

Minutes of the Town of Lake George Planning Board held on Tuesday, January 3, 2006, at the Town Center, Old Post Road, Lake George, New York.

Members Present: Chairman Scott Wood  
Charlie Portes  
Ed LaFerriere  
Jack Abrahams  
Ralph Bailey  
Tim Kissane

Absent: Keith Hanchett

Also Present: Patty McKinney, Clerk  
Robb Hickey, Zoning Enforcement Officer  
Jim Grey  
Joe DePace  
Kathy Bozony  
Kevin Mulcahy  
John Danese  
Christopher Detmer  
Ann E. Gleasman  
John Carr  
Dave Kenny  
Marilyn Mazzeo  
Mario Mazzeo  
Bob Howard  
John Salvador  
Jeff Provost  
Rod Cornelius  
Dennis MacElroy  
Stephen Whalen  
Geraldine Whalen  
Rhonda Silva  
Paul Silva  
Chris Navitsky  
Rita Dorman  
John Eisenhart  
Abdullah Sarman

Chairman Scott Wood opened the meeting at 7:00 p.m.

A motion was made by Jack Abrahams and seconded by Ralph Bailey to accept the December 6, 2005 minutes.

All in favor.

Motion carried.

### **ORGANIZATIONAL MEETING**

A motion was made by Ralph Bailey and seconded by Jack Abrahams to elect Patty McKinney as Clerk of the Board.

All in favor.

Motion carried.

A motion was made by Charlie Portes and seconded by Ed LaFerriere to elect Keith Hanchett as Vice-Chairman.

All in favor.

Motion carried.

A motion was made by Jack Abrahams and seconded by Tim Kissane to accept the 2006 Meeting Calendar.

All in favor.

Motion carried.

### **PUBLIC HEARINGS**

1. Minor Subdivision Modification #10-2005 submitted by Larry Clute to merge lots 16-19 into one 2.36 acre lot for property located on Morgan Court in the Prospect Mountain Estates.

This application has been tabled at the applicant's request.

Chairman Wood asked the audience if there were any comments on this application.

Bob Howard: “I live in Prospect Mountain Estates. We still feel the same that allowing Clute Enterprises to merge lots, the purpose is to circumvent the responsibility that we feel they have to improve Avenue A. Also, there appears to be a pattern of merging where, in my opinion, and I don’t think I’m the only one who sees this pattern that Clute Enterprises deviates from plot plans as in this proposal, they want to deviate from the original; they submit Site Plans, they get approval for building and then they build and ignore some of the restrictions or conditions that are put on the approval. Allow me to site a couple of examples here within the Town. I refer to Site Plan 26-2004 that’s where Clute Enterprises wanted to build two houses in Prospect Mountain Estates. The bottom line is the plans for two houses, each house showed a retaining wall and this was to control runoff due to steep grades. Neither lot has a retaining wall. One house has been sold. I’ve talked to the owner and there has been issues about that. The other is still owned by Clute Enterprises. I don’t know if there has been a Certificate of Occupancy issued, but there is an erosion problem yet there is still no retaining wall on the house that is not sold. I’d like to know who’s responsibility it is to see that these plans that are submitted if things are built according to the plans submitted. Who oversees these things?”

Chairman Wood stated before a Certificate of Compliance is given, it is inspected by Robb to make sure it meets the plans that were provided.

Bob Howard: “So here we have a situation where Clute submitted plans. The plans show retaining walls. There are no retaining walls there. The owner of the one that is sold has issues. I’m sure there is going to be issues with the next one. There is an erosion problem there now. It’s a very steep grade and whenever it rains, there is erosion, trucks come in and fill in. This has been going on for six months or better. This is a plan where the house was going to be built in the middle of Avenue A. Fortunately that was noticed and that part of the plan was deleted. Another project of Clute Enterprises is located at the intersection of Bloody Pond and Route 9L. I believe the Land Use Permit Number is 99-2005. This application is for a single-family dwelling. The building permit was issued, construction is in the final stages and it’s obvious to anybody that goes by there that this is a two-family structure. There are two electric meters already mounted on the outside of the building. Trust me, this is not being constructed as a single-family dwelling. A permit was issued, the application was submitted for a single-family and it’s not a single-family dwelling. My wife and I see problems in the future with Clute Enterprises if they have a driveway to a house on lot 16 and 17 in Prospect Mountain Estates and we wind up building a private road parallel. We would request that anything that Clute

Enterprises builds in Prospect Mountain Estates, that the project be closely monitored and they be required to build according to the plans submitted. Thank you.”

John Salvador: “I’d like to address the issues I’m hearing tonight on this project with regard to the project moving forward without authorized changes. When a site development permit is issued that allows an applicant to proceed to get a building permit from the County, it has a basis. The basis is the approval of this board or any other board that happened to grant it. Those conditions, basis, variances, whatever they are, are not to be changed without authorization. The authorization has to be given by the board that granted them. Now one of the big gaps we have is between the County’s granting of a building permit and our enforcement of the site conditions. The County does not enforce the site conditions be it stormwater or anything else. They look at the building structure and that’s all. We have to do the inspection of the stormwater on the site and enforce the conditions of approval and we’re not doing gentlemen. Thank you.”

