

PLANNING BOARD
MINUTES
JUNE 25, 2014

The meeting was Called to Order by Mr. Maron at 7:04 P. M. with the following members present. Mr. Ken White, Mr. Chris Maron, Mr. Dwight Anson, Ms. MaryLou Fitzgerald and Alternate Ms. Cynthia Fairbanks. Vice-Chairman Alan Hipps was excused. Also in attendance, Mr. George Hainer, Building/Codes Zoning Officer.

MINUTES: Mr. Maron asked if anyone had any comments regarding the Minutes of May 28, 2014.

Mr. White – I move we accept the Minutes.

Mr. Maron – Ok. Second?

Ms. Fitzgerald – I'll second.

Mr. Maron – Any comments?

Ms. Fitzgerald – We got the by-laws by email, there wasn't much leeway or input as far as what we should or shouldn't do.

Mr. Maron – All in favor of the Minutes. Carried.
Discussion of By-Laws of the Planning Board. Any thoughts regarding these.

Ms. Fairbanks – We have to officially declare you as Chairman.

Mr. Maron – Right, we have to vote on that. I'd be happy to have Alan do it. It doesn't seem like –

Mr. Hainer – The only alternative would be if Alan did it and you were Vice Chair and then Alan do it the times he could be here.

Ms. Fairbanks – I think we should have someone consistent.

Mr. Hainer – Then Alan would be the Vice-Chairman, you have to have two people --

Ms. Fitzgerald – Will Alan accept Vice-Chair?

Mr. Hainer – Somebody has to be Vice-Chair so that –

Ms. Fairbanks – That would be a good role for him, he could come when absolutely necessary.

Mr. White – He's Vice-Chair now, isn't he?

Ms. Fitzgerald – Yes.

Mr. Hainer – We're down two members, two alternates, --

Ms. Fairbanks – I'm only an Alternate until Evelyn comes back, no there's still going to be a need for another regular –

Mr. Hainer – Right, Evelyn hasn't resigned so there's really just two alternates, until Evelyn officially, leaves right?

Ms. Fitzgerald – And, as I understand the Board would have to appoint you as the Regular member.

Ms. Fairbanks – Right, because I think Bill temporarily declared me a floating member –

Mr. Hainer – Right. The Town Board has to make the approval.

Ms. Fitzgerald – Barb said, the Town Board has to make the approval.

Mr. Hainer – Right. So, then the Town Board is going to need recommendations from the Planning Board, tonight and then the ad they put in the paper, I don't know if you saw the candidate that's applying, but the Town Board had notice of that last night, they tabled it, they want recommendations from the Planning Board.

Mr. White – I would make it a proposal that we recommend our present alternate become a full-fledged member of the Planning Board.

Mr. Hainer – Ok.

Mr. Maron – Is that a motion? Ok, is there a second.

Ms. Fitzgerald – I second.

Mr. Maron – There being no discussion, all in favor, carried.
Shall we move on to Chairman.

Mr. White – I make a motion, you become Chairman, Chris.

Mr. Maron – Is there a second on that.

Ms. Fitzgerald – I'll second.

Mr. Maron – There being no discussion, all in favor, carried.

Ms. Fitzgerald – Thanks for taking it.

Chairman Maron – Next, we'll move on. Anything else about the by-laws we should consider? None voiced.

Next – **Robert McGee – Tax Map No. 66.2-2-24.200** -- I'm just seeing this letter for the first time.

Mr. Hainer – That just came in this afternoon. I got in touch with him again, yesterday (Mr. Wilson).

Mr. Maron – Is this pretty much along the line, did Bill write a letter?

Mr. Hainer – No, what Bill did was give the outline to Gary, and asked him to respond to the outline and then to provide information that the Planning Board Chairman could draft a letter to Bobby McGee. Now, if you want another approach, this is the starting point, a "draft".

Mr. White – Just a draft.

Ms. Fitzgerald – You're talking about the appointment?

Mr. Maron – No. The one that says, "DRAFT".

There was reference made to Special Permit, in the last paragraph.

Mr. Hainer – Right, that would be what would happen. Like I said this is a "draft", any way you want to change it. The complainant was in the office yesterday, asking what is going on, he's a little upset that it's not moving faster –

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Mr. Maron – You are aware that when someone makes a complaint, you're under no obligation to reveal the person's name.

Mr. White – Has he (Mr. McGee) been cooperative with you?

Mr. Hainer – He was at the beginning, but I think now he's taking a stronger stand, I'm not quite sure where we're going to be. I went by there the other day and there seems to be more out there.

Ms. Fitzgerald – I haven't been up there recently –

Ms. Fairbanks – It comes and goes.

Ms. Fitzgerald -- The message that came to me was that it's right back to where it was and everything is all over the place. I haven't been up there and I should have gone up there before the meeting and I have not.

Ms. Fairbanks – There were fewer wrecks but there were other kind of vehicles there. I feel like they come and go.

Mr. White – The reason I ask, my thought was he was trying to do something there, maybe this was a little strong language.

Mr. Hainer – I don't really think he knows what's going on because he hasn't really been discussed yet and what needs to be done. The fact that his house lot where everything started on which is not the normal business is not working out anymore, he's not doing anything with that. Where he had the fence in the back where he was storing the lawnmowers, etc., that sort of disappeared. He sort of moved everything over to the new lot. His own personal lot, not too much is going on except it is a busy lot and there are a lot of cars there, but he –

Ms. Fairbanks – Actually, just lately there are a few more lawnmowers.

Mr. Hainer – Yes.

Ms. Fitzgerald – Well, isn't that because this is the mowing season.

Ms. Fairbanks – Yes, he's doing that kind of business,

Ms. Fitzgerald – but he's not selling, the point is he's not selling the lawnmowers, per se.

