

**PLANNING BOARD MINUTES**  
**JANUARY 22, 2014**

Chairman Johnston called the Meeting to Order with the following members present: Mr. Ken White, Ms. MaryLou Fitzgerald, Mr. Dwight Anson and Mr. Chris Maron. Alternates present Ms. Cynthia Fairbanks and Mr. Brian Houseal. Also in attendance, Mr. George Hainer, Building/Codes Zoning Officer. Guests in attendance, Mr. William Palmer and Mr. Peter Gibbs.

**Reappointment of Chairman of the Planning Board.**

On a Motion by Mr. White and Second, Ms. Fitzgerald, all in favor, Chairman Johnston was re-appointed Chairman of the Planning Board for the year of 2014.

Chairman Johnston - Thank you for your vote of confidence.

**Minutes:** The Minutes of the December 18, 2013 meeting. Motion to approve, Mr. White, second, Ms. Fairbanks, all in favor, carried.

Chairman Johnston - I think I will appoint both Brian and Cynthia, as voting members, so we have six voting members.

**William Palmer - Tax Map No. 66.2-1-30.112 - Two-Lot Minor Subdivision - Gift Provision.** - Mr. Palmer is here tonight because we're going to approve this subdivision under the "gift provision". George do you have a drawing that you can show.

Mr. Hainer - Bill do you have the drawing (map)?

Chairman Johnston - Let's use the large map.

Mr. Hainer - Kevin has maps for you to sign.

Chairman Johnston - Where's Kevin?

Mr. Hainer - He's at a conference.

Chairman Johnston - George or Mr. Palmer, would one of you just briefly explain what's happening here.

Mr. Hainer - You have a 35.47 ± parcel and you're taking a three acre parcel -

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Mr. Palmer - and the rest is going to be given to my son as a gift.

Mr. Hainer - Right, and this is in our RR5 District. The minimum lot size is one (1) acre. The intensity is five (5) acres per principal building. There will have to be two (2) acres deducted off -

Ms. Fitzgerald - We're talking about this parcel, here?

Mr. Hainer - This is the remaining parcel, he's creating this three (3)- acre parcel where his existing house is on.

Chairman Johnston - Mr. Palmer is retaining the three-acre parcel.

Mr. Hainer - And then his son is retaining the 35.47 ± --

Chairman Johnston - Mr. Palmer is keeping A-2 and his son is getting A-1.

Ms. Fitzgerald - Mr. Palmer A-2 and his son A-1.

Chairman Johnston - And, the mobile home, that is now in place, am I right?

Mr. Palmer - Right.

Chairman Johnston - And, the issue with the wetland has been resolved?

Mr. Palmer - Yes.

Mr. Hainer - But, this is an APA Wetland Permit, we can approve it "conditional" and the APA is doing their permit. Actually, you don't have to approve it, you have to sign it, according to the "gift provision", (attached, Section 2.064, Gifts, Devises and Inheritances (amended 2010), page 2A). It does meet the Zoning guidelines.

Chairman Johnston - Our requirements under the "gift provision" are very limited, (Chairman Johnston read from the Section 2.064, above). So, it's basically, non-jurisdictional. Referring to, b. substandard lot size, that is not happening.

Mr. Hainer - No. Because, it's a one-acre minimum lot size.

Intensity designations for each district are established in Section 21 for the Village Districts and in Section 31 for the Town Districts. The total number of principal buildings or dwelling units shall not exceed the number allowed by the intensity designation. No lot shall be smaller than the minimum lot size in the district.

- a. Hunting and fishing cabins and accessory apartments are exempt from intensity designation. (amended 2010)

**2.063 Subdivision Calculation and Recording**

All subdivisions shall be in accordance with the intensity designations and minimum lot sizes specified in Sections 21 and 31 hereof. The term "unit" as used in this Section 2.063 shall mean "dwelling unit" for the Village Districts and "principal building" for the Town Districts. (amended 2010)

- a. If a parcel is improved with one or more existing units as of August 1, 1973, a lot may be created around the unit and related land or buildings to that unit, such that at a minimum, the created lot satisfies the minimum lot size requirements for the land use district. Such lot and the unit thereon shall not be considered for purposes of the density calculation, which shall apply only to the remaining unimproved land on the parcel.

Where a purely mathematical application of the Town district density requirement to the parcel, minus the land area necessary to create a lot around the preexisting unit(s), results in a fractional number of permissible units, that number shall be rounded to the nearest whole number, which shall be the arithmetically permissible number of units on the parcel.

