

**Minutes of the Town of Johnsburg Planning Board Meeting
June 25, 2012**

Minutes of the public hearings and regular meeting of the Planning Board of the Town of Johnsburg held on Monday, June 25, 2012 at the Tannery Pond Community Center, North Creek, NY.

Roll call showed the following persons present: Dottie Osterhout, Cork Nester, Roger Smith, Janet Konis, Bill Moos, Curt Richards and Tim Record
Also present was attorney for the planning board, Mike Hill

The meeting was called to order by Chairperson Osterhout at 7:00 pm

Opened the PH session of the meeting:

1. **Continuing Subdivision #01-2012 “Four V’s Development”**-Attny. Dan Smith was present to speak on the project. He reviewed the project briefly identifying the pending approval of DOH, and current APA permit. Chairperson reiterated that the issue was the town had built the turn around partially on the wrong parcel so they developer wanted to move the lot line vs. moving the road. Attny. Smith said they did a slight adjustment to lot 6 as the house was too close to the line and the well was actually on another parcel. Since there are no lot line adjustments in the current regulations, there will be a subdivision. Attny. Smith is looking for conditional approval conditioned upon the DOH approval and if Clough Harbor has no issues and further authorizing the Chairperson to sign the mylar. Chairperson Osterhout noted that Mrs. Konis asked to recuse herself– Mr. Record made a motion to close the public hearing, seconded by Mr. Smith All remaining members voted in favor.
2. **Continuing Subdivision #225-11 “Ward Hill”** – Mr. Easton again was present to represent Ward Hill and reiterated the description of the project. Clough Harbour had indicated that the last submitted plan sets meet with all their criteria and everything thing has been satisfied by them. APA has reviewed this project and has also deemed the project complete and was just waiting on the town to issue their approval before APA issues a permit. DOH has reviewed the plans but is reserving approval because the test wells have not been drilled on the site. DEC still requires notice of intent permit but won’t be issued until the beginning of construction. From the public – Stewart Hudnut – asked of the proximity of the brook to the septic areas. Mr. Easton said the plans that were submitted and approved by DOH and APA for separation distances, Clough Harbor also had approved it. He said there was a third party comment that the septic fields were too close. Set back requirements are 100 feet. The plans show the fields are in excess of 100 feet-Lots 5 & 6 contain an intermittent water course which they are still 100 feet away from. Bob Bischoff – said he’d heard a lot from the present residents regarding road conditions, run off and fire protection and wanted to know if all those concerns have been met. Chairperson stated that each month they have addressed the concerns as they came up, both to the board’s approval ---What does the Hwy super think about it. Iroquois trail is a town road and it will be maintained. The new Ward Hill development will be all private roads and privately maintained by the homeowners association. The road is being built to town standards as required by our regulations. The town is NOT taking it over. Mr. Easton feels that blasting will not occur on this site...he can never say never but feels confident that there will not be a need blast. Mr. Hudnut asked about the covenants of the 175 acres – the HOA documents say in general says it’s for recreational use for the homeowners, which means walking trails, no motorized vehicles or anything (no atv’s) – it’s just meant for walking and hiking on, and for the future use of logging. APA was concerned about future logging, and wanted the HOA to have the ability to have a logger come in and selectively harvest timber from the 175 Acres. The blasting issue will be part of the final approval documents, in that if it is required that they come back to the town to justify the need and get the additional approval. Mr. Hudnut asked about the name of the developer. Chairperson said she did not personally know the name, just knows this as the applicant and their engineers. Mr. Easton said the owner currently has the project in an LLC and has not indicated to him that he wants his name disclosed at this time, but feels either way it is irrelevant. Ellen Smith- wanted to repeat comments

