

APPROVED MINUTES
Town of Goshen Planning Board
Town Hall
41 Webster Avenue
Goshen, NY 10924

APRIL 19, 2012

Members Present:

Reynell Andrews
Lee Bergus
Susan Cleaver
David Gawronski
Ralph Huddleston
John Lupinski
Giovanni Pirragalia

Also Present:

Neal Halloran, Building Inspector
Dennis Lindsay, PB Engineer
Richard Golden, Esq. PB Attorney
Kelly Naughton, Esq. PB Attorney
Ed Garling, PB Planner
William Canavan, PB Hydro-Geologist

The PB meeting was opened at 7:30 p.m. by Chair Ralph Huddleston.

Minutes – The minutes of the PB meeting of March 15, 2012 were approved.

Orchard at Towner Farm, LLC 12-1-103-3.42 +/- acres for special use permit site plan approval located on Musket Court in the I zone with an AQ3 overlay. Resolution and approval.

Representing the applicant: Applicant Mike Taylor

Mr. Golden read the Findings in the proposed resolution as follows:

The Planning Board has taken into consideration the decision of the Town Zoning Board of Appeals, dated March 20, 2012, which granted three area variances permitting (i) a lot area of 3.42 acres, where 5 acres is required, (ii) a front yard setback of 118.52 feet, where 200 is required and (iii) a 79.97-foot setback from a private road. The Code does not provide for a required setback; however, the applicant requested a variance to be cautious, as Musket Court has been offered to the Town of Goshen, but not accepted (a setback of 100 feet is required from a Town road).

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Ms. Cleaver, the Town of Goshen Planning Board approves the Finding as read by the PB attorney. Passed unanimously.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye	Mr. Pirragalia	Aye
Mr. Gawronski	Aye		

Mr. Golden read the second Finding as follows:

Section 97-14(D) of the Town Code requires applications for new development involving property located in the HC, CO and I districts of the Town to comply with certain design standards. The standards are required to apply in the I District “for buildings that are visible from public roads or properties not located in the I District.” Section 97-14(D). The Planning Board finds that the applicant has demonstrated that this building will not be visible to properties located outside of the Industrial District, after construction and plantings in accordance with the proposed plan. The Planning Board also finds that due to location of the property, compliance with the requirements in Section 97-14(D)(3)(a) for a bike path and/or sidewalk to be constructed within the landscaped buffer would impose an unnecessary economic hardship on the applicant and would discourage the applicant from improving the property.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Bergus, the Town of Goshen Planning Board approves the Finding as read by the PB attorney. Passed unanimously.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye	Mr. Pirragalia	Aye
Mr. Gawronski	Aye		

Mr. Golden read the thirteen Specific Conditions of the proposed Resolution as follows:

1. Prior to the signing of the plan, the applicant shall request comments from the Town Emergency Service Organizations in connection with Section 97-73(B)(4) of the Town Code.
2. Prior to the signing of the plan, the applicant shall revise the plan to provide an impervious surface coverage calculation to the satisfaction of the Town Engineer.
3. Prior to the signing of the plan, the applicant shall demonstrate to the satisfaction of the Town Planner that there is adequate screening of the proposed propane storage areas, in compliance with the Code provisions relating to outdoor storage.
4. Prior to the signing of the plan, the applicant shall provide additional information to the Building Inspector in the form of photographs, cross-sections, etc. demonstrating compliance with the Code provision prohibiting chain link fencing in locations visible from public highways. Additionally, prior to the signing of the plan, the applicant shall revise the plan to include a detail of the proposed sign, which must comply with Town Code Section 97-49. The Building Inspector, in conjunction with the Town Engineer, shall determine compliance, prior to the signing of the plan.
5. The applicant must field identify onsite wetlands or any required buffers with Environmentally Sensitive Area (“ESA”) signage consisting of green fiberglass