Mr. Hainer – He does some minor repairs and some parts. Everything is moved over to the new lot and I guess until we tell him exactly what you have to do and sort of give him a punch list as to what we expect, I don't know, or else just tell him to clean the lot up and can't do it, whatever. I think that's where we're directed and I think we should at least try to do it in sort of an informal way that's not too adversarial, to begin with.

Ms. Fitzgerald – May I suggest that you let him know that you're going to be observing or coming up there to check it and give him dates that you're going to come and report back to us, that you need to report back to the Planning Board.

Mr. Anson – I think he needs this first.

Ms. Fitzgerald – He needs this first?

Mr. Anson – Yes.

Ms. Fitzgerald -- Sure.

Mr. Maron – Yes. The thing is again, he has a permit for one lot but everything is taking place on a lot he doesn't have a permit on and I think he's certainly welcome to come back and apply for a permit and that the last, as I recall it was expressed he needs to stop all his actions on the adjoining lot and come back and apply for a new permit, but he really couldn't apply this, I think this is from what Bill said, that he couldn't apply until he cleaned up everything on the other lot, which is a pretty big task.

Ms. Fitzgerald – Now, has that been stated in his letter, I haven't read it verbatim.

Mr. Maron – I'm just skimming through, too.

Ms. Fitzgerald – Dwight, my question to you is, "why is, wouldn't it be fitting that he has a copy of this"?

Mr. Anson – Yes.

Mr. Maron – Sure, yes.

Mr. Hainer – Once, we decide on the language of this, then yes.

Ms. Fairbanks – To me, this makes the point that the permit was given as lawnmowing company, but that in fact what in one place now is totally storage, which he does not have a permit.

Mr. Hainer – Right.

Ms. Fairbanks – I think that's kind of good that it states that.

Mr. Hainer – I think he just needs direction as to what we expect of him. Then if he doesn't like it, or he doesn't want to do it, then that's another issue, then we could go the other route. Until he knows what's expected of him, we want this, this and that –

Ms. Fitzgerald – I'd like to ask Dwight, "why he thinks this is too strong, in what way do you think this is too strong?"

Mr. Anson – I didn't say anything.

Ms. Fitzgerald – Oh.

Mr. White – I did. In relation to how he was reacting to us and obviously he isn't reacting because we haven't done anything, --

Ms. Fitzgerald – Ok.

Mr. White – My thought was, he's kind of got his back up against the wall, is not cooperating and I would include this, but if he was cooperating, maybe revoking the permit is something a step ahead of where we should be. While thinking about it and hearing the other discussion I don't think it should be listed in there because of the fact that it's two different properties, basically, and two different businesses.

Ms. Fairbanks – And, if we do revoke this Special Permit for the lawn business can he come back at this point?

Mr. Anson – What was that, Cynthia?

Ms. Fairbanks – I was just wondering, reading the last paragraph, "Based upon the foregoing --- (attached, 4A), does that mean then he doesn't even have that permit to run the lawnmower business?"

Ms. Fitzgerald – You have to define what you mean by "lawn business". His term of lawn business was "selling lawn mowers".

DRAFT FOR DISCUSSION PURPOSES ONLY

Dear Mr. McGee:

As you are aware the Town of Westport Planning Board has received a complaint alleging a violation of the Special Permit issued to you by the planning board on April 13, 2006.

The Special Permit was issued for the specific purpose of the use of an existing 24 X 28 foot garage for conducting a lawn and garden equipment sales and repair shop and the construction of a 12' X 16' extension off the back for the same purpose. The Special Permit also provides that the number of new lawn and garden equipment that will be displayed will not number more than 10 at any given time and that a six-foot fence shall be constructed to screen all equipment to be serviced. The permit also provides that all powered equipment shall have an engine rating not exceeding 30 horsepower or such equivalent.

In addition the Special Permit provides that no construction of buildings, subdivision of land, or other land use and development as defined by the Town of Westport local law not expressly authorized by this permit shall be undertaken without an additional permit from the Town of Westport as may be necessary.

Based upon an inspection made by the Town Zoning Officer it appears that the Special Permit has been violated in the following manner.

- 1) The fence required by the special permit has not been erected.
- 2) The use of the premises as a lawn and garden equipment sales and repair shop is no longer the primary business as anticipated under the Special Permit.
- 3) The primary use of the property is found to be a vehicle towing and storage facility which has evolved with the acquisition of several tow vehicles and trailers and includes the storage of damaged motor vehicles. None of which was anticipated or authorized under the special permit or existing land use law.
- 4) The use of the towing and storage facility includes the use of an after acquired parcel of adjacent real estate not included in the Special Permit.

The result is a substantial change in the residential character of the premises not anticipated when the Special Permit was issued.

Based upon the foregoing the Planning Board revokes the Special Permit under §5.039 (c) of the Westport Land Use Law as having engaged in alteration and use not authorized under the Special Permit effective _____ and directs the applicant to make a new application for a Special Permit for any current or subsequent intended use.

HA

Mr. Anson – At that point.

Ms. Fitzgerald – Storing them in his space there and he's not doing that, to my knowledge, right?

Mr. Anson – Yes, he's not selling.

Ms. Fitzgerald – He doesn't need a special permit to fix a few lawn mowers, if he's doing that, a little bit. Whether this is revoked or not, to me, it seems immaterial to his needs, at this point.

Ms. Fairbanks – Yes, revoking something he didn't need.

Ms. Fitzgerald -- I think it's neither here nor there. Then if that's revoked, then he needs to come back and apply for what he does want to do there. And, at that point, the big issue is the storage of all those excess vehicles, does that stay on his property, is that big enough, or when he comes for the permit does he realize that those have to go elsewhere. I'm not talking about the big trucks, I'm just talking about the junk cars.

