

Town of Stony Point
Department of Planning
74 EAST MAIN STREET
STONY POINT, NEW YORK 10980

Tel: (845) 786-2716 x 113

planning@townofstonypoint.org

Fax: (845) 786-5138

PLANNING BOARD MINUTES
April 25, 2013
RHO BUILDING at 7:00 P.M

Present:

Thomas McMenamin, Member - absent
Peter Muller, Member
Michael Puccio, Member
Gene Kraese, Member - absent
Gladys Callaghan, Member
Gerry Rogers, Member
Thomas Gubitosa, Chairman

Also Present:

Turner Miller Group, Principle Planner
By: Max Stach

Kevin T. Mulhearn, Esq.
Special Counsel

Steve Honan, Esq.
Special Counsel

Chairman: Tonight we are just going to move some things around because I know there are some people here that are here for the Public Hearing for Jessup so we are going to do the Public Hearing for Jessup Ridge West a subdivision for eight lots to twelve lots on the west side of Margarite Drive 800 feet north of Willow Grove Road, Mr. Zigler.

Jessup Ridge West – SBL 19.01-2-45.1,45.5,45.7,45.8,45.9 RR District – Amended Subdivision from eight lots to twelve lots - Sketch, Preliminary approval, located on the west side of Jessup Lane and west side of Margarite Drive, 800 feet north of Willow Grove Road

- Major subdivision

Mr. Zigler: David Zigler from Atzl, Scatassa and Zigler and I represent Jessup Ridge West and we asked for a Public Hearing because at several in formals here at the Planning Board we have people come out and where interested in what is going on with this site. It is kind of a unusual situation where the road is in the unities are in and there is really no homes so what we had done is make an application to this Board for a subdivision. When Jessup was originally approved it was septic and that requires a lot larger lot now that gravity sewers are in there by code it is allowed to have a smaller lot. So we prepared and submitted to the Board a standard layout meaning that all the criteria for a subdivision for the number of lots we were asking for which is twelve there are eight lots there now what we were dealing with we were asking for twelve that was four additional lots. The Board went out on site there was much discussion back and forth and we did average density and the average density seems to be where the Board wants to go. The average density places all the homes except for one up on top where the cul de sac is then there would be one house down below where the old entrance is going to the homestead in the back. Coming on to the site on your left were the driveway is to the existing home that would be one home one new house and the rest of homes would be up on the straight away in the back. There is no change to the drainage there will be some modification to the drainage by the applicant and that is the retention ponds are adjacent to the stream and the pond. Drainage from

the subdivision was designed to be what we call off line instead of catch basins in the road draining into the pond it actually drains into these pocket retention areas which filter the water out and it is a little bit unusual because that hasn't been done in Stony Point in usual cases you just drain into the pond and you rework the pond. In this case that could not be done because that pond and that stream is DEC controlled and any change to the banks or any change to the stream bed requires a permit. That is why during the process the drainage for this subdivision is off line so with that the applicant through me asked for a Public Hearing to see what the concerns were to the neighbors because we seem to pick up there are a lot of concerns for drainage and it might be in areas we can't help if they are in areas that we can help the applicant has done its best to solve that problem. The second thing we are going to ask the Board either make a recommendation to the Town Board for all the improvements to be accepted by the Town of Stony Point or we are going to ask for you to refer us to the Town Board so that we can get direction from the Town Board for the improvements. Right now the road and the catch basins and the drainage system in the road is slated to be given to the Town of Stony Point but that is not the retention area and the ponds which is very unusual that is not the case in Stony Point. It is the case if it is a private community like Rising Hills or something but when it usually built in the subdivision that the road is being dedicated to the Town the drainage within that subdivision would be also dedicated to the Town form maintenance by the Town so that will be our next step. The first step would be to see what the neighbors have to say and try to help or maybe we can help we just need to see what they have to say.

Chairman: Thank you Mr. Zigler now do you want to take public input first or do you have any comments?

Mr. Stach: I think it would be appropriate for the public.

Chairman: I am going to open the Public Hearing for Jessup Ridge West would you state your name and address for the record after you speak just sign in so we have a record of you and address your comments to the Board and hopefully if we can get you answers we will you might not get you answers to night but they will get your questions. I am going to open the hearing.

Mr. Honen: Just to clarify that this is an informal Public Hearing at this time there is no firm application or particular plan that is before the Board at this time it is very preliminary and more for feedback.

Susan Filgueras, 87 Mott Farm Road, SPACE Board member

Ms. Filgueras: I been coming to these meetings around 11 years now a about 11 years we have been talking this particular section call it Jessup Valley, Jessup Way, Jessup but that area of Town and for these 11 years the drainage has been an issue the roads have been an issue who own the roads have been an issue did the dig the pond correctly has been an issue who is in charge of the pond, the intake the out take the pipes. This whoever own the property needs to understand that the Town of Stony Point is will to do their job and accept roads and developments however when he built what he built that is existing now he built in problems. As a taxpayer I don't want to pay higher taxes to fix the drainage that should have been done right in the first place and we wouldn't have the problems we have now he would have been able to go ahead and develop his property, he has created his problem their problem their corporate problem and I as that this Town Board, this Planning Board do what you know is right and the builder developer and say hey these are your problems you built the way you build you have created ABC we expect it to be fixed when it is fixed we can accept the roads especially the slopes.

Chairman: I don't know if you heard Steve it is an informal Public Hearing there is no application in front of this yet we are just trying to get comments.

George Potanovic, 597 Old Gate Hill Road, Stony Point

Mr. Potanovic: I am glad I heard what Susan had to say because I will certainly go along with agreeing with her comments. One of the concerns I have I realized that utilities were brought in was it water or sewer that was brought in after the original approval so this is where we are getting the eight lots to twelve. That is area as Susan pointed out has had some sever problems and my concern is one concern is whether or not these lots if approved by the Board would be

further sub dividable or not bas on the plan as proposed. I don't know some of the details you would be considering and whether or not you would permit to make restrictions on further subdivisions. The other is as Susan point out we had some major drainage problems with that pond back there does this development drain into that same water and where the things stand currently with (inaudible) I am going back at least 20 years or more when the neighbors were being totally flooded out every time it rained because the developer had cut down trees above where the pond is and what was happing was the trees were absorbing the water so this excess amount of water that were draining into that pond and causing problems seems that there was an engineering issue there that the neighbors had to deal with also as taxpayers we have to be concerned about problems that come back to affect our roads or just residents in the Town that buy properties and don't except these things to happen so there is an extend period of distress there which I am not sure has been adequately address and I would hope that the Board in looking at an application by this developer if this is the same developer or different developer. Is this the same developer or different developer?

Mr. Stach: I don't know how much it matters but the person that put in the roads is a previous developer.

Mr. Potanovic: But same development?

Chairman: Yes.

