

STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of:

HUDSON DINER  
(2011-02)  
5500 Route 9W  
Section 8; Block 2; Lot 27.1  
B Zone

----- X  
AMENDED SITE PLAN

Date: July 7, 2011  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

**BOARD MEMBERS:** JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS E. FOGARTY

**ALSO PRESENT:** MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

**APPLICANT'S REPRESENTATIVE:** Charles P. May

----- X  
MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)- 895-3018

Reported by: Rosemary A. Meyer

1 - HUDSON DINER -

2 CHAIRMAN EWASUTYN: Cliff, whenever you're ready.

3 BOARD MEMBER BROWNE: Good evening ladies and  
4 gentlemen. Welcome to the Town of Newburgh Planning Board  
5 meeting of July 7, 2011.

6 At this time we'll call the meeting to order with a  
7 roll call vote starting with Tom Galli.

8 BOARD MEMBER GALLI: Present.

9 BOARD MEMBER BROWNE: Present.

10 BOARD MEMBER MENNERICH: Present.

11 CHAIRMAN EWASUTYN: Present.

12 BOARD MEMBER PROFACI: Here.

13 BOARD MEMBER FOGARTY: Here.

14 BOARD MEMBER BROWNE: The Planning Board has  
15 professional experts that provide reviews on the business  
16 before us, including SEQRA determination as well as code  
17 and planning details. I'll ask them to introduce  
18 themselves at this time.

19 MR. DONNELLY: Michael Donnelly, Planning Board  
20 attorney.

21 MR. CANFIELD: Gerry Canfield, Town of Newburgh Code  
22 Compliance Supervisor.

23 MR. HINES: Pat Hines with Mc Gough, Hauser and Edsall  
24 Consulting Engineers.

25 MR. COCKS: Bryant Cocks, planning consultant.

1 - HUDSON DINER -

2 BOARD MEMBER BROWNE: And I'll turn the meeting over  
3 to Joe Profaci at this time.

4 MR. PROFACI: Please join us for a salute to the flag.

5 (The Pledge of Allegiance was recited.)

6 BOARD MEMBER PROFACI: If you have any cell phones or  
7 pagers, would you please turn them off. Thank you.

8 CHAIRMAN EWASUTYN: Thank you.

9 BOARD MEMBER BROWNE: Our first order of business this  
10 evening is Hudson Diner, Project No. 2011-02. It's an  
11 Amended Site Plan ARB being presented by Charles P. May and  
12 Associates.

13 MR. MAY: My name is Charles May. I'm representing  
14 the Hudson Diner which is located on Route 9W in Marlboro,  
15 New York. It's about eight miles north of the intersection  
16 of 9W and I-84.

17 The diner has been in existence since 1978. We are  
18 here this evening because the diner has requested a 960  
19 square foot addition to the existing diner.

20 Just to share a little bit of the history of the  
21 Applicant's progress with the diner, as you may recall,  
22 when we first came here the determination was made that we  
23 had to appear before the Zoning Board of Appeals because we  
24 had to have a width, 60 foot frontage. We went to the  
25 Zoning Board of Appeals. The Zoning Board of Appeals has

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1 granted that setback requirement.

2  
3 From there, we actually had many communications with  
4 the Orange County Health Department which I believe the  
5 chairman of the Planning Board and the Planning Board  
6 members have been copied on so you know that we had been in  
7 discussions with them.

8 The original intent was to try to expand the sewage  
9 disposal system. We looked at it in several different ways  
10 and we found out that the capital investment would not have  
11 a rate return.

12 What we would like to do is this evening present to  
13 you the 960 square foot addition which will be limited to  
14 110 seats. As you may recall, we had sent the Orange  
15 County Health Department a copy of the SPEDS Permit. We  
16 also sent them a copy of the plans, the existing plans, and  
17 also the plans which demonstrate the square footage of the  
18 addition. The comments that we did receive from Ed Simms  
19 were that the actual addition would not have any impact on  
20 the existing sewage disposal system physically and that the  
21 existing sewage disposal system should be marked out during  
22 the period of construction.

23 The restaurant will be built, and the building  
24 management of the restaurant will be managed by De Rapalee  
25 Construction. There is a letter which was sent to the

1 - HUDSON DINER -

2 health department. And they have a construction manager  
3 who will be on site at all times to manage the actual  
4 construction of the facility.

5 One of the comments that Bryant had was the fact that  
6 he wanted to have the 60-foot front yard setback noted on  
7 the cover sheet, which we will do, and the date that the  
8 ZBA had granted that setback.

9 No. 2, he speaks about the EAF, going to the  
10 environmental mapper and the determination that we had  
11 reviewed it and we didn't see any significant endangered  
12 species of plants or animals on that particular site; and  
13 also, the architectural review of the restaurant itself.

14 The addition, if you all have your plans, you can see  
15 the 960 square foot addition will be in this particular  
16 location. And all of the existing materials, colors, the  
17 color of the stone, will all match the existing restaurant.  
18 So therefore, there will be no architectural changes which  
19 have been in existence since 1978.

20 Having said that, I believe that that should conclude  
21 the presentation concerning this project at this time.

22 CHAIRMAN EWASUTYN: Comments from board members.  
23 Anyone this evening?

24 BOARD MEMBER GALLI: None, John.

25 BOARD MEMBER FOGARTY: Is there anything going to be

- HUDSON DINER -

1  
2 done, any changes to the lighting or the parking?

3 MR. MAY: Well, there will be minor changes. There  
4 will be no changes to the lighting, but there will be minor  
5 changes to the parking which are indicated on the plan. We  
6 have a sufficient number of parking spaces in order to  
7 accommodate those changes. Those changes were presented to  
8 the Planning Board. The number of spaces that were  
9 required and the number of spaces that were provided are  
10 well within the requirements for parking spaces for  
11 restaurants according to your zoning code.

12 BOARD MEMBER BROWNE: You refer to the EIF and the  
13 endangered species. You said there's no significant amount  
14 of endangered species. Would you rather say there is none?  
15 Because to say there's no significant, that means there is  
16 some.

17 MR. MAY: Okay. Well, in fact, I can retract. That's  
18 not a problem.

19 It's an asphalt pavement, as you may know, and there  
20 were no endangered -- if you want me to say there were no  
21 endangered --

22 BOARD MEMBER BROWNE: Assuming that's what you meant  
23 to say.

24 MR. MAY: Yes, yes. I'm sorry. I could make that,  
25 you know ...

- HUDSON DINER -

1  
2 BOARD MEMBER BROWNE: It may be semantics, but when  
3 you get into the technical stuff --

4 MR. MAY: I understand. I'm sorry that I made a  
5 little error there. I meant what you said.

6 CHAIRMAN EWASUTYN: Pat Hines, questions as far as  
7 Simm's letter.

8 MR. HINES: Yes. I received that in my package  
9 tonight. I see that. They have approval for 110 people in  
10 the facility. We would suggest that those notes be added  
11 to the plans because based on the parking count shown,  
12 there is significantly more than that, that you back into  
13 your parking calculations. I think Gerry just mentioned  
14 that the building may be posted right now for occupancy  
15 greater than that so you're kind of going a little  
16 backwards with the addition. So we would suggest that the  
17 110 notation be placed on the Site Plan as well as, so it  
18 can be enforced by the Building Department.

19 CHAIRMAN EWASUTYN: Gerry, do you agree?

20 MR. CANFIELD: Yes, I agreed. And also, the  
21 suggestion would be is if it could be perhaps a condition  
22 of the approval in the resolutions, a condition of approval  
23 on limiting the total occupant load to 110 if that's what  
24 Mr. May is indicating.

25 MR. MAY: That, I indicate 110 because 110 is what the

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2 limitations are for the SPEDS Permit as far as being flow,  
3 design flow for the restaurant.

4 As far as what you're saying seating capacity for  
5 building occupancy, those are two different kind of issues.  
6 To be honest with you, it was my understanding it was up to  
7 120. However, as the board, you know, as you say, 110 is  
8 the limitation according to the New York State DEC. I  
9 think that's what our understanding is.

10 MR. CANFIELD: I think in this scenario that the DEC,  
11 in the limitation in the SPEDS Permit, kind of supersedes  
12 what the building code intent of the net square footage can  
13 be calculated out for occupant load. So my suggestion  
14 would maintain, then, that it be a condition of resolution  
15 that we limit the occupant load to 110, total, to comply  
16 with the SPEDS Permit. Do you agree with that?

17 MR. LIEBERMAN: Yes.

18 CHAIRMAN EWASUTYN: Okay.

19 MR. CANFIELD: That's all I have.

20 CHAIRMAN EWASUTYN: Bryant, is there anything else  
21 you'd like to add at this point? Bryant Cocks, town  
22 consultant.

23 MR. COCKS: No. Mr. May went through my comments. I  
24 have nothing further.

25 CHAIRMAN EWASUTYN: All right. So this is obviously



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2 under 4,000 square feet so there's no SEQRA determination.

3 MR. DONNELLY: Did we hear back from the Orange County  
4 Planning Department?

5 MR. COCKS: Local.

6 CHAIRMAN EWASUTYN: So the action before us this  
7 evening is to grant Amended Site Plan Approval and ARB  
8 Approval for the Hudson Diner.

9 Mike, would you give us, please, the conditions and  
10 resolution that would allow us to make that action?

11 MR. DONNELLY: The first would be a sign off letter  
12 from Bryant for the items raised in his memo of June 30th.

13 Second condition will be the total occupant load on  
14 the premises shall, per the SPEDS Permit, be limited to  
15 110.

16 Pat, does this still need a DEC approval for the  
17 sanitary disposal system? Or that's both the Health  
18 Department and DEC are now --

19 MR. HINES: The existing SPEDS Permit will remain and  
20 the Health Department reviews between 1,000 and 10,000 as a  
21 Health Department jurisdiction, so they're fine.

22 MR. DONNELLY: And they've written it and that takes  
23 care of that.

24 MR. HINES: Yes.

25 MR. DONNELLY: We'll tie into the Zoning Board

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2 variance decision. I don't believe that there are any  
3 forms of financial security required. There's no new  
4 landscaping, there's no stormwater.