Ms. Fairbanks – The junk cars

Mr. Anson – Ok, there's another side to that, too. The State has, say he has to keep them for 30 days or whatever the State, until the insurance –

Ms. Fitzgerald – I understand that, but the State doesn't mandate that he keeps them at his house. He can find a place to keep them as long as he needs to keep them there, correct?

Mr. Anson – If he puts up a fence, he's got property there, it's going to be an excess charge to get another piece of land to put the cars on.

Ms. Fitzgerald – Well, I think we have an issue, because the piece of property he has and what he wants to do on it, is it too small to do what he wants on that property? If we can bring him in and discuss when he comes for a new/different permit, maybe we could settle it then.

Mr. Hainer – Other Towns, they require a garage or something to store it inside or there's a hedgerow of trees that you can't see, evergreens or something very dense, that you can't see through and they're hidden behind there or a fence of some sort.

Ms. Fitzgerald – Based upon the history, we can't assume that he says he's going to do it. It's going to outgrow him someday. The other problem with that property is people coming downhill, looking on to it, which it's hard to hide all that stuff. I don't know if you can put in the permit that the fence has to be "x" number of feet high. I don't think a six-foot fence is high enough.

Mr. White – I think we could put anything in a permit like that, if we think it's necessary, say, eight, ten, whatever. As long as it screens it, whatever is back there.

Ms. Fitzgerald – Fine. As long as the cars are behind that fence, when you're coming down that road, and you can't see over that fence and that pile of junk. And that the gates are closed. They're opened and they're closed, as a vehicle goes out, the gates are closed again. It's that easy.

Chairman Maron – The thing is, part of this discussion doesn't really pertain to the situation, because whatever he does on that additional lot, he doesn't have a permit to do,

Ms. Fitzgerald – True.

Chairman Maron -- so, anything that he does over there, besides have a residential site, and whatever other zoning allows, he isn't allowed to do it without a permit. Anything over there with storing junk cars, all of

that stuff and having a business on it, my understanding is, it's not permitted, so he has a permit to operate this business on his existing lot and appears like he isn't doing that –

Ms. Fitzgerald – but, on his own lot, there's nothing to say he can't bring in tow trucks and park it on his lot. We don't have that in our jurisdiction, yet.

Mr. Maron – I'm not sure that's the case –

Mr. Hainer – Here we go, we're getting into this –

Ms. Fitzgerald – going round-and-round, going into circles.

Mr. Hainer – this issue which certainly you can say, “it's not a home occupation”, but at this end of Town, there's a guy that drives a tractor trailer, parks 45, 50 foot tractor trailer and cab, it's parked there and it's parked for days on end, then it will go on a trip some where, come back and then you have oil trucks, you have loggers, you have everything that brings their vehicles home at night and park it. If you say that it's a home occupation, it doesn't really fit, because it detracts from the residential neighborhood of a structure, by definition. But, yet if you say it's not a home occupation then what do you have to do. You have to contain it in a garage somewhere or move it off site to somewhere else. Have it stored in an industrial area, have it stored, the oil trucks don't come home, they go back to wherever their headquarters are, the gas trucks don't get stored at home, the tractor trailer that's sitting at that end and the one at this end, they can't be stored there. You're really opening up a can of worms, because I can interpret it as a “home occupation”, the Planning Board challenges it, they're going to go to the ZBA, the ZBA's going to make a determination and any way you look at it, it's not going to be a very pleasant one. If they said it is a “home occupation” then all these trucks and vehicles --

Ms. Fairbanks -- but isn't a “home occupation”, like you have employees?

Mr. Hainer – you don't necessarily have to have employees, you can work out of you house and, it's supposed to be something you're not supposed to be able to tell that anything is going on there.

Ms. Fairbanks – that's what I'm saying, he does have employees, he's got more than one truck, so would that be something that would distinguish it from a home business?

Mr. White – It could be argued, I think.

Mr. Maron – I don't think so, I don't have it in front of me, but a home occupation, you can't have more than five (5) people on the primary use of the property. There's other things in there, too. I think there's a difference between –

Mr. White – You're almost not supposed to be able to tell –

Mr. Hainer – Right, right. So, what do you do when you say that, that's not a “home occupation” but yet these other people that bring these trucks home and they stay there and they work out of their house, go delivering or they haul, whatever, and you say, “that's not home occupation”, but this isn't what, you're not even classifying it as a “home occupation” because if you did, they wouldn't be allowed to be there.

Chairman Maron – I think that's some sort of a difference. I think it's different if someone is parking their truck somewhere, the truck is parked there, assuming he's driving the truck somewhere, he's doing his business elsewhere. Whereas, on that lot, because you're parking a lot of vehicles, and you're storing the products of his labor, and some people who are working, come to that site, that's an occupation taking place on that lot. The other ones, you're parking a car in a driveway or on a public street, that's where the difference is.

Mr. Anson – I'd like to pass a thought along. This was mentioned to me. Bringing your oil trucks home and things, I think it's kind of ludicrous that any Township should prevent that, for the simple reason, how

many times do they get called out in the night and if you're out of fuel you want to wait until somebody drives to North Lewis, loads fuel on a truck before you can get some.

Chairman Maron – That's a good point, but it's not really pertaining to this.

Mr. Hainer – If there was a tow truck, if he had his one tow truck and it was home, why would that be any different than the oil truck, or the guy with his tractor trailer, to me it's all the same. Now, ok, you could certainly make the point that ok now he's going to the point where he's a commercial business. Well, he has one good thing going for him, where no one else in Town has going for it, except for a couple of spots in the Hamlet, that he's in a Commercial Zone, so he's allowed to do a commercial operation there, by permit, by Special Permit, that whole area is Commercial.