- b. For a parcel not improved with one or more existing units as of August 1, 1973, it may be subdivided into additional lots, provided that (i) each new unit is placed on a lot which satisfies the applicable minimum lot size requirement, and (ii) the total number of lots does not exceed the number of units allowable with respect to the parcel to be subdivided. The number of units allowable shall be calculated using applicable intensity designations.

Where a purely mathematical application of the Town district density requirement to the parcel, minus the land area necessary to create a lot around the preexisting unit(s), results in a fractional number of permissible units, that number shall be rounded to the nearest whole number, which shall be the arithmetically permissible number of units on the parcel.

- c. The allowable units, as calculated above, shall be allocated among the lots, and as a condition of the approval by the Planning Board of a subdivision plat, each lot thereon shall bear a notation stating the number of units assigned to it.
- d. Within the Town Districts, frontage and setback requirements may be reduced as provided in Section 32.150.
- e. For purposes of calculating minimum lot size, no state-designated wetlands or land located within the road bed of a public highway or a street which is to be maintained by or ceded to the Town shall be counted. However, land located within a V-OSP overlay district may be counted in determining the number of dwelling units which may be developed on adjacent land outside the V-OSP overlay district.
- f. For purposes of intensity designation, no land located within the road bed of a public highway or a street which is to be maintained by or ceded to the Town shall be counted. However, land located within a V-OSP overlay district may be counted in determining the number of dwelling units which may be developed on adjacent land outside the V-OSP overlay district.
- g. The allowable number of units may be increased through the application of the density transfer procedure in Section 32.120.

**2.064 Gifts, Devises and Inheritances (amended 2010)**

The mere division of land resulting from bona fide gift, devise or inheritance by and from natural persons shall not be subject to review by the Town.

- a. A subdivision map shall be presented to the Chairman of the Planning Board without Planning Board review for his signature to facilitate record keeping of all subdivisions.
- b. In no case shall the use of this regulation create any lot with a substandard minimum lot size.
- c. New land use or development on lots, parcels or sites conveyed by individuals, who on May 22, 1973, owned such land, to members of their immediate families by bona fide gift, devise or inheritance, shall be exempt from the density criteria specified in Section 21 for Village Districts and the intensity criteria specified in Section 31 for Town Districts, for the purpose of constructing one single family dwelling or one mobile home on any such lot, parcel or site, providing the construction of said use is permissible in the district within which it is located. All other permit requirements and restrictions of this local law shall apply, and no exemption from the Town On-Site Wastewater Treatment Local Law is granted.

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Chairman Johnston - Ok. I think then that there really is nothing further to do and I will sign this at the conclusion of the Meeting.

Ok, Let's move on.

Chairman Johnston -- **Anna S. Sherman - Tax Map Nos. Includes Part of parcels 57.4-2-20.100, 57.4-2-21.000 and all of Tax Map No. 66.2-2-22.000 - Two-Lot Minor Subdivision.** Perc tests have not been performed at this time due to weather. - The Map of Limited Survey was placed on the table for the Planning Board Members. Peter, is that you under the hat, I wasn't sure.

Mr. Gibbs - Yes.

Mr. Hainer - The perc tests have not been done yet.

Mr. Maron -- What does that mean?

Mr. Hainer - It means, we generally don't approve anything until the perc tests are on the map, but, and I don't know that the perc tests are going to be done, you certainly can hold a public hearing but you can't really approve it, I don't think until we get the perc tests.

Mr. Maron - This isn't for sale right now, this is one big lot or -

Mr. Hainer - I'm not sure what's for sale, I'm not sure if the whole lot is for sale, but they want to create these smaller weird size lots.

Chairman Johnston - I thought, my reaction too, was that's a weird size lot, or shaped lot but on the other hand, how do you get to it?

Mr. Hainer - I guess you get to it off the Hald Road.

Chairman Johnston - Yes.

Mr. Hainer - The Hald side and then you have access to it, here.

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Chairman Johnston - You almost really, don't have a choice, because these other properties -

Mr. Anson - A couple of places on Halds' Road I think that you can get to it.

Mr. Hainer - I think the problem was that there wasn't a ROW into this, wherever there's a closed ROW, off the Lee Trust property or something, to get here, like a ROW coming across here off the Sherman Road, that would come to it, so they could get a ROW here, to get onto this lot. It's sort of land locked, except it's part of this, --

Ms. Fitzgerald - The most logical would be off of there, off their relatives, off of Tom's and Carol's.

