

COUNCIL

**PLANNING BOARD
MINUTES
AUGUST 22, 2012**

Chairman Johnston called the Meeting to Order at 7:08 P. M. with the following members present: Mr. Alan Hipps, Ms. MaryLou Fitzgerald, Mrs. Evelyn Brant, Mr. Ken White and Mr. Chris Maron. Also in attendance, Mr. George Hainer, Building/Codes Zoning Officer, Barbara Breyette, Secretary, excused. Guests in attendance, Ms. Nancy Page.

The first item on our Agenda is approval of the Minutes, of the June 27, 2012 meeting. Motion to approve, Mrs. Brant, second, Mr. Chris Maron.

Mr. Johnston - Thank you. No discussion, all in favor, carried. I added to our Agenda tonight, a "Communications Item", because we received two communications. We don't often receive communications, this time we did. The first is a letter from Dr. Haberle, DVM (attached 1A). These were distributed to the members by Mr. Hainer. Did you have a chance to read the letter on line? The members did. Any thoughts or reactions? You have a thought, Chris.

Mr. Maron - Yes. Actually, I think he brought up a point, I think the regulations of the Zoning Issue will consider the issue here. The fact is to make sure we don't have the Dollar Store here, lights blazing across the street. I think that we should really do as he suggests and look at our regulations. If we do have something like the Dollar Store comes in and it's done in an appropriate way and conforms to the existing buildings, we currently have, then it would be approvable. I would certainly hope if we have any new businesses, they would be locally owned. If we did have an opportunity for some sort of franchise or national regional store or gas station, something like that, they would come in and go through the process and follow the architectural standards here, really do something to make the Town a better and more attractive place, other than draining it's character.

Chairman Johnston - Thank you, Chris. Does anyone else have any thoughts, reactions? MaryLou, what's the other side?

Ms. Fitzgerald - I'd hate to see a Dollar Store come in, probably, if it's in the right location, we certainly don't

From: Albert Haberle <aj.haberle@gmail.com>
To: aj.haberle@gmail.com
CC:
Subject: THE PORT HENRY SYNDROME COMING TO WESTPORT
Date: Wednesday, August 08, 2012 2:30:58 PM

To the Westport Planning Commission.
"Is Westport adequately protected?"

'THE PORT HENRY SYNDROME'

The new buildings such as those erected in Port Henry, the Stewarts, the Dollar Store, the Verizon Dog House, and similar structures would cause significant deterioration to the appearance of the classic downtown business areas of WESTPORT, -- even if they are built to conform to all the current regulations.

PROBLEM: If inappropriate buildings as a 'Dollar Store', 'Stewarts', more of the 'Northern Composites Building' [now empty] and the functional, but inappropriate Westport Post Office, were to be built in the Westport's 'classic' Main Street Business areas, --- would that not be a mistake?

There is a fear that, Westport will become infected with what one can call the 'Port Henry Syndrome'. This architectural disease has destroyed other towns, towns such as Whitehall, Crown Point, and Ticonderoga with their numerous gas stations and boarded up older buildings. Even Elizabethtown is now quite ill, architecturally, due to the lack of adequate 'Preventive Planning'.

If this architectural 'disease' infects Westport, the beauty of the town will be lost forever. The real estate values will fall like an old person with the plague. If you question this, just check the differences in the prices of similar properties in the Town of Port Henry as opposed to the Town of Essex.

ACTION! ADEQUATE PREVENTIVE PLANNING : Before Westport is sandbagged by the 'Quick & Slick Development Company'. The Westport Planning Commission should closely review all it's current regulations and then adopt strong 'legally binding' preventive regulations. The Planning Board must not just 'hope' that 'Quick and Slick's' lawyers will not find a loophole to allow a 'Taco Bell' or a 'Stewarts', or 'Cumberland Farms' or another 'Northern Deposits Shed' on Main Street, or in other Westport areas!

While the Intersection #31, of Interstate I-84, is a reasonable place for these types of businesses - Stewarts, Cumberland Farms and fast food places, will be and are looking for properties nearer Rt. 22 / 9N, Main Street, NOT up near I-87.

Albert J. Haberle, DVM, 1215 Stevenson Road, Westport, NY 12993
518 962 2923 ajh55@cornell.edu

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want it in the middle of Town. We're hoping to get a gas station, someplace, sometime. Be nice if we had something, someplace we could get gas without driving, five miles or paying ten dollars extra.

Mr. Hainer - Our current regulations have quite a bit in the Village Center section, for architectural review, I think we're protected in the business area. Outward, everything would be done by Special Permit, so I mean theoretically, depending on the Planning Board, how much they want to enforce whatever they decide -

Chairman Johnston - use the tools that are available to them.

Mr. Hainer - right, which are, extensive, if they wish to use them, if they don't then. If you wanted something more in the Code, that said you have to do this, then that may be a better way, how the Planning Board enforces the law or how lax.

Ms. Fitzgerald - Those temporary restrictions, how long do they actually take to set up and make into a regulation, they take a year or more?

Chairman Johnston - I don't think so. I think George has a good point, and that is, any business is in all likelihood, going to be a Special Permit use and when we review the Special Permit section, which by-the-way, there is no changes proposed, the Special Permit section in the reconstituted Zoning Law is word-for-word, what it was in the existing Zoning Law. But, when we get to that section, we might take a look at it and see if there would be some, a sentence or two where we could add some words about architectural compatibility or something like that, if we don't feel it's explicit enough, as it is. It shouldn't be a major big deal. Now, there are design review standards that some communities enact, that are quite specific, they talk about pitch of the roof, the rhythm of windows, etc. that would be a much more involved kind of regulation. That would take much more time to develop and I think the important question is, "is that something that's going to fly, in our Town"?

Mr. Hainer - I also think you can require an architectural review by an architect to look at the current standards in

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the Town and gauge and design buildings here that would blend in, that's a very simple, one or two lines.

Mr. Maron - It sounds like parking is encouraged to be behind the buildings, so, for example if the Dollar Store were to come in, we would prefer to have them line up with the sidewalks, could walk there, like in Port Henry. All the stores you see, there's a parking lot, that would be something to take into consideration, the streetscape. MaryLou makes a good point. We don't want to have a WalMart come in and all the local businesses dry up. We would certainly want to encourage a retail businesses to be out of Town on the edge.