5 MR. HINES: There is new landscaping.

6 MR. DONNELLY: Okay. I'm sorry. So we'll need a  
7 landscape security inspection fee.

8 Our standard condition, our architectural review board  
9 and our standard condition regarding no construction of  
10 outdoor fixtures or amenities that are not shown on the  
11 plans.

12 CHAIRMAN EWASUTYN: The owner is here this evening?

13 MR. MAY: Yes.

14 CHAIRMAN EWASUTYN: Bryant, would you explain to the  
15 owner what will need to be done as far as the landscaping  
16 and posting of security because Karen isn't here. That  
17 way, normally what will happen is they'll look to apply for  
18 a building permit, but this requirement needs to be  
19 satisfied first.

20 MR. BRYANT: Yes. Mr. May will have to submit a  
21 landscaping cost estimate to Karen Arent for her review.  
22 When she approves that document she will forward it on to  
23 the Town Board and the Town Board has to approve the bond  
24 amount, then the bond has to be submitted to the town  
25 attorney. He'll do an approval letter, then I can do my

- HUDSON DINER -

1  
2 final sign off for the document.

3 MR. MAY: We're really replacing the existing  
4 landscape in kind that's there, to be honest. Anyway,  
5 that's not a problem.

6 CHAIRMAN EWASUTYN: Because then it's supposed to be  
7 guaranteed to live for two years.

8 Anything else from any of the members?

9 BOARD MEMBER BROWNE: We're doing the ARB right now?

10 CHAIRMAN EWASUTYN: Yes.

11 BOARD MEMBER BROWNE: Okay.

12 With the materials and whatnot, is the comment  
13 sufficient that they're going to match exactly what's there  
14 for inspection purposes and so on?

15 CHAIRMAN EWASUTYN: There is an ARB form. We'll will  
16 make that part of the final submission. You'll complete  
17 that as far as materials, listing material and colors, and  
18 we'll have that as part of the record.

19 MR. MAY: As I said before, they will be the same  
20 matching.

21 BOARD MEMBER BROWNE: The problem that we have,  
22 sometimes the people, they'll come and they're present  
23 things, they'll say things. When it actually happens it's  
24 not what they say it is. So we need something so our folks  
25 that do the inspection can say: Okay, this is what they

1 - HUDSON DINER -

2 agreed to, this is what we have.

3 MR. MAY: I understand.

4 CHAIRMAN EWASUTYN: Any further questions or comments  
5 from board members, from consultants?

6 (No verbal response.)

7 CHAIRMAN EWASUTYN: Then we'll move for a motion to  
8 grant the Amended Site Plan Approval and ARB to the Hudson  
9 Diner as subject to conditions that were presented to us by  
10 the Planning Board attorney, Mike Donnelly.

11 BOARD MEMBER GALLI: So moved.

12 BOARD MEMBER MENNERICH: Second.

13 CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I  
14 have a second by Ken Mennerich.

15 Any further discussion on the motion?

16 (No verbal response.)

17 CHAIRMAN EWASUTYN: We'll move for a roll call vote  
18 starting with Frank Galli.

19 BOARD MEMBER GALLI: Aye.

20 BOARD MEMBER BROWNE: Aye.

21 BOARD MEMBER MENNERICH: Aye.

22 BOARD MEMBER PROFACI: Aye.

23 BOARD MEMBER FOGARTY: Aye.

24 CHAIRMAN EWASUTYN: Myself.

25 (The motion was agreed and carried.)

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- HUDSON DINER -

Congratulations. Good luck to you.

(Time noted: 7:14 p.m)

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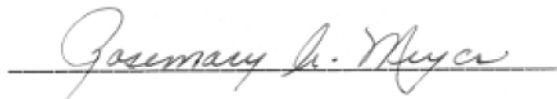
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**REPORTER'S CERTIFICATION**

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings herein, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

A handwritten signature in cursive script, reading "Rosemary A. Meyer", is written over a horizontal line.

ROSEMARY A. MEYER

Date Transcribed: August 1, 2011

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of:

78 Balmville Road  
(2011-13)  
Balmville Road and Grand Avenue  
Section 43; Block 3; Lot 47.0  
R-1 Zone

----- X

CONCEPTUAL TWO-LOT SUBDIVISION

Date: July 7, 2011  
Time: 7:14 P.M.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

**BOARD MEMBERS:** JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS E. FOGARTY

**ALSO PRESENT:** MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

**APPLICANT'S REPRESENTATIVE:** Jon Bodendorf

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)- 895-3018

Reported by: Rosemary A. Meyer

1 - 78 BALMVILLE ROAD -

2 BOARD MEMBER BROWNE: Okay. Our next item of business  
3 is 78 Balmville Road, Project No. 2011-13. This a  
4 Conceptual Two-Lot Subdivision being presented by Tom  
5 Cerchiara.

6 MR. BODENDORF: Actually, Mr. Cerchiara could not be  
7 here tonight. I'm Jon Bodendorf from Hudson Land Design.  
8 We're the engineers for the project --

9 BOARD MEMBER BROWNE: Thank you.

10 MR. BODENDORF: -- here on behalf of the Applicant.

11 CHAIRMAN EWASUTYN: Do you have a business card?

12 MR. BODENDORF: I can get one.

13 CHAIRMAN EWASUTYN: All right. At the end, and we'll  
14 give it to the stenographer.

15 MR. BODENDORF: Okay.

16 The subject property is located at 78 Balmville Road.  
17 It's approximately 7.6 acres in size, located between  
18 Balmville Road and Grand Avenue. It's within the town's  
19 R-1 Zoning District. And currently, there's an existing  
20 house on the property with some accessory structures.

21 What the Applicant is looking to do is to subdivide  
22 the property into two lots, one of which would contain the  
23 existing home and the accessory structures, and the other  
24 would provide for the construction of a new single-family  
25 home. The lot with the existing home would be reduced to



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5.9 acres and the newly created lot would be approximately 1.7 acres in size.

The new home would gain access from a new driveway to Grand Avenue. Water supply would be via a connection to the town's water main along Grand Avenue and wastewater disposal would be via a new subsurface sewage disposal system. That's essentially the project in a nutshell.

We did receive comments from your consultants. The majority of them were relatively minor. We've actually made most of the changes on the plan already. However, there was one item brought up by the planner. There's an existing pole barn used for storage on the property that's essentially sitting right on the property line. My understanding is that because they are now subdividing the property, it either needs to conform to current zoning which would mean a five foot setback from the property line, and/or a variance needs to be sought from the Zoning Board of Appeals. I spoke to the applicants. They do not want to remove it if they don't have to. They can't relocate it without destroying it so they'd like to pursue a variance with the ZBA.

CHAIRMAN EWASUTYN: Bryant, what are your recommendations at this point?

MR. COCKS: As Tom mentioned, that was my third

- 78 BALMVILLE ROAD -

comment.

My second comment was regarding the new residential lot area local law. I did forward a copy of the law to his office. That needs to be changed.

The zoning table needs to be revised to show the actual dimensions of the parent parcel. And the lot building surface coverage requirement should also be shown in the bulk table. It's not showing two foot contours for the current parcel. They either can show these contours or he can request a waiver of this requirement from the Planning Board.

The owner's consent note must be signed before the final approval can be granted.

Surveyor's seal and signature are required before final approval can be granted.

The Town of Newburgh Highway Department need to approve the new driveway entrance on Grand Avenue.

And the plans should also be forwarded to the Water Department for their review before final approval is granted.

CHAIRMAN EWASUTYN: Gerry, I notice you're looking at the code book. Is that in reference to the barn?

MR. CANFIELD: No.

CHAIRMAN EWASUTYN: No?

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2 Pat Hines, do you have anything to add?

3 MR. HINES: Yes. We just had a couple cleanup items.

4 The septic system note requiring the submission of an  
5 as-built plan prior to the Certificate of Occupancy needs  
6 to be added to the plans.

7 The highway superintendent's comments on the driveway  
8 location.

9 The Town of Newburgh Water System notes must be added.  
10 We provided them with our comments.

11 And we're suggesting that additional erosion sediment  
12 control be provided along the driveway as it's a relatively  
13 steep run down to the town road so that should be  
14 addressed. We sometimes have problems with driveways  
15 cutting against slopes like that.

16 But that's all we have. We would recommend a Negative  
17 Declaration. Sorry, the ZBA.

18 MR. BODENDORF: Most of those plan revisions have  
19 already been taken care of so on the next submission you'll  
20 see that reflected.

21 The comment about showing topography on the lot within  
22 the existing house and accessory structures, do we request  
23 that waiver at this time or ...

24 CHAIRMAN EWASUTYN: You could request it at this time.

25 MR. BODENDORF: I spoke to the Applicant. They,

1 - 78 BALMVILLE ROAD -

2 obviously, would rather not show that if it's not  
3 necessary. Since there are no improvements proposed in  
4 that area we'd like to get or request that waiver.

5 CHAIRMAN EWASUTYN: You've heard the presentation by  
6 Jon, is your first name?

7 MR. BODENDORF: Yes.

8 CHAIRMAN EWASUTYN: He would like the Board, based  
9 upon his presentation, to grant a waiver for not providing  
10 two foot contours.

11 I will poll the board members to see if they're in  
12 favor.

13 Frank.

14 BOARD MEMBER GALLI: Yes.

15 BOARD MEMBER BROWNE: Yes. Assuming Pat Hines doesn't  
16 make a comment on it.

17 MR. HINES: Yes, I'm fine with it. There are no  
18 improvements proposed in it. It would be a five acre  
19 survey shown, consistent with five acres.

20 BOARD MEMBER BROWNE: All right, fine. Yes.

21 BOARD MEMBER MENNERICH: Yes.

22 BOARD MEMBER PROFACI: Yes.

23 BOARD MEMBER FOGARTY: Yes.

24 CHAIRMAN EWASUTYN: All right. Then let the record  
25 show that the Planning Board is not requiring a providing

1 - 78 BALMVILLE ROAD -

2 of two-foot contour lines for the existing five acre parcel  
3 where the current house is located because there will be no  
4 change or additions to that parcel of land.

