

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
June 6, 2016**

Present: Chairman Tom LaPerch; Vice Chairman David Rush; Boardmembers Paul Jonke, Phil Wissel, Eric Cyprus and Dan Armstrong; Town Attorney Willis Stephens; Town Planner Ashley Ley; Secretary Victoria Desidero. Absent and Excused: Boardmember Michael Hecht

**EXECUTIVE SESSION:**

The motion to enter Executive Session to discuss litigation related to matters on Shady Lane was introduced by Chairman LaPerch, seconded by Boardmember Jonke and passed all in favor. Planning Board members, staff and Attorney Joseph DePaolo, Special Counsel to the Town, left the room for the Executive Session. Boardmember Wissel remained in the room as he previously recused himself on matters related to Shady Lane due to a client relationship. When the Planning Board members returned, the motion to close the Executive Session, where no decisions were made was introduced by Chairman LaPerch, seconded by Boardmember Cyprus and passed all in favor.

**PUBLIC HEARINGS:**

1. **SANTUCCI, 5 Shady Lane** – This was a Public Hearing to Review an Application for a Special Permit. Chairman LaPerch announced that this Public Hearing was cancelled because the applicants withdrew their application.

**REGULAR SESSION:**

1. **GLICKENHAUS PRIVATE ACADEMY, Deans Corner Road** – This was a continued review of an Application for Site Plan and Wetland Permit. Attorney Richard O'Rourke of Keane & Beane, Chris Munch of Fortune Home Builders and Brian Hildebrand of Kellard Sessions appeared before the Board. Chairman LaPerch said we went offline about this earlier and asked Town Planner Ashley Ley to give an overview of the status. Ms. Ley said all of the outstanding information needed for a SEQRA determination has been provided and we have some things we need before Final Approval but we do have enough information for a SEQRA determination. Boardmember Armstrong asked if the lighting issue he raised has been resolved. Mr. Hildebrand said we submitted a study to the DOT (Department of Transportation) and received some positive feedback. Boardmember Rush asked if they had addressed the question about emergency vehicles being able to turn around on the site. Town Planner Ashley Ley said yes, they submitted a truck turning diagram and I did ask for some follow up information and we haven't received that... Mr. Hildebrand said yes, we did the whole study with a ladder truck, a fire truck and then made some changes. Ms. Ley said so you did make some changes to the plan? He said I added a shoulder to expand the pavement a little bit to allow for tracking of the rear tires. Boardmember Rush said so was that submitted to be reviewed? Ms. Ley said it has not been reviewed and that is something I want to see before Site Plan approval but it should have just required some minor modifications. Chairman LaPerch said besides the ARB (Architectural Review Board), what other Boards need to review this? Ms. Ley said they will need to go to the Town Board for a sign off on the ARB recommendation since this is a major project and then they can come back for final approval. She said the reviewing agencies are the Planning Board, the Army Corps of Engineers, the DEC (Department of

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Environmental Conservation) and the DEP (Department of Environmental Protection). Chairman LaPerch asked Mr. Munch what their timeframes are and he said if we get everything approved we would like to start construction in the fall. Chairman LaPerch said so a spring time academy? Mr. Munch said yes. The motion to Adopt a Negative Declaration under SEQRA was introduced by Chairman LaPerch, seconded by Boardmember Armstrong and passed by a roll call vote of 6 to 0 with 1 absent. The motion to refer the application to the ARB was introduced by Chairman LaPerch, seconded by Boardmember Cyprus and passed all in favor. Secretary Desidero reminded the applicant they should file for MS4. Chairman LaPerch said he would like to publicly thank Chris Munch for hosting an off-site meeting with himself and (Town Councilwoman) Lynne Eckardt to discuss the screening of the (Fortune Ridge) water tank. He said he (Mr. Munch) promised to fill in the gaps with three trees and put in an irrigation system. Mr. O'Rourke said we appreciate the comment. Chairman LaPerch said he did the right thing and thanked Chris for being a good neighbor.

