

Meeting of the Planning Board of the Town of Lewisboro held at the Town House, 11 Main Street, South Salem, New York on Tuesday January 13, 2009 at 7:30 P.M.

Present: P.J. Rossi, Chairman  
Joseph Decaminada  
John Gusmano  
Richard Ellrodt  
Jan Johannessen, Kellard Sessions Consulting, Planning Consultant  
Ryan Coyne, Kellard Sessions Consulting, Town Consulting Engineer  
Bruce Barber, Interim Wetland Inspector  
Lawrence Praga, Esq., Planning Board Counsel  
Margaret Clark, Esq., Special Counsel  
Janet Andersen, CAC Chair  
Joe Tansey, CAC  
Aimee Hodges, Planning Board Secretary

Absent: Maureen Maguire

The Chairman called the meeting to order at 7:30 P.M., introduced the Board and its consultants and pointed out the emergency exits.

## **I. REQUESTS FOR EXTENSION OF TIME**

### **Laurent & Carroll Raynor Paulhac, 65 Chapel Road, Waccabuc – Cal. #3-08 W.V.**

Mr. Rossi previously recused himself from this matter and stepped down from the podium.

Carroll Raynor Paulhac was present.

Mr. Decaminada stepped in as acting Chairman and noted that that the previous extension of time expired December 14, 2008; the request for an extension was received by the Planning Board office December 4, 2008.

Mrs. Paulhac requested an additional 60 days from the resolution date which would provide sufficient time to work with the Town's Wetland Inspector.

After a brief discussion the Board agreed to grant an additional 90 day extension of time given the weather conditions. This extension should allow sufficient time to install the planting materials required in the Planning Board's resolution.

On a motion made by Mr. Ellrodt, seconded by Mr. Gusmano the Planning Board granted an extension to April 14, 2009 to comply with the Planning Board resolution dated October 28, 2008.

Vote: Yes: Decaminada, Gusmano, Ellrodt  
Abstain: Rossi  
Absent: Maguire

### **Lawrence & Elizabeth Fryer, 15 North Lake Circle, South Salem – Cal. #21-06 W.P.**

Elizabeth Fryer was present.

Mr. Rossi acknowledged receipt of the December 12, 2008 correspondence from Elizabeth Fryer requesting an extension of time to complete the conditions of Wetland Activity Permit 21-06 W.P. which expired January 9, 2009.

On a motion made by Mr. Gusmano, seconded by Mr. Ellrodt the Planning Board granted an additional 120 day extension of time to Wetland Activity Permit 21-06 W.P.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt  
Absent: Maguire

**Guillermo Arias & Lexus Holding Company, LTD, 411 Smith Ridge Road, Vista –  
Subdivision - Cal. #9-04 P.B.**

Mr. & Mrs. Guillermo Arias were present with their attorney Michael Fuller Sirignano, Esq.

Mr. Rossi acknowledged receipt of the December 9, 2008 request of Michael Sirignano, Esq. requesting an extension of time to the Preliminary Subdivision Plat approval granted June 19, 2008. Mr. Sirignano advised that there was some additional survey work to be done. In addition, he advised that they were waiting for some additional documents from the co-applicant.

On a motion made by Mr. Decaminada, seconded by Mr. Gusmano the Planning Board granted a 120-day extension of time to comply with the conditions of the Planning Board resolution dated June 19, 2008 issuing Preliminary Subdivision Plat Approval.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt  
Absent: Maguire

**Michelle Estates Sewage Works Corp. (Michelle Estates Homeowners Association) –  
Site Plan Approval & Wetland Activity Permit Approval – Cal. 33-85 P.B.**

Paul Bassette, PE was present representing the applicant.

Mr. Rossi acknowledged receipt of the December 10, 2008 correspondence from Joshua LaPlante, Malcolm Pirnie requesting an extension of time to the Site Development approval.