Chairman Wood stated that if this was an application before us today and there was a road that was not completed and it was supposed to be completed, there would have been a bond on the road and we would have asked the applicant to have some kind of conditions that there was a homeowners association or road maintenance agreement. When this subdivision came before the board years ago, there were never any conditions put on it that Avenue A had to be completed. There are 8 houses that are supposed to be on Avenue A that there is no road access to, which is taking a lot of value away from these lots that people thought when they purchased them that they were going to have a house on the road. By giving Clute Enterprises access through lot 40, he will be able to access 3 lots. He purchased Avenue A as a lot and by him having complete ownership of it, anyone who has access off of Avenue A is only going to have an easement and will be responsible for all the cost of it.

A motion was made by Jack Abrahams and seconded by Ed LaFerriere to hold the Public Hearing open.

All in favor.

Motion carried.

2. Site Plan Application SP60-2005 submitted by Frank Thomas to construct a single family dwelling on property with a 15% grade. Property is located on Hubbell Lane.

This application was tabled at the applicant's request.

Chairman Wood asked if there were any comments from the audience.

Kevin Mulcahy requested that the Public Hearing be left open.

A motion was made by Jack Abrahams and seconded by Charlie Portes to hold the Public Hearing open.

All in favor.

Motion carried.

3. Site Plan Application SP68-2005 submitted by Robert Kana to construct a storage building on the property located at 1766 Route 9N.

Chairman Wood stated that the Warren County Planning Board recommendation was to deny without prejudice.

Abdullah Sarman was present representing the applicant.

Ed LaFerriere questioned whether there would be sales in this building. The applicant responded that this would only be for storage.

Chairman Wood asked if there were any comments from the audience.

There were no comments.

The board asked the applicant to provide a detailed site plan showing ingress and egress for the loading dock, to provide a minor stormwater plan and to notate on the plan there shall be no bathrooms and no public sales.

A motion was made by Jack Abrahams and seconded by Ralph Bailey to hold the Public Hearing open.

All in favor.

Motion carried.

4. Site Plan Application SP65-2005 submitted by Cannon Point Homeowners Association, Inc., to remove existing docks and replace with new pile docks and floating docks to provide boat slips for 48 association members, for property located at 3562 Lakeshore Drive.

Chairman Wood stated the applicant has obtained a permit from the Lake George Park Commission and is in the process of obtaining a variance from the Zoning Board of Appeals.

Jeff Provost of The Dock Doctors was present representing the applicant.

Chairman Wood clarified that this is a residential permit; there is no marina, boat rentals, public docking, launch. Jeff Provost stated this is strictly for the homeowners association.

Chairman Wood opened the comments to the audience.

John Salvador: "I'm a property owner at Green Harbour. I'm here tonight to comment on this application because the same problems are looming for the homeowners association at Green Harbour. We have what the Park Commission is calling illegal docks. Truly the docks are illegal however, it's a case of holding the bag of stolen money, but you didn't steal it. In any case, with regard to the Town's involvement here, I believe you're asking for Site Plan Review because this project is in the Shoreland Overlay District as defined in Town Code 175-23. The Shoreland Overlay District has district boundaries that are very clearly defined in the code. They are defined as that area within a perimeter defined as the mean high water mark and 300 feet back from that. There is no water involved. This issue has been addressed by the Courts. They refer to Section 7-A of State Law, which precludes a municipality from regulating the navigable water of the State. There have been a number of cases that I can cite, but it all boils down to the fact that the navigable waters are within the sole jurisdiction and control of the State and the paramount authority of the State to control uses upon navigable waters precludes Towns from exercising jurisdiction. Now your Town administration is fully aware of this text. They've been advised in other applications. They are aware of this. It has been presented in papers that are being addressed by the Town at the present time. The point I think I'd like to make here that I wouldn't want any precedence set because we will raise this issue at Green Harbour if and when it comes up, that your jurisdiction ends at the mean high water mark, that is also the limit of the zoning district boundary that you're operating within. Thank you."

Robb Hickey read the section of the Zoning Ordinance: “No person shall construct or place in the waters of Lake George, within the Town of Lake George, any wharf without first obtaining a permit from the Town of Lake George. It has nothing to do with the Shoreland Overland District.”

John Salvador: “It is very specific what Mr. Hickey read, within the Town of Lake George and your Town boundary ends at the mean high water mark. There is nothing wrong with what he said.”

A motion was made by Jack Abrahams and seconded by Ralph Bailey to close the Public Hearing.

All in favor.

Motion carried.

Chairman Wood stated he would rather wait on this until after the Zoning Board of Appeals has held their meeting and would like to reserve decision until the January 17, 2006 Planning Board Meeting.