- posts and orange stickers with black lettering stating “Environmentally Sensitive Area”, spaced at distances of no less than 25 feet nor more than 100 feet as determined by the Building Inspector in the field and have such signage in place prior to any site disturbance.
6. Prior to the signing of the plan, the applicant shall revise the plan to show the zone limits and designations that about this property.
 7. The applicant shall comply with all applicable Department of Environmental Conservation (“DEC”) and National Fire Protection Association (“NFPA”) codes, regulations and standards in connection with chlorine and propane storage.
 8. The applicant received a Decision from the Town Zoning Board of Appeals dated March 20, 2012 for certain variances related to the property. The applicant shall comply with all conditions contained therein, which include:
 - a. The welding supply facility, the bleach storage structure and storage building shall be earth tones;
 - b. The applicant must provide supplemental plantings along the berm adjacent to Route 17M, subject to the satisfaction of the Planning Board during its review;
 - c. The applicant shall plant approximately twenty (20) 8 to 10 feet tall evergreen trees along Musket Court, and supplemental plantings as deemed necessary by the Planning Board, all which must be maintained in a good and healthy condition;
 - d. The applicant shall not disturb the triangular portion of its property on the other side of Musket Court, but shall be responsible to continually maintain that portion in a clean and neat appearance, and safe condition.
 - e. The applicant shall file a deed restriction/covenant that no further subdivision of this parcel is permitted, including any otherwise seemingly accomplished by operation of law. The language of the deed restriction/covenant shall be acceptable to the Zoning Board of Appeals’ attorney, and proof of the filing of such restriction/covenant shall be filed with the Building Department prior to the issuance of a building permit.
 9. All light levels must be limited to 0.1 foot candles at the property line so no offsite glare will result. The fixtures shall meet IDA, LEED or Green Globes criteria for Nighttime Friendly or Dark Sky lighting.
 10. Prior to the signing of the plan, the applicant shall provide a copy of the deed, easement or agreement permitting access to the property over Musket Court to the Planning Board Attorney.
 11. Prior to the signing of the plan, the applicant shall comply with the “Site Plan” and “Utilities” comments contained in the memorandum of the Town Engineer dated November 30, 2011, to the satisfaction of the Town Engineer.
 12. Prior to the signing of the plan, the applicant shall provide information regarding the water use demand for the proposed business to the Town Engineer. If the proposed water demand will exceed 400 gallons per day of groundwater from the

onsite well the applicant shall return to the Planning Board to determine the appropriateness of well testing.

- 13. The proposed employee and truck parking shall be gravel as shown on the plan unless the Building Inspector determines the gravel surface creates unanticipated nuisance conditions (dust, ponding, excessive maintenance, etc.) at which time the applicant will be required to pave these parking areas to the satisfaction of the Town Engineer.

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Mr. Pirragalia, the Town of Goshen Planning Board approves the Resolution granting Conditional Approval to special use permit site plan of Orchard At Towner Farm, LLC. Passed unanimously.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye	Mr. Pirragalia	Aye
Mr. Gawronski	Aye		

Meadows of Goshen Subdivision 12-1-86.1 – Proposed Bond Reduction

Mr. Lindsay said that the developer has made a number of the improvements and while there was one bond reduction already, the developer is asking for a second reduction. He recommended that the Town continue to hold \$448,200 which results in a reduction of the bond by about \$110,000. The bonding is for work on Gate School House Road and some storm drainage and curbs, etc., he said.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Lupinski, the Town of Goshen Planning Board approves the recommendation of the Town Engineer to reduce the performance bond and retain \$448,200 to ensure completion of the remaining work on the application of Meadows of Goshen. Passed unanimously.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye	Mr. Pirragalia	Aye
Mr. Gawronski	Aye		

Possible Extension or Abandonment of Applications pursuant to Town Code

Hambletonian Park – Request for extension

Representing the applicant: Applicant Joe Newman

Mr. Golden read a letter from the applicant requesting a six month extension on the application of Hambletonian Park until such time as the Town can enhance the water district to handle the district needs.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Gawronski, the Town of Goshen Planning Board approves an extension on the application of Hambletonian Park to October 18, 2012. Passed unanimously.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye	Mr. Pirragalia	Aye
Mr. Gawronski	Aye		

Public Hearings

Orange County Turf – 21-1-83 & 21-1-84 23.9 +/- acres located off Pulaski Highway & Pumpkin Swamp Road in the Agricultural zone. Special use permit, site plan approval, lot merger.