in her last email – wanted to be sure that the limitations be put in writing that had not been done so far like the preservation of the green space, the fact that there will be no blasting etc. Mr. Record noted that those very two items were just discussed. She also wanted to comment on discussions from last meeting regarding the noise factors, and as the crow flies, the development is less than half a mile away and noise carries through the woods especially in winter. She also wanted to comment about the map on a portion she assumes to be septic system; she says appears to only be about 50 feet away from Chatiamac Brook. Chairperson reiterated that the board and Mr. Easton had just gotten done discussing that issue and they are indeed more than 100 feet away from all water-Mr. Record invited her up to the front to review the map as such. Mr. Easton explained the discrepancies between the map sets is that one was full size to scale and the smaller ones were half size (not to scale) Mr. Moos said regarding the noise the planning board can set hours of construction to help abate the noise from construction. Mr. Nester made a motion to close the public hearing, seconded by Mr. Moos – all in favor

Open regular meeting and approval of minutes – Mr. Nester on page one #3 – was Mrs. Konis and Mr. Nester were opposed – final page , 2nd line ZEO's reference about behind the church should read where it vs. were in. Hearing no other corrections Chairperson Osterhout said they will accept the minutes as corrected **(NO MOTION, 2ND OR VOTE!!)**

Old Business

1. **Four V's Subdivision # 01-2012-** Mrs. Ramos will be recusing herself from this discussion. Chairperson said the public hearing is closed and engineers are looking at this. She asked if the board if they wanted to take any tentative action or table it for July. Mr. Record asked why we Clough Harbour were just reviewing it now, and it was because the check for escrow had not been received until this passed Thursday. Mr. Smith asked about a letter dated in January that indicated the check was enclosed and Chairperson went on to explain that Attny. Smith had drafted the letter and left the material at Murphy's for Mr. VanVoorhis to deliver to the town hall with payment, but it was never received. When Chairperson happened to stop at Murphy's, Sherry Davison told her she had a packet of info for the planning board with checks in it, so Ms. Davison delivered the packet and payment to Ms. Ferguson at Town Hall on Thursday who sent it right out to Clough Harbour for review. Sam Bennett called Chairperson today to indicate he had received it. Mr. Record felt they should wait to hear from Clough Harbour before making any decisions. Mr. Bennett asked why this subdivision was not just a lot line adjustment and Chairperson stated that we do not have this provision in our current zoning laws, but are looking to amend that in the near future. Chairperson feels it was it is the consensus of the board that all though public hearing is closed that they will table a decision for the July meeting.
2. **Ward Hill Subdivision #225-11** – Chairperson reiterated that we have gotten all the reviews back from our engineer regarding this project, and have discussed it many months in a row, but that there are still outstanding issues that need to be written into any kind of approval and asked for board input. Mr. Record, having been absent for most of the discussions, had several questions about the April 16th letter to which Mr. Easton answered and also directed him to response letters on file with the Town addressed all the concerns. Mr. Smith asked Mr. Easton to summarize the status of APA, DOH & DEC permits and their timelines. Mr. Easton said APA is good to go once the planning board gives their approval. DOH they need to send in the plans they already received in addition to the well information per town code then they can get DOH approval and file the subdivision after the planning board stamps it. In regard to DEC – they need to submit the notice of intent before construction begins (generally 60 days prior) then there is a weekly inspection for water erosion. Army Corps of Engineers permit – there is a minor wetland impact for the site (less than .01 acres)-there will be no wetland mitigation required for the project to the permit must be issued. He stated that this process usually takes 2-4 months and asked for conditional approval based on the receipt of these permit so they can get the project wrapped up. There was a request to set hours to allow construction. Mr. Moos wasn't sure if they could impose an ordinance on noise could be set unless there is one set by the town. Mr. Richards felt it was time to move this along – and have continually held the hearing open for further comment. Chairperson asked

for a couple of board members to get together to draft a proposal. Mrs. Konis & Mr. Smith will work up a draft proposal for the July meeting. Mr. Record had a question about the waiver that would be requested for the watershed. Mr. Easton stated it would be for water quality not water quantity. DEC has a quality standard that all impervious surfaces be treated, and consider a gravel road as impervious. They agreed to do the treatment on the remainder of the frontage but would ask for a waiver of the section of gravel road as they do not agree that it is impervious.