5 Mike Donnelly, do you want to talk to us about  
6 providing a letter to the Zoning Board of Appeals?

7 MR. DONNELLY: Yes. At your direction, I'll send a  
8 letter to the Zoning Board. This is a side yard variance  
9 for an existing structure that sits on the line, that  
10 although currently protected, will lose its protection upon  
11 subdivision. The Zoning Board has received a number of  
12 these. At your direction I'll send that letter.

13 You will have to apply for that variance.

14 MR. BODENDORF: Right.

15 MR. DONNELLY: The letter will just orient the Board  
16 as to where things stand.

17 MR. BODENDORF: Does the letter need to be sent to the  
18 Zoning Board before we make the application? Because we're  
19 ready to get that in.

20 MR. DONNELLY: I'll get the letter out tomorrow.

21 MR. BODENDORF: Great.

22 CHAIRMAN EWASUTYN: I'll move for a motion now to  
23 grant Conceptual Approval for the two-lot subdivision for  
24 78 Balmville Road.

25 BOARD MEMBER MENNERICH: So moved.

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2 BOARD MEMBER FOGARTY: Second.

3 CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich  
4 and a second by Tom Fogarty.

5 Any further discussion?

6 (No verbal response.)

7 CHAIRMAN EWASUTYN: I move for a roll call vote  
8 starting with Frank Galli.

9 BOARD MEMBER GALLI: Aye.

10 BOARD MEMBER BROWNE: Aye.

11 BOARD MEMBER MENNERICH: Aye.

12 BOARD MEMBER PROFACI: Aye.

13 BOARD MEMBER FOGARTY: Aye.

14 CHAIRMAN EWASUTYN: And myself. So carried.

15 (The motion was agreed and carried.)

16 CHAIRMAN EWASUTYN: Thank you, Jon.

17 MR. BODENDORF: Thank you very much.

18 (Time noted: 7:21 p.m.)

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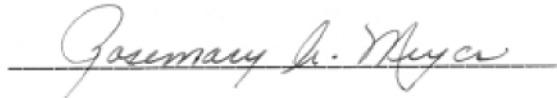
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**REPORTER'S CERTIFICATION**

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings herein, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

A handwritten signature in cursive script, reading "Rosemary A. Meyer", is written over a horizontal line.

ROSEMARY A. MEYER

Date Transcribed: August 1, 2011

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of:

M & T Bank  
(2010-23)  
Route 9W and Chestnut Lane  
Section 79; Block 3; Lot 20.0  
R-1/O Zone

----- X

SITE PLAN ARB

Date: July 7, 2011  
Time: 7:21 P.M.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

**BOARD MEMBERS:** JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS E. FOGARTY

**ALSO PRESENT:** MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

**APPLICANT'S REPRESENTATIVE:** Andrew Willingham

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MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)- 895-3018

Reported by: Rosemary A. Meyer



1 - M & T BANK -

2 BOARD MEMBER BROWNE: Now, our next item of business,  
3 M and T Bank, Project No. 2010-23. It's a Site Plan ARB  
4 being presented by David Clouser and Associates.

5 MR. WILLINGHAM: Good evening. Andy Willingham of  
6 David Clouser and Associates. We are back.

7 As you, know we got Conditional Approval back in  
8 February. We're back for a few different reasons, the  
9 first one being we got an additional variance for an  
10 additional freestanding sign in the front here; and also  
11 need to get variances for the setback from the street line  
12 for both of those signs. We obtained those variances from  
13 the Zoning Board.

14 Also, it came to our attention that due to the  
15 flatness of the site there were some kind of lower areas  
16 that weren't draining well. Originally, we wanted to keep  
17 the same grade at the site. We decided to make the  
18 investment. M & T decided to make the investment to raise  
19 the site a couple of feet and really improve the drainage.  
20 So the whole site pretty much is raised a couple of feet to  
21 really improve the drainage, and that resulted in having to  
22 redo the entrance on 9W which resulted in needing a permit  
23 from DOT. So now, also, we're working with them currently,  
24 submitted in early May, just resubmitted back in May. Some  
25 minor comments.

1 - M & T BANK -

2 Also, the drainage discharge point to the gutter over  
3 here along 9W, it's not the greatest discharge so we  
4 decided to apply to 5500 Route 9W some of the drainage into  
5 this catch basin here, first going into a dry well and then  
6 to there. So that also needs DOT approval.

7 Also, kind of thinking about the construction and the  
8 fill that was coming in, our phasing plan changed lightly,  
9 which is Sheet SP 2, I believe. And also, we just kind of  
10 took this opportunity to, since we were submitting a full  
11 set of plans, to address all consultant comments and kind  
12 of get a lot of the stuff out of the way. So that's pretty  
13 much where we're looking at right now.

14 CHAIRMAN EWASUTYN: Okay. Pat Hines, you have  
15 outstanding comments on drainage?

16 MR. HINES: We took a look at the revised drainage  
17 system. We take no exception to it. It functions pretty  
18 much as it does today. They've incorporated some green  
19 infrastructure improvements per these papers and  
20 infiltration practices and rain gardens which we found  
21 acceptable. There's probably less impervious surface after  
22 this than prior.

23 We had a couple technical comments on the sanitary  
24 disposal system, just to specify the pumps. They're in the  
25 design report but not on the plans. And the note that's

1 - M & T BANK -

2 required, submission of an as-built prior to Certificate of  
3 Occupancy.

4 We took a look at the DOT comments with regard to  
5 drainage. They want the drainage report stamped by the  
6 preparer, which I'm sure they can do. They had some  
7 comments that maybe are kind of Ken Worsten's (phonetic)  
8 purview for some signage and such that they requested, but  
9 they look like pretty technical comments. They weren't  
10 moving the locations of the driveways or anything as shown  
11 on the plans. So they've addressed the majority of our  
12 previous comments. We have a couple items, otherwise we're  
13 all good.

14 CHAIRMAN EWASUTYN: Gerry, any outstanding code  
15 compliance issues that you see before us this evening?

16 MR. CANFIELD: No, I have nothing.

17 CHAIRMAN EWASUTYN: Bryant Cocks, in summary.

18 MR. COCKS: I have no additional comments. The  
19 Amended Site Plan hasn't changed in regard to building  
20 location, parking spaces, lighting or architecture so I  
21 have nothing further.

22 CHAIRMAN EWASUTYN: Karen wasn't able to attend this  
23 evening. She's preparing for some other projects that she  
24 has.

25 I think at this point, you're working on the landscape

- M & T BANK -

1  
2 estimate?

3 MR. WILLINGHAM: It's been submitted.

4 CHAIRMAN EWASUTYN: It's been submitted to Karen?

5 Comments from board members. Frank Galli.

6 BOARD MEMBER GALLI: No additional.

7 BOARD MEMBER BROWN: Nothing more.

8 BOARD MEMBER MENNERICH: Did you get comments from  
9 Karen?

10 MR. WILLINGHAM: Yeah. They were pretty minor.  
11 There's three comments.

12 MR. DONNELLY: Complimentary.

13 CHAIRMAN EWASUTYN: Joe.

14 BOARD MEMBER PROFACI: No comment.

15 CHAIRMAN EWASUTYN: Tom.

16 BOARD MEMBER FOGARTY: Is the whole area going to be  
17 raised two feet?

18 MR. WILLINGHAM: Yeah. Pretty much, yeah.

19 BOARD MEMBER FOGARTY: Okay.

20 And the lower exit that goes out on Chestnut Lane, is  
21 that going to be one way out?

22 MR. WILLINGHAM: This one?

23 BOARD MEMBER FOGARTY: Yes.

24 MR. WILLINGHAM: Yes.

25 BOARD MEMBER FOGARTY: One way out, right turn only?

1 - M & T BANK -

2 MR. WILLINGHAM: Yep.

3 MR. HINES: That was in the DOT comments. They gave  
4 the specifications for the signage that needs to go on  
5 those.

6 CHAIRMAN EWASUTYN: Mr. Willingham, would you like to  
7 move forward with the ARB and we could take the actions  
8 jointly?

9 MR. HINES: There's going to be a temporary trailer  
10 here similar to what you did at Key Bank, Walgreen's?

11 MR. WILLINGHAM: Yes.

12 MR. HINES: I just want to remind the Board of that.

13 CHAIRMAN EWASUTYN: They're putting in the new bank  
14 and I see in the parking lot down there. They're so  
15 common.

16 MR. HINES: They don't want to lose customers, they  
17 said.

18 MR. LIEBERMAN: That's why we're phasing the project,  
19 so that the temporary bank can be put in place before  
20 anything else happens.

21 This is the point elevation of the main bank. You see  
22 a lot of glass and screening. The reason for that is that  
23 we are attempting to be LEAD certified on this project. So  
24 it will be actually into the next, into the future. That's  
25 what this particular bank is looking to do. M & T had

1 - M & T BANK -

2 asked that we set up our mechanical systems, as well as the  
3 architectural design, so that it will be a sample of what  
4 they will be doing with most of their branches.

5 The stone wall that was requested is going to be as  
6 shown on the Site Plan along the front of this. And this  
7 is actually a curve which you don't see in this particular  
8 elevation, but looking at the Site Plan you see how this  
9 particular corner right here is curved.

10 So that's essentially it.

11 CHAIRMAN EWASUTYN: Just go through the materials with  
12 us somewhat, please.

13 MR. LIEBERMAN: Okay. The entire building will be  
14 white. It'll be an efface and metal system. Efface  
15 meaning some of it will look like stucco and some of it  
16 will look like smooth metal panels. The color will really  
17 be up in this top area because that's going to be green  
18 shade which reflects. The light is reflected because this  
19 is facing south. And it hits that and it doesn't bounce  
20 back into the building because of this. It's been studied  
21 to work. And so the primary colors will be white, green.

22 Now, we've gone to a lot more planting than is  
23 required by your code, and I think that's one of the  
24 comments that Karen Arent made.

25 CHAIRMAN EWASUTYN: Yes.

- M & T BANK -

1  
2 MR. LIEBERMAN: Mainly because we, and we can't show  
3 it all on here because it would block the elevation, but  
4 the bank has asked that we develop the planting so that it  
5 will help with this building. I mean the building is going  
6 to feel like it's set into the woods. So that's a major  
7 expense that M & T has. We could have spent quite a bit  
8 less money on landscaping, but it will be an asset in terms  
9 of how this building will be seen.