Mr. Anson - Depends on where you are.

Chairman Johnston - Does anyone know if you can actually, can you drive, can a farm vehicle get along this strip, does anyone know?

Mr. Maron - I'm pretty sure you can.

Chairman Johnston - You think so?

Mr. Anson - I think so, I think there's log roads through there.

Mr. Anson - There's log roads.

Mr. Maron - There's log roads, I'm not sure of the connections.

Could not hear Ms. Fairbanks.

Chairman Johnston - George, do you happen to know how many develop rights remain with the farm portion?

Mr. Hainer - Not off hand. I know there's an APA Jurisdictional Determination -

Chairman Johnston - Because, there's only one develop right being given to Lot 2, correct?

Mr. Hainer - Right.

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Chairman Johnston - So, that must mean that, and I think there was only one develop right given with Phillip's and Jerry's lots.

Mr. Hainer - Right. The property is 440 acres, is that what it was initially?

Mr. Anson - Where's Phil's lot?

Chairman Johnston - It doesn't show on this, Dwight. You have to look at this earlier -

Mr. Anson - Oh yeah, here's Phil's lot, 40 acres.

Mr. Houseal - This \_\_\_\_\_, on Lot 2, the house site is really off Hald's Road.

Chairman Johnston - Yes, right.

Mr. Houseal - And this basically, gets the necessary acreage, right.

Ms. Fitzgerald - Not necessarily.

Chairman Johnston - No, I think she wants to split it up into two parcels and this is the way to do it. I'm not sure what her thinking is.

Mr. Maron - I would guess she wants to sell the Lot number "2" or the opportunity to sell it separately and it wouldn't really have much value unless it had a building site on it.

Mr. Houseal - Right.

Mr. Maron - And, if you didn't create that house site on Hald's Road, it would be pretty impossible to put a building site all the way on it, so they decided, "let's just dump it, (the Links side?) right here" and the person who buys it can then have a forest that they can do whatever they enjoy doing there and then have some narrow access to it and if they want to log it they can either bring it out through there or settle it through the Lee Trust like they've done in the past.

Mr. Houseal - What's the minimum lot size out there.

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Chairman Johnston - Eight and a half (8.5). That's yellow, right.

Mr. Maron - Eight and a half acre zoning.

Mr. Hainer - The minimum lot size is one acre.

Chairman Johnston - Right.

Mr. Hainer - The density is 8.5.

Chairman Johnston - Yes.

Mr. Houseal - Lot 2 has a 100 plus acres.

Chairman Johnston - We use an intensity guideline, Brian.

Mr. Houseal - I understand that.

Mr. Hainer - But, if the children's lots were gift, remember this property was owned before the APA, so they have that exclusion in there about the "gift provision". It really doesn't count one acre comes out.

Chairman Johnston - My guess is that prior to this being proposed you have what, 370 acres, is that what you have, oh no, you have 270 acres, and I presume she decided that if you had two lots, one of a 100 acres and one of 270 acres, you might be able to sell them, more easily, just speculation.

Mr. Houseal - What's the question in front of us?

Chairman Johnston - This is being presented as a sketch plan, although it's obviously a virtually completed drawing. Under our subdivision regulations, an application has been filed, George has an application -

Mr. Hainer - right.

Chairman Johnston - and we have to go through the subdivision review process. We normally have a public hearing and often times, Kevin Hall represents the subdivider and he'll make a presentation. As George pointed out, there's no perc tests at this point. Do you know if a perc test was done on Jerry and Phil's lot, George?

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Mr. Hainer - Don't know.

Mr. Houseal You want the perc tests done -

Mr. Hainer - What is this here, this is proposed lot -

Mr. Maron - They have "proposed septic",

Chairman Johnston -- "proposed clearing", "proposed well"  
-

Mr. Hainer - Right. He just wanted to get the ball rolling.

Mr. Houseal - You probably all know Hald's Road, but there's some rock outcrops on that side of the road. I don't know how deep the clay or anything else is out there, but it's probably worthwhile waiting for a perc test.

Chairman Johnston - Yes.

Mr. Houseal - And, that's where they would build.

Ms. Fitzgerald - And at an earlier property we waited until the perc tests, before the public hearing.