Mr. Bassette explained that during the bidding process minor changes had been made to the approved plans. He described all modifications as minor and noted that the modified plans had been submitted to the Planning Board.

Mr. Johannessen agreed that the modifications were minor. After some discussion, it was agreed that the Board would entertain the request for changes to the plans at the January 27, 2009 meeting. Mr. Johannessen was directed to prepare a memo and draft resolution for the Board's consideration.

On a motion made by Mr. Decaminada, seconded by Mr. Ellrodt the Planning Board granted an extension to March 19, 2009 to the site plan approval granted to the Michelle Estates Sewage Works Corporation.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt  
Absent: Maguire

## II DECISIONS

**Four Winds, Inc., 800 Cross River Road, Katonah – Application for Special Use Permit Approval to permit the construction of two previously installed 900 square foot pole barns and proposed stormwater drainage improvements. – Cal. #4-07 P.B.**

Jeffrey Vreeland was present representing the applicant.

Mr. Johannessen reviewed the draft resolution he prepared for the Board's consideration.

On a motion made by Mr. Ellrodt, seconded by Mr. Gusmano the resolution issuing a Negative SEQR Declaration and Special Use Permit Approval to Four Winds, Inc., Cal. #4-07 P.B. was adopted.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt  
Absent: Maguire

**Waccabuc Country Club, 90 Mead Street, Waccabuc – Application for Wetland Activity Permit Approval to upgrade the existing wastewater treatment plant to meet the requirements of the NYC DEP rules and regulations – Cal. #39-07 W.P.**

Pat Daigle was present representing the applicant.

Mr. Barber reviewed the draft resolution he prepared for the Board's consideration.

On a motion made by Mr. Gusmano, seconded by Mr. Ellrodt the resolution issuing a Negative SEQR Declaration and Wetland Activity Permit Approval, Waccabuc Country Club, Cal. #39-07 W.P. was adopted.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt  
Absent: Maguire

## III. WETLAND VIOLATION

**Lawrence & Elizabeth Fryer, 15 North Lake Circle, South Salem – Cal. #6-08 W.V.**

Elizabeth Fryer was present.

Ms. Clark reviewed the four violations of the wetland and watercourse law contained within the Notice of Wetland Activity Violation issued December 18, 2008 in contravention of the terms of the

previously granted Wetland Activity Permit Approval. She advised that Mrs. Fryer in an earlier conversation indicated that she would be entering an admission to the violations this evening.

Mrs. Fryer apologized noting that she had asked for a site walk with the Board in June and discussed what she had wanted to do but had lost sight of the procedure she was to have followed. She advised that they were running out of time and while she had crews of men working they decided not to remove an 82 foot wall in the garage which would have led to a 50 foot slope leading to her septic. She had asked for an impervious surface change; rather than 1400 SF blacktop she installed 972 s.f. of crushed stone which she believed to be an improvement over the existing plan. Not removing the garage and 35 feet of rock she avoided grading the area down to her septic system.

Mr. Rossi questioned whether the alleged violations listed were the same changes Mrs. Fryer had previously discussed with the Planning Board in June. He advised that the Board at that time felt that all of these changes would be an improvement.

Ms. Clark asked for clarification as to whether Mrs. Fryer was making an admission to all of the alleged wetland violations.

Mrs. Fryer advised that the installation of grass was befuddling as it was on the original plans. She advised that along with the impervious surface swap that she had installed a rain barrel to offset the runoff and provided the calculations. She questioned whether the trade of blacktop to crushed stone changed the impervious surface.

Mr. Barber advised that there is a net decrease in impervious surface.

Mr. Rossi noted that the Board walked the site next door on December 13<sup>th</sup> and commented on how well the renovations turned out on the Fryer property.

Mr. Decaminada noted that this is a technical violation, although with no ill intent, there is a violation which will be discussed in executive session.

Mr. Rossi questioned whether Mr. Barber would have any objections to the changes if the violation did not occur and the process had been properly followed.