NEW BUSINESS

- 1. Subdivision #03-2012** – Attny. Desantis was present to represent the application on the Luguerico property –he explained for the new members of the 2 proposed lots off state rt 28 –the Board had granted conceptual approval in September 2011 but were waiting for APA approval - The applicant filed the application in February and sent test pit information in May – the housing location is tentative pending the APA soil people going to site to review the replacement area of the septic. They will have no further communication with the applicant until they come back from this board with an approved subdivision. A subdivision must be complete in order to seek a building permit on the parcel upon which to seek a septic permits approval from the park agency. The applicant needs to be able to tell APA where the house is going locate a replacement septic system. Attny. Desantis is asking for approval of the subdivision conditioned upon no building permit ever being issued unless the APA signs off. Chairperson noted that there has been no public hearing held on this application yet. APA needs a site specific septic system but that can't be done before the creation of the second lot. Mr. Record made a motion to schedule a public hearing which was seconded by Mrs. Konis – All if favor. This should be scheduled for the meeting in July.
- 2. Site Plan # 04-2012 – Herrington**-Note for the record that Mr. Nester is recusing himself. Mr. Herrington gave a brief update of his property located at the old Harvey house that he recently bought in Wevertown – He is proposing to put an apartment in the area that was formerly Sally's Salon. He's also looking to do some roadside barbeque and also a vegetable stand on a trailer by the honor system. The barbeque would just be take-out a couple days a week. He referred to the drawing of the proposal for his project that was submitted to the board. Looking for May – October for months of operation – maybe 2-4 days a week for barbeque. He would also have to get some APA approval due to a stream along one lot line. There is an existing sign post at the property from the Salon and he plans to use that for his sign. He presented his proposed sign for review of the board and Mrs. Tucker (ZEO) Chairperson asked for a little more definitive time options for operation. He said he would have the time information on the vegetable stand. Barbeque on Friday may be from 3:30 to 7:00p or so. He reiterated that this would be strictly take-out. Mr. Record asked about water supply to the trailer and restroom. Mr. Herrington stated that since there would only be take out that public rest facilities were not required and that there would be a hand sanitation station at the barbeque and gloves for food service that is required for the health department. Mr. Moos thought an issued might be the westerly access to the property may be an issue with traffic on Rt. 8 due to the sharp corner with signage for that to be the entrance only and use the center area as exit. Mrs. Konis asked if there were plan for any outdoor lighting to which Mr. Herrington answered no; there would be no 'after dark' operation. Chairperson asked ZEO Tucker if he would be allowed more than one sign. Mrs. Tucker said banners or flags saying open would be fine, but he would be limited to one business sign on site. She did not feel that there would be an issue, especially coming as a planning board suggestion for safety reasons for him to have signs saying Enter and Exit. Mrs. Tucker felt a flag at the West end would be more effective than a sign to warn drivers of activity in the area as something that would be more noticeable and effective. Mr. Record indicated the State tourist directional signs cost \$100 per direction per year, and that they could not be used on State road, but rather to direct drivers off a State road to a non-state road location. Mrs. Tucker inquired about the size of the sign. Mr. Herrington stated he would be about 24 square feet per the code and it will not be lighted. Mr. Record indicated that if he should decide to light the sign, it would need to be downward facing. Mr. Record made a motion to approve the site plan with the conditions that Mr. Herrington obtains Department of Health approval and maintains the health permit throughout the duration of the

businesses operation and it was seconded by Mr. Moos – Chairperson noted that this application was also sent to the County but they had not responded at the point. All members voted in favor of the approval.