Chairman Johnston - Yes.

Ms. Fitzgerald - Because it wasn't evident.

Chairman Johnston - And, I would like also to know how many development rights are going to be remaining with Lot 1, because you're potentially looking at a re-subdivision of that place, you have a nice little residential development there.

Mr. Houseal - You could break that into 20 -

Chairman Johnston - Maybe, you'll have to see, 8.5 acres divided into 170 is exactly 20, right.

Mr. Houseal - Not exactly.

Chairman Johnston - But, there may be more development rights because there's only one with Lot 2, ok.

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Mr. Maron - You could cram them all there, all the building rights, on that lot.

Chairman Johnston - That's what it looks like.

Mr. Maron - Lot of farm land, rather not see farm land developed.

Chairman Johnston - No. Because it is relatively open land, it's probably the land that would be more easily developable.

Could not hear Ms. Fairbanks.

Chairman Johnston - Well, it has been agricultural land, people have been cutting hay.

Ms. Fairbanks - But, I mean in terms of zoning.

Chairman Johnston - Why is it not Resource Management? Green? (Secretary's Note -- The colors, yellow and green are referring to the APA Land Classification Map). I don't know why the Park Agency decided yellow was more appropriate, 8.5 acres.

Mr. Anson - They weren't that nice to me.

Chairman Johnston - What did they do to you?

Mr. Anson - Forty-two, five (42.5) Resource Management (being on the other side of the road).

Mr. Houseal - I recommend, because of Lot 2, wait for a perc tests, --

Chairman Johnston - Yes.

Mr. Houseal - you might also be good to have the applicant give an explanation of what was the logic behind this subdivision proposal.

Chairman Johnston - Yes.

Mr. Houseal - It's hard for me to figure out by looking at this.

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Mr. Hainer - Kevin would normally be here, but he had a convention, I'm sure he will be at the next meeting.

Chairman Johnston - At the sketch plan phase, we are, I can't recite it word-for-word, this is the point where we ask these kinds of questions and request clarification and make suggestions. The next step in the subdivision review process is the presentation of the preliminary plat and a preliminary plat, this looks more like preliminary plat than a sketch plan. A sketch plan are often drawn, free-hand on a blank piece of paper. George, can you convey these, the sentiment of the Planning Board, or when Barbara has the minutes prepared, ask her to send Kevin the minutes so he can see our discussion?

Mr. Hainer - Yes.

Mr. Maron - (Configuration of Lot A?) To me, the only thing I can see why it might be proposed, on the other hand, I don't think I've ever seen it, even review such a weirdly shaped lot, and what does that really mean for the long term?

Mr. Hainer - Well, we had a weird shaped lot over on the back road, County Route 44, Stevenson Road, McCutchen's, that was a 300 foot wide front and then there was a long driveway to the back, so that was similar.

Mr. Maron - And yet, that was to get back to a building site.

Mr. Hainer - Right, and he had to have a minimum -

Mr. Maron - that was close to the road and then you have this forest in the distance, if you want to have a wood lot I guess it would be a good thing.

Mr. Hainer - It's something to say that sometime in the future there can't be an access here for some reason they can't secure one at this point. Maybe sometime in the future they would be able to or maybe this piece would be sold to someone else or something. I don't know what you do with the strip.

Mr. Houseal - Configuration.

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Chairman Johnston - Or maybe someone will come along and buy both parcels with Lots 1 and 2.

Mr. Houseal - It's still an odd configuration.

Mr. Hainer - Then they could reconfigure it. But the key is getting another access off the Sherman Road over this property.

Mr. Maron - I guess the question is what would they need access for, because if he only has one building right, it's not like he -

Mr. Hainer - That's what we want to clarify, is there only one building right?

Chairman Johnston - I concluded there was because they said there was going to be one home site, but, I think we need to have the number of building rights computed.

Mr. Hainer - They should be on the map.

Chairman Johnston - Ok, should we move on.

Mr. Anson - The other didn't have one either.

Chairman Johnston - I think David has one, doesn't he.

Mr. Maron - All the boys have one. Down here.

Mr. Anson - Oh yeah.

Chairman Johnston - Yes, actually that creates five lots now.

Mr. Hainer - I think there's a provision when it's a gift and the lot is not sold, I think the lot has to be offered for sale, according to the Health Department. There may be some other reason once it gets over four, it becomes a Major from our point of view, if this lot makes it a Major.