Mr. Potanovic: So what is the new name you see it happing in Stony Point quite a bit when names change for corporate reasons and we get stuck. We get stuck with the problems because somebody tried to do a short cut and somebody changes to avoid the responsibility and pass it along to the Town or the resident who bought properties there. So I mean was this an adjacent development or whether it was the same development but in either case water does not stop at the end of the development and I would hope that the Board would look carefully at the additional impervious surfaces by dividing into four more lots you are going to be adding additional impervious surfaces is that going to be adding substantially to the water problems that already exists in the pond that we know that already had problems. I am not sure what the status is in terms of that problem but it seems to be a pretty severe one with water getting into there septic systems and all kinds of crazy things happing and I was hoping that this would not add additional problems that is my concern with that.

Chairman: Any other comments?

Don Schmoeger, 29 Jessup Lane

Mr. Schmoeger: I have been living on Jessup Lane for twenty five years I built my house up there I remember when I road was just a dirt road I worked on it. When the developer came in and black topped it put sewer put drainage in it I thought we are finally doing something. I understand about the drainage and all on these last two big storms we have the road was kept open there was no drainage to the road only problem we had was on Willow Grove Road were the brook came up over it and washed everything away so I see that. As far as I know the ponds that are there are working because I live there I see that so I don't know what the big problem is right now. But putting four more homes up above there is not really a big thing. They are going to be back up in there we need the taxes dollars and I cannot see a problem. Only thing I do see when are they going to finish the blacktopping that is there now.

Pio Anniuniato

Mr. Anniuniato: What is the smallest amount of land per house up there?

Chairman: I will get you that information.

Mr. Sheehan: The minimum lot zone is 45,000 square feet the applicant and the Planning Board are going down with average density to 25,000 square feet. The purpose of average density to answer one of you questions, the purpose of average density is you cannot subdivide the lot any further because you have a lot count. But also with average density you are going to be leaving a lot of the area undisturbed or at least vegetation at this point. That is twofold more land stays green and less land becomes impervious so you are going to get four more development with

driveways and so forth with the average density green surfaces would be much more if it stayed at the 45 or 50 thousand square foot lots.

Sisto Bragaglia, 29 Bragaglia Drive

Mr. Bragaglia: My property borders the Cull de Sac the road pretty much goes right down the side of my property it goes right into the pond overflows the pond because they took out all the trees washed out my road, the blacktop is gone on my road. Another grievance I have is the Cul de Sac, I spoke with Kevin about having it blocked off because of illegal dumping, kids parting all night roasting the tires off their cars I have gone up there on occasion cutting wood three young males they thought they were owners of my property they came at me I had to defend myself I chased them with a chainsaw. I have had issues with the DEC my well was polluted when the (inaudible) first started diesel fuel there was a strip up there I don't have the money to get lawyers to fight for me. They place filters and finally cleared itself up because the well cleans itself up eventually and also I had to clean up on occasion trash car batteries where my well is just down below, leaves trees that area has to stay blocked off because if it stays open for any long period of time I suffer then I get angry because they do not pay the taxes on my property, I do. That is my issue. The water doesn't go nowhere near Jessup Lane it stays on Bragaglia Drive to get the people on my road I had to use my backhoe on that last storm to help people out. My neighbors couldn't get in their basement for weeks because of it. Even at my brothers home at the end of Bragaglia Drive it is a river it ran right into the Minisceongo, thank you.

Anna Crispino, 3 Bragaglia Drive

Mrs. Crispino: I don't know how much I am able to say my son is working tonight he went over the blue prints photos of everything that has been happening tonight. My husband rest his soul built that house that I am living in 1975 until 2003 when they started that nonsense back there pulling out bushes pulling out trees ripping out this and that the pond became an issue that was when I started to get water I never got an ounce of water downstairs I live downstairs myself. That is why I am walking with a cane because I hurt my back I was downstairs then we had to clean floods and the road is a mess we have to go slow we have to go 2 miles an house on the road because it is getting all ripped up because of the water that is going underneath and God knows what is happening to my thing. I have to get out of here this town is terrible the taxes they want you to pay the taxes but when they have to take care of anything they don't take care of anything. I don't know what else to say hopefully my son will be here but my son works for the FAA and he has to take any amount of overtime he can take.

Ms. Filgueras: Tom could you please get Mr. Zigler to explain the stream and the DEC and the pond.

Chairman: Soon as we get done with the Public Hearing we will go over some stuff.

Wayne Ellis, 7 Jessup Lane

Mr. Ellis: My biggest concern is that Jessup Lane is a private road and therefore very narrow. I am very concern about the added traffic we have two young kids the street is basically part of our front yard our house is 15 feet from the road if that you trip and you are in the street any additional traffic is going to be a problem. I don't have to deal with what the folks on Bragaglia have to deal with - with the water and such but I can't imagine what it is concerning what happen to that dam at the end of the lake and I don't know who is going to fix that but it should be addressed my biggest concern is traffic and where are they going to put the houses because the last time we had this meeting it went from 6 to 8 and it looked like they were building in the drainage ditches then so now where are they going to put the other four houses? I just want them to finish the project and get the drainage dealt with and make it a nice street to live on opposed to kind of nasty as it is right now.

Robert Pezzullo, 17 Jessup Lane

Mr. Pezzullo: I am trying to figure out why they are trying to cut the lots again? Was there an explanation given for that?

Chairman: Think Bill said we went to average density at one time they didn't have sewers they were going with the septic.

Mr. Sheehan: The original subdivision was approved with septic on larger lots.

Mr. Pezzullo: Is it the same builder or a new one?

Mr. Sheehan: The original subdivided sold the property years ago and to my knowledge the builder came in put the improvements in roads, drainage so forth who owns it today who is part of the subdivision I can't tell you.

Mr. Pezzullo: So we don't know if it has been sold again.

Mr. Sheehan: I am not aware of any corporate – the corporation you sell the stock whatever.

Mr. Pezzullo: So who was the company who made this request?

Mr. Sheehan: I would be on the application.

Chairman: Adair Corporation, Alex Goldberger.

Mr. Sheehan: He is the second owner he put the infrastructure in.

Mr. Pezzullo: All the concerns I have they have been voiced about the traffic on the lane and the builder himself who kind of made a mess as he went along and left garbage and things strewn about. My last concern is personal because cutting the lots will reduce the value of my house those are really my only points.

Audience: The ponds are owned by DEC?

Chairman: The ponds are monitored by the DEC.

Audience: Before all this the gentleman who used to own property Mr. Widerker.

Mrs. Crispino: He was in that pond every month cleaning it out I remember like it was yesterday.

Audience: He would also grade it.

Mrs. Crispino: Seventy five years old that man went under water fire department could not loosen it but he did.

Audience: He would drain the bottom and have it cleaned out I am sure there is a ton of silt over years built over there.

Mrs. Crispino: That is why it is not coming through our stream.

Chairman: Thank you that is why we are having the input tonight any other input.

