

August 3, 2009

1

TOWN OF CORNWALL

PLANNING BOARD

AUGUST 3, 2009

MEMBERS PRESENT: NEIL NOVESKY, CHAIRMAN
KENNETH BRODMERKEL
WYNN GOLD
WILLIAM GRABE
HELEN BUNT
MICHAEL LOBLANCO

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

LESLIE DOTSON
PLANNING BOARD CONSULTANT

GARY VINSON
BUILDING INSPECTOR

ABSENT: LED KLOSKY

REGULAR_MEETING _____

MR. NOVESKY: I'd like to call the August 3, 2009 meeting to order. All members present with the exception of Mr. Klosky who's visiting the President, who's in Washington.

CORRESPONDENCE _____

August 3, 2009

2

MR. NOVESKY: Correspondence, I have a letter from Mr. Vargas related to the Cornwall Hospital Cancer Center which I will give to you, Fran. We have a letter from the Orange County Planning Department.

CORNWALL_COMMONS_-_EXTENSION

MR. NOVESKY: We have a letter from Mr. Jacobowitz's office requesting authorization for a six month extension on the Cornwall Commons project. Dominic?

MR. CORDISCO: We can address it right now. This is on the subdivision aspect of the Cornwall Commons application that's I believe application number 515-1 and the board had previously granted a preliminary approval to the subdivision application, this is for the creation of the 10 overall lots for that particular application. And that's subject to renewal every six months. The board had previously granted renewals on this application and they're simply asking for another six month renewal at this time. It's something that you can do by motion. What I'm recommending in this circumstance though actually on others moving forward is with all due respect to Franny it's difficult sometimes to tell from the file whether or not the approval was granted because you have to go back and review the minutes, so what I'm suggesting is that if the board is inclined you could authorize me to send Mr. Jacobowitz and others in the future that ask for a six month extension a letter indicating that at this particular board meeting you granted a six month extension. And I would also put in the actual letter when the extension expires so everyone is clear, our files are complete, Gary's files are complete and they more importantly they understand when their approvals would expire.

MR. NOVESKY: Ask for a motion. Any discussion?

MS. BUNT: So moved.

MR. LOBLANCO: Second it.

ROLL CALL

August 3, 2009

4

MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

MR. NOVESKY: If you would be so kind as to write that letter.

MR. CORDISCO: I will.

CORRESPONDENCE_-_CONTINUED

MR. NOVESKY: We have also some DEC letters and also the Zoning Board of Appeals minutes for June, I believe July 20, you're all in receipt of them, very interesting reading, I encourage you to read them.

APPROVAL_OF_MINUTES_DATED_JULY_6,_2009

MR. NOVESKY: Approval of minutes, in consideration of the minutes on page 4 of last month's meeting although I was not here I am mentioned. Mr. Brodmerkel made a comment and I don't want to be attributed to that comment so if you could change that to Mr. Brodmerkel rather than Mr. Novesky. Any other comments? Thank you, Fran. Any comments? Make a motion to accept them.

MR. LOBLANCO: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

YOGA_MOUNTAIN,_INC._#2009-09

MR. NOVESKY: It's now 7:35 and we have three public hearings tonight. For anyone here who's here for the public hearing, I will ask you to give your name, your address and hold your comments to three minutes or more and the comments should be held specifically to the subject at hand. If you're addressing a subject other than that which we're here to have a public hearing, I will ask you to kindly talk to us later but not during the public hearing. The first would be Yoga Mountain.

Ms. Stephanie Sirico and Ms. Gail Walsh appeared before the board for this proposal.

MR. NOVESKY: Give a brief description of your project and then we'll discuss.

MS. SIRICO: I'm Stephanie Sirico, this is Gail Walsh, she's the founder, I'm the director. Right now, we're in Cornwall-on-Hudson and we're moving to 282 Main Street, we're a school of special instruction, we have yoga instruction.