Ms. Page - Can the public make a comment?

Chairman Johnston - Sure.

Ms. Page - It seems to me that the questions are lighting, parking, signage and aesthetics. You could have a Dollar Store and have appropriate parking and lighting and signage, so I don't know what kind of restrictions we have now, but that is the first thing that would be more generic than worrying about details, architectural issues, that have a lot of impact.

Mr. Hainer - We do have quite a bit on those three points, in our Law, parking, Section 29, and lights, we have those covered.

Ms. Page - You could do something like the Dollar Store in Westport, where there's a parking lot in front, lots of lights, and a big sign?

Mr. Hainer - No, I mean we do have restrictions on all those points, in the Code -

Ms. Page - Right.

Chairman Johnston - They're not restrictions, per se, there areas that are supposed to be considered -

Mr. Hainer - Ultimately, the parking, if you pay money, then you can do what you want to do, an escrow account -

Ms. Page - so the question is paying for parking, if you can't --

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Mr. Hainer - If you can't provide off-street parking, right, there is a provision in there that you can appropriate money and the Town can look for areas to improve the parking. There's a lighting, the sign ordinance is pretty restrictive.

Chairman Johnston - Under a Section called, "Criteria", there are criteria on layout and design, landscaping, parking circulation, loading, miscellaneous standards.

Mr. Hainer - I'm thinking of the law, before this one.

Chairman Johnston - The site-plan review, George, has not changed.

Mr. Hainer - Right.

Chairman Johnston - In a Special Permit, it's still the same.

Mr. Hainer - But, I'm not sure if Section 29 is still in here in parking.

Ms. Page - So, there's guidelines.

Chairman Johnston - There's presently, guidelines, it's in the section on special permits.

Mr. Hainer - There's lighting standards and there's standards for signs.

Chairman Johnston - I think we tried pretty hard to make sure that the Rolling Hills project was well done and we had professional help, there, and I had a conversation with Mr. Mann some time ago about the review process, this was after the process was over and the permit was issued and he actually complimented the Planning Board, he said, "the review process was very helpful", he said, "as a result of the review process, ideas, suggestions were made that he found constructive". It's very rare that an applicant, for a project, thanks the Planning Board and he was, I'm sure if we asked him, he would come in, go on record.

Mr. Maron - As George stated, the Planning Board changes over the course of the years, we don't know what future

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Planning Boards might be, so you hope the ordinances are strong enough so that -

Mrs. Brant - They can always change them, too.

Chairman Johnston - Let's move on and keep this in mind, when we go through this review section.
The next "Communication" is for --

Mr. Guy Lever - "Draft Report" received from Mark J. Buckley, P. E. Regarding Mr. Lever's Building Envelope. - He sent me an email, which I asked Barbara to forward to all of you and also to put in the Minutes. He has a report prepared by Mark J. Buckley, concerning his Building envelope (attached, 5A-C,) and if you remember, I think it was the meeting before last, I asked Barbara to print out and give you those series of emails that he and I exchanged over the course of a number of months, which he initially said I told him he should have a report and I responded that, "no, I didn't tell you should have a report, I said, " that if you're going to ask for the Planning Board to reconsider your building envelope, you need to provide a reason, preferably backed up by a third party, not your own potentially self-serving statement". In any event, he went to Mr. Buckley, and requested that Mr. Buckley produce a report for him. Lever has been in touch with me, I've been in touch with him and what he would like to do, he would like us to hold a hearing at our September meeting, on the "reconsideration" of his subdivision, building envelope. I didn't remember to bring it with me today, but you may remember Kevin Hall handed out, maybe a year ago, a year-and-a-half ago, a map that had a series of colored boxes, different shaped boxes, that showed existing envelope, it showed the historically sensitive area and it showed a proposed new building envelope, (attached, 5D). I asked Mr. Lever, I said, "what is it you want us to do"? He said, "he wants us to do, is to "reconsider" his building envelope", in light of this submission, that Kevin Hall submitted to us.

What I propose is to have a hearing notice saying, "we're going to reconsider his building envelope and to reference this map that Kevin Hall (5D), submitted to us. As we've talked about, many, many times, there is no procedure in Town Law, to reconsider a subdivision, so we're kind of out on a limb. There's only that "note" in Town Law that refers to it, and once we have the hearing and we see who comes to it, and what they have to say, then I think we

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need to sit down and maybe have a conversation with our Attorney for the Town, about what exactly we should do. I've been cc the Attorney for the Town on all the correspondence. Hopefully, he's in the loop on this. Right, George.

Mr. Hainer - Right, he is.

Chairman Johnston - Ok, would someone please offer a motion to schedule a hearing for Mr. Lever.

Ms. Fitzgerald - I so move.

Chairman Johnston - Thank you, MaryLou.

Mrs. Brant - I'll second it.

Chairman Johnston - Second, Evelyn. Any discussion.

Mr. Maron - Does this start a clock ticking?

Chairman Johnston - No, there's no clock, because there's no procedure, there's no clock, no, none at all. Any other discussion? All in favor, carried. We'll ask Barbara to put a Hearing Notice in and to also notify the near-by landowners.

ATTACHMENTS RE: MR. LEVER

PLEASE GO TO PAGE 7 FOR
DR. MEHR

ATTACHMENTS

Barbara Planning

From: "William & Meredith Johnston" <johnst@westelcom.com>
To: "Barbara Planning" <planningclerk@westportny.net>
Sent: Monday, August 13, 2012 12:38 PM
Attach: 12-0011 Lever.doc
Subject: Communications

----- Forwarded Message

From: Guy George Lever <b.d.g.lever@sympatico.ca>
Date: Mon, 30 Jul 2012 09:44:46 -0400
To: William & Meredith Johnston <johnst@westelcom.com>
Cc: Mark Buckley <mark.buckley@nycomineral.com>
Subject: Fw: Draft Report

Dear Bill,

Here is the report prepared by Mark J. Buckley, P.E., can you please review and provide comments if any. If we can proceed with the public hearing in September I am available. Tks.