**Bruce M. Grosse - Tax Map No. 66.2-2-22.121 - Peter it looks like we're up to you. Does everyone know Peter Gibbs?**

Mr. Gibbs - This is not a subdivision, this is an application for, I don't know the term and the reason I

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don't know the term is because I did this project for Mr. Grosse and sent George all the applications that I made to NYS DEC and the Army Corps of Engineers and I thought there would be a process in the Town for approval of such a project, but I didn't know really what the process was. But George put us on the Agenda and here I am.

Chairman Johnston - Normally, the Planning Board reviews subdivisions and special permits.

Mr. Gibbs - Ok, (could not hear remainder of comment).

Mr. Hainer - It's a review of a condition on the plat. The condition is that on the bottom, that there's any disturbance (from Note # 8, from "Final Plat of the Pelletier Subdivision, dated April 22, 2005), between the top of the bank and the (see description on Item 5 of tonight's Agenda).

Ms. Fitzgerald - What's the number of that condition?

Mr. Maron - Number 8 on the Final Plat.

Mr. Gibbs - Number 6, from the signed map. (Secretary's note, which our office did not have at the time of the Agenda). The final map with Number 6 was signed by Chairman Johnston, so that is the map that applies.)

Mr. Gibbs - So it would be an application to satisfy a previous condition of a subdivision. So, if this is Lakeshore Road, Furnace Point Road, this is a copy of an old survey that the homeowner, Mr. Grosse gave me, and this is the Mobil Company, so it's that first lot to the East, from the Mobil Company and when he first had me down this fall I've got three pictures (in file) they're all different, but they're all showing the same thing. It was a slide back in 2009, I think, and it was rotational failure up the slope. There's nothing built there, there's no house, rotational slide, and a chunk of soil rotated, this is the high water and that had dug underneath it, the slope and rotated out into the Lake, it's been eroding ever since, all into the Lake. Mr. Grosse had me down this past fall and said, "I'd like to do something, it's eroding, it's continued to erode, what do I do?" I stated, "you're basically going to have to armor that site, either removal of the clay down here or put some armor on the large stones, something to stop the water from getting into

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direct contact with the clay, basically a vertical slope repair". I mentioned that there is jurisdictional issues, Army Corp of Engineers and the DEC. I know it's going to be hard to proceed. Anything below 98.8, let's call it elevation 100, on Lake Champlain, is jurisdictional to the Army Corp of Engineers and DEC on the NY side. So, elevation 100 hits the slope basically almost at the top of where it's eroded, almost where the trees and where the vegetation stops, that's elevation 100, we went out and did a topographic survey. Anything below that, is jurisdictional to the Army Corp of Engineers and DEC and anything below that line needs a permit. The permit is a nationwide permit, it's Number 13, and the nationwide permit is a permit that's already written. It's written by the State and the Federal Government and says that "you, as a landowner, are allowed to go in and stabilize your slope, if you do it a certain way, and do it under certain thresholds. The threshold is that you are not allowed to fill beyond this jurisdictional line, below the 100 foot elevation, more than one cubic yard of material per linear foot. Every linear foot you can put one cubic yard out into the Lake for a maximum of 500 feet. As long as you do that and some other, it's described in the paper work, a notification type of requirement, you're allowed to do that under Nationwide Permit Number 13, from the Army Corp of Engineers. So, that's what I applied for, which shows in this topographic map, approximately, he doesn't want to do it entirely along the lakeshore, he just wants to do it about 100 feet this would be again, east, the eastern part of his lakeshore. Almost where that pile of rocks, you see in the pictures where there are some rocks, I don't know if it's the remnants of an old project or if the rocks were there naturally, that have come out of the slope and the soil around them has been eroded away, but from there to the eastern end of his property that's where he would like to protect. The failure goes beyond the edge of his property, it goes to the property to the east. We're not asking to go beyond his property line. The reason I say that, is typically a question I will get is, "what happens if you protect this and something happens over here?"

Chairman Johnston - What happens?

Mr. Gibbs - It will actually, usually make this erode a little bit faster. Nature doesn't care about these property lines you put out there.