MR. NOVESKY: With that, any members of the public wishing to make a comment, please come on up and give your name and address and make comments and hold them to three minutes if you will. With that, I will take a motion to close the public hearing.

MR. BRODMERKEL: So moved.

MR. LOBLANCO: Second it.

ROLL CALL

MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE

August 3, 2009

7

MR. GOLD AYE
MR. NOVESKY AYE

MR. NOVESKY: Dominic was kind enough to prepare a resolution. Would someone like to make a motion for the negative dec on the project?

MR. BRODMERKEL: So moved.

MR. LOBLANCO: Second it.

ROLL CALL

MR. LOBLANCO AYE
MR. GRABE AYE
MR. BRODMERKEL AYE
MS. BUNT AYE
MR. GOLD AYE
MR. NOVESKY AYE

MR. NOVESKY: And with that, I have a motion for approval.

MR. GOLD: So moved.

MR. LOBLANCO: Second it.

MR. NOVESKY: All in favor.

ROLL CALL

MR. LOBLANCO AYE
MR. GRABE AYE
MR. BRODMERKEL AYE
MS. BUNT AYE
MR. GOLD AYE
MR. NOVESKY AYE

I'd like to say the public hearing was opened at 7:35 and closed at 7:38.

CORNWALL_CANCER_CENTER_#2009-10

MR. NOVESKY: Second on the agenda for public hearings is the Cornwall Cancer Center. Purpose of this public hearing is to discuss the site plan amendment for signage.

MR. CHANEY: Good evening, my name is Jeff Chaney with Clark Patterson and Vincent Cepreano on behalf of St. Luke's Cornwall Hospital. We're the design architects. The intent of what we're trying to do is to approve the signage around the, there's additional signs that have been suggested for around the perimeter to provide a more unified approach to the signage to increase the safety around the site by being very specific about what the different locations are for entry and try to be very respectful to light levels around the area, certain signage has been designated either non-illuminated or put on timers. The signs that are being discussed tonight are strictly for directional purposes and as I say are meant to improve public safety and provide a more unified approach to the new facility and I thank you.

MR. NOVESKY: Thank you very much. Any other comments? Okay, with that, I'll ask any member of the public wishing to make a comment on this signage issue that we're discussing, please step forward, your name, your address, keep your comments to three minutes, if possible. Any member of the public wishing to make a comment? Mr. Edsall?

MR. EDSALL: Just for clarification there are 32 site signs on this application that deal with one existing sign, one being modified in front of the cancer center besides the directional signs just so that the record is clear.

MR. NOVESKY: Thank you, Mark. Kenn, did you have a comment?

August 3, 2009

9

MR. BRODMERKEL: Make a motion to close the public hearing.

MR. LOBLANCO: Second it.

ROLL CALL

MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE.

MR. NOVESKY: Thank you very much. Dominic, are we being asked to take any action?

MR. CORDISCO: You could if subject to the consultants' comments you could authorize resolutions be prepared for next month's meeting but I think at this point you should hear from your consultants.

MR. NOVESKY: You're not off the hook yet. We'll finish the public hearing.

MR. CORDISCO: That's correct.

MR. NOVESKY: Thank you very much, you might want to stick around.

JEHOVAH'S_WITNESS-CORNWALL_CONGREGATION_#2008-05

MR. NOVESKY: Next is Jehovah's Witness.

Mr. Ben Moldonado appeared before the board for this proposal.

MR. NOVESKY: Okay.

MR. MOLDONADO: I represent Cornwall Congregation of the Region 58 building committee for Jehovah's Witnesses. What we propose to do is tear down the existing Kingdon Hall that's there now and replace it with a new one, a single story Kingdom Hall. Very quickly, this is the site plan for the old hall to this side of the property that's going to be torn down first and then we'll be building a new Kingdon Hall on the other side of the property. We got variances for setbacks, went through the ZBA, we've done a lot of engineering work with the town engineer for drainage, come up with a very wonderful system that we're disturbing less than an acre. The reason we're relocating the hall here we have a two story 3,000 square foot building that's there now, it's not very handicapped accessible, bathrooms are downstairs, we had a very severe mold problem so to rebuild is not advisable so we want to take that down and build a single story slab on grade, much more energy efficient that has a canopy for the elderly and handicapped to get into the building.