Mr. Barber did not have any objections to the changes. The only concern previously discussed was the future use of the garage given that it was to have been removed. The Planning Board had wanted some assurances that it would not become habitable space.

Mrs. Fryer stated that there were three things preventing this: no running water and was not sure she would be able to get running water to the garage, she would have to apply to the Town for an accessory apartment, in addition she has deed restricted her house to a two-bedroom residence.

To clarify Ms. Clark's previous question, Mr. Barber advised that the violation with regard to the installation of lawn surface was that the Fryer's had planted grass in area shown on the plan as blacktop.

Mrs. Fryer displayed and submitted a sketch of an as-built with elevations.

Mr. Rossi advised that if time allowed the Board would enter into an executive session this evening allowing for a decision to be prepared for the next meeting.

#### **IV. SKETCH PLAN REVIEW**

##### **Terence & Cynthia McNamara, 59 East Street, Vista – Application for Wetland Activity Permit Approval – Cal. #33-08 W.P.**

Terence McNamara was present.

Mr. McNamara displayed the recent site plan noting that a rain garden would not have worked; a water quality swale is now being considered to collect water from the leaders, gutters and driveway runoff into the infiltration system. He submitted a written response to the consultant comments.

Mr. Coyne reviewed his memo dated January 9, 2009 to the Board advising that he had spoken with Joe Buschynski, the project engineer regarding his minor comments. His main concern was with the separation distance between the water quality swale and the septic system as it did not seem to comply with the Westchester County Department of Health separation distances. Mr. Buschynski indicated that he would speak with the Health Department; it may be that the swale would have to be moved or eliminated. In the event that the Health Department agreed to the location, he would be okay with it as well.

Mr. Barber reviewed his memo to the Board dated January 8, 2009 and advised that his remaining comments were minor. He noted that the applicant has allowed for an area to be naturalized with native vegetation. He discussed the possibility of a discharge area in the northwest corner of the site in the event that they would not be able to install the swale because of the separation requirements. The applicant has advised that they would be installing the mitigation plantings at some point during the summer and fall. He noted that there is note from Peter Barrett, Building Inspector indicating that he had reviewed the plans and that there is no action required by the Zoning Board of Appeals. In addition, the Building Inspector has forwarded a notice from the Westchester County Department of Health and indicated that this project by definition did not meet the definition of major expansion.

Ms. Andersen referred to the CAC memo dated January 7, 2009 and noted that the Building Inspector's response answered their question with regard to whether this project met the new criteria from the Health Department with respect to "major expansion." The CAC questioned why the secondary septic tank had been removed from the plans.

Mr. McNamara advised that this secondary tank does not exist, it was proposed. Rather than installing a secondary tank, he has agreed to the suggestion that this property become part of the annual septic pumping and maintenance program. In response to the CAC comment regarding the expansion trench area being located close to the elevation of the water course, Mr. McNamara advised that his engineer had advised that they had done perc tests in this area and it was dry. In addition, the existing septic system is located at the same elevation for over 30 years without an issue. In response to concerns regarding soils, Mr. McNamara advised that as defined by Tim Miller Associates the "B"

soils are outside of the wetland area; the "C" soils are within the wetland area. There have been conversations with the NYS DEC; they will not forward an application until the plan is nailed down.

The Board agreed to schedule the public hearing for Tuesday February 10, 2009.

**Matthew Mumbach, 329 Smith Ridge Road, Vista/Maureen DiNardo, 325 Smith Ridge Road, Vista – Application for Subdivision Approval**

Mr. & Mrs. Matthew Mumbach were present with their attorney Michael Sirignano, Esq. and project engineer Jennifer Sheldon. Maureen DiNardo was present with her attorney Suzanne Whalen, Esq.