5. Site Plan Application #72-2005 submitted by John F. Carr Construction, LLC, to construct 18 townhouse units on approximately 10 acres for property located off Birch Avenue.

John Carr and Dennis MacElroy were present.

John Carr: “As the board knows, I’ve been here before describing this project. What we’re proposing is an 18 townhouse unit project. These are 1,800 square foot townhouses with a single car garage. There is a circular driveway coming off Birch Avenue. What we’re trying to do is keep it in as tight an envelope as we can as far away from sensitive areas like Westbrook. It is a multi-family proposal where there would be an association that would own the common land that surrounds it and each unit would be individually owned. It’s important that the public and the board know it’s not a rental type situation where these are going to be rental houses. They are going to be sold individually to buyers as we go along.”

Chairman Wood stated that when this was in the Sketch Plan process, clustering was discussed. He stated that this is not a cluster development because it’s not a subdivision of the property. The rules don’t apply as a cluster. The density is computed from the size of the entire parcel which determines how many units you can have. There are no setbacks on

buildings. There is an association as far rules and governing it. There are no individual ownerships of the property. It's a common ownership.

John Carr: "Robb and I discussed this. What we were looking to do was put more units in a smaller area. The reason for that is that it is going to allow certain other areas that I felt were more sensitive to this area and would also spread the impact out over the neighborhood. There will be an offering plan, Attorney General, Health Department, SHIPO. It doesn't really make sense for me to go there until we have, this is sort of what we're really doing here. They need to know expected maintenance costs which would depend on what type of building materials we use which maybe you guys have input on. It doesn't really make sense to take that next step. That would however, by State Law, be something I'm required to do before I can sell the units. There was a question at last month's meeting regarding the wastewater and since this was a prior application to the Village Moratorium, they were willing to accept it. With this project, we're looking at discharge rates in the 7,000 gallons which is not, some sump pumps in people's basements are putting out more than that. That's something that they're looking at and are trying to address."

Chairman Wood stated the biggest question he's heard is what are they going to do to protect Westbrook.

Dennis MacElroy: "I'm going to repeat some things that have been said, but let me just give a little summary of where we've been and identify where we are now. The applicant owns 9.15 acres, which exists as three parcels. The parcels are separated by some utility right-of-ways and whether that's historical, they were together at one point and that's the way they exist now. Zoning is RCH and by prior action by the Zoning Board, an approval of a concept which allowed 20 units to be developed on the largest of those three, which the largest parcel is 6.8 acres. Effectively, it allows the overall density of the 9.15 acres to be developed on the larger of the two. So that in itself eliminates any discussion of clustering, but Scott you were correct in your explanation in that it's not clustering, it's multi-family development and by nature those units are put together in open space or common land. The other two parcels that I spoke of will be left undeveloped. The .94 acre parcel that itself has been offered to whatever entity is appropriate, Town or State, for use in an effort for erosion and sediment control of highway runoff. As indicated, there were 20 units that could be allowed by the action of the Zoning Board, but the proposed plan calls for 18. When we got to the more specific design, we realized that that was more appropriate for the development of the site. It's a wooded site and in the area of the

development, I'd characterize it as slight to moderate slopes, that are suitable for development, but in an area of steep slopes and that whole ring around is certainly steep slopes, but we're staying away from that in terms of development and no development is proposed in that area. The access to the site is off of Birch Avenue, there is a long approximately 400 foot access before the property opens up and there will be a private road that comes in at a relatively minimal slope and loops around and the driveway access is off of that road. Each unit will have a garage. Parking is indicated on the plan. There are 18 garage units, 18 driveway spaces and an additional 12 spaces for guest parking. Sewer would be municipal service and you've got a letter from the Village which indicates their acceptance of these flows. We would be pumping up from the developed area out to Birch Avenue with a pressure connection to the gravity system that exists out on Birch Avenue. Water would be the same corridor from the developed area to the connector of the water main on Birch Avenue. Stormwater is probably the bigger issue in terms of utilities. We've prepared a stormwater management plan and report in compliance with the Town's requirements in Section 175-21 and basically the simple explanation is that post-development runoff will be no greater than pre-development conditions and that through the concept and the design of stormwater management basins, we've got three different grassed basins, one which collects runoff from the road area, a basin that collects everything graded toward that center section and then around the perimeter there is actually some infiltration trenches and drywell which would also address runoff from the down-gradient roof areas so that would capture that prior to getting to the slope. There is an overflow from that last basin, but that's just proper design that we have an overflow that would ultimately discharge to the stream. Again, beyond any 100 year storm events, this is all in compliance with the requirements of the Town's ordinance. Along with the Stormwater Control Report as required, we've done deep test pits and the soils are well suited, well drained, sandy soils. It's in the same geologic neighborhood I'm sure as the beds at the treatment plant."

John Carr discussed what has been completed voluntarily so far relating to an archeological study. A report thus far has been submitted and is on file in the Planning and Zoning Office. He stated that the results will be forwarded to SHIPO and he will advise the board of the results as soon as they are received.