Chairman Maron – I thought it was Village Growth.

Mr. Hainer – It's Village Growth but under Special Permit, it's Commercial, (attached, page 7A). Now, and that's up to the Planning Board to decide what the criteria are for him to –

Ms. Fitzgerald – And, we have to make that uniform, across the Town.

Mr. Hainer – Now, there you go, Commercial Use, single-family dwelling, by Special Permit, all those uses, there's all sorts of uses.

Chairman Maron – Ok. Uses allowable by Special Permit.

Mr. Hainer – By Special Permit, and special permit uses are generally not compatible with the area and that's why they require a Special Permit, because you look at all the ramifications of the use and you put conditions on it that allows you to control how something is going to be used there. You may say, "you can have a tow truck business, we want the tow trucks hidden, but we don't want any cars brought home, you'll have to store them somewhere else or you can require a fence or require a garage, whatever, because it's a Special Permit.

Chairman Maron – Ok.

Mr. Hainer – I'll tell you, if we start going down this road where we're defining these vehicles coming home, and they're either home occupation or they're not a home occupation, and you could easily make a case if they're not home occupation, because they can detract from the residential character of the neighborhood. – You got a 40 foot tractor trailer sitting in your yard and you get called out and you're contracting from your house to pick up stuff or you have an oil truck, tow truck, a logger who has two grabbers there and a skidder or something. That could be a logging operation, where Bobby McGee is, Saulsgiver could be down there, Ted Taylor and have all his chippers and everything else there.

Chairman Maron – Again it goes back to the permitted uses, <single-family dwelling> and <home occupation>.

Mr. Hainer – Right.

Chairman Maron – So, you look and see what a "home occupation" is and then if it doesn't comply with that –

Mr. Hainer – Well, in the Town it's a little more liberal than in the Hamlet, the <home occupation>

Mr. Maron – Is that Hamlet there, or Town?

Mr. Hainer – That's Town. So let's, <home occupation> in the Town, Westport Town, (attached, Page 7B)

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c. Dimensional Requirements

Intensity:	8.5 acres per principal building
Minimum lot size:	1 acre
Minimum setback from center of right-of-way:	100 feet or prevailing setback
Minimum side and rear setbacks:	30 feet
Minimum road frontage:	200 feet
Minimum lake frontage:	200 feet
Minimum setback from lake:	150 feet

31.050 Village Growth - Residential District (VG-R)

Description: Area(s) adjacent to the former Village of Westport where residential growth can be best accommodated.

Land Use Goals: Village Growth - Residential areas should be either served currently by municipal water and sewer facilities, or close enough to the village that utility extension is feasible. Such areas should not consume viable agriculture land. Ideally, such areas should possess attractive views, and offer some degree of screening from highways.

Land Use Policies: Because this is a "village growth" area intensity of development will be higher than in Rural Residential areas, although lower than village-center intensity. The only area fitting these criteria which is currently mapped is the area adjoining the northern boundary of the village, an area which adjoins a potential growth area in the village identified in the village planning report (October 1977).

31.051 Village Growth - Residential District

a. Permitted uses:

- < single-family dwelling
- < home occupation

b. Uses allowable by special permit: (amended 2010)

- < multi-family dwelling
- < restaurant
- < agricultural use & structure
- < group camp
- < forestry use & structure
- < community facility
- < tourist accommodation
- < commercial use
- < bed & breakfast
- < accessory apartment
- < guest cottage
- < public utility
- < industrial spring/well as a Class A Regional project
- < water bottling facility as a Class A Regional project
- < major public utility as a Class A Regional project

c. Dimensional Requirements

Intensity:	2 acre per principal building
Minimum lot size:	7,500 square feet with municipal water and sewer; 20,000 square feet without municipal water and sewer
Minimum setback from center of right-of-way:	50 feet or prevailing setback
Minimum side and rear setbacks:	15 feet
Minimum road frontage:	60 feet
Minimum shoreline frontage:	150 feet
Minimum setback from shoreline:	75 feet

31.060 Highway Commercial District (HC)

Description: Land near the Northway interchange which has businesses serving the traveling public.

Land Use Goals: Provide for the needs of the traveling public for gasoline, lodging, food and "convenience" items at an

TOWN DEFINITIONS

conservation of open space, agricultural land, and natural, cultural, historic, and scenic resources.

County. Essex County.

County Planning Board. The Essex County Planning Board, established pursuant to Article 12B of the General Municipal Law.

Day. Calendar day, including Sundays and holidays, unless otherwise specified.

Dwelling Unit. Any one of the following: single-family dwelling, mobile home, each unit of a two-family dwelling or multi-family dwelling.

Family. A single individual occupying a dwelling, or two or more individuals occupying a dwelling and maintaining a common household.

Farm Operation. Land used in agricultural production, farm buildings, equipment, and farm residential buildings.

Forestry. Use or management, including logging, of a forest, woodland, or tree plantation, and related research and educational activities, including the construction, alteration, or maintenance of roads, skidways, landings, fences, forest drainage systems, barns, sheds, garages, and research, educational, or administrative buildings or cabins directly and customarily associated with forestry use.

Group Camp. Any land or facility for seasonal housing and recreational, educational, or business related use by private groups or semi-public groups, such as boy or girl scout camp, fraternal lodge or university, or college conference center.

Group Home. A residential facility for children or adults who require special care or supervision, such facility being operated by, under contract with, or licensed by a state or county agency.

