

**Minutes of the Town of Johnsborg Planning Board Meeting  
May 21, 2012**

Minutes of the public hearings and regular meeting of the Planning Board of the Town of Johnsborg held on Monday, May 23, 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, 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 224-11 “Cunningham to Stewarts”**-No one present wished to speak on the project. Mr. Record made a motion to close the public hearing, seconded by Mr. Smith – All in favor.
2. **Continuing Subdivision #01-2012 “Four V’s Development”** – Chairperson Osterhout informed that Four V’s was not ready to move ahead and asked for a motion to leave the public hearing open – motion made by Mrs. Konis, seconded by Mr. Smith – All in favor.
3. **Continuing Subdivision #225-11 “Ward Hill”** – Chairperson Osterhout noted she saw no one in the audience who wished to speak but she did have two new letters that were read into the minutes; one from Ellen Smith asking that listed 6 provisions she would like to have placed in writing when it comes to approving the project and one from Herbert Hudnut in opposition of the project. Two members of public arrived late to the meeting and were asked if they wished to speak regarding the hearing and they declined. A motion was made by Mr. Record to leave the hearing open, seconded by Mr. Smith. Mrs. Konis asked what the need for keeping the hearing open as it has been open for several months, and everyone who was concerned has had ample time to submit their comments and concerns. Mrs. Konis felt it was time to close the hearing now vs. waiting another month. Chairperson Osterhout felt it was appropriate to leave the hearing open as there was no representative present this month and wanted to allow the opportunity for them to comment or address concerns. Caroline Bischoff spoke, basically echoing the concerns similar to those in the letters, hoping for restrictions to be placed on uses for the open space property. Chairperson called for the vote and of leaving the hearing open. 5 for-2 opposed (Konis &
4. **Dell’Aquila -Subdivision #02-2012:** Attny. Rob Simon was representing the applicant regarding the property on South Johnsborg Road. They want to subdivide the parcel into two lots where it is divided by the South Johnsborg Road. Attny. Hill asked for confirmation that the idea was to formalize the division made by the road, which Attny. Simon said was correct. A motion was made by Mr. Record to close the public hearing, seconded by Mr. Smith – All in favor.

**Approval of minutes** – The minutes from the previous meeting were forwarded to the board via email prior to this meeting – Attny Hill sent proposed revisions to be made to the minutes and provided copies of these suggestions. Mrs. Konis noted that she was not present at the last meeting. Also, the board needed to move and second the approval of the March minutes in the April meeting as a matter of procedure. Mr. Nester made a motion to approve the amended minutes from both March and April; seconded by Mr. Smith – Mrs. Konis abstained from the vote and with all other members voting in favor the motion is declared passed.

**Old Business**

1. **Subdivision 224-11 Cunningham to Stewarts** –Chuck Marshal was present to represent the project. He recapped his presentation and proposal for the property from the previous meeting. Per the recommendation of the board they added vegetation around the corner toward the Mulvey property. In light of the cost of the entire project, it is possible they may not do the turn around this year, but will continue with the roofing and lighting aspect of the property. He noted where they added the drywells,

put in overflows, and redirected the guarded outfall to the National Grid side of the property. Mr. Smith asked for a copy of the easement which was asked for before and Mr. Record asked for an explanation of same. Mr. Marshal did not have a copy available but will get one to the board. Mrs. Osterhout said if there were to be an approval issued that it would be contingent upon the right of way. The Board proceeded with the SEQR review with Mr. Record and Attny. Hill requesting that they identify specific conditions to be included in the easement regarding the fill to maintain the slope. The two conditions Attny. Hill will be looking for is access for maintenance purposes and that the fill can not be removed. Chairperson Osterhout used the short form for SEQR that was started at the last meeting and the review was lead by Attny. Hill to complete the form. After having reviewed all the questions and the board responding no to all, Attny. Hill said that the appropriate motion at this time would be for a negative declaration; that the project will not have any significant, adverse environmental impact– so moved by Mr. Smith, seconded by Mr. Nester and with all members voting in favor, the motion carries. A motion was made by Mr. Smith to approve the subdivision conditionally; the condition being that Attny Hill review the easement and it meet the board’s expectation, seconded by Mr. Moos, all in favor. Chairperson Osterhout advised Mr. Marshal that once the map is final, he should make arrangements to meet with her to get it signed so he can file it with the County.