Mr. Potanovic: Are you keeping the Public Hearing open?

Mr. Stach: This was informal Public Hearing there will be the applications Public Hearing as the application progress if it progresses. This was informal to allow data gathering. So this Public Hearing will be closed but there will be additional opportunities in the future for the public to speak and there will be legal notices mailed prior to that Public Hearing.

Mr. Potanovic: Just too adjacent property owners:

Mr. Stach: I believe it is 500 feet.

Chairman: I need a motion to close Public Hearing.

MOTION: CLOSE PUBLIC HEARING

Made by Peter Muller and seconded by Gerry Rogers

Mr. Zigler: This is exactly what we wanted we wanted to hear the concerns where so they could be addressed so when we do have a Public Hearing with an application and a map on the board with the site we can address those concerns. I listen and wrote down the comments and we will address them at a later date.

Chairman: Do you have any comments before we move on.

Mr. Maher: Other than just to reiterate basically the concerns that a lot of the adjacent homeowner have in regard to the drainage. There will be an increase in runoff due to the extra houses being there that will be addressed in a new SWIPP for the project and the those detention ponds that are behind the houses that on Margarita Drive we will have to work out some (inaudible) to make them functional and acceptable to the Town or come up with some other alternative storm water management that the Town could potentially manage in the future. Right now they are inaccessible to the Town.

Mr. Stach: I have some questions for you Kevin? Do you know Mr. Bragaglia was talking about runoff that is going not into the catch basin into the cull de sac down toward the pond but is going?

Mr. Maher: It probably jumps the curb line because (inaudible) is not in place at times Mr. Bragaglia said. I went up there a few times and did find garage on the cull de sac itself at times the water did not get into the catch basins and jumped the curb and came into his property. I know for a fact now there are stones blocking the road past the driveway to the Anniuniato house so I doubt very much but I don't think anyone is getting there with a vehicle maybe on foot but not in a vehicle.

Mr. Stach: My question is something that Dave states on Part II is whether or not the catch basin is improperly sized or is it because the pavement is not finished elevation that the water is not going into the catch basin why is that not working the way it is supposed to be.

Mr. Maher: I would have to say the problem is that it is twofold. One, the pavement is not in place two, properly been some differential settlement to the pavement as well. If it is regarded maybe it will maybe they might have to add another (inaudible).

Mrs. Crispino: Comes back in my property and then Mr. Smith's property next door and that is how we get it down in the basement.

Mr. Maher: It builds up and goes over the earthen berm actually because the spill way that is there at times is blocked by vegetation. When the storm water comes in from above the spill way can't release it fast enough. Mrs. Crispino the gentleman the gentleman who lives here.

Mrs. Crispino: Mr. Smith.

Mr. Maher: In that area you can see that there is a depressed area that always collects water. If you look at DEC and EPA when they talk about dams they say keep vegetation off the dams because the root structures actually create voids in embankment creates weak spots. So it could be that earthen berm is settled in that area the water does brooch that it goes over into Mr. Smith's back yard and Crispino back yard. The culverts that used to be in the driveway that goes up to the Anniuniato house those two pipes have collapsed completely. They are gone they are old pipes that have rusted out and they have collapsed and now we have a restriction in flow coming out of that structure. You have a concrete spillway and you have a pair of culvert pipes That the old driveway used to go over they are now collapsed they are now gone. So you have basically two 36 or 30 inch CMP pipe that are basically worthless equivalent to the 12 inch pipe so if you get a hard enough storm it is not going to get out of the dam fast enough it is going to come right over. I am guessing that those pipes rusted and collapsed they were probably done in the 50's or 60's they are totally gone now and without them they are potentially blocking the downstream not your typical thunder storm I am talking another Irene.

Mr. Stach: Dave you are aware of all these issues drainage issues?

Mr. Zigler: I have one question Bragaglia Drive the third house in on the right would be Smith?

Mrs. Crispino: Smith is right next to me I am I am the red brick house I am Crispino.

Mr. Zigler: So it is the third house in yes I got it.

Chairman: Does the Board have any questions for Dave? So what do you do now Dave?

Mr. Zigler: Well I will give you some answers but I might have to get some direction on the system itself so we will ask the Board either to forward us to the Town Board without a recommendation or forward to the Town Board with a recommendation. We will go to the Town Board and see if we make these improvements to the existing pond and make these improvements to the off laying ponds and fix the road and do these problems at least what we can solve on our side and hopefully mitigate some of the problems downstream from us and finish the road it sounds like it solves two or three problems right there. If we do that will the Town take these improvements over? We would like to have that answer from the Town Board so we can proceed with this application.

Mr. Zigler: I don't know that I am (inaudible) the only thing that I would caution is that if the Town does take these over they need to meet all the standards I understand that that dam is in shabby shape I would imagine that that would have to pass DEC inspection and it should be improved to the Town Engineer standard before the Town takes it. I would imagine that all the infra structure be at that standard before the Town takes it but it is up to the Town Board if they want to assume the liability for this. It might be helpful to call the County to see what needs to be repaired when you go to the Town Board and show them how it is going to be improved.

Mr. Honen: That information would also be given to this Board too so this board can give a recommendation to suggest to the Town Board to please take over these items they upgraded or that the Board does not want to do that. The Board should within itself and take a vote on it and then figure out how it is going to present it to the Town Board.

Mr. Stach: It seems that there is a laundry list of things that need to be fixed some of it the things we don't know if they were designed improperly and other things might have fallen into disrepair but I think between Kevin and you Dave you can come up with a laundry list and say these things are not working right and this is how we can make it.

Mr. Zigler: Basically we addressed this several months ago and the applicant said that if the Town would accept all improvements within the subdivision they would be done to the standards of Stony Point and reviewed by your engineer and approved period that leaves nothing out there period. That means even if there is something that is found out and we don't know about it, maybe the sewer has a hole in it- it is going to be fixed to the standards it is going to be tested air tested flow tested inspected, camera tested whatever you want you can't ask for more than that. It is subject to the Town Engineers approval.

Mr. Puccio: If Kevin says that it is up to par then there is no reason why we the Board can't vote on it. If Kevin says it is not up to par then we are going to have to pass it to the Town.

Mr. Zigler: There will be a bond up there will be a security up that if it doesn't meet the standards then the Town can go on and fix it just like every other subdivision. This is no different than any other subdivision the oddities is the all the improvements are in. Whether you think that they are good or not that has been the question.

Chairman: You still have to come back to us to put a new application in.

Mr. Zigler: I have to come back to you yes but we haven't even made a scratch yet until we have direction on the layout which is a good idea but we would like to have some direction on the improvements.