10 BOARD MEMBER BROWNE: One of Karen's comments was the  
11 type of the grass that is going to be planted in front fo  
12 the wall, I think. It was about -- it's pretty tall.

13 CHAIRMAN EWASUTYN: It's a matter of opinion as far as  
14 the plant material, whether that plant material --

15 MR. LIEBERMAN: When that the grass is planted, the  
16 shrubs

17 CHAIRMAN EWASUTYN: The grass meaning the variety of  
18 grass would have a height of three feet. And she just, you  
19 know, a matter of design.

20 MR. LIEBERMAN: The shrubs will be no higher than  
21 three feet in certain locations. We're putting a rain  
22 garden in, and that may be where the confusion is. But  
23 there will be -- this has all been pretty much set up by a  
24 landscape architect who has consulted with Karen. And as  
25 far as we know, she has no major objections. I hoped she

1 - M & T BANK -

2 was here tonight, but ...

3 CHAIRMAN EWASUTYN: Her real comment was the  
4 maintenance of some of these, that's all. She thought some  
5 of the perennial beds and such are attractive, but in the  
6 long run, who's going to maintain them. And it's just an  
7 exploratory comment as far as one designer's opinion bases  
8 another designer's opinion. It was kind --

9 BOARD MEMBER GALLI: They usually take care of the  
10 landscape pretty well. Banks usually do.

11 CHAIRMAN EWASUTYN: Since the existing bank has always  
12 naturally blended into the corner, it sounds like you're  
13 looking to do that with that.

14 MR. LIEBERMAN: Yes.

15 CHAIRMAN EWASUTYN: Tom, you know that area around  
16 there.

17 BOARD MEMBER FOGARTY: Yes. This is in a R-1 Zone. I  
18 mean this looks like a very modernistic kind of building.  
19 I mean there's no real homes around. You've got the golf  
20 course across the street, there's one home up on the hill  
21 and then there's woods in the back. So it's kind of  
22 isolated.

23 MR. LIEBERMAN: That's the primary reason for this  
24 planting that we're getting into, to soften the effect.

25 BOARD MEMBER FOGARTY: I mean this, my original



1 - M & T BANK -

2 reaction when I see this is that this is going to be too  
3 modern of a building for a residential area. I mean I am  
4 sure that they'll do an excellent job and it will be  
5 beautiful. I'm just wondering if it's too modern for that  
6 area.

7 BOARD MEMBER BROWNE: It's modern, but it has a retro  
8 look to it, almost art deco.

9 MR. LIEBERMAN: Thank you. That was the idea.

10 CHAIRMAN EWASUTYN: That's why we brought him back.

11 BOARD MEMBER FOGARTY: He's on a hippy dippy.

12 CHAIRMAN EWASUTYN: All right, any comments from  
13 anyone else?

14 (No verbal response.)

15 CHAIRMAN EWASUTYN: All right. So the action before  
16 us --

17 Sam, Mr. Lieberman, you will be presenting, as Cliff  
18 Browne mentioned earlier, a detailed list of materials.  
19 You will list the identification numbers, the samples.

20 MR. LIEBERMAN: Sample numbers, everything, yes, as  
21 part of the process that will develop as we complete the  
22 drawings.

23 CHAIRMAN EWASUTYN: Mike, the condition before us this  
24 evening is to grant Conditional Final Site Plan Approval,  
25 Amended, Amended Site Plan Approval for the M & T Bank --

- M & T BANK -

1  
2 MR. DONNELLY: And ARB because ARB was not approved  
3 the first time.

4 MR. LIEBERMAN: It wasn't submitted the last time.

5 CHAIRMAN EWASUTYN: Right.

6 MR. LIEBERMAN: We hadn't finished.

7 CHAIRMAN EWASUTYN: Do you want to carry us through  
8 with the --

9 MR. DONNELLY: Sure. We'll need a sign off letter  
10 from Pat Hines on the issues in his June 29th memo.

11 I understand that a highway work permit from the DOT  
12 will be required, but they have granted all other approvals  
13 so we'll tie into the highway work permit.

14 We'll include a condition that says: Except as  
15 modified, all conditions attached to the original granted  
16 Site Plan Approval remain in effect.

17 We'll have the standard conditions of the  
18 Architectural Review Board approval.

19 A landscape and stormwater security, I believe they're  
20 both required because they were in the first one.

21 And our standard condition regarding no construction  
22 of outdoor fixtures or amenities that are not shown on the  
23 plan.

24 CHAIRMAN EWASUTYN: Thank you.

25 Any comments on the conditions for the Amended Site

- M & T BANK -

1  
2 Plan Approval and ARB Approval for M & T Bank presented by  
3 Mike Donnelly, our attorney?

4 (No verbal response.)

5 CHAIRMAN EWASUTYN: Then I'll move for a motion to  
6 grant those two actions.

7 BOARD MEMBER PROFACI: So moved.

8 BOARD MEMBER MENNERICH: Second.

9 CHAIRMAN EWASUTYN: I have a motion by Joe Profaci. I  
10 have a second by Ken Mennerich.

11 Any further discussion?

12 (No verbal response.)

13 CHAIRMAN EWASUTYN: I would move for a roll call vote  
14 starting with Frank Galli.

15 BOARD MEMBER GALLI: Aye.

16 BOARD MEMBER BROWNE: Aye.

17 BOARD MEMBER MENNERICH: Aye.

18 BOARD MEMBER PROFACI: Aye.

19 BOARD MEMBER FOGARTY: Aye.

20 CHAIRMAN EWASUTYN: And myself. So carried.

21 (The motion was agreed and carried.)

22 Congratulations. Good luck to you.

23 MR. LIEBERMAN: Thank you so much.

24 (Time noted: 7:35 p.m.)

25 \* \* \* \* \*

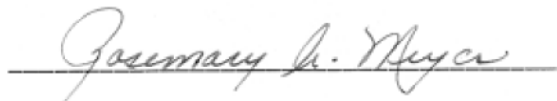
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**REPORTER'S CERTIFICATION**

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings herein, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

A handwritten signature in cursive script, reading "Rosemary A. Meyer", is written over a horizontal line.

ROSEMARY A. MEYER

Date Transcribed: August 1, 2011

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

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In the Matter of:

**Taft Company and Sleepy Hollow Venture, LLC**  
**(2011-11)**  
**Gardnertown road and Wenmar Drive**  
**Section 75; Block 1; Lot 24.22 and**  
**Section 73; Block 2; Lot 80**  
**R-3 Zone**

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**TWO-LOT SUBDIVISION**

Date: July 7, 2011  
Time: 7:35 P.M.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

**BOARD MEMBERS:** JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS E. FOGARTY

**ALSO PRESENT:** MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

**APPLICANT'S REPRESENTATIVE:** Harold Doce

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)- 895-3018

Reported by: Rosemary A. Meyer

1 - TAFT COMPANY and SLEEPY HOLLOW VENTURE, LLC -

2 BOARD MEMBER BROWNE: Our next item of business is  
3 Taft Company and Sleepy Hollow Venture, Project No.  
4 2011-11. This is a two-lot subdivision being presented by  
5 Harold Doce of Vincent J. Doce, Associates.

6 MR. DOCE: Good evening. I'm Harold Doce.

7 Just to update this project, we made a request, as  
8 well as a acceptance letter, to the City of Newburgh  
9 through Jim Osborne's office. I haven't heard back on that  
10 yet.

11 Also, the Town Board has granted outside user status  
12 for a sewer.

13 We made a few minor changes to the plans since the  
14 last meeting. I show two separate sanitary sewer services,  
15 one for each of the proposed buildings. Updated the  
16 contours, two foot contours on the area to be developed.  
17 And it sums up pretty much where it stands.

18 I was back tonight, hopefully to move forward and have  
19 a public hearing if the Board was inclined to do that.

20 CHAIRMAN EWASUTYN: Gerry Canfield, do you have  
21 anything to add to this?

22 MR. CANFIELD: Just a question on the outside user  
23 agreement that's required. I guess this question is for  
24 Mike. The fee of \$3,500, that outside user agreement will  
25 spell out at what time it's paid?

1 - TAFT COMPANY and SLEEPY HOLLOW VENTURE, LLC -

2 MR. DONNELLY: The letter said that a formal agreement  
3 will be sent. I haven't seen it, but it did mention the  
4 fee specifically.

5 MR. CANFIELD: Okay. The only reason I question that  
6 is sometimes, in the past, with outside user agreements  
7 they're either affixed to a building permit or a C of O.  
8 So just as long as that language is fixed with the  
9 agreement.

10 MR. DONNELLY: I saw the letter. They said it was  
11 approved that the fee would be due and an agreement would  
12 be sent so I assume the agreement covers it.

13 MR. CANFIELD: Okay. That's all I have.

14 CHAIRMAN EWASUTYN: Pat Hines, drainage consultant.

15 MR. HINES: We were just kind of conferring that two  
16 separate sanitary lines will be installed to service one  
17 for each of the individual houses. That's been shown on  
18 the plans. But they were close so we're suggesting a note  
19 that there will, in fact, be individual sewer lines for  
20 each house.

21 There's a need for an access maintenance agreement for  
22 the driveway as well as a utility easement for the water  
23 and sewer to the house in the rear. And then the City of  
24 Newburgh well acceptance letter is the only letter we're  
25 waiting for. Our previous comments were addressed.

1 - TAFT COMPANY and SLEEPY HOLLOW VENTURE, LLC -

2 CHAIRMAN EWASUTYN: Bryant Cocks, planning consultant.

3 MR. COCKS: The two letters that the Planning Board is  
4 also waiting for from the Town of Newburgh Highway  
5 Department and approval of the driveway widening, and also  
6 from Orange County Health Department on the issue of  
7 whether this is a creeping subdivision. I think it would  
8 be okay to schedule a public hearing, though we will need a  
9 letter from the Health Department confirming whether this  
10 is okay.

11 CHAIRMAN EWASUTYN: Comments from board members.  
12 Frank Galli.

13 BOARD MEMBER GALLI: The remaining six acres in the  
14 back on Lot No. 2, you have no plans on doing anything with  
15 that?