Guy

----- Original Message -----

From: Mark Buckley <<mailto:mark.buckley@nycomineral.com>>
To: Guy George Lever <<mailto:b.d.g.lever@sympatico.ca>>
Cc: Mark J. Buckley <<mailto:buckleym@willex.com>>
Sent: Friday, July 06, 2012 5:50 PM
Subject: Draft Report

Guy,

For your review. Let me know if you want any changes.

Regards,

Mark J. Buckley, P.E.

NYCO Minerals, Inc.
Environmental, Health and Safety Manager
803 Mountainview Drive, P.O. Box 368
Willsboro, NY USA 12996-0368

Phone: (518) 963-2135 Fax: (518) 963-1110
BB: (518) 645-4605

mark.buckley@nycomineral.com



Welcome to www.nycomineral.com <<http://www.nycomineral.com> >

----- End of Forwarded Message

Mark J. Buckley, P.E.

P.O. Box 401
Willsboro, NY 12996

Phone (518)963-4467

June 29, 2012

Mr. Guy George Lever
1265 Redpath Crescent
Montreal, QC H3G-1A1

**RE: Proposed Building Envelope for Lot 2 of the Starbuck Subdivision, 74 Furnace Rd.,
Westport, NY (12-0011)**

Dear Mr. Lever:

As requested I have performed a site visit to the referenced location and reviewed various documents associated with the history, land use and zoning of the site. Following are observations and recommendations.

Site Investigation

A site visit was made to the subject lot on May 21, 2012. During the visit you gave me a brief history of the slope failure and the work that was done to stabilize the bank. Also, you conveyed to me copies of the Archeological Assessment and Investigation of the Starbuck Subdivision prepared by John Tomkins, III and dated December 17, 2003, the Furnace Point Erosion & Sediment Control Plan dated May 27, 2009 and the Geophysical, Sedimentological and Micro-paleontological Study performed by K.D. Lawrence, J.A. Rayburn and D.A. Franzi.

I also reviewed the "Furnace Point Lot #2, Westport, NY, Land Lot Stabilization Project" recommendations and the "Slope Stability Recommendations" made by Gifford Engineering to Keith Giles for the stabilization of his slope failure.

Observations

Drainage of surface water has been directed to a ravine. This has cut back on the amount of runoff that would run over the steep bluff and on to the lake. Rip rap has been installed at the toe of the slope to add ballast for bank stabilization. The work performed over the past few years appears to have alleviated the erosion and subsidence problems at your site.

A subsurface drain leading to a rip rap lined channel and sediment basin has been installed on the west side of the property. Stone Cribbing and terraces have been constructed above the high water mark to prevent wave action from destabilizing the toe of the slope. Also, the vegetation that was planted has taken hold and is preventing further surface erosion.

Recommendations

Upon my review of the above mentioned documents and the site drawing outlining the building envelope I propose the building envelope be altered. The existing envelope extends further to the south than I recommend. I suggest a new building envelope be move slightly to the north

and made somewhat larger. The property line setbacks would remain 15 feet and the setback from the road 150 feet (see attached drawing dated September 17, 2010 by Kevin A. Hall).

This would eliminate the possibility of a structure being built at the crest of the slope and surcharging the soils beneath. Such an added load to the soils in that location could destabilize the slope again and cause additional erosion or even slope failure. Keeping the building envelope as far to the north as practicable would lessen stresses within the soil.

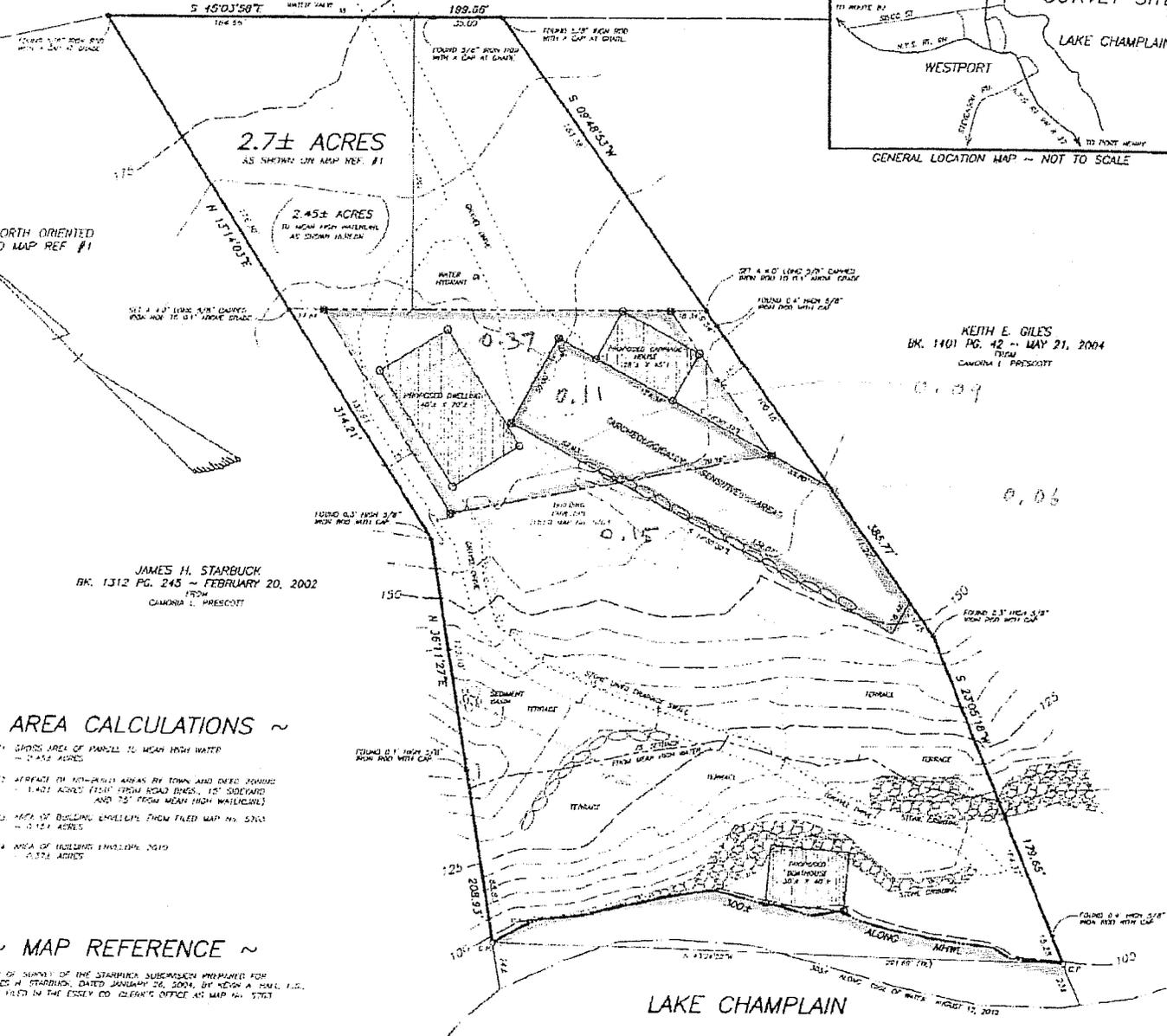
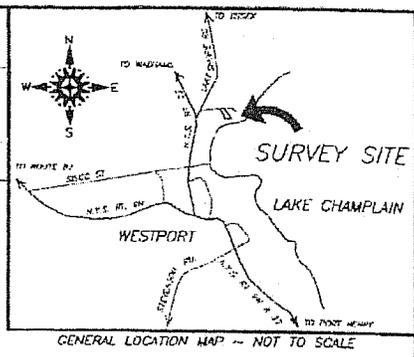
Respectfully Submitted,