2. **FARM TO MARKET ROAD SUBDIVISION, Farm to Market Road** – This was a review of a Request for a Performance Bond. Alfred Mattikow of Mainstream Realty appeared before the Board. Chairman LaPerch said I see that you are already doing some clearing out there? Mr. Mattikow said yes, with prior Town knowledge, we have started to remove the brush along the front of the road along Farm to Market. Chairman LaPerch said that's fine: I drove by the other day and saw that was being done. The motion to Recommend a Performance Bond to the Town Board based on the Town Engineer's memo was introduced by Chairman LaPerch, seconded by Boardmember Armstrong and passed all in favor. Ms. Desidero reminded Mr. Mattikow that he needs to get on the Town Board agenda for the bond to be approved.
3. **HIGH MEADOW FARM, Welfare Road** – This was a review of a Request for Release of a Performance Bond. No one was in attendance to represent the applicant. Chairman LaPerch said I have a motion to recommend the release of the bond with maintenance and asked Ms. Ley to explain. Ms. Ley said this application was approved by the Board about three years ago and everything has been constructed so now we are looking at reducing the bond. She said the Town Engineer suggests holding some money to meet the requirements of Chapter 123, specifically a bond for four years for a performance guarantee, where we would hold 10% of the total costs of constructing the stormwater measures, and a 10 year maintenance bond to cover the annual costs of maintaining the basins and inspecting the basins, which the applicant estimates to cost \$3,000. Chairman LaPerch said and that money would be used for? Ms. Ley said it would be used in the event that the property owners did not maintain the basins and the Town could call the bond to maintain the basins. Chairman LaPerch said we have subdivisions that have been approved in the past 10 years so if the basins... so Lakeview Plaza has basins and this means if they don't clean them up then we do it and we charge them? Ms. Ley said it is a little different than that because Lakeview Plaza would have been a site plan which is not subject to Chapter 123, which is just subdivisions. She said and then, theoretically, if that had been approved then... Chairman LaPerch said I don't mean to put you on the spot but who monitors this? Ms. Ley said this is one of the first ones that has come through the system since this law was passed in 2000. Chairman LaPerch said but who monitors this for the Town? Ms.

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Desidero said the Town Engineer keeps inspecting them. Boardmember Cyprus said don't the other subdivisions have, I know we don't fund them, but don't they have Special Districts for drainage? Ms. Ley said that is one of the mechanisms the Town can use to make sure these are properly maintained. Boardmember Cyprus said I know they were set up but I don't think they are funded. Chairman LaPerch said and on the commercial side of this? Ms. Ley said it's the property owner's responsibility and, in some cases, we hold bonds and in others, if it pre-dated the Code, there is no bond. Boardmember Cyprus said so we are giving them back \$74,500 and they are giving us \$9,500? Ms. Desidero asked if she could explain something procedural about this and said I expected them to be here tonight and, honestly, I am not sure what the bond amount is that is posted, because no one could tell me today what the actual amount of the bond is. She explained why this became very confusing based on previous reductions of the bond and how those were handled by the Town and the applicant. Town Attorney Will Stephens said but the bottom line is they are getting the bond back? Ms. Desidero said yes. He said so it doesn't matter. The Board discussed how the release and the posting of new bonds will take place. Ms. Ley said we are asking for two new bonds. Ms. Desidero said and usually they take one bond back and post new ones when bonds are reduced anyway. Ms. Ley explained why the maintenance bonds are designed this way, based on what and she and the Town Engineer agreed on, so the Town is not holding such a significant amount of money for so long. Ms. Ley said the Town Highway Superintendent is responsible for enforcement. Ms. Desidero said but the Town Engineer does most of it and that costs the Town money so that's why inspection fees are paid. Chairman LaPerch said that's my point because believe it or not, I pay attention to these things and I see that we are paying significant amounts of money and I'm not sure how we are getting it back. Ms. Desidero said just be clear we have been enforcing the maintenance bonds for site plans for a while now so when they come in to get their bond back we say they have to keep a bond for maintenance and landscaping but this is our first release of a subdivision bond in a long time. She said also, in this case, there are three conditions that need to be met for the bond to be released. The motion to Recommend to the Town Board that the bond be released with the three conditions outlined in the Town Engineer's memo was introduced by Chairman LaPerch, seconded by Boardmember Wissel and passed all in favor.