Guest Cottage: Not more than one residential structure which is associated with an accessory use to a single family dwelling located on a lot that meets the minimum lot size for the district where proposed and which: (a) is used only on an occasional basis; (b) is used only by guests of the resident(s) of the associated single family dwelling; (c) is not for rent or hire separately from the associated single family dwelling; and (d) contains one-half (1/2) or less of the enclosed floor space of the associated single family dwelling or 1,250 square feet, whichever is less. (amended 2010)

Home Occupation. Professional office or business use of a residential property by the occupant, conducted within the residence or an accessory structure, occupying no more than 3,000 square feet of floor space and/or outdoor yard space, which does not change the residential character of the premises or employ more than 5 non-resident employees.

Hunting and Fishing Cabin: A cabin, camp, lean-to or other similar structure designed and used only for occasional occupancy and primarily for hunting, fishing and similar purposes that (a) is a one-story structure but may include a sleeping loft; (b) is built on posts or piers and does not have a permanent foundation; (c) is served by a sanitary pit privy or chemical toilet and does not have a conventional, on-site waste water treatment system; (d) does not have pressurized or indoor plumbing except for a kitchen sink with appropriate graywater leach pit; (e) is not connected to any public utilities such as electric, phone, cable television, water or sewer systems; (f) is less than 500 square feet in size (g) not more than one (1) is allowed per 20 acres; and (h) meets a 150 foot shoreline building setback. (amended 2010)

Industrial Spring/Well: A spring or well, its accessory structures, intended to supply a large quantity of water to supply an industrial use. (amended 2010)

Industrial Use. Any manufacturing, production, or assembly of goods or materials, including any on-site waste disposal area directly associated with an industrial use. This term does not include mineral extractions, private and commercial sand and gravel extraction, sawmills, chipping mills, pallet mills, and similar wood-using facilities. An industrial use may include product display, wholesale, warehousing, and retail operations as accessory uses, provided such activity is incidental and subordinate to the principal use to which it is accessory. This term shall not include uses of the above nature which are separately defined in this local law.

In Existence. With respect to any land use or development, including any structure, that such use or development has been substantially commenced or completed.

Junk Automobile. Any unregistered, old, or second hand motor vehicle, no longer intended or in condition for legal use on the public highways. For the purpose of this definition, "motor vehicle" shall mean all vehicles propelled or drawn by power other than muscular power originally intended for use on public highways or for use in agricultural, forestry, or mining activities.

Junkyard. Any open lot or area for dismantling, storage, or sale, as parts, scrap, or salvage, of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials, or other discarded material.

Land. The earth, on or below the surface of the ground, including water and air above, the flora and fauna.

Land Use Area. Those areas delineated on the official Adirondack Park Land Use and Development Plan Map adopted under Article 27 of the Executive Law of the State of New York and designated thereon as "Hamlet," "Moderate Intensity Use," "Low Intensity Use," "Rural Use," "Resource Management," and "Industrial," and such portions of those areas as are located within the town, and delineated on the Adirondack Park Land Use and Development Plan Map.

Land Use or Development. Any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of the use of land or a structure. Land use and development shall not include any landscaping, grading, or excavation which is not intended to be used in connection with another land use, or ordinary repairs or

Chairman Maron – Ok. It doesn't change the residence character.

Mr. Hainer – Right. You certainly could make the case that the residential character has changed there, but he has the option now, as which I said, not many other districts in the Town are commercially zoned. You get out into the rural areas or on the Stevenson Road or anything, that's not zoned commercial, any of it, 8.5, 42.7-acre zoning, very little of it is zoned commercial.

Chairman Maron – Ok, so you're saying those outlying areas, you could get, uses are allowed by special permit.

Mr. Hainer – No, because the residential, in our North district, there's certain ones that are, but not commercial. You can do outdoor recreation, bed and breakfast, commercial resources extraction, campground and that's about it, mobile home, multi-family dwelling, that's in the 8.5 North district. Even in the RR5 district, there isn't a commercial use, anywhere. In the agricultural district, 3.2, we have a commercial zone at the Northway, but nowhere else is it commercial. The agricultural lands.

Chairman Maron – Theoretically, what he could almost do is rent one of the lots up at Dick Sherman's and park his cars there –

Mr. Hainer – but here again, that's a use by special permit, too –

Chairman Maron – even though that's an industrial park.

Mr. Anson – To where?

Chairman Maron – To the industrial park, I'm just wondering if that's a conceivable place where he might be able to operate that without getting letters --

Mr. Hainer – That would be very visible, unless it's one of the back lots.

Ms. Fitzgerald – That wouldn't make much difference. Different road, that's all.

Mr. Hainer – Read from Section 31.111 (attached, Page 8A). There again these uses are allowed there, but they do have an impact on the area, so that's why there's the special permit, you have to look at what kind of impact they have, if you can minimize it.

Chairman Maron – Ok. Again, to move things along, we're not really having an application before us for a permit, but the subject at hand is this letter saying that he's in violation of the permit that he currently has.

Mr. White & Ms. Fairbanks – Right.

Chairman Maron – I guess the sticking point that I can see is where it says, "the permit is revoked", which to me would appear that he can't operate anything there, except his residence.

Ms. Fairbanks – That seems correct.

Ms. Fitzgerald – I don't interpret that he can't do anything there. He could be just a regular homeowner then and he could do a lot there.

Mr. Hainer – There's a lot of people that have lawnmower business, now his lawnmower business before he applied for selling –

Ms. Fitzgerald – Right, didn't stop that.

Ms. Fairbanks – Right.