Mr. Sheehan: As Dave points out this is an odd situation normally what happens is you guys review the subdivision prior to being built this is an approved subdivision at least the

infrastructure is built. There are no homes on the interior property there are two homes built on the exterior property on Jessup Lane normally the Planning Board would just take it or go through the process they would offer it for dedication and we would take it and it would never even get to the Town Board. This has been a little backwards not backwards but because some members feel that maybe we shouldn't take it some we should so the applicant looks for direction. My feeling is that the Town is more able to maintain structures and drainage than homeowners you get into a homeowners association that has to maintain it which it is right now by now by the way that subdivision is approved everything in the roads in the right of way the Town is going to own. The only thing that the Town is no going to own is where the water is after it leaves the road. Now to go up stream you have Carlton Park, Carlton Meadows, Jessup Valley North all going to be dedicated roads and drainage which go into this pond. So we are talking about liability going into this pond we already have three subdivisions going into this pond two have already gone in that are being constructed right now. If they are all contributing to the water in that pond my deal is that the Town should maintain it and at this point we have the opportunity if we don't take it they can go in there and build eight lots today walk away and there is nothing we could say. That pond is the same way it is because they are not going to dedicate it to the Town so we have no say so I think it is a good opportunity before dedication of the infrastructure that the roads, drainage, sewers and ponds everything else if the engineer doesn't sign off on it and doesn't release the bonds it is up to the Town specs. Now everyone knows this subdivision is being built the last five or six years it is like a old vacant building it sits around it gets bad because nothing is being done like this subdivision those roads have been in there four years five years so it is like an old vacant house it is just going to rot away so we have an opportunity or a chance to at least get it (inaudible) to the Town because most of our stuff is going into it already and maintained it. Does the highway department want it of course not he is short staffed why would he want any more roads or drainage nobody does but that is what the Town does. Let's talk about not taking dedication from the subdivisions above ok how about all the homeowners up there thinking there roads are being dedicated all of a sudden the Town is going to say we don't want the roads any more (inaudible) now what happens? I think it is a shot (inaudible) that the town eventually takes over nobody is anybody to take the roads or anything now no one is asking over because we don't take anything over till it is built out because roads get damaged during construction I think it is kind of like a no brainer to be honest with you. I think the homeowners on Jessup would rather have the Town maintain the pond rather than ten homeowners that don't chip in every year on their maintenance agreement.

Mr. Muller: I have a problem with this yes we want the Town to take control of the roads so that the homeowners won't have to take responsibility for the road but I have a real problem when the developer comes in and changes names a couple of times he builds a home and he leaves people with real problems. They started building people who didn't have problems have problems now we talk about the road possibly needing to be regarded if they only have a berm if they only had some blacktop maybe they wouldn't get flooded so why the hell didn't they take care of that already. And I have a real problem with the developer coming in and saying just let me do four or five more lots and everything will be good well you haven't done good so far I would like to hold the seat to the fire come out to these people homes where they are getting flooded and water in the basement take care of those items first because they should have been taken care already and then we can talk about giving you a few extra lots. Eventually we are going to wind up owning the roads and we will wind up owning the water drainage system but until that time I think the builder who owns that property up to now should be making good on the people who have not made whole already. I have a real problem with the Town taking over a real problem like that. He has the opportunity to come in and clean it up we talked garbage being left behind during the entire building process we talk about retention ponds which are so overgrown that are actually weakening the structure and seeing that it is weaken why isn't he up there now taking care of those problems? Seems to me that would be an easy fix that you come and rebuild the wall you send a contractor in to rebuild the retention ponds or you clean out the retention ponds or you drain the ponds and clean out the silt he wants to come to us and ask for a few extra lots because it benefits him I think he better make good on the problems he created already that is my opinion.

Mr. Zigler: Bill is there any bond?

Mr. Sheehan: I make sure before I issue a building permit I get a letter from the Town Attorney saying we are covered. If we do nothing – nothing changes. First you need a report from the engineer on what the problem is if it is a problem that they should have done something and didn't do it well then the engineer should take them to court. We don't need the Board to hold

them to the fire they have an obligation to maintain their property we have laws we have codes I am assuming that they have two 36 inch CMP's and they have been in there for six years their new improvement didn't include those 36 inch pipes so it's not that they haven't replaced them they were probably (inaudible) but I assume that the first drainage plans that were approved didn't count those pipes. Because they are fifty years old but this is something that I don't know the Board doesn't know the engineer has to inform the Board on what the problems are and why the problems exist and what the fix is. If you tell them they can't get four more lots till they fix it but guess what we will be spinning our wheels for another year want don't we fix the problem or at least if there is a problem and most likely there is I have been here 27 years (inaudible) Bragaglia Drive it (inaudible) his problem has gotten worst I haven't said it hasn't but Bragaglia had problems with flooding way before this subdivision was even built so there were problems there.

Mrs. Crispino: I never got water down my basement.

Mr. Sheehan: I didn't say you didn't get water but there is an issue there I don't know what it is a pipe clogged the pond needs to be cleaned I don't know what the engineer has to tell of what that is and how it can be fixed.

Mr. Muller: Kevin to you have an idea how long it would take you to do an assessment?

Mr. Maher: I already sent a letter and photographs to the previous owner of the property to put him on notice that those pipes need to be fixed that was done back in February.

Mr. Muller: Has there been any response?

Mr. Maher: Hasn't been any response he came into my office and said what do I have to do and I said it is right there in writing.

Mr. Sheehan: About two months ago?

Mr. Maher: Yes, two months ago I don't know Adar Corporation I forgot the guys name was not Mr. Goldberger, it was Jack, Lilly Pond Valley was the listed property owner at the time which I observe that the pipes had collapsed so I put them on notice I sent them a certified letter that it needs to be fixed he said I will take care of it. That was two months ago.

Mr. Sheehan: So why don't we take them to court?

Mr. Maher: Because it takes time for a contractor to get out there I gave them the opportunity if you want I will fill any kind of thing you want me. I put him on notice and a put a copy in the building file about it.

Mr. Stach: Is there a bond left on the original subdivision?

Mr. Sheehan: There is no bond on the subdivision when they came in for their last permit they didn't issue it I was given a letter from the Town Attorney, Denis Lynch's office that that since the Town pulled the bond there's monies there and we can release the permit. That is all I know.

Mr. Stach: So there is money in the bond.

Mr. Sheehan: (inaudible) money. We have to get a new bond and the (inaudible) I already paid according to the Town attorney that is correct.

Mr. Puccio: How does the Planning Board Protect themselves by saying yes we.

Mr. Sheehan: I was told that the Town has that money in the bank account somewhere.

Mr. Honan: If the money was taken to do the improvements this dam is kind of a wild card it is kind of unusual feature of a sub division.

Mr. Sheehan: It hasn't been a wild card because the Town hasn't taken it over now the developer wants the Town to take it over I think now is the time we have a chance to replace as I just

mention to Dave knowing that they don't have a bond any additional improvements that we take now from the original subdivision we can bond that because that is above the original bond.

Mr. Stach: So if we say yes we can get an (inaudible) for bond?