Mark J. Buckley, P.E.

MJB/mb

SIDS A T DIA

JACKSON BAY LANE



KEITH E. GILES
BK. 1401 PG. 42 ~ MAY 21, 2004
FROM
CAMORNA I. PRESCOTT

JAMES H. STARBUCK
BK. 1312 PG. 245 ~ FEBRUARY 20, 2002
FROM
CAMORNA I. PRESCOTT

~ AREA CALCULATIONS ~

- #1 SURFACE AREA OF PARCELS TO MEAN HIGH WATER
= 2.7± ACRES
- #2 SURFACE OF NON-PAVED AREAS BY TOWN AND DEED RECORDS
= 1.42± ACRES (114' FROM ROAD BUSES, 15' SIDEYARD AND 75' FROM MEAN HIGH WATERLINE)
- #3 AREA OF BUILDING ENVELOPE FROM FILED MAP NO. 5703
= 0.12± ACRES
- #4 AREA OF BUILDING ENVELOPE 2010
= 0.37± ACRES

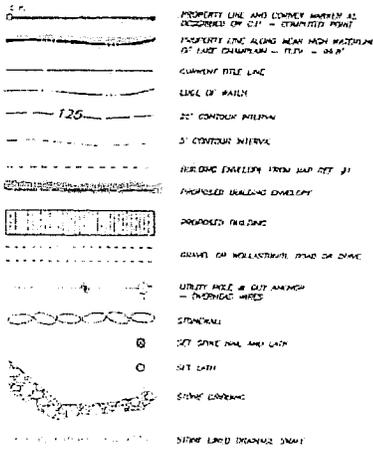
~ MAP REFERENCE ~

- #1 MAP OF SURVEY OF THE STARBUCK SUBDIVISION PREPARED FOR JAMES H. STARBUCK, DATED JANUARY 26, 2004, BY KEVIN A. HALL, L.S., AND FILED IN THE ESSEX CO. CLERK'S OFFICE AS MAP NO. 5703

~ NOTES ~

- #1 UNLAWFULLY ALTERED THE DIVISION TO A SURVEY MAP BEARING A RELEASED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 2008, SUBSECTION 2, OF THE NEW YORK STATE EVIDENCE LAW
- #2 ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY, DATED AND SIGNED IN RED INK AND MARKED WITH THE LAND SURVEYOR'S EMBOSSED SEAL, SHALL BE CONSIDERED TO BE VALID TRUE COPIES
- #3 ROAD BOUNDS TAKEN FROM FILED MAP NO. 5703
- #4 UNLAWFULLY ALTERED EVIDENCE NOT SHOWN HEREON
- #5 THIS PLAN PREPARED TO SHOW TOPOGRAPHY AND PLANNED IMPROVEMENTS AS PART OF A BUILDING PERMIT APPLICATION
- #6 ELEVATION DATUM IS THE PUBLISHED LAKE ELEVATION FOR LAKE CHAMPLAIN ON AUGUST 1, 2010

~ LEGEND ~



~ PLANNING BOARD ~

THIS SITE PLAN WAS APPROVED BY THE TOWN OF WESTPORT PLANNING BOARD AT A MEETING HELD ON:

CHAIRMAN ~ WILLIAM B. JOHNSTON

SITE PLAN PREPARED FOR GUY GEORGE LEVER AND DIANE LYNN DIORIO

SHOWING THE PROPERTY DESCRIBED IN A DEED DATED APRIL 8, 2005 FROM JAMES H. STARBUCK TO GUY GEORGE LEVER AND DIANE LYNN DIORIO BEING RECORDED IN THE ESSEX CO. CLERK'S OFFICE IN DEED BK. 1438 PG. 219.

TOWN OF WESTPORT ~ COUNTY OF ESSEX ~ STATE OF NEW YORK
SCALE 1" = 40'

PRELIMINARY
SEPTEMBER 17, 2010

KEVIN A. HALL
LAND SURVEYOR
CLIFFORTH, N.Y.
LS #4707

NOT VALID FROM THE ORIGINAL OF THIS SURVEY. COPIES MUST BE MADE BY YOU OR YOUR AGENT FROM THE ORIGINAL SURVEYOR'S EMBOSSED SEAL. THIS PLAN IS SUBJECT TO THE PLAN REVIEW CODES.