The proposed subdivision plan was displayed. Mr. Sirignano reminded the Board that previously when the Board reviewed the proposed subdivision for Mr. Mumbach that an issue arose with the creation of the Mumbach and DiNardo lots as they had not been subdivided with Planning Board approval. It was his belief that the parcel had been subdivided with Zoning Board of Appeals approval. He advised that the DiNardo's built their home with a building permit issued in 1966, the house was occupied in 1967 and a Certificate of Occupancy was issued in 1990. Mr. Mumbach did not wish to engage in litigation with the Town; the DiNardo's have now joined the application. There is no proposal to change the DiNardo lot line and he asked that the Board focus only on the proposed Mumbach subdivision.

Mr. Rossi questioned whether or not the ZBA ever had the authority to subdivide parcels. He advised that in approving the DiNardo lot, this Board had to ensure that proper variances were received to ensure that it was compliant. This Board would not get into discussions relative to their septic system.

Ms. Sheldon reviewed the proposed subdivision on the Mumbach parcel and noted the existing and proposed improvements. Since the last review, Mr. Barber had met their wetland consultant Tony Russo out in the field. A wetland area had been identified and is now being shown on the map; subsequent submissions will include the 150 foot buffer. She noted that this buffer would encompass a large area of the lot. The buffer associated with the wetland across the street does not reach the Mumbach property line. She noted the proposed changes to the driveway and the proposed house.

Mr. Barber reviewed his January 8, 2009 memo to the Board. He noted that the proposed house is within feet of the wetland and would like the applicant to understand the proposed impacts under the current proposal and explore alternatives.

Mr. Johannessen reviewed the comments contained within the Kellard Sessions memo dated January 9, 2009.

Mr. Rossi requested that this application be forwarded to the Building Inspector for his comments relative to the required variances.

Mr. Coyne indicated that his comments contained within the Kellard Sessions memo dated January 9, 2009 would be addressed when the preliminary subdivision plat is submitted.

Ms. Andersen referred to the CAC memo dated January 8, 2009 noting that their comments reflected the concerns already expressed. Their concern with the creation of substandard lots is not only for now, but for the future as they anticipated that future owners may wish to expand the existing home on the Mumbach parcel.

Mr. Decaminada advised that he would be looking for adequate erosion and sedimentation controls as well as the Stormwater Pollution Prevention Plan. In addition he noted Mr. Barber's concern as to whether there was adequate space for the septic expansion area for the proposed lot 3. He noted that there should be an easement agreement for the common driveway.

Mr. Ellrodt questioned whether there was adequate site distance; Ms. Sheldon advised that they had not verified the site distance at this point in the application process.

Mr. Rossi advised that once the applicant gets through the Zoning Board of Appeals that they will have a starting point.

Mr. Sirignano advised that they would submit this proposal to the ZBA. He asked that the Planning Board limit their review to the Mumbach parcel.

Mr. Rossi suggested that Mrs. DiNardo submit a letter advising that there are no changes proposed to her property that she is simply a co-applicant to rectify something that occurred years before.

**NYSEG, Route I684, Goldens Bridge – Katonah Control House Expansion – Application for Site Development Approval – Cal. #6-03 P.B.**

Karen Hanratty, Lead Analyst for NYSEG and Don Picenette, Supervisor of substation 3 were present representing the applicant.

Ms. Hanratty displayed the proposed site plan to construct a one story 240 square foot addition to an existing facility located on the west side of Interstate 684 in Goldens Bridge. She described the substation as an integral part of maintaining power to this part of Westchester County that NYSEG serves. The addition will house equipment needed to keep up with the demands.

Mr. Decaminada noted that previously an application for a cell tower had been approved at this location. The tower was never built as the provider could not get permission from Metro North to cross the railroad tracks to enter the site. It was further noted that New York State has since built a tower in close proximity to this parcel.

Mr. Johannessen reviewed his comments contained in the Kellard Sessions memo dated January 9, 2009.