16 MR. DOCE: No, not at this time.

17 BOARD MEMBER GALLI: If they do how are they going to  
18 access it? Off Gardnertown Road?

19 MR. DOCE: Yes. Well, yes, it would be off of  
20 Gardnertown Road.

21 BOARD MEMBER GALLI: And this --

22 MR. DOCE: There'd be no more -- the lot access from  
23 Wenmar.

24 BOARD MEMBER GALLI: Now, that's going to be a  
25 driveway off of Wenmar?



1 - TAFT COMPANY and SLEEPY HOLLOW VENTURE, LLC -

2 MR. DOCE: Right.

3 BOARD MEMBER GALLI: The two houses?

4 MR. DOCE: Right. And the agreements are -- the  
5 Applicant's attorney has drawn those agreements up and as  
6 soon they're done we'll be submitting them to Mike for his  
7 review.

8 CHAIRMAN EWASUTYN: Cliff Browne.

9 BOARD MEMBER BROWNE: Nothing.

10 BOARD MEMBER FOGARTY: I have no questions.

11 CHAIRMAN EWASUTYN: I'll move for a motion from the  
12 Board to grant a Negative Declaration for Taft Company and  
13 Sleepy Hollow Venture, two-lot subdivision, and to set the  
14 4th of August for a public hearing.

15 BOARD MEMBER MENNERICH: So moved.

16 BOARD MEMBER PROFACI: Second.

17 CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich.  
18 I have a second by Joe Profaci.

19 Any discussion on the motion?

20 (No verbal response.)

21 CHAIRMAN EWASUTYN: We'll move, then, for a roll call  
22 vote starting with Frank Galli.

23 BOARD MEMBER GALLI: Aye.

24 BOARD MEMBER BROWNE: Aye.

25 BOARD MEMBER MENNERICH: Aye.

1                   - TAFT COMPANY and SLEEPY HOLLOW VENTURE, LLC -

2           BOARD MEMBER PROFACI:   Aye.

3           BOARD MEMBER FOGARTY:   Aye.

4           CHAIRMAN EWASUTYN:   Myself.   So carried.

5                               (The motion was agreed and carried.)

6           CHAIRMAN EWASUTYN:   Karen, if you would work with  
7   Bryant Cocks, our planning consultant, as far as the  
8   letters for the mailing.  And if possible, the Tuesday,  
9   which would be the 2nd of August, if you could bring to  
10  the office the return receipts and the certified mailings  
11  so Frank Galli could have a chance working with them.

12           MR. DOCE:   Thank you.

13                               (Time noted:   7:40 p.m.)

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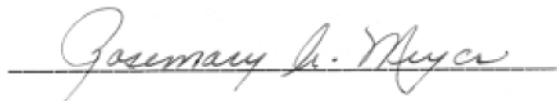
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**REPORTER'S CERTIFICATION**

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings herein, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

A handwritten signature in cursive script, reading "Rosemary A. Meyer", is written over a horizontal line.

ROSEMARY A. MEYER

Date Transcribed: August 1, 2011

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of:

**CRONK ESTATES II  
(2010-07)  
Peaceful Court  
Section 1; Block 2; Lot 17.2  
AR Zone**

----- X

**SIX-LOT SUBDIVISION**

Date: July 7, 2011  
Time: 7:40 P.M.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

**BOARD MEMBERS:** JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS E. FOGARTY

**ALSO PRESENT:** MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

**APPLICANT'S REPRESENTATIVE:** Charles Brown, P.E.

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)- 895-3018

Reported by: Rosemary A. Meyer

- CRONK ESTATES, II -

1  
2 BOARD MEMBER BROWNE: Our next item of business is  
3 Cronk Estates II, Project No. 2010-07. It's a six-lot  
4 subdivision being presented by Charles Brown of Taconic  
5 Design Engineering.

6 MR. BROWN: We were last before this board three weeks  
7 ago on this project.

8 The majority of the comments were pertaining to the  
9 stormwater. We met with the engineer, and based upon that,  
10 revised the plan. Added one more swale and made all three  
11 of those swales bio retention swales. And I believe we  
12 have a sign-off on that from the engineer.

13 CHAIRMAN EWASUTYN: Pat Hines, drainage consultant.

14 MR. HINES: Yes. My office had a couple of meetings  
15 with Mr. Brown's office regarding that. The Stormwater  
16 Pollution Plan is now in compliance with the DEC  
17 regulations, the 2011 version of those.

18 We have issued a municipal acceptance form which has  
19 been executed so that they can get coverage under the DEC  
20 Stormwater Permit.

21 And also, I'll be issuing a letter to the Code  
22 Department that with the acceptance of the stop work order  
23 that's currently on, I believe Lot 10, can be lifted by the  
24 Town. That addressed all our previous comments. We had  
25 previously commented on some septic separations, some

1 - CRONK ESTATES, II -

2 easements for the stormwater. The main comment that was  
3 outstanding was the SWPP being accepted. And John  
4 Szarowski from my office actually reviewed that, and he has  
5 signed off on it.

6 CHAIRMAN EWASUTYN: Thank you.

7 Gerry Canfield, code compliance, do you have anything  
8 to add?

9 MR. CANFIELD: I have nothing further. The Notice of  
10 Intent I understand has been issued, so concurring with the  
11 facts that the stop work order on Lot 10 will be lifted  
12 tomorrow or Monday.

13 CHAIRMAN EWASUTYN: Bryant Cocks, planning consultant.

14 MR. COCKS: I have no further comments.

15 CHAIRMAN EWASUTYN: Comments from board members.  
16 Frank Galli.

17 BOARD MEMBER GALLI: No additional.

18 BOARD MEMBER BROWNE: Nothing more.

19 CHAIRMAN EWASUTYN: Anything additional?

20 BOARD MEMBER FOGARTY: I just have one about that  
21 drain. Remember, we were talking about a drainage  
22 district, that one was necessary. Is that now --

23 MR. HINES: I've had conversations. I wasn't at the  
24 meeting where that came up, but I have, since, had  
25 conversations with Jim Osborne. Similar to other projects

1 - CRONK ESTATES, II -

2 that have private roads, we have, in the past, allowed the  
3 drainage improvements, the maintenance of them to become a  
4 part of the private road access and maintenance agreement.  
5 We have a history of doing that. Rather than creating a  
6 drainage district, we have another mechanism to allow  
7 through the operation of maintenance of those. Normally,  
8 we create drainage districts where the stormwater treatment  
9 and collection are within town property or we would carve  
10 off a lot that will be owned and maintained by the drainage  
11 district.

12 MR. DONNELLY: I think the particular concern that  
13 occurred on this project was early on there were a lot of  
14 rain gardens.

15 MR. HINES: Yes.

16 MR. DONNELLY: And the worry was who and how were they  
17 to be maintained, and if they weren't, might the Town  
18 Board, in struggling with this issue, want to have what  
19 amounts to a backup drainage district with the right and  
20 authority to go, repair the place and charge back. But  
21 that issue all disappeared with the rain gardens largely  
22 fading.

23 MR. HINES: Yes, those have been removed in favor of  
24 the bio retention swales, a more conventional technique.

25 MR. BROWN: Also, I was at that meeting. And my

1 - CRONK ESTATES, II -

2 understanding was the concern the Town, is legitimate, is  
3 in the event that the homeowners maintain the road only,  
4 not the pond, because it's an MS-4 area there, the town  
5 would be on the hook for maintenance of that. In lieu of  
6 doing a drainage ditch on the site, we're working with the  
7 town attorney now to set up some clauses in individual  
8 deeds for lots on this. In the event they don't maintain  
9 it, the Town has the right to come in and do that. The  
10 town supervisor and the town attorney would prefer that  
11 rather than doing a full-blown drainage ditch on this  
12 property.

13 And as Pat said, all of those, what's called remote  
14 provisions that they put in there, they've all been removed  
15 into, consolidated in the area of the pond and the road  
16 itself. So that makes the maintenance more acceptable and  
17 easier to maintain.

18 BOARD MEMBER FOGARTY: Who maintains the swales?

19 MR. BROWN: Well, I mean they would be maintained by,  
20 as per the maintenance agreement for the private road. All  
21 property owners would be responsible for maintenance of all  
22 the swales.

23 MR. HINES: Similar to the snowplowing and the routine  
24 upkeep.

25 BOARD MEMBER FOGARTY: Got you.



1 - CRONK ESTATES, II -

2 CHAIRMAN EWASUTYN: Any further comments?

3 (No verbal response.)

4 CHAIRMAN EWASUTYN: I'll move for a motion to grant a  
5 Negative Declaration for the six-lot subdivision of Cronk  
6 Estates and schedule August 4th for a public hearing.

7 BOARD MEMBER PROFACI: So moved.

8 CHAIRMAN EWASUTYN: I have a motion by Joe Profaci.  
9 And a second?

10 BOARD MEMBER MENNERICH: Second.

11 CHAIRMAN EWASUTYN: I have a second by Ken Mennerich.  
12 Any discussion on the motion?

13 (No verbal response),

14 CHAIRMAN EWASUTYN: Roll call vote starting with Frank  
15 Galli.

16 BOARD MEMBER GALLI: Aye.

17 BOARD MEMBER BROWNE: Aye.

18 BOARD MEMBER MENNERICH: Aye.

19 BOARD MEMBER PROFACI: Aye.

20 BOARD MEMBER FOGARTY: Aye.

21 CHAIRMAN EWASUTYN: Myself. So carried.

22 (The motion was agreed and carried.)

23 CHAIRMAN EWASUTYN: As in this case, would you speak  
24 with Bryant Cocks as far as the circulation for the  
25 mailing. On the Tuesday before the meeting, August 4th,

- CRONK ESTATES, II -

return receipts to the Planning Board office.

(Time noted: 7:46 p.m.)