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Chairman Johnston --

Dr. Peter Mehr - Tax Map No. 66.75-1-5.000, 66.74-2-14.000 & 66.74-2-15.000 - Minor Division - Draft Resolution & Approval -- You Deemed his Division, a Minor Division, last month and in the meantime I have written this **Resolution**. Has everyone had a chance to look at it. (This was distributed to the Members prior to the Meeting.) Is everyone ok, with this? (**Resolution**, attached, page 7A). May I have a motion to approve the language of this

Mr. White - So moved.

Ms. Fitzgerald - Second.

Chairman Johnston - Any discussion, all in favor. Carried. George could you make sure Barbara places this in the minutes, also?

Mr. Hainer - ok.

Ms. Fitzgerald - I have one comment. Back to the Minutes, did we approve the Minutes of July 25, 2012, as well, or just June. I think we did just one, we need to approve the July Minutes.

Chairman Johnston - You're right, we approved the Minutes of June 27th?

Mrs. Brant - Yes. She has it on the Agenda, to Approve, June 27th and July 25th.

Chairman Johnston - Ok, I see. Would someone please move to Approve the Minutes of July 25, 2012.

Ms. Fitzgerald - So moved.

Mr. White - Second.

Chairman Johnston - Any discussion. None. All in favor, carried. Thank you, MaryLou. Next.

Proposed Zoning Amendments, I should say changes. Just to recap what this is all about. When we received the Grant from New York State, to look at the Hamlet Expansion possibilities, a portion of the money was reserved to do some maintenance on our Zoning Law and the two areas really

RESOLUTION DEEMING THE PROPOSED DIVISION
OF LAND
BY DR. PETER AND SARA MEHR
A "MINOR DIVISION"
TAX MAP NUMBERS 66.75-1-5.000,
66.75-1-14.000 & 66.75-1-15.000

Whereas, application Number 4 2012, has been submitted for a determination of the type of land division; and

Whereas, in respect to the State Environmental Quality Review Act, the proposed land division is a Type 2 Action for which no further procedure is required; and

Whereas, the applicant proposes to reconfigure the above-referenced three tax map parcels such that Parcel I is divided with a portion being merged with Parcel II, creating Lot 1, and the remaining portion of Parcel I being merged with Parcel III, creating Lot 2, all as shown on the map of survey dated July 19, 2012.

Now Therefore Be It Resolved, that said proposed division of Parcel I is hereby deemed a "Minor Division" at the Planning Board Meeting of July 25, 2012, on a unanimous vote of the Members, for which no further action is required.

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requiring maintenance, number one, was to, since the Zoning Law was initially enacted in 1994, was to address new issues that have come along. There have been a few things, like adult bookstores, for example, that came along and also to deal with whatever changes in the State legislation have occurred. That was number one, number two, was to create an organization of the Zoning Law that was more conventional. You remember our existing Zoning Law, was divided into three parts, a Village part, a Town part and then a section common to both of them, which mainly contains procedures. The third part of it, which hasn't been completed yet, is to write whatever language is necessary to deal with the Hamlet Expansion area, that hasn't been done yet. Right now, at this point, what we're doing is going over the changes that have been made -

Mrs. Brant - This is an entirely different subject, it's a question that's been bothering me for some time. Is there anything that the Planning Board can do about the parking in Wadhams? Take Friday night, it's almost impossible to turn and go towards Lewis, the cars are parked so they're out of the white side lines, they're parked into the roadway and sometimes there's no room to get through there.

Mr. Hainer - I don't know how that diagonal parking ever got started there. There was an issue with that.

Mrs. Brant - What use to be the store side, there's still plenty, but on the bakery side, if you get one of these big vans in there, they stick way over and then the people, I'm glad they've got the business on Friday night, but, people are not as careful to where they're parking and of course there's no lines or anything there to organize parking.

Chairman Johnston - I think, Evelyn, that that's a, what we ought to do is have a meeting with Dan and maybe someone from the State, maybe Mark Bonfey, possibly -

Mrs. Brant - That would probably come under the County Road.

Chairman Johnston - Also the County, Tony LaVigne, and invite Denny, to cover all the levels.

Mrs. Brant - To me it's an accident waiting to happen, because of all your ferry traffic, that comes through there and etc.

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Chairman Johnston -- I think it's partly an enforcement issue, but the question that comes up first is enforcement, there is no plan, no direction there.

Mrs. Brant - That's why I'm wondering if there's something we could do, where to go with it.

Chairman Johnston - I don't think that the Planning Board, acting alone, can be the right group.

Mrs. Brant - No, no. Just a start.

Chairman Johnston - That's fine, I'll speak to Dan about this and see if we can set up a meeting, where we can get all these people together and talk about it.

Mrs. Brant - Maybe, they could come up with a simple solution.

Ms. Fitzgerald - Isn't there an organization to bring the community together, they have any jurisdiction. They manage to get people together, just to talk about things. Maybe someone should be representative from the Wadhams community as well, at that meeting.

Chairman Johnston - Sure.

Mrs. Brant - Yes, we have Courtney, from Wadhams. Courtney called me to say he wouldn't be able to make it tonight.

Mr. Maron - Maybe they could bring some ideas, do they have jurisdiction? Make sure people pull in far enough, keep an eye on the coming and going. Another idea may be a flashing light, warning people.

Mrs. Brant - They had a meeting in the morning, they had several vehicles had canoes on them that stuck way out, you're alright if you happen to have a low car, but if you have a truck, pick up, with something on the back, you could damage. If you met somebody, and you had to give them their share of the road, --

Mr. Maron - It's just as dangerous situation as on Stevenson Road, coming on to Main Street, cars parked so you can't see anything.

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Mr. Hainer - That's why it's surprising that was always parallel parking on the bakery side and diagonal on the other side. When Merrick was there, all the sudden it started changing. A lady drove through the window, I went there because of the structural issues, to take pictures, I notified the County, sent a letter to Fred Buck about the danger, it didn't go anywhere. Another person got into an accident with their truck, turning into the corner, same thing, we contacted the State, the County and that didn't go anywhere. People are reluctant because of business, but that diagonal parking, it is dangerous, because the trucks do come out past that white line. It's a dangerous issue. There's going to be more accidents over time, especially in the summertime.

Mr. Maron - Is there a white line on both sides of the road?