Mr. Barber reviewed his memo to the Board dated January 8, 2009 noting that this is a relatively small addition with the closest corner of the proposed structure located 170 feet from the wetlands as shown on the map. He questioned when the wetland delineation had last been performed noting that they were close to the NYS DEC check zones.

**Albert & Claudia Boera, 12 Old Oscaleta Road, South Salem – Application for Wetland Activity Permit Approval – Cal. #88-08 W.P.**

The Chairman noted that the applicant had asked for an adjournment after receiving the consultant memos.

**V. DISCUSSION**

**Phil Zinsser, Tom's Garden Center, 475 Smith Ridge Road (NYS Route 123), Vista**

The Chairman noted that Mr. Zinsser had withdrawn his request to meet with the Board.

**Leon Levy Preserve Management Plan**

Janet Andersen, Damon Oscarson, Liza Travalino, Paul Lewis and Robert Goett members of the Leon Levy Preserve Advisory Team were present to discuss the draft management plan with the Board members.

Mr. Rossi noted that this Board had asked previously to be brought up to speed on the management plan being considered for the Levy Preserve. He advised that he hoped that the management plan would provide that reviews and approvals required by this Board as per the Town's code would be consistent with other applications already considered on Town owned land.

Ms. Andersen noted that this plan would have to be adopted by the Town Board and believed that this process would include a public hearing.

Mr. Decaminada stated that he believed that what this Board needed to hear was what the Town's goals are for this property. He noted that the property owner was not present. He stated that he had read the plan and had questions and observations but was not sure that this was the right forum.

Ms. Andersen advised that the members of this committee would relay the comments and concerns to the Town Board. A question this committee had was regarding procedure. In addition, the committee would like an answer with regard to the progress with the NYS DOT as they are the last piece in the process to get the parking lot built.

Mr. Rossi noted the Planning Board had recently granted an extension of time to the Site Plan approval. If the Town Board approves this plan, the Management Team would still be required to come before the Planning Board prior to blazing any trails similar to any other project on Town owned property. He advised that this Board's concern has always been to provide a forum for the neighboring property owners.

Mr. Johannessen reviewed the approvals required as per the code. At the request of the Chairman, he will identify the approvals in a memo to the Board.

Mr. Oscarson reviewed the existing and proposed trail system maps.

Mr. Barber noted that he believed that the plan was a good thorough document; the 2009 schedule seemed optimistic. He suggested that in context to the proposed clean up and trail blazing that the areas are identified on a separate map that includes a wetland delineation. He further suggested that they relate this open space with corridor areas and look at trail connections.

Mr. Decaminada complimented the authors of the document and noted that it was a who's who of the environmentalists in our Town. He expressed concerns with the apparent inequity between groups that would utilize the preserve i.e. those who ride horses and those who ride bicycles. He did not believe that there should be a focus on one use but rather all uses. He advised that he did not believe that the preserve should be limited to Town of Lewisboro residents. He questioned what was being envisioned with regard to ADA accessibility and would like to understand what the Town's goals were. Noting that there was a section relative to deer management he advised that he had recently read that Westchester County was going to permit hunting on the Ward Pound Ridge Reservation and questioned what that would do to the deer population in Lewisboro and whether hunting would be permitted on the Levy Preserve. He stated that he would like to understand the status of the three homes on the preserve that are currently on the market; whether the tenants have an option to buy or if there any issues relative to ADA compliance. He suggested that the Town Board speak with the risk manager or finance director relative to insurance. He referred to Appendix A. Lewisboro Horsemen's Association Guidelines and noted the statement that most trails go through private property. He suggested that it be abundantly clear for the future homeowners of the three parcels being subdivided off the preserve parcel that there will be trail easements around and over their property. Still referring to the Appendix A he expressed concern with statement 16 as he did not want any innocent disputes regarding the use of the trails.