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Mr. Houseal - If there's currents or drift -

Mr. Gibbs - Yes. If you're getting, the nice thing about this property is that it faces south and it's very hard to think about different wave angles coming in to this property. If you were coming and heading in this way, you could see that the wave energy would start to roll up on these rocks and go on to the clay, right here, that would erode it more, the clay right here, the unprotected clay. But where he's located to the south, facing the south, you're almost getting a direct hit, not getting a glancing blow. So, that's one thing that would lessen any kind of erosion. The thing you try to do with these rip-rap walls, is to take the energy out of the wave, that's why putting up a flat wall or even an angular wall doesn't work as well as just putting angular rocks out there, just random angular rocks. They're not really random because we're sizing them, we want them to be of a certain size, we want the bottom of course to be imbedded into that soil, we want the next of course, to be a little bit smaller or approximately the same size and then behind it quite a bit smaller rock, but those first couple layers, we want them to be big, we want them to have a little void in between them and we want that energy from that wave to be dissipated by those rocks. That said, there will be energy transfer, I'm not going to say, "there won't be a little bit more erosion over here", but it will happen.

Chairman Johnston - Has he contacted -

Mr. Gibbs - He said he didn't want to do it. I don't have that right, and Mr. Grosse asked me, he told me about that.

Chairman Johnston - Ok.

Mr. Gibbs - It's kind of hard to coerce another landowner or to tell them, "hey, you got to do something about that".

Chairman Johnston - Right.

Mr. Gibbs - And, I've run into this in Vermont, Maine and New Hampshire and it's always a problem, because one landowner wants to do their thing and really protect it. Every high water, there's clay going out, it's a natural phenomena.

Chairman Johnston - Yes.

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Mr. Gibbs - He doesn't want to loose anymore.

Chairman Johnston - Right. I can understand his position, as you very well know there were issues associated with the other landowner on the other side of Mr. Pelletier and -

Mr. Gibbs - I heard stories, but I was -

Chairman Johnston - and then the, that would be Mr. Lever and then his neighbor, Mr. Giles, they were in a, have been blaming each other for causing erosion in each other's property.

Mr. Gibbs - Yes.

Mr. Maron - You might just seem like, it does angle like this -

Discussion among many members.

Mr. Gibbs - There are, depending on times of the year, the winds, there's lots of things happening in that bay.

Mr. Houseal - It's also quite a conjecture of my view point that the high water caused the initial slump, versus upland rain fall, saturating the soils and causing it to slump.

Mr. Gibbs - It's interesting that you say that.

Mr. Houseal - Regardless of the treatment, to stop wave action, it inhibits wave action, there's a lot more happening upland.

Chairman Johnston -

Mr. Houseal - to push that structure down, there's been a study, there was an upward process coming down into the Lake, whereas a wave driven process from there. That's actually from the study you gave me, George.

Mr. Hainer - That was in Greek or something.

Mr. Gibbs - So we have our slopes all in Lake Champlain, they're typically clay embankment, there not pure clay embankment, the clay is sedimentary, you get different lenses of sand and silt, gravel, they're not homogeneous through here. What happens, is most of these are at what we

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would call a factor safety of warmth (?) or very close to warmth and that means that not much will make them slide into the lake and you get a magnate that's totally saturated and you get a little high-wave action and you start to cut into this, a little hole in the bottom, then all the sudden your slope is not like this, your theoretical slope is like this, so it's a little bit steeper and then all the sudden she'll rotate right around and the rotation will be like this and go right in. So, I agree with you, it is not purely the wave action, that's just something that's a trigger. Over in Keene, two years ago,

Mr. Houseal - West side of Keene Valley.

Mr. Gibbs - West side of Keene Valley,

Mr. Houseal - About 2,800 feet -

Mr. Gibbs - Yes, we think that was triggered by a small earthquake, that actually took that. But, over saturation -

Mr. Houseal - Lot of rain.

Mr. Gibbs - Lot of rain, and that was a huge mass, I mean -

Mr. Houseal - A mile long.

Mr. Gibbs - Yes, it really moved. It was a culmination of things, but mostly having to do with the saturation, but something that triggered that slide. So the wave action triggered this and the thing slumped in. I wouldn't say that it was erosion up in here or anything like that, on this property, I don't really know what happened over in here, but on this property in here, it was saturated, it was a little bit of high water, it dug in, the thing slipped out. But, what you end up with, is an unprotected slope that continues to just dump more clay and silt into the Lake every year. Here's a guy that didn't cause the problem, but doesn't want to have it persist. So, he'd like to do something about it.

Chairman Johnston - Peter, what is the time frame of getting responses from all these agencies that you've notified?