Mrs. Brant - Yes.

Mr. Maron - You have the middle line and then people pull in -

Mr. Hainer - No, you're restricted, compact cars on one side, you make some sort of restriction, you will be fine.

Chairman Johnston - Well, it's probably illegal to park partly on a roadway, ok. So, in other words, if your car is exceeding the white line, it's in the roadway.

Mr. Hainer - We tried to get diagonal parking on the school, in front of the school on Sisco Street, and the State wouldn't let us do it, when we tried to revamp the sidewalk.

Chairman Johnston - Now, that's a Town Road?

Mr. Hainer -- Sisco School, I thought it was Town Road and they wouldn't give us permission to do that, but yet, here you have an intersection, a State Highway and a County Highway and a blind corner, because it's tough now because there's all that vegetation growing up and you have to go way out to the end to get by to see what's going on.

Ms. Fitzgerald - If notices were put up there, they could be cited, if a trooper came by, that would be enough to -

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Chairman Johnston - There could be signs, which I have seen, I know they exist, "No Parking in Roadway", to that effect.

Ms. Page - Stevenson and Main Street, in front of the Inn, even if you're parked off the roadway, you can't see traffic, coming from the South. And, then you have all the cars, you can't see anything to the North, because all the cars are diagonally parked there, it's another real problem.

Chairman Johnston - Chris, you and I talked about the possibility of an application for one of the flashing lights, the speed lights, did anything ever come of this?

Mr. Maron - That wasn't approved, they didn't have money for that, but what they put in was a couple of crosswalks.

Chairman Johnston - Ok, is there going to be fresh money every year.

Mr. Maron - My understanding is yes, we'll see what happens, there's money that's available for anything that isn't car traffic, the State has the option of opting out of using it. The one thing we can do is contact the Governor to see if money will be available.

Chairman Johnston - We talked about getting these speed signs, both Wadhams and Westport, I think they would be helpful.

Mrs. Brant - I've been trying for three years to get the State to put up a sign that Morrison Road exists, they have it for the two driveways coming up the hill, out of Wadhams, but there's no sign saying, "Morrison Road", and that's on the blind corner and the school bus comes up - we've had one accident there, fortunately the fellow wasn't hurt too bad, he went into the ledges there, but there's been quite a few close calls, there. There's no sign stating there's a road.

Chairman Johnston - I don't know what it takes the State to do anything.

Mrs. Brant - I've called and even spoke to Dan about it and he's made one call.

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Ms. Fitzgerald - That's what I'm suggesting that the group from Wadhams gets together, it's going nowhere with the State and the County.

Chairman Johnston - Who is this group, does it have a leader?

Ms. Fitzgerald - Well -

Mr. White - Perhaps, the thing to do is leave a note on the windshield, "draw to your attention, this is a very dangerous intersection and we would appreciate you parking off the road", come in and claim your free doughnut". I think to start off that way, you may see a change in the diagonal parking, I think you will see a result.

Ms. Fitzgerald - It's hard to change, look at E'town parking lot.

Chairman Johnston - They finally rationalized the circulation system. It was irrational before, it's somewhat more rational, now.

Mrs. Brant - I'm sorry to get you off on this.

Chairman Johnston - I'll probably see Dan, tomorrow, I'll bring it up and see what he says.

Why don't we get started on this, **Proposed Zoning Amendments** Section I and I've gone through -

Ms. Fitzgerald - Could I have a comment, first?

Chairman Johnston - Sure.

Ms. Fitzgerald - I think maybe as we start these, as we work through them, we ought to have a time limit, each time we go to them, so that we don't spend an hour and a half some night on them.

Chairman Johnston - Ok.

Ms. Fitzgerald - Something reasonable.

Chairman Johnston - Yes. Would you like to make -

Ms. Fitzgerald - I would say, something done in a half hour?

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Chairman Johnston - We can get started, accomplish something in a half hour.

Ms. Fitzgerald - and not more than an hour, unless there's no other business.

Chairman Johnston - Ok.

Ms. Fitzgerald - See what happens.

Chairman Johnston - How do others feel about this.

Mr. Maron - Maybe say the time we will end.

Chairman Johnston - Ok, why don't we say, we're going to end at eight.

Ms. Fitzgerald - that's good.

Chairman Johnston - Ok.

Mr. Maron - Bill, I have a question. Is this open for all kinds of comments?

Chairman Johnston -- No, we're not rewriting the Zoning, Chris. If we start to rewrite the Zoning, I think you can kiss this whole process, good-bye. The direction that we gave the Attorney, was to re-organize to create a document that's in a conventional organizational format. To put in these new items, but if we start tinkering the verbiage in every single section, it's not going to happen. Now if you see something, when you go through this, that you feel is really a problem, really an issue, you don't understand or really unclear, we'll flag it, and we'll make a list of these things, but, I just don't feel that we should feel like this is we're starting from scratch, with a clean sheet of paper, I think that would be a disaster. I don't know how others feel about this.

Mr. Maron - I just had some ideas that I wrote down, the way I look at things. How long you talk about being done by eight, how long you going to be here for the next two years, we should keep that in mind.

Chairman Johnston - Ok, what I did, I actually had the two side by side and I made a list, so I'm tracking all these

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sections, I don't know if anybody else is doing this or not, to try to figure out what has changed and what hasn't changed and by change I mean where did it go to.

1.010 Short title - No change, no changes in the wording and it's where it always was.

1.020-Kind of a formatting change here, the statement "The general purpose of this local law" - which is in the last sentence, of 1.021 was formerly placed under 1.020 and the Attorney who did this (Joel Russell), just pulled that out and consolidated it with 1.021. Is everyone following me?

Yes. Are you with me Chris.

Mr. Maron - May I start asking questions about it?

Chairman Johnston - Sure.

Mr. Maron - Do we have a comprehensive plan? It makes reference to one, it's been a long time ago, perhaps.

Chairman Johnston - a current plan. No, there's not a current plan. That's something we could do.

Mr. Maron - Ok. Willsboro has had one for three years.

Chairman Johnston - Ok, 1.022.