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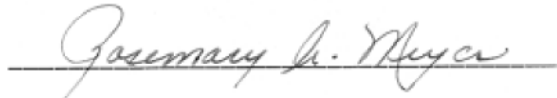
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**REPORTER'S CERTIFICATION**

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ROSEMARY A. MEYER

Date Transcribed: August 1, 2011

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of:

Grove-Vite Subdivision  
(2011-12)  
Curtain Lane  
Section 8; Block 1; Lot 343.45  
AR Zone

----- X

TWO-LOT SUBDIVISION

Date: July 7, 2011  
Time: 7:46 P.M.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

**BOARD MEMBERS:** JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS E. FOGARTY

**ALSO PRESENT:** MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

**APPLICANT'S REPRESENTATIVE:** Charles Brown, P.E.

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)- 895-3018

Reported by: Rosemary A. Meyer

- GROVE-VITE SUBDIVISION -

1  
2 BOARD MEMBER BROWNE: Our next item of business is  
3 Grove-Vite Subdivision. Did I get that right? A two-lot  
4 subdivision. Again, Charles Brown presenting from Taconic  
5 Design Engineering.

6 MR. BROWN: We were also before the Planning Board on  
7 this one three weeks ago.

8 The major thing was the retaining wall, that was most  
9 of the comments, for the common driveway.

10 In addition to that, there was various comment about  
11 getting a fire truck in there. So we put some time into  
12 regrading that and eliminated the retaining walls, and also  
13 provided an inside radius of 35 foot minimum, 15 foot  
14 width, with an outside radius of 50 foot to allow the fire  
15 truck to get up to the residence.

16 The other major change is we added on, Sheet 1, the  
17 layout plans, the buildable areas, and they both exceed  
18 10,000 square feet.

19 CHAIRMAN EWASUTYN: Bryant Cocks, planning consultant.

20 MR. COCKS: Yes. As mentioned, Mr. Brown did show the  
21 10,000 square foot minimum buildable area. He also did  
22 revived EAF showing Central Hudson as permitting agency.

23 The license agreement was already submitted so no  
24 further action is required with that.

25 A common driveway, as mentioned, was revised so

- GROVE-VITE SUBDIVISION -

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there's no retaining walls. They will need a maintenance agreement. And that's about it.

CHAIRMAN EWASUTYN: Okay. Pat Hines, drainage consultant.

MR. HINES: Yes. For some reason I don't have any comments on this site. I think they came in after the deadline. I do remember they came into my office, though. I am noting that the retaining wall was one of my major concerns that was just mentioned. They have been removed.

The finished floor elevations have been revised.

MR. BROWN: Actually, the garage floor elevation for Lot 8, written for Lot 8, is 232. I will move that around so that is shown.

MR. HINES: So the majority of our comments, the significant ones, I see right here have been addressed so I would not take exception to the Planning Board scheduling the public hearing.

CHAIRMAN EWASUTYN: Gerry Canfield, code compliance.

MR. CANFIELD: I have nothing, nothing additional.

CHAIRMAN EWASUTYN: Comments from board members.

BOARD MEMBER MENNERICH: No additional.

BOARD MEMBER GALLI: No. I'm good.

BOARD MEMBER BROWNE: No.

BOARD MEMBER FOGARTY: No comment.

- GROVE-VITE SUBDIVISION -

1  
2 CHAIRMAN EWASUTYN: Okay. I would move to grand a  
3 Negative Declaration and to set a public hearing for  
4 Grove-Vite two-lot subdivision for the 4th of August.

5 BOARD MEMBER MENNERICH: So moved.

6 BOARD MEMBER FOGARTY: Second.

7 CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich.  
8 I have a second by Tom Fogarty.

9 Any discussion on the motion?

10 (No verbal response.)

11 CHAIRMAN EWASUTYN: Move for a roll call vote, please,  
12 starting with Frank Galli.

13 BOARD MEMBER GALLI: Aye.

14 BOARD MEMBER BROWNE: Aye.

15 BOARD MEMBER MENNERICH: Aye.

16 BOARD MEMBER PROFACI: Aye.

17 BOARD MEMBER FOGARTY: Aye.

18 CHAIRMAN EWASUTYN: Myself. Agreed.

19 (The motion was agreed and carried.)

20 (Time noted: 7:49 p.m.)

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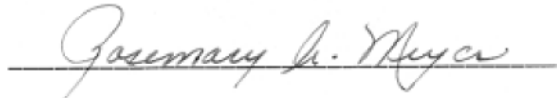
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ROSEMARY A. MEYER

Date Transcribed: August 1, 2011



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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of:

NEW YORK CITY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
REPAIRS TO AQUEDUCT  
In TOWN OF NEWBURGH

----- X

BOARD BUSINESS

Date: July 7, 2011  
Time: 7:49 P.M.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

**BOARD MEMBERS:** JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS E. FOGARTY

**ALSO PRESENT:** MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)- 895-3018

Reported by: Rosemary A. Meyer

- NYC DEP REPAIRS TO AQUEDUCT -

1  
2 BOARD MEMBER BROWNE: For Board Business, we had a  
3 discussion at the five o'clock work session on the first  
4 item, the New York City Department of Environmental  
5 Protection regarding the repairs to the aqueduct in the  
6 Town of Newburgh. Any follow up discussion on that, John,  
7 do you think, or no?

8 CHAIRMAN EWASUTYN: No. Just open comments from the  
9 board. It's a very interesting project.

10 (Time noted: 7:49 p.m.)

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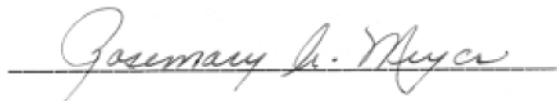
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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of:

**GREINER SUBDIVISION  
(2002-33)**

----- X

**BOARD BUSINESS**

Date: July 7, 2011  
Time: 7:50 P.M.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

**BOARD MEMBERS:** JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS E. FOGARTY

**ALSO PRESENT:** MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)- 895-3018

Reported by: Rosemary A. Meyer

- GREINER SUBDIVISION -

1  
2 BOARD MEMBER BROWNE: The next item under board  
3 business is the Greiner Subdivision, Project No. 2002-33.

4 The Applicant is requesting a retroactive extension of  
5 Conditional Preliminary Subdivision Approval which will run  
6 from June 2, 2011 until December 2, 2011.

7 CHAIRMAN EWASUTYN: Bryant Cocks, do you have anything  
8 to add to this?

9 MR. COCKS: No.

10 CHAIRMAN EWASUTYN: All right. Then I move for a  
11 motion to grant the extension with regard to Subdivision  
12 Preliminary Approval to December 2, 2011.

13 BOARD MEMBER GALLI: So moved.

14 BOARD MEMBER PROFACI: Second

15 CHAIRMAN EWASUTYN: I have a motion by Frank Galli and  
16 a second by Joe Profaci.

17 I ask for a roll call vote starting with Frank Galli.

18 BOARD MEMBER GALLI: Aye.

19 BOARD MEMBER BROWNE: Aye.

20 BOARD MEMBER MENNERICH: Aye.

21 BOARD MEMBER PROFACI: Aye.

22 BOARD MEMBER FOGARTY: Aye.

23 CHAIRMAN EWASUTYN: Myself, yes. So carried.

24 (The motion was agreed and carried.)

25 (Time noted: 7:50 p.m.)

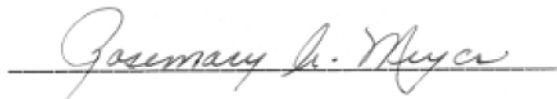
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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of:

**GOLDEN VISTA  
(1999-33)**

----- X

**BOARD BUSINESS**

Date: July 7, 2011  
Time: 7:50 P.M.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

**BOARD MEMBERS:** JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS E. FOGARTY

**ALSO PRESENT:** MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)- 895-3018

Transcribed by: Rosemary A. Meyer

1 - GOLDEN VISTA -

2 BOARD MEMBER BROWNE: The next item under Board  
3 Business is Golden Vista, Project No. 1999-33. The  
4 Applicant is requesting an extension of Conditional Final  
5 Site Plan Approval which would run from September 10, 2011  
6 to March 10, 2012.

7 CHAIRMAN EWASUTYN: Mike, I asked you to do some  
8 research on this. I suggested it because I always thought  
9 that the project --

10 MR. DONNELLY: Three years, two plus one. The Final  
11 Approval was granted on January 8, 2009. I'm not sure when  
12 it was entered in the office of the town clerk.

13 Do you have that, Frank? Do you have an entered copy?

14 BOARD MEMBER GALLI: I don't have it.

15 MR. DONNELLY: It would be a maximum of three years  
16 from that date. That could have been -- well, if it was  
17 January 8th, then obviously, 9, 10, 11, it would have to be  
18 January of 2011. Right? I'm sorry. Of 2012. It may not  
19 have been signed and entered in the office of the clerk for  
20 a month or so after that so the March 12th date may,  
21 indeed, be correct. That would be the end of the line.  
22 I'm assuming since it came out, we got that March 12th date  
23 somewhere, that that's probably three years from when the  
24 resolution was entered in the office of the town clerk.

25 MR. HINES: It's March 10th.



1 - GOLDEN VISTA -

2 MR. DONNELLY: I'm sorry, March 10th.

3 CHAIRMAN EWASUTYN: All right. Then we're satisfied  
4 that we'll move for that extension?

5 MR. DONNELLY: Yes.

6 CHAIRMAN EWASUTYN: I'll move to grant a Conditional  
7 Final Site Plan Approval extension for Golden Vista to  
8 March 10, 2012.

9 BOARD MEMBER MENNERICH: So moved.

10 BOARD MEMBER PROFACI: Second.

11 CHAIRMAN EWASUTYN: Motion by Ken Mennerich. Second  
12 by Joe Profaci.

13 Any further discussion?

14 (No verbal record.)

15 CHAIRMAN EWASUTYN: Move for a roll call vote starting  
16 with Frank Galli.

17 BOARD MEMBER GALLI: Aye.

18 BOARD MEMBER BROWNE: Aye.

19 BOARD MEMBER MENNERICH: Aye.

20 BOARD MEMBER PROFACI: Aye.

21 BOARD MEMBER FOGARTY: Aye.

22 CHAIRMAN EWASUTYN: Myself, yes. So carried.

23 (The motion was agreed and carried.)

24 MR. COCKS: John, do you want me to indicate in my  
25 letter that the extension is the final extension that they

- GOLDEN VISTA -

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can ...

CHAIRMAN EWASUTYN: What does the Board think?

BOARD MEMBER MENNERICH: Yes.

CHAIRMAN EWASUTYN: Yes.