Chairman Wood stated he had received letters from the following people. If the people who wrote the letters want to read them, they are more than welcome to. These letters are on file in the Planning and Zoning Office:

Kevin Mulcahy  
LGA  
Lake George Waterkeeper  
Margaret Edwards, Town Historian  
Donie Schuster

Chairman Wood opened the comments to the audience.

John Eisenhart: "I own the property that is adjoining Westbrook. I'm really the person that is going to be most affected to this development. John Carr and I have been speaking and I'm very pleased that he has been kind enough to share all the information that has developed with me. One of the prime concerns seems to be runoff. There is an old logging road. A lot of that erosion runs right down my walkway, right past my deck and into Westbrook. Mr. Carr indicated to me that he is going to fill in that area and as far as I can tell his plan to divert the runoff from that plateau will be much less effect as far as filling Westbrook. I've seen this sand just run right through my property and it runs right down that road and right down the hill. If he fills that thing as he says he will, then I think the runoff issue is well taken care of. He's shown me where he's going to have a low area, a storage area for runoff to sink into the ground, but it's pretty poor now. It's been running into Westbrook pretty severely during any rains of any sort and I think the plan that he's showing me, if he can close off that road and run that pipe down and take that away from my property, I think that's going to solve a lot of the runoff into Westbrook. It's going to be a better situation than it was before. Now I have every reason to not want a development there because I have a very secluded spot, it's just one of the coolest places in Lake George and I've got it and I'm very happy to have it. He's been very careful to tell me about lighting, about how much I'm going to see of these properties. There's a very steep embankment that runs right behind my property. He's not going to cut any of those trees. A lot of them are evergreens. I feel that the impact to me will be minimal. My biggest concern was am I going to have that road used as egress to this development. I didn't want that. I don't think anybody on Sewell Street wants that and I'm pleased that my driveway, which I've always considered my driveway is really not going to be used anymore than if you guys come to my house for dinner. Apparently, if I understood Mr. Carr to be correct, I think the runoff is going to be better. I think the effect on Westbrook will be improved. I don't think it's going to be just the same. It's pretty bad now and it's not improving with age with no development there. If he can block off that road and divert that to that flat area across from my house, it's lightly wooded, maybe six inch trees there, cut it down make a grassy area, slight incline, I

think that will address a lot of that sand and silt runoff that's filling up Westbrook and I think it will be a positive thing. That's the first time I've said a positive thing about a development right next to my property. My biggest concern of course is having a lot of trees cut down and we're hoping that that does not happen. I don't want a lot of light pollution there. I think it's a good area for development and we can't stop everything and I would support that project. I think the runoff will be addressed well, if I understand what he said to be correct. Thank you."

Chris Navitsky: "Lake George Waterkeeper. I have some concerns on the project and outlined in my letter. First off, regarding the Planning Board review, I think the Planning Board should be aware that the Zoning Board really did not evaluate any environmental or site conditions, they were quite specific on that. According to the Town's Comprehensive Plan, Map 10, indicates that the majority of this site is unsuitable for development and moderately unsuitable and they classify it, it's difficult to say due to the scale, but that upper area is less suitable. This site has a lot of concerns regarding development, especially the intensity of this. The project classification, I appreciate the discussion that was before, but I am still extremely confused on how this cannot be considered a subdivision when it's stated by Mr. Carr that the homes will be individually owned. You have to purchase that. There has to be a deed transfer and there has to be some type of a subdivision plat. I talked with Mr. Hickey today and I just can't get that through my head. I still really think that this will be an overall increased intensity of development. You've got a narrow strip where you couldn't have a buildable lot. You've got your lot off Birch Avenue that really you don't even have any access to. I just really think this has been an increase in what could actually be built there. Stormwater Management, again some technical concerns regarding basically the classification of the ground cover. I think that they are not using the most applicable ground covers when this is a wooded site, it should be classified as good and what that does is they took a higher value which allows greater runoff from your pre-development conditions. I think it should be minimized. Secondly, in their post-development conditions in the non-paved area, they continue to describe as woods, but all the trees will be removed and there is some severe cut and fill that is going on so they can't classify that as woods. That needs to be classified as grass area. Again, the areas cleared for the ponds are not included in the runoff calculations so that again is increased runoff that they haven't considered. Again, the grading in the subcatchment area 3, that they are clearing and it's not collected, it's running down the hill. That area is not included in their calculations so I think this needs to be reviewed. My second point, the plan has underdrains in all the basins. Basically what that

means is runoff infiltrates in, collected by the underdrains and then it's piped out. That's not managed. It's really getting released, so those should be taken off of the plan. If they do keep the underdrains, which might be for management for future maintenance, they should put valves on them so that they do not collect the runoff and then discharge it, but if there is a problem, if they have to go in and do some excavation, they can actually open the valve to allow that to drain. They talk about not providing infiltration in their upper basin, but I can't see how you mitigate your increased runoff without using that infiltration, so I think that needs to be clarified.