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Mr. Gibbs - I got a response today wanting to know the jurisdictional status with the APA, that was from the DEC, that's going to take a while.

Chairman Johnston - Yes. George, has a very good suggestion, that I want to throw out. You're a professional engineer and this is going to be reviewed by a lot of other agencies with a lot of technical people -

Mr. Gibbs - Sure.

Chairman Johnston - chances are by the time you stamp it and everybody else signs off on it, it will be ok, ok, but, what if we had a Public Hearing on this just to let people know that this was happening and see if anyone shows up and has anything to say about it.

Mr. Gibbs - Yes, that would be great with me.

Chairman Johnston - Ok.

Mr. Gibbs - It's going to take a while to get through all those regulatory agencies. One of the things to get any kind of, they say it's a Nationwide Permit, and it's a permit that's already been granted, and what you're doing when you apply for a Nationwide Permit, is that you're just telling the Corp of Engineers, "I want to use this", meaning Mr. Grosse. Anybody that owns lakeshore, if you ever put a mooring out in front of your lakeshore, and you go and get a permit from anybody, that's because you've already been granted a permit for that mooring. Up to two moorings in front of your lakeshore property, I forget what Nationwide Permit that is, there's one already there, you don't have to ask anyone, it's pretty cool.

Chairman Johnston - But, you do have to make a submission of these drawings -

Mr. Gibbs - of these kind of things, yes, the mooring one is non-reporting, yes, but for something like this, it is a reporting, you have to report.

Chairman Johnston - Brian.

Mr. Houseal - Just a different thought on this, I concur with what you just said about the permit, but if I recall, there's a property just beyond the public boat launch, that

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has hardened shoreline, I would recommend for purely aesthetic reasons, not the technical part, that the rip-rap blend as best as possible as though it is a natural feature on the shore, because you can go to all sorts of different hardnesses with the rip-rap. So, someone could say, "that looks pretty natural". It's purely aesthetic versus the technical.

Mr. Gibbs - I understand.

Mr. Houseal - I agree with what you're trying to do.

Mr. Gibbs - And there are a lot especially when you look, when you go around Burlington and Shelburne, Charlotte, you will see almost every property has some kind of different treatment, whether it be stone or ready rock, there's no coherence to it at all. I'd be interested in the public hearing because -

Mr. Hainer - I think when you apply to the APA for the JIF, they're going to tell you the Town has jurisdiction.

Mr. Gibbs - Yes.

Mr. Hainer - and the APA is not going to have jurisdiction.

Mr. Gibbs - that's right.

Mr. Hainer - So, it's going to be up to the Town to decide -

Mr. Houseal - It's probably not the only property that's had to deal with that, over time.

Mr. Hainer - Camp Dudley was a classic example. The Town had jurisdiction of that.

? - So it would be similar.

Mr. Gibbs - And there too, we had to get individual, we had to get permits from Army Corp of Engineers, we had to apply under Army Corp of Engineers to get permission to use the Nationwide Permit to build that down at Dudley, yes.

Mr. Hainer - Right, but the APA was out of it, we had jurisdiction.

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Mr. Gibbs -- I could get information from the DEC, Corp of Engineers, we'll send it to the Town.

Chairman Johnston -- Yes, it might be too soon to have the Public Hearing in February, because you may not have everything back in time, but I think if we go to the trouble of having a hearing, we should have responses in hand from these agencies, so the people could see what has come in. So, maybe we should target this hearing for March.

Mr. Gibbs - Ok.

Mr. Hainer - Peter, you haven't actually filled out an application for the Town?

Mr. Gibbs - For the Town, I have not.

Mr. Hainer - So there's that.

Mr. Gibbs - That was my first step.

Mr. Hainer - And then there's the Public Hearing Notice and all that.

Mr. Gibbs - So, I have to still do all that.

Mr. Hainer - Yes.

Mr. Maron - Does he have the 150 foot setback from the road?

Two different conversations.

Mr. Gibbs - When they did the subdivision, there was a building envelope, I don't know if it shows -

Various conversations, between everyone, regarding building envelope and setting up the Public Hearing.

Chairman Johnston - Thank you Peter.

Mr. Gibbs - Yes. Mentioned about some homeowners wanting to recover their land from the landslides but he mentioned that would be an issue to discuss at the Public Hearing.