3. **Site Plan #05-2012 – Masten.** Mr. Masten explained that he wanted to put a room in his garage and open a small sports shop with minimal hours. He wants to acquire an FFL (Federal Firearms License) and in order to do so he has to have an actual shop. He noted that though his plans show a proposal for a 14' x 20' space, it will actually be 10'x20' due to space constraints. He has substantial parking, and will not have a sign. He ultimately does not want off the road customers. He just needs the shop so he can do gun shows for buying, selling, swapping and trading. He has his C & R (Curio & Relic) license. He tends to collect more guns from a specific collect to get one he wants so needs to sell the others and that requires the FFL. He has to have posted set hours and a 'store front' for the FFL and will only be about 4 hours a week. Mrs. Konis asked about the type of security he would have and Mr. Masten stated the facility is already alarmed. Mr. Moos makes a motion to approve the site plan and it was seconded by Mr. Nester – all in favor.
4. **Gary Wolfe Drilling Sign** – Mr. Wolfe has had a sign on a rock for several years advertising his drilling business. The sign was located at a property he owns on SR 28 in Wevertown. Recently there was a new sign on the sight and some equipment so he was invited to the meeting to brief the board on his plans for the property. Mr. Wolfe indicated that his sons may build on the property someday but he had no intentions to. He said he parks his equipment there quite often. Chairperson referred to Mrs. Tucker to see if she's had a chance to contact him about a sign permit, which she did. Chairperson asked that as far as storing equipment, that she hadn't noticed it in past years. Mr. Wolfe stated his equipment had always been stored there as there is no room at his house in North Creek, and that due to some cutting of trees the equipment was more visible. Mrs. Tucker said he was all set with her, but he would need to get approval of the planning board because it was really an off premise sign. She was not sure how the board would handle that due to the fact the sign had been there for so long. After some brief discussion it was the board consensus that the old sign, like many others in town, had been there so long that this upgrade would be fine. Mrs. Konis noted that the sign and the rock are 2 signs. Mrs. Tucker would have the final decision.

Chairperson Report

Chairperson had spent considerable time with a girl last week who was doing her graduate thesis on unfinished subdivisions in the Adirondacks. Ann Deppe and Chairperson spent a lot of time going through files and doing site visit. She was surprised to find our unfinished subdivisions were only that of land, not those that were draining the pocket book of the town from project like Tall Timbers and FrontStreet like she has found in other towns.

Attny Dan Smith showed a map regarding the North Creek Woodworking facility located at Railroad Place in North Creek. It takes up a 150% of their lot – basically portions of the building are located on County Property (PINK) and Depot Property (Yellow). They will be asking both the County and the Depot to convey the affected portions of property to the Sweet's property. He has a meeting July 3rd with the County. The Depot wants to keep title to the right of way so there will be provisions made for that. They will have an application from the Woodworking plant for the subdivisions, a resolution from the county that it's ok, and a letter from Sterling Goodspeed who represents the Depot Association indicating same. Mr. Record asked why this was becoming an issued now. Attny Smith stated that eventually Iowa Pacific would potentially look into purchasing the lot so the issues need to be resolved. IP already occupies the space by lease for office and storage space. All 3 parties will use the right of way (GREEN) – The deeds on all parcels show the building on the others parcel so it's basically lot line adjustments but since there is no provision it will be a subdivision. Attny. Smith will forward an application to the Secretary to schedule this event.

The second issue refers to the Garnet Lake Dam (deed owned by the Garnet Lake Civic Association) In 1990- the Dam Safety Unit said there is a spill-way needed. The Town and the Association dropped the road

down to create a spillway with the engineering plan of Morris Engineering. There is a portion that is above flood level that is privately owned so it will be deeded to the Association so they can make remediation. The original deed to Manning, the old road on the map-the centerline of the Manning Property (Ross Mtn. Road) had been relocated, making his driveway and a stone wall located on Attny. Smith's Clients property, so they will deed that portion to Manning.