Ms. Andersen believed that these comments were useful and reflected many of the debates that had occurred while drafting this document. She advised that the Town was clear that the trails would be utilized by pedestrians, hikers and horses but was not sure what to do with bikes. The team was quite divided with regard to bicycle use. With regard to Mr. Decaminada's concern regarding animal waste, she noted that dog waste contained bacteria that can cause disease to foxes and can be harmful to humans. Although horse waste may be larger, it will degrade quicker. Any manure in the parking area will be removed.

Mr. Ellrodt expressed concern with having a Town owned parcel that favored one group over another. This document would need to be carefully reviewed.

Mr. Gusmano was provided with a hard copy of the document as he had not received a copy prior to the meeting. He noted that he had not yet reviewed the document but from what he heard this evening it appeared that it was pro-horse and anti-dog and bike which concerned him and why he would like to read it through.

Ms. Travalino assured him that this was not the case.

Mr. Oscarson advised that there was concern with over use as experienced on other preserves within the region. The protection of the property also takes into consideration the protection of the natural resources as well as allowing for passive recreational use.

Mr. Goett advised that the crux of the bike issue is that the typical mountain biker does not want to ride on the trails but preferred more of an extreme terrain. The group spent a large amount of time dialoging on how to protect the hiker from coming around a bend to find a guy with a bungee cord coming over a log. The question is how to balance this and make it fair for the Town. There are two parks for mountain bikers within the County; if this park opens up to them the word will spread throughout the biking community. The committee feared that there would be destruction to the trails.

Ms. Andersen advised that the concern was not with the individual biker but rather with organized groups. In addition, there are not a lot of dog friendly parks. These are Town decisions, they need to determine how to protect the preserve and find a balance.

Mr. Rossi questioned whether the Town had a management plan with similar rules for the Houlihan parcel. He stated that consistency is important.

Ms. Andersen advised that the Houlihan parcel is available for hikers and horses, no bikes. The ADA would like to install a wheel chair path.

Mr. Oscarson advised that they were different preserves.

Mr. Barber suggested that they have an overlay map indicating the areas they would be managing as well as those areas that would be left alone. If the Town has a baseline of the property from when it was acquired, this should be attached to the plan. A maintenance and management plan should be put together which would include manure management and how the trails would be maintained in the event there are ruts, litter and debris; who would be responsible for the maintenance and when and at what cost. The largest issue is enforcement; as soon as there are restrictions, you need a method of enforcement.

## **VI. SITE WALK REPORTS**

### **Twin Lakes Water Works**

Mr. Rossi advised that the five Planning Board members met at the site with Mr. Johannessen, Mr. Coyne, and Mr. Tansey. Tim Cronin, Janet Andersen and Paul Lewis were present representing the applicant. Mr. Rossi advised that the purpose of the site walk was to observe how close the proposed generator was to the road and the adjacent property owners. It was his opinion that if they moved it out behind two large trees that it would provide more of a buffer to Mr. Rinaldi. The wrong place for the generator was at the top near the road. Mr. Cronin reviewed the drainage plans.

Ms. Andersen advised that it was noted that a large tree had been weakened and would come down.

### **Scully**

Mr. Rossi advised that the same group then visited the Scully site where they are proposing a fairly large barn, workshop and cottage renovations. He stated that a small area of a large parcel was being developed. Noting that a lot of activity was occurring in a small area he questioned whether the applicant would consider placing a deed restriction in the area on the other side of the pond.

Mr. Decaminada advised that they discussed the use of the pond which is shared with the neighbor. There are no restrictions and he noted that they questioned what the ultimate goal of the property owner is. In addition it was noted that one well is shared between the two adjacent property owners.

## **VII. CORRESPONDENCE & GENERAL BUSINESS**

### **Vista Fire Department Renovations**

The Board discussed a request from Peter Helmes to schedule a public hearing for the proposed renovations to the Vista Fire House in March. It was noted that this application will be discussed at the January 27, 2009 meeting; in order to meet the notification requirements in the code the Board would need to make a determination regarding the public hearing this evening. The Board directed the Secretary to schedule the public hearing for March 10, 2009 with the caveat that if the application was deficient that the hearing would be adjourned.