Mr. Maron - Coming back to what the Attorney did, though. The title of this is "Authority, Purpose and Applicability", the main thought of this is what the general purpose of the local law is, in one of the paragraphs he takes away what the guiding principles of the whole document, in some ways I think it might have been better in the previous way. It starts off this is the purpose of this local law, everything else is sort of following from the purposes, that last sentence in 1.021 -

Chairman Johnston - Another way to do this, would be to change the order. You could have Purpose, Authority and Applicability and you could move that sentence to the beginning.

Mr. Maron - Yes.

Chairman Johnston - Ok, 1.022 -

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Mr. Maron - One more thing,--

Chairman Johnston - Go ahead, Chris. I feel very strongly about this. What the purpose "is to promote and protect the public health, safety and general welfare" - the thing about Westport is, it's a beautiful community and it's situated in a beautiful environment and that's what one of the natural features are and going to the future of Westport when there was 150 to 160 people here at the school, one of the major things, what people talked about, why they lived here, and what they liked about it was the beauty, the landscaping and the environment. I think when you look at the general purpose of this law is, I'm sure it's to promote and protect health, safety and general welfare, but I think another purpose of it and a really important one is to protect the environment and natural resources.

Chairman Johnston - Chris,

Mr. Maron - and I think it isn't mentioned -

Chairman Johnston - it is mentioned, look in Section 1.030

Mr. Maron - yes, but this is the general purpose of the whole thing.

Chairman Johnston - well, Chris, zoning is based upon the big three, health, safety and welfare, that's the legal rationale, for zoning and by welfare that's usually where the economic welfare comes in. Health, safety and welfare, those are the legal foundations for zoning. But, if you look under 1.030, there's a whole list of specific purposes

Mr. Maron - ok.

Chairman Johnston - Referred to 1.030e. (*attached, 15A).
1.022 - This particular section has been revised somewhat, because the 1.22 in our existing zoning, will be obsolete, this is in a sense, an update of that. Actually, portions of 1.022 were formerly in 1.040, Area of Jurisdiction.
1.023 - That's a formatting change, that was formerly 1.050.
1.024 - That was formerly 2.010. He's moved around, some of these sections. I imagine the reason he did this, he felt by moving them - the person in question was the guy

PART ONE: GENERAL AND PROCEDURAL SECTIONS

SECTION 1 INTRODUCTORY PROVISIONS

1.010 Short Title

This local law shall be known as the Zoning Law of the Town of Westport, Essex County, New York. The Town of Westport is hereinafter referred to as the "Town."

1.020 Authority, Purpose, and Applicability

1.021 This local law is adopted pursuant to the Municipal Home Rule Law and Article 16 of the Town Law. The regulations herein adopted are made in accordance with a comprehensive plan, are designed to serve the purposes set forth in Section 263 of the Town Law and are made with consideration of the character of each district into which the Town is divided and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town. The general purpose of this local law is to establish comprehensive controls for the use and development of land within the Town, in order to promote and protect the public health, safety and general welfare.

1.022 This local law regulates the use and development of land throughout the Town and repeals and supersedes the Land Use Law of the Town of Westport, originally adopted December 19, 1994. All approvals under prior law, and any conditions imposed under such approvals, shall remain valid.

1.023 After the effective date of this local law, no project shall be undertaken and no use shall be maintained except in accordance with all applicable provisions of this local law.

1.024 This local law provides procedures and criteria for the review and approval of land uses and development. It applies to 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. This local law does not apply to interior alterations, repair, maintenance, landscaping, grading, or excavation undertaken in conjunction with an existing use where that use is not expanded or changed.

1.030 Specific Purposes

In addition to the general purpose referred to in Section 1.020, this local law is adopted for the following related and more specific purposes:

- a. To retain the special character of the town, while providing for moderate and carefully distributed new development.
- b. To plan for a stable economic base by providing for land use areas attractive to industry but not detrimental to the character and environment of the community.
- c. To preserve and protect agricultural, forestry and mineral resource lands within the Town.
- d. To recognize the limitations upon development posed by natural conditions such as soils, slopes and hydrology and to limit development according to the capability of natural systems to absorb it without adverse environmental impact.
- * e. To preserve the unique visual character of the town through the protection of open spaces and scenic vistas, the location of new development primarily in areas where it can be visually absorbed, and the control of signs.

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who put together the first law, so it's not like he's revising somebody else's work, he's revising his own work, I think he decided that section was better here than there. I personally don't think it makes any substantive difference, one way or the other. And then we have "Specific Purposes". Let's move on to -

Mr. Maron - I think that gets away from the environmental concerns, it doesn't really address them specifically. I think it's definitely important, but when you look at the natural communities and the ecological features of this area, it really doesn't address them.

Chairman Johnston - It says, here Chris, 1.030d (**15A). How can you say that's not being addressed?

Mr. Maron - It doesn't really say, soils, slopes and hydrology", the natural systems, I guess you can say, a forest is a natural system and the capability of natural systems to absorb, that isn't as direct as I would like to see. I realize we're not going to rewrite this -

Chairman Johnston - If you want Westport to have a zoning law, do I need to say more.
1.040 --

Mr. Maron - one more thing, going to "f" (*, attached 16A), it is, "to minimize water pollution", to me that sort of assumes there's going to be some water pollution, so you try to limit what water pollution there is. I would think that should be much stronger, to protect water quality. Maybe, it's verbiage, but I think to minimize water pollution, sounds like, "ok, there will be some" and meanwhile downstream, "there will be some water pollution" by the time you get down to the bottom, then you will have pretty bad water. I think it should be a stronger thing to have pro-actively to protect clean water, protect water quality, not to minimize water quality.

Chairman Johnston - Ok, how do others feel about changing "to minimize water pollution" to the phrase, "to protect water quality".

Ms. Fitzgerald - If you protect it you are minimizing it. You can't eliminate all of it, rains come down.

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- * f. To minimize water pollution.
- g. To minimize flood damage.
- h. To minimize the need to establish or extend public utilities and services in areas where their provision is uneconomical.
- i. To provide for the growth and development of districts within the Town in a manner compatible with the character of each district.
- j. To preserve identified buildings of historic or architectural significance throughout the Town.
- k. To serve as a component of an approved local land use program under the Adirondack Park Agency Act.