Mrs. Konis had a question regarding Sterling Goodspeed's Law practice now being located at his former residence on SR 28 in North Creek. Chairperson differed to Mrs. Tucker regarding this issued. Mr. Goodspeed had contacted Mrs. Tucker in this regard. The footprint of the residence has not changed – a majority of the home is still set up as such. Mr. Goodspeed stated that his eldest son resides there part time and though they had moved to Newcomb he and the rest of the family stays there sometimes. He only occupies one room as business space. In that zone he does not need to come before the board – it's an approved use.

Mr. Easton had a question about Ward hill, if SEQR would be done at the next meeting or after this meeting. Chairperson said they will do SEQR with their draft resolution.

Mrs. Tucker commented that per the discussion last month, she had called Warren County regarding handicap access and Karen Putney said if the building is new, the regs are written into code, for addition, there is also code, for alterations, WC will decided on a case to case basis. Other than that, it is a federal regulation thus federally enforced. Basically it leaves the board to simply make suggestions for compliance

Mary Jane Harrison-Hartensteen- property owner in North River—they had come home to find an application for hobby farm next to the cemetery that adjoins their property and there were upset to hear that the animal control people had to haul the horses out of the cemetery where they were tromping over the graves. Then they found out about the hobby farm- they had emailed and sent letter to the board. They had not heard the outcome and were looking the April minutes to be posted. They stated they sent letters and emails to the secretary of the board and have gotten no response. Chairperson state they may have been sending mail to an incorrect address. She noted that the secretary had changed as did the address. She state that the boards secretary is excellent and that the board did get their letter, as when items are received the Secretary immediately forwards copies to all the board members. Mrs. Hartenstein asked again about the posting of the minutes. Chairperson state April should be up, but they don't go up until they are approved but will ask why they are not. The address issue on the website will be addressed. The outcome of the hobby farm was approved. Chairperson state that their job is that if the application meets the town code, they are obligated to approve but can set condition if there are safety concerns etc. If it is an approved use in an approved zone – it a home based business which is allowed in the current zoning. The board addressed several of their concerns regarding the operation and emergency access.

The Board breezily discussed the status of the Stewart's Subdivision. Chairperson said she had not signed any maps and will not until our attorney is satisfied that they have met all the conditions of the approval.

The board recognized Mr. Robert Nettle from the floor. He suggested that the board should pay particular attention to the development of the industrial aspect of the expansion of the IP Railroad to Tahawus, concerned for the scenic tourist train aspect, the riverfront park and the ambiance of Main Street. Chairperson stated that she does not recall anyone ever coming for site plan for the tourist train. Mrs. Konis feels it's under Federal jurisdiction. Attny Hill also feels that the Town may not have any right to impose hours of operation etc. Short of the Town seeking some sort of agreement to help accommodate and maintain current events and uses of the property. He feels open a dialogue with IP would be a good idea. Mr. Nettle feels a new permit for an industrial railroad may be jurisdictional to the APA going from a class B or C to a class A project. Mr. Record noted that Upper Hudson River Railroad did not come for approval because the County felt they were exempt because the operation was on County Property. IP is not a tourist railroad. They are a fully compliant rail line. Mrs. Tucker as there is nothing in the town code to address trains; she felt that Mr. Nettle may be better served to bring his

concerns to the Town board as they are so-owners with Warren County for the riverfront property. Mr. Nessel's other issue is regarding possible changes in the code to mitigate deficits in the code as he sees them. They include reduction in size of HB2 on SR 28 and sideline setbacks in business district HB1 but have subsequently been made aware of some other outstanding issues like boundary changes by the Chairperson. He would like to see the process changed. The boards' attorney has drafted a proposal for that change and it has been forwarded to the Town board for consideration.

Hearing no other comments, Chairperson asked for a motion to adjourn; so moved by Mr. Smith and seconded by Mr. Nester – all in favor.

Respectfully Submitted:
Cherie Ferguson, Secretary