### **Wild Oaks WWTP Upgrade**

Given that this matter would not be on the ZBA agenda until January 28, 2009 the Board elected to review the application on the February 10, 2009 agenda given that the recent submission included the narrative and Stormwater Pollution Prevention Plan.

### **Croke**

Patrick Croke was present.

The Board discussed Patrick Croke's request for a Certificate of Occupancy for his residence. Mr. Barber noted that the mitigation had not yet been completed.

Mr. Rossi questioned what the hardship was given that the applicant had made a choice with respect to when the mitigation was completed.

Mr. Croke advised that he had presented that this project was multi-phased from the beginning. He believed that he had completed the mitigation relative to the improvements to the residence and asked that the Planning Board amend their approval to allow for him to complete the mitigation relative to the construction of the barn at a later date.

Mr. Rossi questioned when the mitigation relative to the watercourse would be completed noting that it was his understanding that this mitigation was not specific to either the house or the barn.

Mr. Decaminada referred to Mr. Croke's letter dated January 12, 2009 where he offered his personal guarantee that the mitigation would be completed as approved. He believed that a process should be structured to allow for a C.O. to be issued, such as a letter of credit.

Mr. Rossi noted that this Board did not have the ability to bond projects under a general basis in this Town. Counsel had determined that under SEQR this Board was able to bond another project. He questioned whether this project fell under the same qualifications.

Mr. Praga advised that he would do the research for this particular application.

Mr. Croke asked whether the Board would consider amending the approval which would allow for the phasing of the project.

Mr. Rossi asked that Mr. Praga provide the legal advice needed to address the issue.

Mr. Barber indicated that he was close to signing off on the invasive specie removal around the watercourse.

If Mr. Praga determined that the mitigation can be bonded, Mr. Croke's lawyer should prepare a document for the review of Mr. Praga prior to coming back to the Board.

### **Simpson**

Mr. Rossi advised that the Board could not act on the January 12, 2009 request of Patrick Croke as the permit had expired. In addition, the Board was still waiting for the Health Department sign-off relative to the installation of the new well and for more detail with regard to the existing well.

Mr. Croke advised that he had offered to remove the well from the application if that would move the process along. Preliminary results on the existing well have come back that the water was okay. Mrs. Simpson's son had precipitated the need for a new well because the water tasted funny.

It was agreed that the applicant would either remove the well from the application with a report from the Health Department advising that there is potable water or Health Department approval for the new well.

Mr. Croke advised that he would have the report within a few days.

### **Status of Open Violations**

Mr. Rossi will send a memo to the Town Board requesting the status of open violations.

### **Proposed Cluster Regulations**

Mr. Johannessen and Mr. Barber met and reviewed several ordinances and drafted a simple ordinance for the Town Board's review and approval. The Town Attorney will review the document before the Town Board discusses it at their January 15, 2009 meeting.

## **VIII. MINUTES OF December 9, 2008**

On a motion made by Mr. Ellrodt, seconded by Mr. Gusmano the minutes of December 9, 2008 were adopted.

Vote: Yes: Gusmano, Rossi, Ellrodt  
Abstain: Decaminada

Absent: Maguire

On a motion made by Mr. Decaminada, seconded by Mr. Ellrodt the Board entered into Executive Session at 10:41 P.M. with counsel under Attorney Client Privilege.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt  
Absent: Maguire

On a motion made by Mr. Ellrodt, seconded by Mr. Gusmano the Board exited the Executive Session at 11:06 P.M.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt  
Absent: Maguire

On a motion made by Mr. Ellrodt, seconded by Mr. Gusmano the meeting was adjourned at 11:07 P.M.

Respectfully submitted,

Aimee M. Hodges  
Planning Board Secretary