1.040 Governing Provisions and Conflicting Provisions

Where this local law is more restrictive than covenants or agreements between parties or other rules or regulations or ordinances or the Adirondack Park Agency Act, the provisions of this local law shall control. Where more restrictive regulations are imposed by the New York State Building Code, Fire Code, or other local, state, APA, or federal regulations, such more restrictive regulations shall apply.

1.050 Severability

The provisions of this local law are severable. If any article, section, subsection, or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, subsection, or provisions adjudged invalid, and the rest of this local law shall remain valid and effective.

1.060 Procedure Upon Adoption; Effectiveness

Within five days after the adoption of this local law by the Town Board, certified copies hereof shall be filed with the Town Clerk and in the office of the Secretary of State, as provided in Section 27 of the Municipal Home Rule Law. This local law shall take effect upon filing in the office of the New York Secretary of State.

SECTION 2 CONSTRUCTION OF LANGUAGE AND DEFINITIONS

2.010 Construction of Language

The following rules of construction apply to the text of this local law:

- a. The particular shall control the general.
- b. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- c. Words used in the present tense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- d. A "building" or "structure" includes any part thereof.
- e. The word "used," when employed in the phrases "used to," "used for" or "used as" includes the following words when employed in similar phrases: "designed," "intended," "maintained," "occupied."
- f. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
 - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - 2. "Or" indicates that, the connected items, conditions, provisions, or events may apply singly or in any combination.
 - 3. "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- g. The word "includes" shall not limit a term to the specified examples, but is intended to extend its

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George can you stop the recorder for a minute.

Chairman Johnston - There's been some more reorganization, 1.040 - Governing and Conflicting Provisions - This was formerly 1.060, Severability was formerly 1.070 and Procedures Upon Adoption; Effectiveness, was formally, 1.080. We've gotten through probably the easiest section of this whole thing.

Now Section 2 CONSTRUCTION OF LANGUAGE AND DEFINITIONS

These were formerly, Section 20 and 30. So, he took all the definitions in the Town, all the definitions in the Village and he eliminated definitions that were duplicative and where there were definitions that were similar but not quite in sync, he attempted to tinker with the definitions a little bit so that one definition would serve, where previously there had been, two, but with the two where there was a very slight, a little shade of difference, between the two. George, is probably more familiar, far more familiar than I am, I would ask you George if you could help highlight some of these situations where the definitions changed, if at all. The only way to deal with this, do this, and it's very cumbersome, is to have the old zoning in front of you, to have the Town definitions and the Village definitions and just to read them.

Mr. Hainer - It's a pretty complicated thing and you really have to look at both because they apply differently and the Hamlet here and you really have to study them how I would enforce these things and we've been through this with Joel Russell where he'd written them and they just didn't mesh, they would work in the Town but they were not working in the Hamlet area. Some of them, he's included a certain part for the Hamlet section and certain parts for the Town section, by designating the V-RES. Going through them from the beginning, there's some new ones, the boathouse, the APA adopted a definition for a boathouse.

Chairman Johnston - Why don't we just start going through them, one-by-one.

Accessory Apartment - that's one that has been enacted, right, George?

Mr. Hainer - Right, that was enacted at the last amendment.

Chairman Johnston - Ok - and this one is applicable only in certain parts of the Village, am I right?

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Mr. Hainer - That is Townwide, that's a special district, special Section 35 and has to do with "accessory apartment".

Chairman Johnston - What the Park Agency allowed was very restrictive, as I recall, and it's temporary, page 76, in all district except those three or four. But this is only the Village, right, George?

Mr. Hainer - No, this section now, applies to the whole Town, it applies to all districts, except, Preservation, Agricultural, Commercial/Industrial, RR-5-Commercial Industrial, V-IND and V-FAC. But, everywhere else in the Town and the Village, it's allowed.

Chairman Johnston - Ok. Then, there has been no change, per se, this is exactly as it was when the Zoning was amended?

Mr. Hainer - Right.

Chairman Johnston - That's correct, ok.
Structure Accessory - Is this a new definition, George.

Mr. Hainer - I think it's probably a composite of the two -

Chairman Johnston - Because, I see in the Village, there was a "accessory use" and the Town -

Mr. Hainer - It was "structure" and there was -
I have on my desk, downstairs, the first revision, that has more -

Chairman Johnston - I don't see, "accessory structure" in either the Town or the Village.

Mr. Hainer - No, the "structure" in the Town -

Chairman Johnston - There's a definition of "structure" but not "accessory", not "accessory structure". So, this is a new definition, that has been added and I presume this has been added for purposes of creating greater clarity.

Ms. Fitzgerald - It's after eight, Bill.

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Chairman Johnston - Ok, we're going to stop with "accessory structure". George, the next time we meet, why don't you bring that earlier version -

Mr. Hainer - I'll scan it in and send it to you.

Chairman Johnston - The good news is that once we get through the definitions, it's going to go much easier.

Ms. Page - Is the Zoning Board doing the same thing, or do they have -

Chairman Johnston - The Zoning Board's marching orders are in the zoning and I don't believe there have been any changes.

Mr. Hainer - It's pretty much boiler plate.

Chairman Johnston - It's almost word-for-word extraction from Town Law. I don't believe they have any authority to develop more detailed policies or guidelines. There's two types of variances, there's an area variance and a use variance and the requirements for those two types of variances are different and for area variances, they're fairly, not that hard, but for use variance, it's very hard. There are certain tests that are spelled out in State Law that the ZBA is supposed to go through and if they don't, and they're challenged, legally challenged, the Court will throw out the variance. It's not really, the way it's written, it's not really subject to any discretion, it's pretty black and white. Which in a way is kind of surprising, because the ZBA is supposed to be the safety valve. They're supposed to be able to take into account mitigating circumstances. In reality the legal authority they have is very limited. Mr. White.

Mr. White - I move we adjourn.

Chairman Johnston - Thank you,

Mrs. Brant - Second.

Chairman Johnston - All in favor, carried.

Meeting adjourned, approximately, 8:30 P. M.

Respectfully submitted, Barbara Breyette, Secretary