Representing the applicant: Ryan McGuire, Piertzak & Pfau

Mr. McGuire gave a brief summary of the project. The applicant is proposing a composting operation. Mr. McGuire said the applicant has located the flood elevations and surveyed the road going into the property. He said that the County requires that the entrance be improved and include a paved section from the highway entrance, 50 x 24 feet. Mr. McGuire said there will be a small one acre composting pad, a small office, a few parking spaces, a septic system, a new driveway and a small sediment basin to prevent any erosion into the black dirt area. He said that a 6 ft. chain linked fence will be placed along the composting area to prevent any blowing of materials. It is required to be monitored regularly, he said. Ms. Cleaver said she is concerned with it overflowing and would like the Town to have copies of the monitoring report. Mr. McGuire said that would be agreeable. The applicant will be composting hay, straw, yard waste, woodchip and weeds, he said, and added that he doesn't expect an odor problem. Mr. McGuire agreed that bags will not be accepted.

Mr. McGuire said the distance from the site to the road is 1300 feet, and that the operation is 1,000 feet from any residences, which is a code requirement. There is a pond on site which the applicant will need for the process but the applicant doesn't own all of the pond and there are no agreements in place yet, he said. Mr. Golden recommended obtaining the agreement.

Mr. Huddleston said that odor is enforceable under the Town Code and that if the operation isn't maintained and odor problems begin to develop, it will then be an enforcement situation.

Mr. Lupinski inquired about the access off Pulaski Highway across Mr. Yurchuk's property, asking if the applicant has the easements sufficient to handle the vehicles going in and out. McGuire said the applicant does and Mr. Golden said the title report and deeds are being reviewed by him. The easements are anything but crystal clear, he said, which means they have access but it is not clear whether it is restricted access or a broader access. It will become a matter between the parties, he said.

Mr. Lindsay said that the applicant is required to provide access to a public road. He said the applicant has located the flood plain and is proposing to raise the road and to offset the fill in the flood plain so the flood plain stays as it is now. The applicant may have easement access but the question is do they also have the right to make improvements on the property, he asked. Mr. Lupinski said the access road may have been built on top of black dirt and Mr. Yurchuk said it is probably clay soil built on black dirt.

Mr. Huddleston said the PB will want to know the size of the trucks that will be going in to the site. Mr. Yurchuk said there has been a lot of damage to the road during the winters, that it keeps collapsing and they have to fix it each spring. He said he has invested about \$3-\$4,000 trying to fix it and another farmer has spent about \$7,000. Tractor trailers cause the damage. Mr. McGuire said there will be no tractor trailers but small dump trucks or small trailers.

Mr. Golden said that if the applicant wants an offsite directional sign they will have to have an easement. He said that the County DPW requests that the applicant re-grade and pave the driveway on Pulaski Highway. He said that the applicant wants waivers from the PB for lighting, landscaping and architectural elevations.

Mr. Huddleston opened the hearing to the public for comment.

Greg Yurchuk, 396 Round Hill Road, Florida, an adjacent property owner, said he is speaking on behalf of himself and his mother who is another adjacent property owner. Mr. Yurchuk asked about the width of the surveyed right of way, stating that what is there now is not truthfully the right of way. "The road was 16 ft. wide and you will not make a turn without me allowing people to drive on my property to make the turn. I expanded the road across the bridge myself to allow people to make that turn, so that we could get by each other. Further down the road, there is no way two vehicles can pass each other on that road", he said. Mr. Yurchuk said the application is not compatible with growing vegetables. He said he has neighbors who wanted to plant lettuce but tried two or three fields and couldn't continue because of what is blowing off the present organic