2. **Ward Hill Subdivision #225-11** – No one is present for discussion but the hearing will remain open for comment. They are scheduled for the meeting in June. Attny. Hill noted that comments in writing they should be received in a timely manner vs the day of or hours before the meeting. Attny Rob Simon suggested setting a deadline for correspondence. Mr. Smith wanted to touch on the two letters that were received today. The concern is noise/use of the shared land. He feels the board does not have jurisdiction over “allowable uses”. Attny Hill noted it should be specifically and predominantly posted on that map area that property could never be developed for houses etc.. So far as recreational uses were concerned, his understanding was there would only be logging there. The board did not recall specific plans for recreational use. Hiking trails, hunting, fishing etc. are items to be discussed with the applicant.

## **NEW BUSINESS**

1. **Dell’Aquila -Subdivision #02-2012:** – Hearing no discussion, the Board proceeded to do the SEQR review. Regarding the question #5, there is likely to be some growth but it would be consistent with the zoning for that area. All other question had a consensus No therefore a motion was made by Mr. Moos for a negative declaration, seconded by Mr. Richards – All in favor. A motion was made by Mr. Smith to approve the subdivision, seconded by Mr. Nester – All in favor.

### **Chairperson Report**

After the approval for the site plan at Izzy’s there were some questions about the tenants. Chairperson Osterhout said she was amiss in not reminding Izzy’s and the board that they were going to have to comply with the American with Disabilities Act. In the mean time she had talked to Izzy’s about it and they have talked to Kim’s Closet and Betulla’s about how they are going to be able to meet the requirements being upstairs. Neither could come tonight but they understand this is an issue. Betulla’s is going to have a catalog available of items that are available upstairs. There will be a sign downstairs and people can purchase through Izzy’s and Betulla’s will bring the items downstairs. Kim’s Closet has to many items to catalog but says if someone says what they are looking for, she’ll bring down whatever they may be looking for. The proposed sign that will be located at the bottom of the stairs will read something like: ‘To out individuals with special needs, we will be happy to accommodate you. Please call (number to be announced) or ask inside Izzy’s’. Mrs. Konis questioned why existing businesses on the ground level were not accessible. Chairperson Osterhout stated that they primarily enforced new businesses and second floor businesses, but in review there were some new business that came before the board are not compliant and the matter should be followed up on. It is not in our plan but it is a law. A building permit for modifications would trigger an automatic requirement to comply. There was extensive discussion regarding what is law, and what is

required or suitable for us to enforce in this regard. The matter will be reviewed and discussed at a future meeting.

The ZEO gave an oral report as she did not have the opportunity to prepare a written one. Mrs. Konis asked the ZEO about the property behind the Catholic Church were in meets Keitan Millington's property. The trees have been cut, and the bank has been dug out and the edge is encroaching on the big garage in the back of the church. Mr. Smith felt the first step with to delineate the property lines clearly to determine if there is encroachment. It would depend on what was put in the site plan. Mrs. Tucker will review the issue but feels it would be the landowner's responsibility pursue action if they are causing damage to the property. There is question on whether or not it could be considered mining for the removal of the sand in the bank.

Chairperson Osterhout welcomed Mr. Curt Richards to the board. No one spoke for privilege of the floor and there was no executive session. A motion to adjourn was made by Mr. Record and seconded by Mrs. Konis – all in favor.

Respectfully Submitted:  
Cherie Ferguson, Secretary