< forestry use & structure

b. Uses allowable by special permit: (amended 2010)

- < industrial use*
- < wood using facility*
- < airport
- < outdoor recreation
- < public utility
- < industrial spring/well as a Class A Regional project
- < water bottling facility as a Class A Regional project
- < major public utility as a Class A Regional project
- < agricultural service use
- < restaurant*
- < community facility*
- < commercial use*
- < self-storage facility

* limited to area within 200 foot setback from Route (9N/22)

c. Dimensional Requirements

Intensity:	42.7 acres per principal building
Minimum lot size:	2 acres
Minimum setback from center of right-of-way:	100 feet or prevailing setback
Minimum side and rear setbacks:	30 feet
Minimum road frontage:	200 feet

31.110 Industrial District (I)

Description: Area(s) intended to serve, in an industrial park-setting, new industries in the town or expanding industries which outgrow existing hamlet locations.

Land Use Goals: Support APA conceptual approval of these sites so that they can be effectively marketed as viable industrial areas. Limit the number of such areas, both in recognition that their demand is low and in order to focus resources and effort.

Land Use Policies: The list of permissible uses in these districts is purposely limited. This is to minimize the possibility of land uses from being established which would conflict with industrial use, thereby making future industrial use undesirable. Maintenance of the suitability of these areas for industry is necessary because it is time-consuming and costly to secure necessary approvals; once an area is selected and conceptually approved it would not be used for an activity which can be accommodated in alternative locations.

Industrial uses are not restricted, however, to Industrial Use districts. Wood Using Facilities are allowed in many other districts in the town. Industrial Use is permitted in a small area around former DIPAK to allow for its continued operation as a conforming use and for necessary expansion. Industrial Use is also permitted in a small portion of the Hamlet of Wadhams in recognition of that community's historic character, and in recognition of the possible need for future industrial use particularly based on water power; however, this is very limited in extent in respect also of the present, primarily residential character of Wadhams.

31.111 Rural Residential - 5 - Commercial, Industrial District

a. Permitted uses:

- < agricultural use & structure
- < forestry use & structure
- < private resource extraction
- < home occupation

b. Uses allowable by special permit: (amended 2010)

- < industrial use
- < wood using facility
- < agricultural service use
- < community facility
- < commercial use
- < public utility

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Mr. Hainer – For years he had the lawnmower business and he had four or five lawnmowers and he had I don't know how many people, he had Ballard Park and all the summer homes, I don't know, do you consider that a home occupation, there's people that work out of their homes like that, he stored the lawnmowers in the back, you don't really see an effect on the dwelling unless the lawnmowers are in the front.

Ms. Fitzgerald – It wouldn't behoove us to let him see this, and say we haven't taken action yet, but this is what we're thinking about and say that we think that the permit you came for is like null and void and if you want to do something with that piece of property next door, you need to come before us. Maybe then, we could settle something. We're going around in circles and we're not getting anywhere, two meetings. I don't think any of us knows except you, the exact what we can and cannot do with all those individual permits and we can't ask Mr. McGee to do something that we can't ask everybody else to do.

Mr. Anson – That's true.

Ms. Fitzgerald – And, we don't want to open up a whole can of worms within the whole Town. So if we can get more cooperation, he said he was going to put the fence up, let's get more specific, if you visit him again, this is going to go on for another month.

Chairman Maron – Right. The thing that you're saying though, how many other special permits are there like this, that have businesses on their property and assuming that there are others, either they're in compliance or not, and we haven't had any other complaints of any others not being in compliance. We have a lot of people that have houses and lawnmowers and maybe home occupations and that's allowed, the Planning Board gave a permit for a specific use and that is not being complied with. In some ways it calls to question, the integrity or effectiveness of the Planning Board. If we give a permit and allow it to be violated then what's even the point of giving it.

Mr. White – I think it should be revoked and he should apply for whatever it is he would like to do. And, I think we're speculating too much, what if he does this or that. Let him come in, make his case and then move on.

Ms. Fairbanks – do you think we should ask him to come in?

Mr. White – I think so, and maybe tell him in addition to making an application for a new whatever –

Mr. Hainer – Special Permit.

Mr. White – we're not slamming the door in his face.

Chairman Maron – Just a direction for making a new application for any current or subsequent intended use –

Mr. Hainer – Right, so he can take the both properties, although I think what he's trying to do is move everything off his lot onto this other lot. It's going to have to be clear exactly what he wants to do.

Ms. Fitzgerald – Don't you think it would behoove him to come in here before us sooner rather than later, before he's done too much on that other lot that he doesn't have any permits for then have him tear up something that he has constructed there.

Mr. Hainer – Yes.

Chairman Maron – that's basically what this letter does.

Mr. White – I think that's pretty much what I'm looking for, get it off his house, he'll be happy, he won't have all that stuff there, he'll have the separate lot and it will appear neater for traffic going by, I would think.

Mr. Hainer – That can depend on exactly what the requirements are and that they're met within a certain time frame. A lot of times that has to do with money.

Mr. Maron – So, again what he wants to do that's all sort of speculation, reality is we have the letter before us and are there any proposed changes.

Ms. Fitzgerald – I don't think there are any reasons why he needs the permit that he asked for, because he's not doing it, so I don't see where that's a problem for us to move to revoke that.

Mr. Maron – Ok.

Ms. Fairbanks – We need a motion –

Chairman Maron – Is there a motion to approve this letter in front of us?

Ms. Fairbanks – I'll make the motion

Chairman Maron – Second.

Mr. Hainer – Do you think there should be something in the end, I'm just thinking if the permit is going to be revoked, "if you think for any reason this permit should not be revoked, contact us, come in"

Ms. Fitzgerald – George has an idea.

Mr. Anson – I don't like the sound of it being revoked until we find out, till he knows what he has to do and we find out and then meet with him, have him come in, talk, I just don't think we should revoke, until we –

Mr. White – Should we say "jeopardy is being revoked".

Mr. Anson – That's better.

Mr. White – Put a time limit.

Mr. Hainer – Yes,

Ms. Fitzgerald – and then we add, his comment on the end of this.

