanicville ends up with and feels that this project may cause the same issues. Mr. Sipperly stated they would look into these drainage issues and they would be very sensitive in not increasing the storm water runoff. Mr. Ruchlicki asked if they anticipate any problem with piping one of the detention basins down the road. Mr. Sipperly stated no, because this would prevent erosion and control the velocity of the storm water and the trail system would also act as an access road for any maintenance that the storm water system

would require. Mr. Ouimet asked who would own the undeveloped green space area. Mr. Sipperly stated that currently they are proposing this to be the HOA responsibility. Mr. Ouimet asked if it would also be the HOA responsibility to maintain the drainage pipe under the trail as well as the trail system. *Mr. Sipperly stated the following:* They are proposing that the trail system be conveyed to the Town as part of Town's trail system. The piping under the trail, discharge from the detention basins and the storm sewers would be treated as part of the Town's system. Mrs. Murphy asked if the HOA have other duties and responsibilities besides the maintenance of the green space area. Mr. Sipperly stated they would also maintain the green area in the boulevard. Mrs. Murphy stated that the Town has had issues in the past with the HOA whereby if the residents don't see a benefit directly from the HOA, they tend to fail and the Town ends up with the problem. Mr. Sipperly stated initially they proposed that the HOA be responsible for this land or the land could be turned over to a land conservancy group for stewardship and maintenance or it could be turned over to the Town. Mr. Higgins asked if they have given any thought to making the lots larger where the open space could be attached to individual lots. Mr. Sipperly stated they could do this but we haven't done this because he has seen where the lots have been cleared by some of the homeowners and control is lost when junk is accumulated in the back of the lots and he prefers that someone else other than the individual landowners control the natural green area. Mr. Higgins stated he felt that if the Town were to maintain the emergency access along the trail system they would have a difficult time plowing this in the winter because of the elevations in that area and asked if the emergency access was requested by the Town or the Town's engineer. Mr. Sipperly stated they did not get a formal request for the emergency access. Mrs. Wormuth stated one of the Town Board's comments was for the applicant to provide more than one access to this site, which the applicant has incorporated in this plan. Mrs. Murphy stated that it has not been discussed nor agreed upon who would own the trail system and emergency access. Mr. Nadeau asked if the applicant has tried to pursue any other access to this site. Mr. Sipperly stated they did look at and they considered connecting to High Street and Columbus Avenue and it was discounted because it would cause problems because of the grade and elevation. Mr. Nadeau asked if they had pursued any of Leggett Farm property that is located to the south of the proposed project. *Mr. Sipperly stated the following:* There was quite a distance between the applicant's property line and Route 146. We did not pursue this as far as contacting the landowner but we did look at it and felt that it would not be economically feasible for us to build another 1,200 to 1,500 FT street with no development opportunities. The landowner would also have to agree to this and typically the landowner would not want to do something that would jeopardize their opportunities for later development. Mr. Nadeau asked if they looked at a future access on the westerly side Pruyn Hill Road. *Mr. Sipperly stated the following:* This location would not provide real connection to anything further west of this site. They have successfully in prior projects used the boulevard concept as a way of providing comfort and assurance that should something occur that there would be 2 functioning sides of the boulevard that could carry traffic in the event an emergency occurred. The proposed 24 FT width of the boulevard would allow 2-way traffic for emergency vehicles. Mr. Nadeau asked if they did a traffic study. Mr. Sipperly stated the traffic study was performed for the original 145-lot PDD concept proposal and the traffic study is in the process of being updated for this 112-lot major subdivision application. This item was tabled and referred to CHA for review.

**06.213 NB SLR Contracting & Service Company Inc., 1471 Route 9 (Rome Plaza)
– Change of Tenant**

Mr. Daniel Shepard, the applicant, stated the following: He presently has an office in Rome Plaza and is before the Board for a change of tenant application. There are 3 employees at this location. The operation is a general contracting office where they do planning and estimating. There is no equipment or materials stored on-site at any time. *Mr. Watts stated the following:* This is one of the tenants in Rome Plaza that had not come before the Board for a change of tenant approval. The Town's Code Enforcement Department is doing research on a number of different plazas in Town whose tenants have not appeared before the Planning Board for approvals. The Town has to be aware of these tenants so Code Enforcement can perform fire inspections on a yearly basis and a number of other code inspections.