Westbrook is an impaired water body as described by the DEC. This is directly tributary to Westbrook therefore, you need to meet the requirements of the DEC Stormwater Manual. There is no information on the water quality volume treatment. Detention basins which are proposed are not allowed for water quality volume treatment, so that needs to be investigated. Again, a lot of these areas are fill. That basin in the center of their court, that's basically in an area six feet of fill. You cannot use fill for infiltration according to the DEC. That needs to be reviewed. Again, that lower basin near Westbrook, half of that is a berm. You can't use that for infiltration so that needs to be re-evaluated. They have a pipe going directly to Westbrook from the basin. That's just straight-shooting pollutants and nutrients right into Westbrook that make it down there. I wonder if it's possible that could be an open channel. There has been no consideration for cold climate conditions. Basically there's a 10% requirement to allow infiltration to continue during the times of year like this where the ground is frozen and you don't get infiltration. Regarding site conditions, there is a large amount of fill that is required on the site. The entire circle around the basin is 6 feet of fill. The roadway coming in is fill basically from where it lines up from a 40 foot right-of-way around all the units on the northern half, you've got about 4 to 6 feet of fill. I'm just wondering if this site is balance or are they going to be importing fill. There is a severe cut of 7 feet on the southern property line to where the power station is, but does that actually balance. Are they going to need to bring material into the site? Note 3 on their sheet 1 of the plan says "townhouse locations edged on herein are preliminary. The building plan locations will be confirmed pending a recommended slope stability analysis". Now when I read that, it appears that there is concern about the soil conditions on site and the ability to support the construction proposed. I recommend the Planning Board require a submission of any geotechnical reports before approvals. Also, the Warren County Soil Survey indicates that these are Oakland soils and they are good sandy soils, but there are severe conditions regarding excavations due to the sandy soils. Again, due to the excessive amount of grading, the utility and foundation construction, a geotechnical report should be provided to eliminate the

erosion. My wastewater comment, I guess that was addressed but I am, literally I think that that letter stinks. This whole area does, a month ago the Mayor says that they can't accept major developments like condominiums, hotels and now we've got a letter. I met with him a few weeks ago and he tells me that they can accept them, because now they can increase their application rate at the sewer plant. You can't increase your application rate. I know this isn't your Bailiwick. I know Mr. Carr got a letter and that's what he's supposed to do. I've got to take this elsewhere, but that is completely wrong and that's something that I probably have to bark up another tree. The infiltration trenches as shown, the detail they have won't collect the surface runoff because they actually cover it with grass and that's on sheet one. If the trench is going to be left open it might collect the runoff, but it's not in the condition that it's shown on the detail. Again, they do show that runoff will be going downhill during a 10 year storm. Also, with the sandy soils, not good for revegetation. Are they going to have to pour fertilizers on this after. Maybe the Planning Board should see if there is going to be a fertilization plan that can be provided. I just hope that in light of some of these that the board will keep the Public Hearing open for any revised plans that come in. Thank you."

Kathy Bozony: "I wasn't intending to discuss this, but when John spoke about that gully and John Carr had indicated that he might fill it in, I think that that really would be a good condition to have that filled in because that old logging road has eroded 10 to 15 feet. That might be quite an undertaking to fill in, but along with diverting the other stormwater that might be a really positive thing that could happen on this project. I had originally envisioned that these townhouses could be placed amongst these old large mature trees there and then I looked at the grading plan and realized that the entire site is going to be graded therefore, the initial thing will be to come in and take down every tree. John Carr and I have discussed about possibly working around some of this with the 18 units that are approved for that site. At this point, I don't know if that can happen. If the number of units were reduced, we may be able to take these large areas where these very large trees could remain on the site. I think that would be really advantageous for the entire townhouse project as well. The other issue and I spoke to John Carr about this is to in the final design of these townhouses, move some of them further away from that steep slope, which may come out if there is a geostudy done, that may come out as well, but some of them are very close to that slope that goes down to Westbrook. Thank you."

Marilyn Mazzeo: "I'm a resident of Birch Avenue. I was deeply involved in the excavating for historical purposes of the Niagara Mohawk property. Hartgen was there for quite some time and I believe that all of the records of that day were turned over to the Town of Lake George. You probably have all of that complete record. I therefore find it very hard to believe that there was nothing on that site. I don't know who did the dig, but it just doesn't seem reasonable that right next door there would be nothing of historical value. The other thing that I was concerned about was at the beginning of this discussion, I heard the word rental mentioned. Could you clarify that for me?"

Chairman Wood stated that these units would be for sale. He did make a point that these were not going to be rentals.

Marilyn Mazzeo: "I'm very concerned about how this will be marketed. What happens to a lot of places in Lake George is if no one wants to live there in the winter, then they are rented to the County. If somebody can't stand the stench up there then they're going to try to make their property pay off one way or another."