Chairman Maron -- Cynthia have you made a motion.

Ms. Fitzgerald – We're constructing it.

Mr. White – Read your motion.

Ms. Fairbanks – To say that, "potentially will be revoked",

Mr. Anson – We want to get the right English on it.

Ms. Fairbanks – I know.

Ms. Fitzgerald – I think "in jeopardy" is a good word.

Chairman Maron – The thing it says here, it goes, read last paragraph, refer to page 4A. Put in the "date" as of the month or two months –

Ms. Fairbanks – so that it would be –

Chairman Maron – It's basically saying the same thing, it's not in jeopardy but it will be revoked on a certain date.

Mr. Anson – I still think "jeopardy" is a good word to use in there.

Mr. White – Just the same thing, just softens it a little bit.

Mr. Anson – Yes, I'll tell you it's not easy to live and do anything around here any more.

Ms. Fairbanks – I think Chris' point, not to be mean about it, he's not following that permit, the Planning Board has to do something about that, just to be consistent as a Planning Board to enforce what we've issued.

Ms. Fitzgerald – I buy all that, however, we have not said anything to him, so we have to give him some time to react and come back to us. We have to give him some time, we just can't say, "it's revoked now".

Ms. Fairbanks – So, this letter is saying, " that on such and such a date it would be revoked –

Chairman Maron – It says again, "it would be effective on a certain date and directs the applicant to make a new application -- (page, 4A). It's saying this Special Permit going to be revoked on a certain date and please come in and make a new application —

On the one hand you can say, "you're in violation and jeopardy of losing your permit", which is fairly soft, but it weakens whatever power the Planning Board has, because we're not willing to enforce what our own rules and regulations are, that's one thing you can do. Alternatively, you can say this is revoked, effective on a date, either today or tomorrow, two weeks or a month, or sometime in the future, and it's going to be revoked unless you come in and talk to us and tell us what you intend to do.

Ms. Fitzgerald – Where you quoting from right now.

Chairman Maron – From the letter.

Mr. White – The fact that he would receive this letter addresses whether or not we would back up what we say regarding the permit.

Ms. Fairbanks – Yes, if you say it will be revoked on such and such a date, then come in and either, I don't think he's going to change his business radically, but come in and define the business, ask for a permit.

Mr. Hainer – And this is the soft approach because the next levels are going to get serious and there will be fines and penalties and everything. If you're going to follow the law, this is sort of a peace offering, let's get in there, let's talk before you have to ratchet it up.

Ms. Fairbanks – If you say it's in jeopardy, in a way that just gets him more provoked.

Mr. White — I'm just trying to put myself in his position, receiving a letter and is he going to say, "what, they're going to revoke my permit", and that's not what it actually said.

Chairman Maron – Yes. It says, "on a certain date".

Mr. White – Yes.

Ms. Fairbanks – we could change the order of that.

Chairman Maron – You could say, "based on the foregoing the Planning Board revokes a Special Permit effective whatever date we say, and then you under the Land Use Law, ---continue with the paragraph. Have the effective date up higher, so he can see that it's not an immediate thing but it would be in 30, 45 days. In some way I think if we do put a date on it, 45 days or something like that, so that he has an

opportunity to come before the Planning Board and if for some reason he comes before the Planning Board and says, "I'm not really ready to deal with this right away, can I have another month", we could say ok we'll extend the time period.

Mr. Anson – So, everybody knows what's going on, I think it would be nice if he came in.

Chairman Maron – That's a good point, Dwight.

Mr. White – We could include our next meeting date, like to see him.

Chairman Maron – Ok. Today is June 25th, our next meeting is July, so we could say by July 30th.

July 30th isn't the Planning Board date, Ms. Fitzgerald and Mr. Anson.

We might say to direct the applicant for any current or subsequent application at our next Planning Board meeting, July 23, 2014.

Ms. Fairbanks – When you apply for a Special Permit, how long does that take?

Mr. Hainer – It can take 60 days, two months, usually, depending, if the application is complete.

Ms. Fitzgerald – What happens in the process, what can go on there before the permit is given? We can't put him out of business.

Mr. Hainer – Technically, nothing.

Ms. Fairbanks – So, if he is in good faith, within a new permit to do what he is doing, then we could issue a new thing that says, "based on the fact that you had put in a new permit (application) continue or –

Mr. Anson – A special permit.

Has to be a special permit.

Chairman Maron – Bill had noted before he even applies he has to clean up everything that isn't permitted. That was made very clear in this letter.

Mr. Hainer – and what exactly is that, I've been by there several times, he sort of that back corner, there where he started to put in a fence, put the lawnmowers back there, that's his own personal house lot now, so I don't know what you expect the clean up to be, exactly.

Chairman Maron – I think it makes reference to the lot he doesn't have the permit on.

Mr. Hainer – the one next to it.

Ms. Fairbanks – Yes.

Chairman Maron – On the house lot apparently, you can dump stuff.

Ms. Fitzgerald – I don't think we have legality on the house lot. That's why that's all separate at the moment.

Chairman Maron – All the legality of it he has a permit to do a certain thing on the house lot and he's not complying with that.

Ms. Fitzgerald – Somehow he has to come in here and talk to us and at that time we can explain to him what he needs to do for the Special Permit, do that before he comes to the meeting, with some ideas how he wants to go about it, all this can't happen in two weeks, --

Mr. Hainer – A public hearing will be required, all the neighbors notified, --

Ms. Fitzgerald – It might be difficult to get what he wants.

Mr. Hainer – He certainly will make a proposal, everybody will look at it and then go from there, see the impacts when you go over the SEQR, go over the public comments and I'm sure there will be plenty.