Mr. Berkowitz made a motion to approve the change of tenant application for SLR Contracting & Service Company Inc. Mr. Ruchlicki seconded. Motion carried.

**06.214 NB Landmark Square, 21, 23 & 25 Old Route 146 – Concept-Commercial
Site Plan**

Mr. Ed Esposito, of Monarch Design Group LLC, is representing Ms. Linda Kakulski for her commercial site plan application for Landmark Square. *Mr. Esposito stated the following:* The applicant wishes to renovate the Old Clifton Park Hotel and two buildings adjacent to it, located at the corner of Route 9 and Old Rte. 146. The renovation plan would cover 16,334 SF for a mixed use of office and retail space. The site had been before the Planning Board in 2000 for Phase I of the site plan where it received approval. They are proposing to land bank parking in the rear of one lot as Ms. Kakulski is proposing tenancies building by building. The future access road that is shown on the plan is to be part of a future development of the 19-acres that the applicant owns. The applicant proposes to connect to public water and sewer. Conceptually storm water will be managed at the rear of the site. There would be over 35% green space on the site. Parking will be in the rear of the site and will include 10 FT x 20 FT spaces for customers and 9 FT x 18 FT parking spaces for employees. The applicant would like to get comments from the Board before they move to the technical part of planning. Mr. Watts stated the following: We met with Ms. Kakulski and Mr. Esposito to discuss this project and he feels this proposed project would improve the appearance and would be an innovative project for this area. They would still retain the older buildings that would be renovated keeping the existing architectural standards. Mr. Nadeau stated in the previous project that was before the Board he recalls traffic stacking issues on a 1-way "in" only on Old Route 146 and asked for a review of the minutes from that Planning Board Meeting. *Mr. Esposito stated the following:* The second plan submittal shows the 19-acres of back land that in the 2000 approval had a Phase I loop road which provided the second means of egress and this application is less invasive from the back of the property. The hope is to renovate one building at time and monitor the traffic access road and review with CHA to see what minimal improvements can be made to get this application started. Since the 2000 approval, nothing was cost feasible to improve these properties for a road that was expensive and would never be used. Ms. Kakulski did involve the NYSDOT on Route 9 and that could all be revisited in the future. If we need to look at some of the content of the limited turning movements, we could do that for this application. At this time we are looking at 3 buildings and not a 20-acre PDD. If we need to monitor the egress movements, we can do this. Ms. Kakulski feels that the 84 parking spaces required would not be needed. This is why we are requesting land banking parking spaces with stipulations allowing the condition and the approval to advance so the applicant can move forward with her business plan. We will take a closer look at that road access. Mr. Watts asked

if there was an issue on the zoning of these parcels. Mrs. Murphy stated it was clarified that this was a ministerial error whereby the zoning appears to be R-1 Residential but is really C-1 Commercial. Mr. Watts further explained that apparently a mistake was made when the maps were drawn up in the zoning and this really is a C-1 Commercial zone. Mr. Nadeau stated there was an issue with traffic and stacking at the traffic signal. Mrs. Wormuth stated that it is now easier to access Route 146 from Old Route 146 since there is a traffic signal at that location. Mr. Esposito stated if there is an issue with traffic, they could have a traffic study performed by Creighton-Manning and they would like to do further development for the storm water before CHA reviews this plan. Mr. Berkowitz asked if they have taken into account the Star Plaza project with regards to traffic. *Mr. Esposito stated the following:* We have not updated any analysis with the traffic. We are aware that Star Plaza would have sidewalks and we are looking to improve the network of the building scheme to tie into what is happening at Star Plaza but we are not proposing any sidewalks because they would have the sidewalks across the street. Mr. Nadeau asked if the hotel was listed as historical. Mr. Esposito stated that Ms. Kakulski would have this information but he believes the State Historical Preservation Office has some jurisdiction for the window replacements, etc. Ms. Ellen Kennedy, Town Historian, stated the hotel is listed as historical. Mrs. Wormuth asked if all three of the buildings were listed on the historical registry or just the hotel. Ms. Kakulski stated just the hotel was listed as historical but she would like to keep the architectural of the other 2 colonial buildings historical to maintain the integrity of the site.