recycling site. He said they are dying mulch on that recycling site. Mr. Yurchuk asked if the applicant will be just working on a one acre pad. Mr. McGuire said the applicant will have to register the size of the operation with the DEC which allows anywhere between 3,000 cubic feet a year to 10,000 cubic feet a year. It will probably be 7,000 cubic feet, he said and if the applicant wishes to continue more than that in future, it would require permitting from the DEC and coming back to the PB to expand the area. He said it will be restricted to one acre and the applicant is not planning to dye any mulch on site. It will be a wholesale operation with five to six trucks a day. He called the operation down the street being referred to as a “gigantic facility.” Mr. Yurchuk said his building is downwind from the site and that he can’t have anything blowing into his barn because of food safety. He said his building is only 30 feet from the right of way and said he thought it fair to request the applicant to blacktop 50 ft. or right down to where it crosses the ditch. Mr. McGuire said he will speak to the applicant about it. Mr. Yurchuk also said he’d like the applicant to plant trees between the applicant’s and his property line. He cautioned that there are two irrigation wells on his neighbor’s property that need to be protected and cannot be compromised because of food safety issues.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Bergus, the Town of Goshen Planning Board keeps the public hearing on the application of Orange County Turf open to the May 17th meeting of the PB. Passed unanimously.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye	Mr. Pirragalia	Aye
Mr. Gawronski	Aye		

Agenda Items

Goshen Sports Complex – 11-1-25.22 – 10.120 +/- acres, located on 17M in the CO zone. Modification to site plan for parking, addition for new indoor pool, new soccer field, three outdoor tennis courts, new volleyball court, replace existing sign. SEQRA determination of significance and public hearing determination.

Representing the applicant: Jeremy Valentine, Engineer

Mr. Golden read the proposed Findings for the PB to vote upon as follows:

Finding #1: The Planning Board finds that due to the location of the property, compliance with the requirements in Section 97-14(D)(3)(a) for a bike path and/or sidewalk to be constructed within the landscaped buffer would impose an unnecessary economic hardship on the applicant, and would discourage the applicant from improving the

property. The Planning Board also finds that the proposed stockade fence enclosing the dumpster is appropriate to the historic character of Goshen and does not block visual access to scenic views.

VOTE BY PROPER MOTION, made by Ms. Cleaver, seconded by Mr. Pirragalia, the Town of Goshen Planning Board adopts Finding #1 as read by counsel. Passed unanimously.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye	Mr. Pirragalia	Aye
Mr. Gawronski	Aye		

Mr. Golden read Finding #2 as follows:

Finding #2: The Planning Board hereby finds that the applicant is amending a previously approved site plan, which included a ten foot high fence around the proposed tennis courts. That portion of the site plan remains unchanged, permitting this Board to issue this Conditional Approval.

VOTE BY PROPER MOTION, made by Mr. Andrews, seconded by Ms. Cleaver, the Town of Goshen Planning Board adopts Finding # 2 as read by counsel. Passed unanimously.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye	Mr. Pirragalia	Aye
Mr. Gawronski	Aye		

VOTE BY PROPER MOTION, made by Mr. Bergus, seconded by Ms. Cleaver, the Town of Goshen Planning Board re-affirmed its Negative Declaration dated February 19, 2004 under SEQRA declaring that approval of the special permit and amended site plan will not pose any significant adverse environmental impacts. The PB removed the four conditions contained in that prior Negative Declaration as having been completed, unnecessary or otherwise revised and included as a condition in this conditional resolution. Passed unanimously.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye	Mr. Pirragalia	Aye
Mr. Gawronski	Aye		

Mr. Golden read the Specific Conditions of the Resolution as follows:

1. Prior to the signing of the plans, the applicant shall submit to the Building Department a properly executed Owner's Endorsement for this application.
2. The applicant received a Decision from the Town Zoning Board of Appeals dated November 7, 2011 for certain variances related to the property. The applicant shall comply with the conditions contained therein, that the tennis court shall not become an enclosed structure with solid walls, shall not have a roof, and the chain link fence shall not be greater than the ten (10) feet (in height) proposed, and shall not be solid in appearance (i.e., the fence cannot be constructed with privacy slats or other similar construction with the same effect.)
3. Prior to the signing of the plans, the applicant shall revise the plans to indicate the height of the netting adjacent to the soccer field, no higher than 25 feet and in no event shall the netting be lower than 21 feet.
4. Prior to the signing of the plans, the applicant shall comply with the April 13, 2012 memorandum of the Town Planner, to the satisfaction of the Town Planner.
5. Prior to the signing of the plans, the applicant shall revise the note on the plans to require the initial filling of the pool, and any subsequent substantial re-filling of the pool to be performed using water that is trucked in from offsite. Prior to the issuance of a Building Permit the applicant shall incorporate supply piping or wall penetrations into the design of the building expansion to facilitate this bulk water delivery, to the greatest extent practical as determined by the Town Engineer.
6. Prior to the signing of the plans, the applicant shall remove the "+/-" symbol where the applicant references the variances granted by the Zoning Board of Appeals.
7. Prior to the signing of the plans, the applicant shall request comments from the Town's Emergency Service Organizations in connection with the 20-foot wide unpaved access drive around a portion of the building, to confirm adequacy of surface course and maintenance standards.
8. Prior to the signing of the plans, the applicant shall revise the plans to depict how runoff from the proposed tennis courts will be collected and conveyed to limit erosion, to the satisfaction of the Town Engineer.
9. The applicant shall provide and utilize cartridge filters to eliminate the need for backwash or other potential impacts to the onsite sewage disposal system from the pool.
10. Prior to the signing of the plans, the applicant shall revise the plans in accordance with Section (B)(2)(c)(3) on page 5 of the memorandum of the Town Engineer dated April 17, 2012 regarding the stormwater collection and conveyance system, to the satisfaction of the Town Engineer.
11. All light levels must be limited to 0.1-foot candles at the property line so no offsite glare will result. The fixtures shall meet IDA, LEED or Green Globes criteria for Nighttime Friendly or Dark Sky lighting.
12. Prior to the signing of the plans, the applicant shall submit a plan to perform well testing pursuant to the recommendation of the Town Engineer and

- Hydro-geologist, including the monitoring of local supply wells during testing, at least one of which shall be located within the Arcadia Hills subdivision if permitted by the Town Highway Superintendent, which shall be approved by the Planning Board. Prior to the issuance of a building permit, the applicant shall perform the testing in accordance with the approved plan and submit a hydro-geological report of test results to the satisfaction of the Town Engineer.
13. Prior to the issuance of a building permit, the applicant shall revise the plans to comply with Section 97-14(D) of the Town Code, to the satisfaction of the Town Planner, Town Engineer and Building Inspector.
 14. The Building Inspector shall have occasional visits at his discretion to determine whether or not the parking demand exceeds supply and if the parking demand exceeds supply the applicant shall return to the PB for additional review.

VOTE BY PROPER MOTION, made by Mr. Gawronski, seconded by Mr. Lupinski, the Town of Goshen Planning Board accepts the resolution of Conditional Final Approval of Goshen Sports Complex. Passed unanimously.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Aye	Mr. Pirragalia	Aye
Mr. Gawronski	Aye		

BMG Powersports – 12-1-1151.5 +/- acres located at 2677 New York State Route 17M in the HC zone with an AQ overlay. Site Plan review.

Representing the applicant: David Getz

Mr. Halloran said that the ZBA granted the applicant a variance for road frontage

Mr. Getz said the applicant intends to construct a two-story building with retail uses on the first floor and a single apartment on the second floor. The existing building will be raised. The applicant proposes to use the same access. There will be a new well and sewage disposal system. The business will sell motorcycles, off road dirt bikes and scooters, with a display area in the front of the site so the merchandise will be visible from the highway but no outdoor storage is being proposed. There will be an additional smaller building in the center of the site behind the parking area for storage. Fifty percent of the ground floor will be used by the applicant, with two additional retail spaces.

Mr. Golden said that the applicant will be razing the current building and the Town Code states that a new structure needs “to not be visible” from Route 17M. He said he will look into whether or not that can be waived and whether or not the PB has any discretion in

this regard. Mr. Golden suggested the applicant contact town officials to request a change to the code but cautioned that it will take awhile. Mr. Huddleston told the applicant that this is the biggest hurdle to get over.

Woodcrest (aka Kaprielian) – 4-1-9 77 +/-1 acres, small-scale subdivision located on Woodcrest Lane and Farmingdale Road, in the RU zone in the AQ-3 and Scenic Road Corridor overlay districts. Assume lead agency status, Type unlisted, potentially schedule public hearing and discuss potential historical structures in vicinity.

Representing the applicant:

David Egarian, P.E.