Chairman Wood stated these units would sell for approximately \$250,000 and doubts that if someone puts that amount of money into a unit, they are less likely to rent it.

Marilyn Mazzeo: "All of a sudden there is going to be plenty of room at the sewer beds for 20 units. I don't know how that's happening and I'm wondering in the marketing, are you going to tell the people that the houses are next to the National Grid, which was a big concern when we were looking at that before and the sewer problem that has not been solved. I just can't imagine that there are 20 units going in there with 20 unsuspecting people, depending on the time of the year that they build, that it's going to be feasible. The other thing that I'm concerned about is I'm a property owner, as such, quite a bit of property at the cemetery. I would like to see a fence bordering that entire property so that in the event that there are people who decide that they are going to cut across from their road to Gage Hill, that it's not possible to do so. The other thing is such a narrow entrance to the property, what happens with the snow removal? Is it going to be pushed on to somebody else's property in order to get in and out of that place? That's just a few of the concerns that I have and I'm hoping you'll leave the Public Hearing open. Thank you."

Kevin Mulcahy: “Earlier tonight we heard stated that the closest piece of property is about 200 feet away. Maybe I misunderstood that, but so Mr. Eisenhart knows, his property is about 100 feet away from the back of the units, not 200. It was also noted that the Zoning Board approved this as a concept, Chairman Smith made it quite clear that it was only for the 18 units and not the concept. I have a section of the Zoning Book here that states townhouse development and here is a definition of a townhouse development: “a multiple family dwelling project of individual single-family units arranged in a row of at least 3 such units each on its own separate lot of record.” I’m going to go to multiple family dwellings, Section 175-47: “the minimum lot area necessary for each individual dwelling unit shall be the minimum lot area in Schedule II of Article IV hereof”, which in this case would be 20,000 square feet per dwelling unit. I still think if we look at this right now and I talked to Warren County this morning, this is not one parcel, they have it listed with two separate tax map Id numbers, so I believe that for this to be considered one parcel would be premature to the joining of the two properties. I’m not sure the conveyance of parcel 1 and parcel 2 to the State or the Town is actually a benefit to us, we will lose the tax income and we will not be responsible indirectly to pay taxes to the State or the Town for maintenance and insurance that might be necessary on this property. Parcel number one is pretty much blocked by Mr. Luce’s property. There is 18 feet to get into parcel one if we try to develop that and that’s covered by Mr. Luce’s shed so for that to be abandoned is great for Mr. Luce, but the buildings being built up there would actually be further away from houses than the other buildings. I’m not going to dwell on that. The second issue is if the development should be allowed in the RCH zoning district, which I guess you guys are considering that this isn’t cluster development, but in the first sketch plan meeting and I have the minutes on this if you’d like to see if, I don’t see much difference from this to the first sketch plan review and Chairman Wood stated that in order not to meet the setbacks and to have this all in one location, this would be considered cluster development, August 16, 2005.”

Chairman Wood stated that this was before Robb had made a determination and before it went to the Zoning Board.

Kevin Mulcahy: “So if it’s a townhouse development, townhouse development specifically says that they have to have each individual lots per unit, so wouldn’t that require a subdivision to give them their individual lots. I mean that’s the definition, individual lots.”

Robb Hickey: “When they say lots, they’re talking about the common practice of giving them their footprint. We’re here concerned about overall density. They received a variance to have the 20 units on the six acres. Once they get that, they get that.”

Kevin Mulcahy: “The next issue would be parking. I see on this map that we have all of the parking in the front of the structures, specifically 175-33 requires parking for residential structures to be at the side or the rear. A lady recently had to come before the Zoning Board in order to get a variance to park in her front yard. I don’t know why this would be treated any different. It’s a residential development. The other issue that I have a question on is the side yards. Section 175-7 defines yards as an open, unoccupied space on the same lot as the principal building. So to me a side yard is unoccupied to have another primary structure, that would be occupation of that space. We’re stating that we’re going to leave 35 feet for the side yards in this case. Can you treat this whole chunk of property as one building or are they individual buildings and I think that the multiple family definition shows that they are individual buildings with individual requirements. They’ve also taken the side yard requirement of 10 feet on multiple family and made it 30, so it seems like they’re thinking because I put 4 together, I’ve got to have more land on the sides to compensate for what I don’t have between the units. That is up to whoever interprets that. Section 175-13 does state that no yard or other open space necessary for any building under these regulations shall be included as part of a yard or open space for any other building. Each four unit complex is four separately owned, four separate lots. I think that your code shows, it’s my opinion that we need wider yards in here. These units, some of them are 20, 25 feet apart from the next unit. That’s not even 30 feet on the side yard. How do you address a side yard setback? It says unoccupied space. If there’s a townhouse there, is that unoccupied space?”

Robb Hickey: “They don’t need side yard setback variances because there is no building between that and the property line. That is when they talk about side yards.”