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Chairman Johnston - Peter in regard to the aesthetic issue that Brain raised -

Mr. Gibbs - yes,

Chairman Johnston - I saw a treatment along Route 107 in Vermont which I think actually was pretty good, this is the section of road that's west of Bethel, between Bethel and Route 100, huge lengths of it were washed out by rain, road totally gone, it was the last road that was re-opened, and they put in huge pieces of rip-rap to kind of define the river bank, I think it's the White River, and then they back filled it and put more rip-rap and stuff like that in and then eventually it just looked like a rip-rap slope from the edge of the highway down to the stream. It was pretty unattractive looking but then they came in and I wasn't there during the whole process, so I only saw it in stages, and I took some photographs. Then they dumped, it looked like they dumped soil in it, they probably had fabric, and so forth and they seeded it so that now you have a vegetative bank down not quite to the river's edge, but close to it.

Mr. Gibbs - I've seen it that way. On our plans actually on our detail, we show some live staking which is basically something like a willow, take a branch of a willow, stick it in the dirt and it will grow, so we do a lot of that.

Chairman Johnston - I think they also did something similar, along River Street, across from the Hand House -

Mr. Gibbs - Ok.

Chairman Johnston - when DOT rebuilt that portion of the road.

Mr. Gibbs - Yes, we're trying to get away from just pure rip-rap or concrete, etc., really plant it, there's a lot for the stream too, you're not heating it up, giving it some shade. It would be good.

Chairman Johnston - Thanks, Peter.

Ok, on to **Requadt, Updike and Simone Stephens** - You will recall that at the, I think it was the October Planning Board Meeting, we approved, actually we didn't approve, we deemed these boundary line changes to be Minor Divisions

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and we then approved at the December meeting, I believe, a resolution, a more fully worded resolution, deeming these lot-line adjustments or changes, minor divisions, and Kevin Hall, who prepared the drawings, for these lot-line adjustments, has suggested that we revise the wording of the resolutions and I think his suggestions are actually quite constructive. He's suggesting that we change the wording to make it a little more explicit what the facts are and I'm going to read the paragraph that we approved and then I'm going to read the paragraph that he suggests that we substitute. What we approved was -

"Now therefore be it Resolved, that said Minor Division was approved, November 20, 2013, with said parcels to be included in one Deed."

What he has requested, suggested/requested, is that the resolution state,

**"Now therefore be it Resolved, that said Minor Division, was approved November 20, 2013, with said parcels to be included in two Deeds, creating amended Lot B, being 1.2± acres with an existing dwelling and amended Lot C, being 1.39± acres, with a right to building a single family dwelling." (Updike/Requadt).**

In other words it's making it more explicit, what it is and with your approval, I would suggest we amend the Resolution and replace the paragraph.

Mr. Houseal - So move.

Mr. Anson - I agree, second.

Chairman Johnston - Second, any discussion, all in favor, carried.

Same thing with **Simone Stephens** - We said,  
"Now therefore be it Resolved that said Minor Division was approved June 26, 2013, without further requirements by the Planning Board."

Kevin is suggesting that we change that to say,

**"Now be it further Resolved that said Minor Division was approved June 26, 2013, without further requirements by the Planning Board,**

Actually, I'm not sure we should be saying "should be approved" shouldn't we be saying, "it was deemed a Minor Division"?

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creating Lot 1, 3.1± acres with an existing dwelling and Lot 2 being 3.4 acres with a right to building a single-family dwelling".

The thing that caused me to pause is the word "approved", because we're really not approving this, we're simply deeming it a Minor Division,

so I'm not completely happy with this, but I think it will suffice, if someone would propose it.

Mr. Houseal - I'll move.

Mr. Anson - Second.

Chairman Johnston - Second, any discussion, all in favor, carried.

For future Minor Divisions, we need to fine tune this, because all we're doing, is we're making a determination that it's a Minor Division, we're not moving anything. So, the language needs to be improved in the future, I promise to do it in the future.

Is there any other business?

Mr. Anson - Do we have to accept the 2014 Planning Board dates.

Chairman Johnston - I don't know if we've ever been asked to accept the dates.

Ms. Fitzgerald - I thought we accepted them in December.

Chairman Johnston - Yes.

Ms. Fitzgerald - We received copies of them, then.

No other business.

Mr. White - I move we adjourn

Chairman Johnston - Thank you, Mr. White, all in favor, carried.

Meeting adjourned (?) P. M.

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Respectfully submitted,

Barbara A. Breyette  
Secretary