Mr. Sheehan: I think what Dave is asking for is the Town Board is ultimately the one who is going to say yes take the roads or don't. What Dave is asking do I go on my own he is asking for a blessing from this Board he is going to the Town Board either way but he would like something from this Board to take the infrastructure or no we don't want it at all. I believe that is what he is looking for.

Mr. Honan: I think the infrastructure is a easy question the road the infrastructure the only question I think is the dam that's the real issue is whether the Town will take the dam.

Mr. Sheehan: I think that is why it should be left up to the Town Board because ultimately the taxpayer.

Mr. Stach: I can provide a little bit of background about the damn because we have seen it in other applications in other communities and with DEC regulations I don't know if you have come across it to Kevin but with DEC regulations for the maintenance of dams it is very unlikely that a private homeowner or a number of private homeowners would able satisfy the inspection requirements, maintenance requirements on an ongoing basis for something like that it would probably fall into disrepair again.

Mrs. Crispino: My nightmare is going to come through that whole @#\$ dam pond is going to come right into my house.

Mr. Zigler: Please do not use the word dam it is a culvert it doesn't really meet the criteria of a dam in height.

Mr. Stach: We did a lead agency NOI on this application did DEC issue an article 15 and SPEEDES right was the article 15 only for the stream or did they recognize that it is a dam by definition?

Mr. Zigler: No they recognized the pond as a class B I think and the stream as C it is not a dam they also said there is a possibility of (inaudible) wetlands around the stream.

Mr. Stach: That is not a dam by there... what is that structure called?

Mr. Zigler: It is a culvert.

Chairman: I think what we are going to do is we will send you to the Town Board with some recommendations that one is any improvements that you are going to do is designed to the specifications of the Town Engineer and also meet the New York State specifications standards and any new improvements are going to be bonded subject to the post construction.

Mr. Stach: They will have post construction inspections before the bond can be released.

Chairman: Then we are going to have the Town Board authorize Kevin to check any existing drainage issues and to pursue enforcement as needed. Meaning that anything that is existing now that is not working has got to get fixed they are going to authorize Kevin to pursue any options to make sure they do get fixed and report back to the Planning Board.

Mr. Zigler: The applicant did understand about the cull de sac because when we did the field trip out there we seen how the road did not have a berm on it and the applicant did understand the question about the head wall and without an excuse neither one of those things you can fix in March and April so the best time for fixing the dam would be in the middle of the summer and the best time for fixing that cull de sac would be coming up now so it is understood and it was understood at that time but it just hasn't been the weather to fix either one of those.

Chairman: Our attorney will put the recommendation together.

Mr. Puccio: I just wanted the public to know our concern is to make sure we get that water to stop going down your driveway into your basements and we are trying to make the best solution to try and make it stop. That is why Kevin is going to go up and check for those drains and to make sure if the water is going into those drains and not going down your driveway to have a solution to stop it. This is the reason we asked you to come out here today so we could get that information from you so we are trying to do the right thing for you.

Mr. Zigler: I might add that the applicant asked for this Public Hearing.

Chairman: Right now like we said in the beginning it was not a formal Public Hearing because there was not an application once they come back we are going to open the Public Hearing again but right now there are problems up there and they are not going to get fixed right now because it is an approved subdivision they can walk away and everything is fine we want to make sure that everything is addressed now. They fix the drainage the roads whatever needs it make sure it is workable up there then when they come back to us with the application we are going to make sure you have a chance to speak again we are going to keep you informed. Thank you everyone for coming out and the applicant did request this not a formal Public Hearing this is what they wanted to hear to make sure they are addressing things and they are getting the right information.

Chairman: Next on the agenda is going to be a Public Hearing for item number 2 which is 44 South Liberty Drive

Forty Four South Liberty Drive – SBL 20.07-3-63 BU District Site Plan – Site Plan located on east side of South Liberty Drive 725 Feet South of High Avenue intersection with South Liberty Drive

Chairman: Mr. Zigler tell us where we are.

Mr. Zigler: Since the last meeting we went to the Zoning Board of Appeals and we received the variances the Zoning Board of Appeals did over ride the County comments about the sign variance and the bulk variances the overrode that. The map I just gave you notifies you that the variances were granted and note number 24 has the date and the resolution of the ZBA. The second thing I gave you this map for is if you look at the top of the page you will see that there is no drainage easement to that catch basin in front of the bar at the end of the shopping center our previous map had our drainage pipe going down along the curb line along the Vince Monte building and that was impractical as we looked at it we have a sewer line that is just inside the curb and on the curb line behind the Vince Monty building is two huge trees and a railroad tie retaining wall so I asked the owner of the shopping center if we could switch it and take it from going along the curb straight across the parking lot which is about the same distance which that was agreed upon and we will have easements for that. That is the two changes we made on the application.

Mr. Muller: So the trees will survive.

Mr. Zigler: Yes the trees will survive we should have seen it before but I didn't notice.

Chairman: Does the Board have any questions before we go to a Public Hearing. At this time we are going to open the Public Hearing for 44 South Liberty Drive if you have a comment state your name for the record.

George Potanovic, 597 Old Gate Hill Road, President of Space

Mr. Potanovic: I am all for bringing ratable into the Town and I have been to a couple of meetings and I know that there was a number of variances that were needed it just seems that the lot is small to me for that kind of a business does it have the required number of parking spaces? Maybe be it is hard to visualize it from the road but if you are saying the 7 Eleven will be the size of the existing gas station plus 30 feet larger to the south. This is the kind of business where people come in and out every couple of minutes it is not an office building like the one next to it. I think one of the main concerns is suitable parking and ingress and egress it seems like a difficult place to get out of and small.

Mr. Muller: One of the beautiful things about this is the ingress and egress which is there now is horrible if you approach in on the Vince Monty side it is not too bad but the other side is way up. What they are doing is they are changing the grading of all that and they are making it a better ingress and egress and they are will to put the money into that site as you know it is an odd piece of property it does work they are able to make it fit and they are willing to spend the money to change that ingress and egress.

Mr. Potanovic: You are more familiar with the details on this.

Mr. Muller: We addressed that and they have made great modifications on the ingress and egress.

Mr. Potanovic: I think I remember that the sign is very large too there are Towns like Park Ridge New Jersey where the 7 Eleven has an Architectural look that is a little more historic.

Mr. Muller: I think you know by now this Board has been strict on signs we have been dead set against the neon flashing things in other Towns that are nearby. So we have kept really strict standards and it does exceed the limit and it needed a little bit of help it wasn't far off from the code and that has been approved as well.

Mr. Potanovic: That was my main concern the nature of that business and having traffic going in and out but if you feel that the applicant has met and improved enough to make it if you feel it met those requirements I will leave that decision to you.

Mr. Muller: It is actually a very good fit for that parcel and they are putting a lot of money in it and they are making a lot of changes that we wanted and it actually works well.