(Time noted: 7:52 p.m.)

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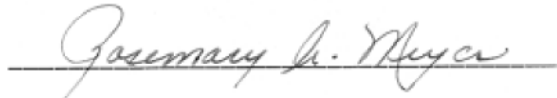
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ROSEMARY A. MEYER

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of:

**T-MOBILE NORTHEAST, LLC**  
**(2005-47)**  
**(2005-48)**

----- X

**BOARD BUSINESS**

Date: July 7, 2011  
Time: 7:52 P.M.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

**BOARD MEMBERS:** JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS E. FOGARTY

**ALSO PRESENT:** MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)- 895-3018

Transcribed by: Rosemary A. Meyer

1 - T-MOBILE NORTHEAST, LLC -

2 BOARD MEMBER BROWNE: The next item under board  
3 business is T-Mobile Northeast, LLC, Project No. 2005-47,  
4 formerly Omnipoint Communication Incorporated.

5 The applicant is requesting a recertification of the  
6 Special Use Permit for T-Mobile collocation on the  
7 Bannerman View Drive cell tower. The original Site Plan  
8 Special Use Permit and ARB approval was granted on May 4,  
9 2006.

10 CHAIRMAN EWASUTYN: Bryant, bring us the law on this.  
11 Gerry, Bryant, chime in together. It's part of the code,  
12 correct?

13 MR. COCKS: Yes, it is.

14 MR. CANFIELD: Yes.

15 MR. COCKS: The Telecommunications Act, they have a  
16 five-year window, and then they need to get recertified  
17 another five years. So a lot of the previous ones that  
18 came in, they put up new antennnas. That's why we've seen  
19 a lot of these come in and say they're doing the  
20 relocation, they're taking off the old antennas, putting  
21 new ones on, so that triggers a new five years. These are  
22 the same antennas that went up in 2006 so they need to get  
23 recertified every five years.

24 CHAIRMAN EWASUTYN: Okay. So it's just a simple  
25 motion of granting?

1 - T-MOBILE NORTHEAST, LLC -

2 MR. DONNELLY: My suggestion would be after you grant  
3 it, or if you do grant it, that on the resolution itself,  
4 in the file we simply put the date recertified. There's no  
5 reason to issue a new resolution, but I think just a  
6 jotting on the front of the resolution that it was  
7 recertified on tonight's date would be all that's needed in  
8 terms recordkeeping.

9 CHAIRMAN EWASUTYN: In the file itself.

10 MR. DONNELLY: Yes. In the resolution, probably right  
11 on the face of the resolution.

12 CHAIRMAN EWASUTYN: Okay. Thank you.

13 MR. DONNELLY: You know, recertified by Planning Board  
14 vote July 7, 2011.

15 CHAIRMAN EWASUTYN: Gerry, would that work for your  
16 office? Because it's really Gerry's office that would need  
17 that.

18 MR. DONNELLY: Yes.

19 MR. CANFIELD: Yes. Basically, it's just a formality  
20 to comply with the five-year requirement, as Bryant had  
21 said. Both these applicant have recently been before us  
22 for collocations of additional antennnas. We did receive  
23 tower reports, we did receive structural reports, capacity.  
24 I know Tom was very vocal in questioning the capacity of  
25 the towers.

1 - T-MOBILE NORTHEAST, LLC -

2 BOARD MEMBER FOGARTY: Yes.

3 MR. CANFIELD: We received all that. So it's just a  
4 formality of complying with the five year.

5 MR. DONNELLY: We all know we did it tonight. I just  
6 want to make sure that there's something in the file that  
7 when somebody opens it up they'll see it was done and not  
8 have to dig through minutes. Whatever that takes to do  
9 that.

10 BOARD MEMBER BROWNE: Should we also say with that  
11 comment on there that it was recertified due to and list  
12 those things that Gerry just mentioned, that list, because  
13 of dat, dat, dat? Otherwise, it's like: So why'd you  
14 recertify?

15 MR. COCKS: Do you want me to just write a formal  
16 letter to attach to the file? I also have to send it to  
17 the Applicant also and let them know.

18 CHAIRMAN EWASUTYN: A chronological history of what is  
19 occurring in the course of the last few years.

20 BOARD MEMBER BROWNE: Otherwise, it may not look like  
21 you did anything, just it was rubber-stamped it.

22 MR. CANFIELD: Essentially, though, what we're saying  
23 is the conditions haven't changed from what was originally  
24 approved.

25 BOARD MEMBER BROWNE: And that we have reviewed it

1 - T-MOBILE NORTHEAST, LLC -

2 very recently.

3 BOARD MEMBER FOGARTY: As long as there's nothing in  
4 the file that says in order to be recertified they had to  
5 fulfill these following requirements.

6 MR. CANFIELD: That make good sense.

7 CHAIRMAN EWASUTYN: I'll move for a motion to grant  
8 T-Mobile Northeast Project No. 2005-47, and also Project  
9 No. 2005-48, a five-year extension of the Special Use  
10 Permit subject to Bryant Cocks attaching to the resolution  
11 a more recent chronological history of the structural  
12 reports that substantiate the quality of this tower.

13 BOARD MEMBER FOGARTY: So moved.

14 CHAIRMAN EWASUTYN: I have a motion by --

15 BOARD MEMBER PROFACI: Second.

16 CHAIRMAN EWASUTYN: -- Tom Fogarty. We have a second  
17 by Joe Profaci.

18 I move for a roll call vote starting with Frank Galli.

19 BOARD MEMBER GALLI: Aye.

20 BOARD MEMBER BROWNE: Aye.

21 BOARD MEMBER MENNERICH: Aye.

22 BOARD MEMBER PROFACI: Aye.

23 BOARD MEMBER FOGARTY: Aye.

24 CHAIRMAN EWASUTYN: Myself. So carried.

25 (The motion was agreed and carried.)



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- T-MOBILE NORTHEAST, LLC -

(Time noted: 7:57 p.m.)

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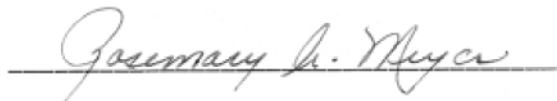
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**REPORTER'S CERTIFICATION**

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings herein, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

A handwritten signature in cursive script, reading "Rosemary A. Meyer", is written over a horizontal line.

ROSEMARY A. MEYER

Date Transcribed: August 1, 2011

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of:

**FOUR PROPOSED LOCAL LAWS  
FROM THE TOWN OF NEWBURGH  
TOWN BOARD**

----- X

**BOARD BUSINESS**

Date: July 7, 2011  
Time: 7:57 P.M.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

**BOARD MEMBERS:** JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
KENNETH MENNERICH  
JOSEPH E. PROFACI  
THOMAS E. FOGARTY

**ALSO PRESENT:** MICHAEL H. DONNELLY, ESQ.  
BRYANT COCKS  
PATRICK HINES  
GERALD CANFIELD

----- X

MICHELLE L. CONERO  
10 Westview Drive  
Wallkill, New York 12589  
(845)- 895-3018

Transcribed by: Rosemary A. Meyer

- FOUR PROPOSED LOCAL LAWS -

1  
2 BOARD MEMBER BROWNE: The last item of business,  
3 discussion of the four proposed Local Laws from the Town of  
4 Newburgh Town Board dated June 22, 2011.

5 CHAIRMAN EWASUTYN: Three of them we worked on.

6 MR. DONNELLY: Yes. There's only one new one,  
7 although there have been some slight changes.

8 The four are Local Law No. 2, is the lot line change  
9 law that only had some additional provisions that Mark put  
10 in since you last saw it. The second is the residential lot  
11 area exception or grandfathering law. The third is the  
12 buildable area law. Again, it had some minor changes. The  
13 last one is senior housing. It's new.

14 Just quickly, what they are, the lot line change law,  
15 if you look at it, is contained in the definitional  
16 provisions. It defines a lot line as something other than  
17 a subdivision and you're given the discretion to determine  
18 whether or not it complies with the definition.

19 Essentially what that is is one, that it is a minor  
20 boundary location where the land is being moved from one  
21 lot to an immediately adjoining lot. It shall not result  
22 in any nonconforming lot becoming conforming or making an  
23 existing lot more nonconforming. And it shall not turn a  
24 nonconforming lot into a conforming lot. There's a  
25 procedural methodology set forth which is what you used to

- FOUR PROPOSED LOCAL LAWS -

1  
2 do. You do require a map, we want to see the deed. And a  
3 public hearing is not required.

4 BOARD MEMBER MENNERICH: What is the logic for if the  
5 lot line is going to change a nonconforming to conforming:  
6 Why are we treating that differently? It would seem like  
7 that's something we'd want to happen and we should make the  
8 process easier for that to happen.

9 MR. DONNELLY: Well, I think the idea is if you have a  
10 very difficult nonconforming lot that you want to make that  
11 something that is going to have a full level of formal  
12 review. I know what you're saying. You should encourage  
13 to make things conforming. But some of these, you have  
14 existing -- well, I'm trying to think of a context where  
15 that might happen. I guess the idea is this is such a lax  
16 level of formality, such a simplifying procedure, that if a  
17 lot is going to be made, a current non-building lot is  
18 going to become a building lot, that should have  
19 subdivision. We're not talking about two existing lots,  
20 both of which are buildable, that are adjusting their  
21 boundary line. Now you're taking a piece of land that  
22 can't be built upon and you're going to allow it to be  
23 built upon. In essence, you're creating a new building  
24 lot. So I think that was the thought process.

25 BOARD MEMBER FOGARTY: Yes, but I have the same as

- FOUR PROPOSED LOCAL LAWS -

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Kenny.

BOARD MEMBER MENNERICH: I could see where two houses, one of the lots nonconforming, the other's conforming and the two owners agree to change the lot line and they both become conforming.

MR. HINES: We've seen swimming pools and driveway and landscape swap.

MR. DONNELLY: If you want me to include a suggestion that they revise that and remove that part of it, if that's the feeling of the Board, that's certainly something we can include.