This item was tabled for applicant to produce engineered plans and traffic study.

06.215 NB Petuske Farm Stand, 39 Halfmoon Drive – Concept-Commercial Site Plan

Mr. Duane Rabideau, of Gilbert VanGuilder and Associates, stated the following: He is representing Rick and Michelle Petuske in their request for a commercial site plan and a positive recommendation from the Planning Board to the Zoning Board of Appeals for a non-conforming pre-existing use in a R-1 Residential zone. The applicant has expanded the farm stand over the years and there have been potential safety issues with parking along Halfmoon Drive and Harris Road. The applicant's propose 7 parking spaces. The applicant's propose to move the existing split rail fence on Halfmoon Drive back approximately 4 FT and add 3 to 4 FT of crushed stone for a 10 FT apron off of existing roadway pavement that would create 4 parking spaces. On Harris Road there are 3 parallel parking spaces and there would be enough room for the cars to exit from that location. Also, the applicants would request Saratoga County Department of Public Works to post "No Parking Here to Corner" signs at the intersection of Harris Road and Halfmoon Drive to keep the area clear at these locations. Mr. Berkowitz asked what items were sold from the farm stand. Mr. Rabideau stated fruits; vegetables, flowers and other normal farm stand type items. Mr. Berkowitz asked what was originally sold from this site. Mr. Rabideau stated fruits and vegetables. Mr. Berkowitz asked if bags of peat moss and mulch are sold at this farm stand. Mr. Rabideau stated no, but they did have bags of sweet corn that may appear to look like bags of peat moss or mulch. Mr. Higgins asked how they could propose to make improvements on County property. Mr. Rabideau stated the gravel already exists. Mr. Higgins stated the parking proposal for this site would be located in the County's right-of-way (ROW) and he does not believe this Board can approve site improvements on a County ROW where we do not have jurisdiction. Mrs. Murphy agreed the Board does not have the jurisdiction to approve this application and stated the bigger issue becomes the expansion of a pre-existing, non-conforming use. This Board does not have the authority to grant this either, nor for the continuance of a building on the County's property as it is her understanding that