Mr. Stach: One of the things George said for them to do to provide a cross easements with the Monty parcel so if that should come in the future we can connect those parking lots and start eliminating curb cuts because I am sure you know it is not walkable because every 10 feet you have curb cuts.

Chairman: Any other comments.

Susan Filgueras, 87 Mott Farm Road

Ms. Filgueras: So you are going to look to put an easement towards the Monty property you are going to build the property up to the grade coming out of the back end of that property?

Mr. Muller: On the left they worked on that they are raising the building up to meet that grade.

Ms. Filgueras: So you are going to bring the whole parcel up?

Mr. Zigler: Basically this gas station sits in a hole this is going to be raised so if you walk from Pasta Cucina parking lot into this parking lot it is going to be level and the whole site is going to drain into this corner because we are proposing someday there may be an interconnection here. The building is going to be raised this end of the site north end and the south end will stay the same. So if you come up 9W going north bound the 7 Eleven will be sitting higher than the existing gas station.

Ms. Filgueras: It is all going to drain into this corner if you remember when they built TD Bank across the street from the existing strip mall they had a great deal of water problems because they raised TD up higher and the water all came across the street then they had to come back and put more catch basins nobody remembers that.

Mr. Zigler: It is going back into the (inaudible).

Mr. Zigler: A couple of things I want to address before you close the Public Hearing one we did do a parking study if you remember I say a parking study because it was not a traffic study on the 7 Eleven in Garnerville so it matches in size and it matched in spaces to this. That 7 Eleven is almost a standalone it does have a shopping center next to it but this one we figure has a lot of interconnection most likely so there will be less parking but we met the standards of that 7

Eleven in addition we did ask for relief from the parking count but we meet the standards for Stony Point for the sales area and that is very important because Stony Point takes wall to wall and creates a building as if the entire building is sales area and that is not true. You have the cooler the office and that if you take that bulk out of this building and just create the sales area that people can walk and buy things we do meet that. So we thought those two issues would help this Board give us relief on parking it is required to be twenty and we have 15 and we have shown that it does work.

Mr. Muller: Just so everyone in the audience knows that this is not something new that we heard this is something that we have worked on right along. You may be hearing it for the first time tonight but this is what we worked on to help with the site plan.

Mr. Zigler: The last thing is we need to override two of the County's Planners comments we did try to mitigate some of the comments but he was pretty hard lined on the building and a few other things so we did ask for relief on item number 6 and 8 of basically the March and April memos from the County Planner. Six had to do with the deficiencies in parking which I said the sales area meets and if your master plan goes through this building would actually meet your new parking code entirely. Eight had to do with the sign they used the term must conform and I was thinking that if I went to get variances we would conform but Max said no and ask for relief of that we asked the Board for relief on the signage because the gas station actually had two pylon signs and this building is going to have one and it actually less square footage than either one of the other signs. We would need the Board to almost a full majority to override that. That is why I mentioned it because if we do not get the majority plus one we would rater sit and wait till the next meeting.

Mr. Sheehan: I agree with Max.

Chairman: Thanks Dave I have a motion from Pete to Close the Public Hearing I need a second.

MOTION: CLOSE PUBLIC HEARING
Made by Peter Muller and seconded by Gerry Rogers
All in favor

Chairman: Now you need to override the County Planners, ok it is part of the resolution.
OK I am going to read the resolution than I am going to ask for a motion and a second.

RESOLUTION

GRANTING

FINAL SITE PLAN APPROVAL

For The Project

FORTY FOUR SOUTH LIBERTY DRIVE

**BY APPLICATION OF: FORTY FOUR SOUTH LIBERTY DRIVE ASSOCIATES, P.O. Box
276, Norwood, NJ 07647**

WHEREAS, an application and full EAF, dated November 30, 2012, has been submitted to the Planning Board of the Town of Stony Point for Final Site Plan Approval to redevelop the site and operate the premises as a Seven-Eleven convenience store, and upon a submitted proposed site plan entitled "FORTY FOUR SOUTH LIBERTY DRIVE" consisting of six (6) sheets, prepared by, Atzl, Scatassa & Zigler, P.C., dated December 23, 2012 and last revised on April 22, 2013; and concerning premises designated as Section 20.07, Block 3, Lot 63 on the Tax Map of the Town of Stony Point, County of Rockland, located in an BU Zoning District, at 44 Liberty Drive/9W, Stony Point, New York 10980; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, the Planning Board declared itself lead agency, and determined that this was a Type II Action; and

WHEREAS, by letter dated February 4, 2013, the Rockland County Department of Planning, pursuant to the requirements of the General Municipal Law §239-1 & m, indicated, inter alia, a concern with a perceived deficiency in parking proposed for the site and directed that the existing building be scaled back to better conform to zoning; and

WHEREAS, by letter dated February 21, 2013, of the Rockland County Drainage Agency, the RCDA determined that the proposed activity was outside the jurisdiction of the RCDA, and a permit from the agency was not required; and

WHEREAS, by letter dated March 7, 2013, the State of New York Department of Transportation indicated that it did not recommend a variance for parking for the proposed project; and

WHEREAS, this board referred the applicant to the Architectural Review Board of the Town of Stony Point, and by a Decision dated March 21, 2013, the ARB issued Conditional Approval of the application; and

WHEREAS, this board referred the applicant to the Zoning Board of Appeals of the Town of Stony Point, and by a Decision and Resolution dated April 18, 2013, the ZBA granted numerous area variances to the applicant concerning the parcel; and

WHEREAS, the applicant requested that the Planning Board exercise its discretion pursuant to the Town of Stony Point Code Section 215-34 (B), and permit a reduction of the required number of parking spaces from 19 to 15 parking spaces, upon a representation that the building will have 2,400 square feet of vending floor space; and

WHEREAS, the applicant has submitted proof and demonstrated to this board that the parking capacity of fifteen (15) parking spaces is reasonable for a convenience store of this size, that 15 spaces exceeds the design-hour requirement as compared with similarly situated businesses, that permitting 15 spaces will not induce patrons to park on or along Route 9W, and that due to the particular location of this proposed use, there is a reasonable expectation that there will be pedestrian foot traffic to and from the convenience store by patrons who park in the adjoining retail business parking lots and walk on and off the site; and

WHEREAS, a duly noticed public hearing was held on March 28, 2013, at which date the public hearing was continued to April 25, 2013, at which time the hearing was conducted, concluded and closed.