4. **SOUTHEAST PARKING, Independent Way** – This was a review of a Request for a One Year Extension of Site Plan and Wetland Permit Approvals. Jamie LoGiudice of Insite Engineering and Richard Levian of WB New York appeared before the Board. Chairman LaPerch asked if there are any changes to the plans and the reason for the extension? Ms. LoGiudice said no changes and we are gearing up to get started and working with the Building Department to get permits. Mr. Levian said we are re-structuring the partnership and hope to get the work started in the late fall for a spring 2017 opening. Boardmember Armstrong asked if this is going to be phased or done all at once? Mr. Levian said it is still going to be done all at once; there are no changes to the plans or the concept. Ms. Ley said the approval of this application pre-dated the listing of the northern long-eared bat and asked if the applicant is aware of any permit restrictions on clearing due to their presence? She said that may be an issue on the timing. Mr. Levian said we are well aware of the very rare, very ugly Indiana bats and are complying fully with the regulations. The motion to Grant a One Year Extension of Site Plan and Wetland Permit approvals was introduced by

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Chairman LaPerch, seconded by Boardmember Armstrong and passed by a roll call vote of 6 to 0 with 1 absent.

Chairman LaPerch talked about the last Planning Board Staff meeting. He said we had Suburban Propane in and asked Ms. Ley to explain. Ms. Ley said they are going to come up with a new landscaping plan to dress up the front of the site that can be reviewed by the staff off-line in an effort to make the site look better. Chairman LaPerch said they were very amenable to doing something out there. Chairman LaPerch said this is good news: it means we are paying attention to how things look in our Town when the landscaping is not working. Ms. Desidero said Winwater of Carmel was also in. Chairman LaPerch said yes, they are interested in the property on Rte. 312 past the railroad tracks, heading toward 84 on the left, the gray building. He said they need variances to increase the amount of outside storage allowed in order to make it work for their business. He said they are not really sure they can make it work. Ms. Desidero said they are going to the ZBA (Zoning Board of Appeals) for a Work Session. Also, Ms. Desidero said, the car wash on Route 22 was there. Boardmember Cyprus said Mt. Maya? Chairman LaPerch said yes, they want to add a shed and are hiring an engineer to do something for them. Ms. Desidero said and there was a gentleman who wants to build a house on Starr Lea Road. Chairman LaPerch said yes, a beautiful house and they had a pre-existing, non-conforming issue? Ms. Ley said the existing house needs to be demolished and they want to put up a new house but they may have some wetland issues to resolve. Chairman LaPerch said so we are continuing to work with various applicants and businesses in a good way.

The motion to approve the May 23, 2016 Meeting Minutes as written was introduced by Chairman LaPerch, seconded by Boardmember Rush and passed all in favor.

Chairman LaPerch asked about the next meeting and Ms. Desidero said AT&T, 300 Route 22, is coming for final site plan approval; continued review of application for site plan and wetland permit for 131 Fields Lane; and an application for final approval for Maco Land Properties on Route 22. The Board discussed that the Maco property was re-zoned by the Town Board. Mr. Stephens pointed out that the Zone needed to be changed on the resolution.

Chairman LaPerch said the only other issue is that I am going to talk to the Building Inspector about that property on Rte. 312 that got site plan approval over a year ago and is still not done. He said I think we are going to have to take him to court because he is ignoring it and... Mr. Stephens said you have to give him a Notice of Violation to start and a chance to cure it and that becomes part of the Building Department file. He explained how the legal process works for Notices of Violation. Chairman LaPerch asked about the Grace Assembly of God project and Ms. Desidero said they came in for an extension and that might have been at the meeting Chairman LaPerch missed.

The motion to close the meeting was introduced by Chairman LaPerch, seconded by Boardmember Rush and passed all in favor.

**June 15, 2016/VAD**