Kevin Mulcahy: “The other thing I’m looking at is the roads in this, the aisles, everything has been minimized. Everything has been made extremely small to fit. Our road is 16 foot wide. It’s a private road, but our book says that two-way lanes are supposed to be 22 foot wide if you do a subdivision, if it’s going to be a Town road, they want at least 20 feet of paved surface. These are 16 foot of paved surface. Is it a difference because it’s a private road, I don’t know.”

Chairman Wood asked Kevin if he had his comments written down.

Kevin Mulcahy: "I'll do an outline for you of what I covered tonight. I'll have it put in your mailbox. I'd like to say that Chris Navitsky is a professional engineer also. I think that the things that he is trying to protect what we have in Lake George, I don't think anybody is up here trying to bash development, but I've spoken before and this, in my opinion, is way too much for this. Mr. Eisenhart is going to see things out of his back yard. 100 feet away is not that far and we need to minimize what you've got there. It's just way too much."

John Salvador: "There can be no question that this is a subdivision. It's been articulated by others here. The important thing that this board should understand is that whatever this project becomes as a result of your review, that it is a creature of the decisions of this board. It goes no where without your approval and that approval is a subdivision plat that has to be filed at the County. They can't begin to do what he refers to as an offering plan, without a subdivision plat that is filed. That's a part of the offering plan. Now this Homeowners document, offering plan, whatever you want to call it, is a requirement of the General Business Law of this State 352-E and it's required because they are selling a security that has obligations, the security is to be supported by the obligation of many people, multiple ownership. That's why they have to do what you call a disclosure document. On Wall Street, they call this a prospectus. In the real estate business they call it an offering plan. Sometimes we call it a homeowners document, but in any case all of the conditions that you put on this project have to be disclosed. They have to be disclosed in the offering plan. That's done before they can put a shovel in the ground. That has to be filed by the Attorney's General Office. It gets an HOA number. It gets a tax number and they have to make a declaration. They declare the piece of ground that they have. They make a declaration that they are going to convey that to this homeowners association and they reserve out of that these little lots that they are going to build in. That's all recorded on file at the county and is a part of the offering plan. Now they've got a lot of work to do before they can put a shovel in the ground. The stormwater requirements, there is a massive, massive effort to control stormwater. Who's obligation is it going to be over the years to maintain and operate this, the 20 buyers. That has to be disclosed. What their obligation is has to be disclosed. They're going to pump wastewater from the site into the sewer. It's a system that is going to be multiple ownership. There is a pump that has to be maintained and operated. Somebody has got to pay for it. These are seemingly small things, but they

are important down the line otherwise the project falls into a state of what you might call disrepair and becomes a burden on the taxpayer, particularly roads. These people have a long way to go. It's a difficult site, as you've heard, but the obligations that they are going to pass on to these 20 owners have to be spelled out and that's in the offering plan that is required.

Mrs. Mazzeo mentioned her concern about rental. I can tell you from personal experience that developers have not followed the law, in our case at Green Harbour. We are a realty subdivision also. Our sponsors put in the offering plan that we could rent our units with a four day minimum from September to May or June and otherwise by the week. That's not a residential development. That should not have been allowed by this Town. That project is not to be in competition with your hotels and motels down the line and that's what it is. We have the burden of people coming and going that we don't know. From week to week we don't know, using the swimming pool, using the water system, the wastewater system, the beach, the docks. What a ridiculous situation, but it was created because this Town wasn't enforcing its own regulations. Now I think slowly we're catching up with some of these problems, but it's very, very important that that offering plan be put in place before a shovel goes in the ground and there's a guarantee that these things are going to be provided for. Thank you."

Dave Kenny: "I guess the only thing I would say is that an offering plan I think should be reviewed by either the Planning Board or whoever, once it's given to the Attorney General. I don't think it's practical to get an offering plan before the project gets started because the offering plan requires too much and you can't do that pre-development. Before the Attorney General approves it or even after the Attorney General approves it, it has to come to the Town before you can give out CO's. As far as a subdivision, I guess somebody better talk to the Attorney General, because what happens on a 20 story high-rise, where you own a condominium on the 20<sup>th</sup> floor, do you own the property beneath the building. There are buildings that have 10 owners all in one building. The Attorney General can devise it that they don't own the footprint of the building. They can own 100 year life interest in it. There's all kinds of offering plans."

Paul Silva: "I own property on Sewell Street. I just have a couple of questions. I'm concerned about the condition of the brook as well. I watched DEC come in and rebuild one of these banks. It sounds like you guys are already familiar with this. My first comment is about a piece of land that may be given to the Town, is that on the other side of the brook."

John Carr stated this was parcel number two which is the .92 acre lot.

Paul Silva: “My other question is because I frequently visit on Birch and I know that there is a big difference between the summer and winter whether or not that is a pleasant visit. I don’t know how it is you can increase the volume of people without increasing the volume of sewage. I don’t know where to go to get any real supporting documentation that the stench will be lesser after you increase the sewage. The other thing is I haven’t heard anything about traffic flow. I have previously owned rental properties and I know parking can be a problem after the fact and what I heard is you have a one car garage, you have one space in the driveway and then if anybody visits, there is 12 spots. So it sounds to me like you’re going to have a problem if any more than one visitor shows up at one time or if you have two consecutive visitors. That’s not a whole lot of parking.”