NOW, THEREFORE, be it

RESOLVED that the plat submitted for approval of an Application for Final Site Plan Approval to redevelop the site and operate the premises as a Seven-Eleven convenience store, and upon a submitted proposed site plan entitled "FORTY FOUR SOUTH LIBERTY DRIVE" consisting of six (6) sheets, prepared by, Atzl, Scatassa & Zigler, P.C., dated December 23, 2012 and last revised on April 22, 2013; and concerning premises designated as Section 20.07, Block 3, Lot 63 on the Tax Map of the Town of Stony Point, County of Rockland, located in an BU Zoning District, at 44 Liberty Drive/9W, Stony Point, New York 10980, be and hereby is approved, and the Chairman is hereby authorized to sign same and to permit same to be filed in the office of the Town Clerk, upon payment of any and all outstanding fees to the Town, subject and conditioned upon the following:

1. Pursuant to Town of Stony Point Code Section 215-34 (B), the Applicant is granted a reduction of the required 19 parking spaces to 15 accessory off-street parking spaces, as depicted on the site plan, which reduction is less than 25% of the normally required amount.
2. All conditions of the variances granted by the Zoning Board of Appeals.
3. All conditions of the Conditional Approval granted by the Architectural Review Board.

4. All other applicable site plan requirements set forth in the site plan regulations of the Town of Stony Point and consistent with the General Notes on the site plan.

5. With regard to condition 6 in the letter dated February 4, 2013 of the Rockland County Department of Planning, the parking provided has been found to be adequate after review of submitted parking studies and is consistent with proposed standards, and with regard to condition 8, a variance of sign requirements has been obtained.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call on April 25, 2013, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Members Present:				
Michael Puccio	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Peter Muller	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Gladys Callaghan	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Gerry Rogers	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Chairman Gubitosa	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Gene Kraese	<u> </u>	<u> </u>	<u> </u>	<u> X </u>
Thomas McMenamin	<u> </u>	<u> </u>	<u> </u>	<u> X </u>

The Resolution was thereupon duly adopted.

Chairman of the Planning Board
Town of Stony Point

Filed in the Office of the Clerk of the Town of Stony Point this 29th day of April, 2013.

Joan Skinner
Town of Stony Po

MOTION: TO ACCEPT RESOLUTION

Made by Gerry Rogers and seconded by Michel Puccio
Roll call vote all in favor

Chairman: Thank you motion passed. We are going to do the Rose a Wayne Avenue next.

The Rose at Wayne Avenue - SBL 15.01-4-60 RR District – Sketch, Preliminary approval, for minor subdivision located on the north side of Wayne Avenue and McCarthy Circle

- Two lot minor subdivision

Mr. Zigler: Dave Zigler from Atzl Scatassa and Zigler, about two weeks ago we went out and did the soil testing for the subject with observation from the Health Department and we have approval with the soil now we designing the septic so that is not going to be a problem in two weeks we are in front of the Town Board for a discussion on moving the easement also the driveway into the cemetery so with those two thing accomplished we are asking the Board to set a Public Hearing.

Chairman: Before we set the Public Hearing do we have any questions?

MOTION: SET PUBLIC HEARING FOR MAY 23, 2013

Made by Peter Muller and seconded by Gerry Rogers
All in favor

Chairman: Before the Public Hearing would you be able to map out the road stake out the road to the cemetery I know I have had some questions about the road. Some questions have come up with a stake right in the middle of the cemetery.

Mr. Zigler: Any marks that are out there today are from the survey crew which went out and surveyed some of the area around the road if you remember when we were out on site there was a question about trees so we located and tagged the trees so we can map them on the map we have a turnaround right now there is not a turnaround or parking area in front of the stone wall entering the cemetery. The driveway which is still Larry has not made a decision on but he was going to be happy with gravel we were suggesting that we have it paved because the Town does take care of that access then there would also be room in front of the cemetery to turn around and to park and there would be a dictated entrance to the cemetery it won't be next to the house or really through the frontage of the house. The house it's self the new home would also access so it would be two new accesses off McCarthy Circle one would be to the cemetery which they could put a sign up or something and I will put gates to whatever and one would be to the new home.

Chairman: Right now the road that is going to be proposed is going to be to the Highway Superintendents the Town is going to take care of it.

Mr. Zigler: As long as the Town accepts moving the easements right they have to agreed to moving the easement because right now they have a right to travel that driveway which goes right past the house.

Chairman: Ok Dave you will stake that out.

Mr. Zigler: There seems to be some questions maybe you can just do some mini Public Hearing?

Chairman: Ok go ahead.

Ms. Filgueras: About 5 feet off the stone wall in front of the cemetery at the entrance in the ground it looks like one of the large nails was put into the ground with orange marking tape.

Mr. Zigler: It is a point of reference to the surveyor has nothing to do with the right of way just to do with the point of reference.

Ms. Filgueras: I have gotten several phone calls at home from people one of the things is that it is a cemetery is still active it is a 21st Century Cemetery that is still utilized. I have a few concerns the biggest concern is the right of way so can you flag it so the visitors can see what you are doing and the biggest concern was to be able to get the family cars at least to get them up there at the mouth of the rock wall so they could properly bury their loved ones.

Mr. Zigler: Understand that this is all being done at the request but it is being done by the applicant and it is coming out of the applicants pocket and whatever happens if it is approved it is two hundred times better than it is now. I believe we have additional parking we have a better access and they will be closer to McCarthy it is a very short walk. We will stake out the road so a blind man could see it in the dark and then when we have the Public Hearing everyone can understand what we are aiming to do.

Ms. Filgueras: There is a small stone under the apple tree that looks like (inaudible) I understand that has horses it is the tree right outside. I have pictures.

Chairman: Ok Susan send them to me. Next on the agenda is BHS Mr. Zigler what do you need for BHS.

BHS Site Plan – SBL 20.04-11-6 LI District – Site Plan located on the south side of Holt Drive 990 Feet East of Route 9W

Mr. Zigler: I just need to continue the Public Hearing the Town Board set a Public Hearing for their next meeting so I have to get a Special Permit from the Town Board prior to.

Chairman: I am going to open the Public Hearing no comments I need a motion to continue the Public Hearing.

MOTION: CONTINUE PUBLIC HEARING TO NEXT MEETING

Made by Gerry Rogers and seconded by Gladys Callaghan

All in favor

Chairman: So we will continue the Public Hearing next month at the May 23, 2013 meeting. Next Item Hudson River View Warehousing.

Hudson River View Warehousing – SBL 20.04-11-3 LI District Amended Site Plan – Preliminary, located on the east end of Holt Drive 1800 feet east of South Liberty Drive, then 600 feet east on an unnamed private road.

Chairman: Just for the record Michael Puccio recused himself from this application.

Mr. Zigler: Did you all receive this fat response basically it is a response to the County's letter of April 10th, 2013 and we responded as quick as possible with was April 15, 2013. The County Planner had some twenty something comments nope 38 comments and as far as we are concerned we don't have a problem with any comment we addressed every signal one the only thing is we ask for direction this Planning Board because one of the comments is since construction traffic and future patrons using the facility will gain access from 9W a review should be completed by the State of New York. Now we don't care if you want to send our information to the DOT and that would make us adhere to that requirement or if you want to ignore it we would have to ask for an override. All the rest of them we have the comment and the responses in here we agree to. As you all know the question about this railroad and the crossing and back and forth and you just receive several letters from CSX some of it has to do with work up the line on this actual applicant they responded by saying that they would like to get rid of grade crossing and upgrade the tunnel well that's nice and everything as you well know they are impossible to get a hold of so we are suggesting and it is a map note on our map when we submit it we will put running guards at the grade crossing as approved by CSX and that is also in our letter. They said in the letter that that could be an alternative we are saying that is going to be our answer because we can't trust them to do whatever they want to do to that tunnel.