Mr. Egarian said that the major issue raised at the applicant’s last appearance was the water testing protocol and that the applicant has now submitted a modified protocol to Mr. Hoffman who reviewed it. For most part, he agreed with the applicant’s protocol but wanted to make minor adjustments, Mr. Egarian said. The applicant’s hydro-geologist recommended a 1,000 ft. radius, encompassing ten homes, some of which would be monitored. Mr. Hoffman wanted the radius to be extended to capture more homes, Mr. Egarian said. The applicant would like to have an approval of the water protocol tonight, he said.

Town hydro-geologist William Canavan said he reviewed the protocol and that it follows the new code verbatim. It didn’t require testing but the applicant volunteered to do it, Mr. Canavan said.

Mr. Lindsay said he wants to expand the radius so that a representative number of wells in the area can be used for an evaluation. The applicant is willing to go to 1500 feet, it would capture 20 homes, he said.

Mr. Huddleston said that “based on the recommendations of the professionals and their review and it wasn’t required, it was volunteered, it was expanded and we still have the ability to tell them it is not enough” that he would approve the protocol as proposed. Ms. Cleaver said she never received a copy of the water protocols and couldn’t vote on it without seeing it.

VOTE BY PROPER MOTION, made by Mr. Gawronski, seconded by Mr. Lupinski, the Town of Goshen Planning Board approves the water protocol as proposed on the application of Woodcrest. Passed with six votes in favor and one abstention.

Mr. Andrews	Aye	Mr. Huddleston	Aye
Mr. Bergus	Aye	Mr. Lupinski	Aye
Ms. Cleaver	Abstained	Mr. Pirragalia	Aye
Mr. Gawronski	Aye		

The PB decided to wait until the actual well testing is done before scheduling a public hearing.

It was noted that the PB assumed lead agency status and typed the application as an Unlisted Action in February.

Mr. Garling said that the adjacent building is an historical structure and that a report was prepared by the applicant and he is in agreement with it.

Mr. Golden said that anyone who wants to build on the lots will have to get site plan approval first. There will be a note placed on the map and a deed restriction indicating that anyone who intends to build a house will have to get site plan approval from the PB to build, he said.

The PB adjourned for a Counsel/Client meeting and then called the meeting back to order at 9:55 p.m.

Reiger – 9-1-8.452 306.9 +/- acres, located on Craigville Road at the end of Broadlea Road in the RU district, in the AQ3, AQ6, Scenic Road and Flood Plain overlay districts. FEIS.

Representing the applicant:

Applicant Mr. Reiger & Steve Esposito

Mr. Golden said that the question that has been at the center of discussions for several months was what protocols the Reiger subdivision should be held to. Mr. Golden said that there was specific water testing protocols in Attachment #3 to the Town Zoning Code, entitled “Protocols for Well Installation, Testing and Reporting Private Well Supplies for Subdivisions.” It makes reference to community water supplies and makes a distinction between community water supplies and private water supplies. Protocols for community water supplies contain an ambiguous statement saying “repeat existing protocols for community water supplies.” Under such circumstances, the courts have said that you have the ability to look behind the words to try to clarify the ambiguity. Mr. Golden said that after investigating it was clear to him that what was intended by the Town Board was to adopt the recommendations of the Town Engineer with respect to these water testing protocols and what was intended by the Town Engineer was that this phrase “repeat existing protocols” was meant to repeat the then existing protocols for community well systems that was in the code prior to the amendment. “So I believe it is clear that what was meant to be in this code was the carryover of the community well system protocols that had previously been in the code, and by reference, one could argue continue to be in existence in this code and my advice to the PB is that is how the PB should interpret and apply the reference here so that any community well system ought to comply with the water testing protocols previously contained in the prior code and should

have been continued in this new code so we will act as though it is there.” He said he will ask the Town Board to make it clear and actually pass an amendment to put them in the code.

Mr. Huddleston said the analysis to be performed on the applicant’s study will be a review to see if it is compliant with the community system protocols that were under the previous code. He said the Town’s professionals think they can get it done by the next meeting.

ADJOURNMENT - The Planning Board adjourned at 10:05 p.m.

Ralph Huddleston, Chair
Notes Prepared by Susan Varden