Chairman Wood asked the board if they felt an independent engineer should review these plans with the cost of the engineer being paid by the applicant.

A motion was made by Jack Abrahams and seconded by Charlie Portes to engage the services of an independent engineer at the applicant’s expense, to review all plans for Site Plan Application #72-2005.

All in favor.

Motion carried.

A motion was made by Jack Abrahams and seconded by Ralph Bailey to hold the Public Hearing open.

All in favor.

Motion carried.

### **REGULAR MEETING**

1. Site Plan Application SP61-2005 submitted by Resource Property Management, owner being Sunnyview Homeowners Association to request permission to make improvements to the common area of the Association.

This application has been tabled at the applicant’s request.

2. Site Plan Application SP66-2005 submitted by James and Sylvia Durante to construct an 8 x 12 storage shed, for property located at 69 Vandercar Lane.

Rod Cornelius was present representing the applicant. Rod is the adjacent property owner to the north. This is to construct an 8 x 12 storage shed. There are no plans for excavation. This is a pre-delivered storage shed with no electricity. He did receive a variance from the Zoning Board of Appeals.

Chairman Wood stated the Warren County Planning Board recommendation is No County Impact.

Chairman Wood read the application into the record.

A motion was made by Tim Kissane and seconded by Jack Abrahams to accept the application as complete.

All in favor.

Motion carried.

A motion was made by Jack Abrahams and seconded by Tim Kissane to waive the Public Hearing.

All in favor.

Motion carried.

A motion was made by Jack Abrahams and seconded by Ed LaFerriere to approve Site Plan Application 66-2005.

Tim – Yes

Jack – Yes

Charlie – Yes

Ed – Yes

Ralph – Yes

Scott – Yes

Motion carried.

3. Site Plan Application SP67-2005 submitted by Kenny & Kim, LLC, David Kenny, to construct a covered walkway on the north side of the building in the existing parking lot in addition to construction of a deck and walkway on the east side of the building located at 3178 Lakeshore Drive at Sun Castle Resort.

Dave Kenny was present. He stated that he is proposing to construct a covered car port on the north side of the building.

Chairman Wood stated the Warren County Planning Board recommendation is No County Impact.

A motion was made by Jack Abrahams and seconded by Charlie Portes to approve SP67-2005.

Tim – Yes

Jack – Yes

Charlie – Yes

Ed – Yes

Ralph – Yes

Scott – Yes

Motion carried.

4. Site Plan Application #70-2005 submitted by Joseph DePace to construct a 3 bedroom single family dwelling on property with a 15% or greater slope for property located on Journey's End Road in Diamond Point.

Chairman Wood stated the board has received a Major Stormwater Plan for this project.

Chairman Wood stated there has been a letter received from the Lake George Waterkeeper. A copy of this letter is on file in the Planning and Zoning Office.

Chairman Wood stated Dennis Dickinson needs to sign the Major Stormwater Plan, to certify that the plan meets all the requirements of the Town Stormwater Regulations, that he inspect during construction, and submits a final as-built plan. A Stormwater Maintenance Agreement and a bond is also required.

A motion was made by Jack Abrahams and seconded by Ralph Bailey to approve SP70-2005 with the condition that a letter from the engineer be submitted stating that the plan meets all the requirements of the stormwater regulations, that he conduct an inspection during construction, a Stormwater Maintenance Agreement and a bond or letter of credit be submitted, a final as-built plan be submitted and the applicant receives Zoning Board of Appeals approval.

Tim – Yes  
Jack – Yes  
Charlie – Yes  
Ed – Yes  
Ralph – Yes  
Scott – Yes

Motion carried.

5. Site Plan Application #71-2005 submitted by Ken Ermiger to convert a portion of the existing porch/deck located on the second floor of the south side of the existing mansion into a sun room, for property located at Cooper Point.

Chairman Wood stated that the Warren County Planning Board recommendation is No County Impact.

A motion was made by Charlie Portes and seconded by Ralph Bailey to approve SP71-2005.

Tim – Yes  
Jack – Yes  
Charlie – Yes  
Ed – Yes  
Ralph – Yes  
Scott – Yes

Motion carried.

Chairman Wood stated that he will be having a meeting with the Chazen Group to gather some information and discuss the information at a workshop on January 17th. However, if the information is not available, this workshop will be at the February meeting.

Chairman Wood stated that the board members should bring their copy of the Property Maintenance Code to the January 17<sup>th</sup> meeting to begin discussion on this.

A motion was made by Jack Abrahams and seconded by Charlie Portes to adjourn at 9:45 p.m.

Respectfully submitted,

Patricia McKinney  
Planning & Zoning Clerk