Mr. Muller: Why would you ever want one way in and one way out when there is two now. One of our major concerns has been all along having more accessibility we worked on the grade crossing to make it more safer why would you ever want to eliminate one. I would have a problem if you tried to eliminate one yourself because what if a train comes off the track and blocks that how do anyone else get out?

Mr. Stach: I could provide a little information.

Mr. Zigler: Just let me finish my train of thought. Basically that is the way we read the letter and discussed this at the workshop and the applicant agreed to do this prior to the first C of O on site to have a crossing with whatever it requires and of course that would be designed by CSX so it has to be approved by them and we would work with that. One of the comments the County had was saying back when Tracy was trying to do the contractors storage he said he would work on the tunnel and clean it up there is a comment in here from the County reminding us of that comment that Tracy had mentioned well that has been done already if you go down there that has been cleaned up and paved it is wide open and doesn't have pot holes everything that the County has asked for in here we agreed to and agreed to CSX letter. Also in here there is a question about the ponds we enclosed the Army corps of engineer permit to fill the ponds that permit lasts until the end of this year so anyone who is working at Tracy's site has a right to fill those ponds and that permit is attached here and that is from the Army Corps of Engineers directly from their office there is nothing from anyone else file it is directly from the Army Corps so we address every single one of those comments we attached a permit form Army Corps which is dated October 1, 2008 and it lasts for five years easy math October 1, 2013. We have a letter from the facility operator at the mini storage in reality they probable get 25 cars a day mini storage really doesn't produce that much traffic and we are ready to submit a detailed application with the

landscaping, lighting, grading drainage so we would like to ask the Board to look at those details and maybe next month have a negative declaration so we can have a Public Hearing.

Mr. Stach: There are two things I want to do one on a point of information I had a long conversation because of the CSX track improvements with the LWRP consistency review one of the things that I learned is in CSX's view the crossing can be considered closed if you fence if you have a locked fence gate. In terms of if they do go forward and they want to spring for improving the underpass one of the ways you can keep that open for emergency traffic is that you can have gate a fenced gate that would keep regular traffic from going over but you can go over with emergency vehicles and that might be better for both parties so that you keep both. In CSX that would be considered closed because that is their solution for the Battlefield Park they consider that a grade crossing because even though there is a bridge across the tracks at that location there is also a dirt road that goes around and so they consider that an at grade crossing to close that so they would not have to blow the horns anymore all they would have to do is put a fence gate there. Moving on I prepared I apologize you are only getting it tonight but I prepared a Part II EAF this is something that we used to go through question by question I think that we sort of got away from that in the past I have essentially have told you what I thought the impacts were but since you are only getting this tonight I suggest is we go through each impact and identify if you agree with me what impacts these would have and then the next step to this process would be for Dave to come back with a draft Part III EAF suggesting why or why not these impacts are likely to happen or how they can be mitigated by project changes. So does everyone have this I handed it out at the beginning of the meeting? So number one impact on land I checked on large potential large impact and that has to do with the (inaudible) of construction which would be for one year and involve more than one phase, There are two small impacts checked one is depth to water table the other is construction in designated flood way those are not necessarily proposed but the applicant should probably address how those impacts will be avoided. Impact on water I identified two potential small impacts again these don't have to be gone into in detail but the fact is there is a protected water body on this site and there is a designated fresh water wetland that won't be disturbed according to plans then again the applicant should just in Part III indicate that those won't be disturbed. I didn't identify any impacts to any non protected body of water. I did not identify any impact to surface or groundwater quality or quantity there will be alteration of drainage flow or patterns it may cause substantial erosion and it may impact the Cedar Pond Brook so the applicant can address how those impacts can be avoided there should not be any impacts on air or plants and animals threaten or non threatened. There is not impact on agriculture lands I did indicate an impact on aesthetic resources and this is something that you can recall came up on KBT as well and that is technically a park next door I don't know how much it is being used as a park the Cedar Pond Brook in that area is a park and the applicant should discuss how that could result in potential large impacts. Impact on historical or archeology resources are not likely, open space and recreation impacts are not likely, no impacts to a critical environmental area. We have always dealt with this site as Mr. Zigler went over previously he did mention that it will increase traffic somewhat by the public over that at grade rail crossing he has already suggested a mitigation so he should write that in the Part III EAF I don't predict any impact on energy or noise and order. With regard to public health again what we always talk about when we have KBT the site was used formally as a settling ponds for the Kay Fries Plant I am under the impression that the site is still undergoing monitoring at so of the wells and I think Mr. Zigler should indicate that whatever is being proposed won't interfere with whatever DEC plans and the monitoring what the applicant has agreed with. Regard to impact on growth and character of community and neighborhood those are unlikely and lastly under number 20 I did indicate that it is likely that there will be public controversy on this project there has been in the past and it would be unlikely not to occur again. Those these are my suggested impacts if you have any other comments then we can go through them if you see any other potential impacts or if you disagree with me on any of the impacts we could discuss otherwise you could adopt this and Mr. Zigler could prepare a Part III for the next meeting.

Chairman: I think we are good with it Max the railroad was the big issue as long if they are addressing that the cleanup of that site I'm ok. If the Board is ok I am going to need a motion to adopt the Part II.

MOTION: ADOPT PART II EAF

Made by Gerry Roger and seconded by Peter Muller

All in favor

Mr. Stach: I think you can set a Public Hearing on the condition that the Part III draft submitted by the applicant prior to the TEC meeting is adequate that a negative declaration has to be adopted prior to the.

Mr. Zigler: What I would agreed to do more is have this back to Max and the Board before the end of next week give you time to review it and at the workshop if it is deemed that it is not ready then we would not do notification.

Mr. Stach: You can set the Public Hearing based on the condition of the adoption of the negative declaration.

Chairman: I need a motion to set a Public Hearing for next month.

MOTION: SET PUBLIC HEARING FOR THE MAY 23, 2013 PLANNING BOARD MEETING ON THE CONTIDION THAT WE DO A NEGATIVE DECLATION
Made by Peter Muller and seconded by Gerry Rogers
All in favor

Chairman: Motion to accept minutes of March 23, 2013

MOTION TO ACCEPT MINUTES OF MARCH 23, 2013
Made by Gerry Rogers and seconded by Gladys Callaghan
All in favor

Chairman: Close meeting

MOTION: CLOSE PLANNING BOARD MEETING.
Made by Peter Muller and seconded by Gerry Rogers
All in favor

Respectfully submitted,
Mary Pagano, Clerk to the Board