Mr. White – I think we have to put the ball in his court, who knows maybe he's got his eye on another piece of property –

Chairman Maron – To move things along, I think we should put some date there and when he does come in he's certainly free to say, "my permit going to be revoked on a certain date and turning in a new permit (application) and can you postpone, effective date when this is revoked" and we could say, "yes, as long as you get a permit in and you keep this moving along. But, we're not going to let this go on forever without a permit. I'm sure he's aware of what's going on.

The word permit in the above should be "application". (Secretary's note).

Mr. Anson – this is maybe off the wall, but at the next Planning Board meeting and he knows he's supposed to come, what if we don't have a quorum? We can't do anything.

Mr. Hainer – We'd be meeting informally unless he puts in a bona-fide application, and you have to deem the application complete, can't go forward unless the application is complete, have all the information you need to hold a public hearing. If you don't have a quorum, you can't deem the application complete, just have to wait until you have a quorum. That's not his fault that you don't have a quorum. The clock doesn't start ticking until you deem the application complete and then it starts the process.

Ms. Fitzgerald – are we putting in a greater hole, he doesn't have any permit on the property, he has to come in and make application for whatever he's going to do on that property, my point is, is there some way we can get him in to speak to us and speak to him as a Board, he might say to heck with this.

Ms. Fairbanks – I think this letter is what we send to him.

Chairman Maron – Jumping back a little bit, again we said 45 days, it could be 90 days and allows him to get the permit together, public hearing, etc.

Mr. Anson – A public hearing.

Ms. Fitzgerald – A special permit, it's going to be a drag out, it's going to be very contentious for him to get a special permit, if he stays with what he's doing there now.

Mr. White – I think he needs to be here at our July 23rd meeting.

Chairman Maron – Ok. What effective date do you want that to be. Do you want to be 45 days or something like that.

Ms. Fitzgerald – I think 45 days is enough.

Mr. Anson – What about 60 days.

Chairman Maron – Sixty days is ok, too, maybe he's not available, I'm ok with that, we need a date.

Mr. Hainer – We better get rolling, winter is going to be here soon enough. You're going to be into October.

Chairman Maron – We can say 60 days. August 30th, the end of the month.

Ms. Fitzgerald – Will there be a follow-up.

Chairman Maron – It will be to direct the applicant to submit a new application, (back to last paragraph). We can direct him to, if he doesn't do it, if he doesn't do it in 60 days then the application is revoked. Sounds like we have a motion to be 60 days.

Mr. White – I second that .

Mr. Hainer – this will be the letter signed by the Chairman of the Planning Board.

Chairman Maron -- We'll say by August 30th.

Mr. Hainer – I'll send two letters registered and regular mail.

Chairman Maron – Is there a motion to accept this letter with a date of August 30th –

Mr. Anson – I'll move.

Chairman Maron – there being no further discussion, all in favor, carried

Next Item – New York RSA2 Cellular Partnership d/b/a/ Verizon Wireless – Landowner Matthew Foley – Riverat Glass & Electric. Site Address 2519 County Route 10. Tax Map No. 57.1-1-12.000 – RR 8.5N -- Rural Use – Hamlet – Local Government Notice Form to APA June 10, 2104.

Mr. Hainer – That's the new cell tower, they're proposing, they finally made application to the APA on Matt Foley's property, Wadhams water property. That will be something the APA will go over and they will send us comment. They will ask for comment from the Planning Board. Like the Boyle property, you went and looked at locations.

Chairman Maron – At this point it's just information.

Mr. Hainer – Yes.

Next Item – Received from APA – Major Project Public Notice. Application Completed APA Project No. 2013-233. Tax Map No. 87.2-2-7.100 – Project consists of removing a utility line that currently crosses a wetlands and installing a new utility line along NYS Route 9N within the DOT Route 9N right-of-way. (Presbury Point near Mormon Church).

Mr. Hainer – Just information.

Chairman Maron – Is there "Other Business" – None voiced

Ms. Fairbanks – The thank-you letter regarding Bill, by Chris.

Chairman Maron – Is there any changes that anyone would like to make.

Ms. Fitzgerald – It's a good letter, I thank you for constructing it and I'm all for it.

Mr. White – I'd like to see it as part of our Minutes, included in our Minutes. On the record.

Chairman Maron – Is there a motion to accept this letter –

Ms. Fitzgerald – I so move.

Ms. Fairbanks – May I ask a question. May we all sign it.

Chairman Maron – I think we all should sign it.

Ms. Fairbanks – I think it would be more meaningful.

Chairman Maron – We'll get this over to Barbara and we'll have everyone come in and sign it.

Mr. Hainer – Sheila has some special stationery.

Chairman Maron – That would be good. All in favor, carried.

The letter received from an interested party regarding filling a vacancy on the Planning Board will be tabled at this time. This will be conveyed to the Town Board. (The individual will be thanked for their interest).

Mr. Hainer – Get familiar with the map amendment process and pay attention to what was handed out because it's going to be discussed in the future.

Ms. Fitzgerald – I'd like some clarity as what is included in the minutes, and what does not go in the minutes. This keeps going on and on, we have comments, etc. is it verbatim or is there discussion.

Mr. Anson – I'd like to say one thing. Holding our meetings to an hour, I don't agree with it, we should talk about what needs to be talked about.

Chairman Maron – I agree. I think what MaryLou was meaning, to keep things moving along, not get bogged down and pay attention to time.

I think you and MaryLou have very good points and we're not limited to one hour, we should just make sure to move things along.

Mr. White – I move we adjourn.

Ms. Fitzgerald – Second.

Chairman Maron – All in favor, carried. Meeting adjourned 8:15 P. M.

Respectfully submitted,

Barbara A. Breyette, Secretary