the building is located in the County's ROW. It is her understanding the applicant is making application with the County with regards to the farm stand and the parking. Mr. Rabideau stated yes. Mrs. Murphy stated the following: The site was a pre-existing, non-conforming use. What the applicant's are proposing and what has happened is the applicant's have already expanded on that pre-existing, non-conforming use. This Board has to deny the applicant as presented. An area variance and a use variance would be required and this Board is not going to have the authority to correct this, as it would need to be corrected with the County. Mr. Nadeau asked when expansion was made. Mr. Rick Petuske stated they previously had a tarp up with the stand they had and when his parent's tore down and rebuilt their home, his father put up a white tarp that they use to sort food under 5 months a year and then they take the tarp down. Mr. Higgins asked if the tarp is freestanding and not attached to the farm stand. Mr. Petuske stated it is not attached. Mr. Berkowitz asked if the farm stand has had any changes made to it. Mr. Petuske stated he obtained a building permit to put a new roof on it. Mrs. Murphy asked if the footprint to the original farm stand was the same as it was or is the stand larger. *Mr. Petuske stated the following:* It is the same as it was. When he obtained a permit for the new roof, he was advised by Code Enforcement that the roof came too far out into the road so he put the roof on the back and he completed the work on the stand in the one year time period that is allowed in the permit. Mr. Watts stated he believes the applicant was told to obtain a building permit because they started construction without an approval and asked Mr. Petuske if this was correct. Mr. Petuske stated this was correct and he did not know he needed a permit to put a new roof on the stand. Mr. Watts asked if it was just a new roof or an expansion by adding a certain amount of footage on that end of the building. Mr. Petuske stated the old roof went 6 FT toward Harris Road and Code Enforcement did not like this so when he built the new part he added it onto the end. Mr. Ruchlicki asked if a sketch was provided to the Building Department when he applied for the building permit. Mr. Petuske stated yes. Mr. Ruchlicki stated he believes it was misconstrued that the material that was added to the end of the roof was an addition and if this is the case it would have been covered with the sketch that was associated with the building permit. Mr. Petuske stated yes. Mr. Watts stated he believes the sketch was submitted after the work had been done. Mr. Petuske stated he was stopped before the work was completed. Mr. Watts asked if the produce they sell comes from a farm owned by the applicant. Mr. Petuske stated yes, we own 30-acres and some of the produce is grown on their 30-acres. Mr. Watts asked where the flowers come from that they sell at this site. Mr. Petuske stated they buy them from the market. *Mr. Watts stated the following:* Some of the concerns that individuals have raised were not out of meanness or maliciousness. Their concerns were in regards to the location and how traffic can be very busy at this intersection and this traffic could be a hazard relative to parking at this site and this is why we are trying to figure out a better way to do this. *Mr. Petuske stated the following:* He has contacted the Sheriffs Office and the State Police Department and asked if there has ever been an accident caused by anyone entering or leaving our farm stand and there is nothing that was reported in the 30 years at this intersection. There was concern that when cars park at this site and people open the car door it swings into the road front. The County has already told Mr. Gil VanGuilder, of Gilbert VanGuilder and Associates, that he does not have a problem at this time with anything that has been done at this site. Mr. Berkowitz asked when they open and close the farm stand. Mr. Petuske stated they open in June and they would be closing in 5 to 6 weeks. Mr. Higgins asked if the applicant was requesting an expansion for a pre-existing, non-conforming use. Mrs. Murphy stated this is the first time she heard about this expansion being in existence - just relocated. Mr. Petuske stated that the expansion they are asking for is the sunshade. *Mrs. Murphy stated the following:* The expansion is the extension of the roof

over an area where it wasn't before and the tarp (sunshade). If the applicant's take the tarp down and show that this roof movement was in conformance with something that occurred with approval of the Building Department, then you are before the Board with a pre-existing, non-conforming use. If the tarp and the expansion of the roof have occurred without showing us that this was in some way approved, then you are looking for an expansion of a pre-existing, non-conforming use. Mrs. Petuske stated they are requesting an expansion of a pre-existing, non-conforming use and would like to be denied so they may go to the Zoning Board of Appeals. Mrs. Wormuth asked what is the next step if the Building Department has a sketch with the permit application on file and it was approved by the Building Department, right, wrong or otherwise as the Building Department did not have the authority to issue a permit because it was an expansion. Mrs. Murphy stated if the applicant's agree that they won't expand into the temporary tarp area, then the site is pre-existing, non-conforming and they are done. Mr. Petuske stated no one is allowed in the temporary tarp area. Mrs. Murphy asked if the area was always there. Mr. Petuske stated the tarp area has been there 15 to 20 years. *Mrs. Murphy stated the following:* She would like to research the issue with regards to extension of the roof and whether or not the Building Department did approve this at some point in time. These are issues that we were unaware of previously. The applicant's will still have issues with the County. At the applicants request we can research the issue whether or not you are in fact a pre-existing, non-conforming site based on this new information or the applicant's can proceed with a request for an expansion, which involves the parking, etc. Mr. Petuske stated he would like to be referred to the ZBA. *Mrs. Murphy stated the following:* She has looked at the pre-existing, non-conforming use issue but we were not aware that the Building Department issued a permit for the expansion and then saying that it wasn't an expansion. We do not know if this did or did not occur so she would be more than happy to look at this issue.

This item was tabled for the Town Attorney to review the building permit for the farm stand to determine pre-existing, non-conforming use and awaiting a response from Saratoga County.

Mr. Ruchlicki made a motion to adjourn the September 11, 2006 Planning Board Meeting at 8:57 pm. Mr. Higgins seconded. Motion carried.

Respectfully submitted,

Milly Pascuzzi
Planning Board Secretary