MR. CANFIELD: If I may, thinking out loud, a scenario where you could have an existing non-conforming lot, say with no structure on it, I think this may be the intent to eliminate the applicant from using a lot line change to circumvent the need for a variance. You follow me? If they're adjacent property, contiguous owners, in lieu of going to the Zoning for a variance, they may look. Because a lot line change, as this is written, can be done filed by deed through the clerk's office so there would be no need for a full review from the Planning Board or say, Zoning. So I think this is looking to perhaps prevent that from happening.

MR. DONNELLY: It's not to say that somebody can't do

- FOUR PROPOSED LOCAL LAWS -

1  
2 it, they would just have to do it at the level of  
3 subdivision.

4 MR. COCKS: And it's a case where it's vacant land.  
5 But if both properties had a dwelling on them, it should  
6 really be the simple process.

7 BOARD MEMBER FOGARTY: So if I own a piece of property  
8 and it's divided, we have two nonconforming lots, can I  
9 still move my lot line in order to make at least one  
10 conforming lot? According to this --

11 MR. CANFIELD: According to this, you can remove the  
12 lot line, extinguish it. You would consolidate the lots.  
13 This doesn't comply to that. You could do that and make it  
14 one conforming lot.

15 BOARD MEMBER FOGARTY: One conforming log.

16 MR. DONNELLY: What if we added the word "shall not  
17 make an unimproved nonconforming lot into a conforming  
18 lot"? That way if it was one with two houses and you were  
19 just encouraging the adjustment, that could go at the lower  
20 level of formality, but something that really was making a  
21 building lot, which is what would happen if it's vacant  
22 land and nonconforming and you're now allowing it to become  
23 conforming. The idea is you shouldn't create building lots  
24 without subdivision approval. That's the state law. So if  
25 you made the suggestion that you add the word "unimproved

- FOUR PROPOSED LOCAL LAWS -

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2 nonconforming lot into a conforming lot," that might cover  
3 it. I don't know how that sits with you. If you want me  
4 to I could put that in a report.

5 CHAIRMAN EWASUTYN: Sure. Why not.

6 MR. COCKS: One other thing I saw in there is that the  
7 Planning Board had the option to set it up for a  
8 consultants' work session before it even comes in front of  
9 you. I thought it was weird because it said that the  
10 Planning Board has to allow it. So I don't know why they  
11 would say that the Planning Board has the ability to set it  
12 up for a consultants' work session before it comes to the  
13 Planning Board. It didn't make any sense. It made it seem  
14 like you would have the power to just look at it and say,  
15 without the rest of the Planning Board being there, you can  
16 go straight to a consultants' work session. I thought that  
17 was strange.

18 MR. DONNELLY: Well, under current procedures, it  
19 wouldn't happen. But if the law authorizes it, at some  
20 future date there may be another way to skin the cat. I  
21 think they're just trying to make it as informal and as  
22 streamlined as possible.

23 MR. CANFIELD: There's one additional thing, too,  
24 Mike, you may want to mention. The numbering of it, it's  
25 not sequential. It's number, as its proposal, is 163.13.



- FOUR PROPOSED LOCAL LAWS -

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2 That would be the start of Article 3 (a). 163.13 already  
3 exists. That starts Article 4. So he may want to look at  
4 that. Mark may want to look at that. Perhaps 163.12 (a),  
5 perhaps. It's just not sequential of what's already  
6 existing.

7 MR. DONNELLY: Thank you. I'm sure he'd appreciate  
8 hearing that.

9 The next law is the residential lot area exception.  
10 This is always hard for me to explain.

11 Remember, there was a Local Law that talked about  
12 building envelopes and building area standard which was the  
13 new section, 185.48 (1). This is the one that talked about  
14 the building area where the lot -- here it is, 185.48 (1).  
15 "The building envelope and buildable area standards imposed  
16 by Section 185.48 shall not apply to a residential lot in a  
17 subdivision." These are the exemptions. I guess I'm doing  
18 it correctly.

19 This is Local Law No. 4. They talk about  
20 grandfathering, that's what is this, from the new buildable  
21 lot area exceptions. What they've done in the law is apply  
22 grandfathering to any project that received Final  
23 Subdivision or Final Site Plan Approval before November 1,  
24 2010, which was the night that the original Local Law was  
25 enacted. And then they extend that protection for a period

- FOUR PROPOSED LOCAL LAWS -

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2 of three years only, which is consistent with the state law  
3 type of grandfathering. They had left this out of the law.  
4 You had discussed it. I think you had corresponded with  
5 them over the issue. Now they're including that  
6 grandfathering law as Local Law No. 4. I don't think,  
7 unless you have something you want me to comment, that it  
8 needs any further comment now.

9       Local Law No. 3 is the buildable area provision that  
10 deals with the small lot that is smaller than the minimum  
11 buildable area. And if it does not contain any of the  
12 typical protected areas, DEC regulated, waterbodies, steep  
13 slopes, floodplains, areas subject to title inundation,  
14 rights of way of existing public and private roads. In  
15 those cases when the lot is so small there is no minimum  
16 buildable area you can include the area immediately  
17 adjacent to the building envelope to see if it satisfies  
18 the minimum buildable area. I think they found that there  
19 would be occasions when the lot is so small that it would  
20 virtually become unbuildable by virtue of this. In those  
21 cases you can use the remaining area outside to compute  
22 that side.

23       And then the final Local Law is a new one. It's the  
24 senior citizen law. You may remember the way the senior  
25 citizen section works currently, it's an all or nothing.

- FOUR PROPOSED LOCAL LAWS -

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2 If you want to have senior citizen housing your entire  
3 project has to be senior citizen housing. I think there's  
4 a feeling, at least I gather this is where it comes from,  
5 but certainly in the developer community, construction of  
6 stand alone senior housing projects has, for various  
7 reasons, died. Those are still a need. There's no  
8 financing and no real ability do it. The Town Board still  
9 wants to provide senior housing, and this Local Law  
10 provides for incentives to create housing opportunities. I  
11 think what they learned, in part, from Golden Vista, is we  
12 would still love to have senior housing, but we can't make  
13 the whole project senior. What we would like to do is make  
14 a part of it senior. So what this says is they get a  
15 density bonus for providing senior housing. And if they  
16 get it, at least one out of every three of the additional  
17 units must be senior housing. This would allow a project  
18 to have a mix of both senior and non age restricted  
19 housing. I don't think it would just go to Vista, I think  
20 it's the reality of what's going on out in the residential  
21 development marketplace. I know there's some clients that  
22 I have for a whole lot of reasons, not all of which are  
23 easy to digest, senior housing has really died for the time  
24 being despite the fact that there's still a need. So I  
25 think it's trying to incentify, more realistic.

- FOUR PROPOSED LOCAL LAWS -

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BOARD MEMBER BROWNE: Mike.

MR. DONNELLY: Yes.

BOARD MEMBER BROWNE: Is there anything in there that talks to how they would manage that, enforce it?

MR. DONNELLY: After it's built?

BOARD MEMBER BROWNE: Yes.

MR. DONNELLY: There may be in the senior citizen article itself. I think there's an agreement that they have to enter into, and I think it may even be recorded. I forget how it works. But the existing senior citizen law covered that issue by requiring the unit to remain that way subject to an approval by the Town Board.

BOARD MEMBER BROWNE: And somebody in the town is going to, over time, make sure that those units are maintained as senior --

MR. DONNELLY: I don't know if we've ever had occasion to see violations or enforce it. I haven't seen the mechanism of it. But I know there's a requirement that they enter into an agreement with the Town Board that provides for enforcement.

MR. CANFIELD: I take it currently, the Town Board is struggling with creating so to speak, a housing authority. I don't know that that's the correct name of it, but it is a committee to govern this type thing. I think that's

- FOUR PROPOSED LOCAL LAWS -

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2 where that would cover it.

3 MR. DONNELLY: That would be the more mature version.  
4 I know a lot, Nassau County, for instance, has a Nassau  
5 County Housing Authority. All the senior citizen projects,  
6 many of which are fee owned rather than rental, the housing  
7 authority fixes the sales price. And you cannot record a  
8 deed with the Orange County Clerk's Office for those units  
9 unless you have the endorsement and stamp of the Nassau  
10 County Housing Authority. They do it based upon an annual  
11 increase in prices. They allow you to include the cost of  
12 capital improvements paid since you took ownership, less a  
13 depreciation amount. They have a very formalized procedure  
14 for doing do it. It keeps the senior --

15 BOARD MEMBER BROWNE: I was just interested if they  
16 had thought that far into how it's going to work later.

17 MR. DONNELLY: I don't know that there's critical mass  
18 for that even in Nassau County. It really only works on a  
19 county basis. It's very difficult to do that on a town  
20 basis. I don't know if this county could do that. But  
21 certainly, there are provisions in the senior citizen  
22 housing law that are intended to ensure that the units  
23 remain senior housing units. Whether it works or not, I  
24 don't know if we have any experience.

25 BOARD MEMBER BROWNE: Thank you.

- FOUR PROPOSED LOCAL LAWS -

CHAIRMAN EWASUTYN: Any additions or comments from the board?

(No verbal response.)

CHAIRMAN EWASUTYN: Okay. Mike, then, if you would please make out a comment letter to the Town Board and Mark Taylor.

MR. DONNELLY: Very good.

CHAIRMAN EWASUTYN: I'll move for a motion to close the Planning Board meeting of July 7, 2011.

BOARD MEMBER GALLI: So moved.

BOARD MEMBER MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich.

I'll ask for a roll call vote starting with Frank Galli.

BOARD MEMBER GALLI: Aye.

BOARD MEMBER BROWNE: Aye.

BOARD MEMBER MENNERICH: Aye.

BOARD MEMBER PROFACI: Aye.

BOARD MEMBER FOGARTY: Aye.

CHAIRMAN EWASUTYN: Myself.

(The motion was agreed and carried.)

(Time noted: 8:11 p.m.)

\* \* \* \* \*

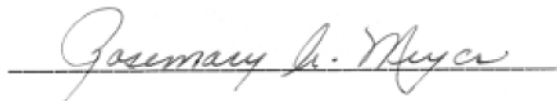
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**REPORTER'S CERTIFICATION**

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A handwritten signature in cursive script, reading "Rosemary A. Meyer", is written over a horizontal line.

ROSEMARY A. MEYER

Date Transcribed: August 1, 2011