MR. NOVESKY: Thank you very much. Any member of the general public wishing to comment on this? Any comments, Mr. Edsall?

MR. EDSALL: No, keep it moving.

MR. NOVESKY: I'll ask for a motion.

MR. BRODMERKEL: Make a motion we close the meeting.

MR. NOVESKY: Opened at 7:41 closed at 7:44.

MR. LOBLANCO: Second it.

ROLL CALL

MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

MR. MOLDONADO: I have all the public notices.

MR. NOVESKY: Thank you. So we'll go over to the consultant comments then Leslie.

MS. DOTSON: I did have some technical comments, I'm actually a little bit surprised that the public did not come out to speak because I know there had been some concerns expressed about some of the landscaping cause I did have a few comments on landscaping. The landscaping plan has been revised from the previous submissions. There are some more plantings proposed on the north side of the newer structure which I think will look nicer. So your tree plantings do meet the requirements of the code. I would, I'd still like you to use a native maple species, I had suggested in December that you substitute red maple for Norway maple and I'm still suggesting that you might want to do some shrub planting on the south side of the site and maybe a little something by the entryway just to kind of set it off a little bit. I did have some questions on the gate on the parking lot entry, I know that that had been discussed before, I'm not sure whether you changed your mind or not on gating it.

MR. MOLDONADO: At this point that slipped through the

cracks. I've got to go back and talk to the congregation, see if they want the gates because we re-engineered a lot of things.

MS. DOTSON: Yes, you do have spots that would be perfect for that, if you do decide. That's pretty much it for me.

MR. MOLDONADO: Do you have that in writing?

MS. DOTSON: Yes.

MR. NOVESKY: Thank you Leslie. Mark?

MR. EDSALL: As we discussed in the workshop with the board, the applicant as part of their efforts to resolve the big issue of drainage and how to accomplish the site developments so that it was less than an acre did not require a full storm water pollution prevention plan and addressed the board's specific concern about drainage and erosion down to Route 32. They have a new consultant on board as part of the transition from and old set of plans to a completely new set of plans there are numerous cleanup items which I will not bore the board with but I have provided the applicant with all the comments. My opinion is that none of these are as I said heavy lifting, it's all just cleanup so the drainage has been resolved, they're containing it on site internal using on-site seepage pits to re-charge back from the slope and then they have a level spreader so if there's a deluge and it doesn't get absorbed it's spread out over a section of the hill. Odds are it will never make it to the level spreader but also the approach that's being used now is more sensitive to winter weather conditions versus the original submittal which really didn't work for them so I'm convinced that they have done the best they can with the fact that there's no drainage provisions in the entire area on the town road even if you pipe it down to the state highway there's nothing there so they have done the

best they could, they have lowered the disturbance to less than an acre so they don't need a full SWPPP, they have provided erosion protection and once they clean up all the minor items I will be okay with the set.

MR. NOVESKY: Dominic, do you have any comments?

MR. CORDISCO: No, other than the board if it's inclined to do so could authorize preparation of the resolutions for next month's meeting contingent on submission and confirmation that the corrections have been made.

MR. NOVESKY: Thank you, Dominic. We'll see how the board feels. Mike?

MR. LOBLANCO: I totally agree.

MR. GRABE: I'm fine with it.

MR. GOLD: That's fine.

MS. BUNT: I'm fine.

MR. BRODMERKEL: Good.

MR. NOVESKY: Okay then I'll ask for you to prepare that resolution. Shall we take a vote?

MR. CORDISCO: Yes.

MR. BRODMERKEL: Make a motion we ask Dominic to prepare resolutions for next month's meeting.

MR. NOVESKY: That would be contingent on the final comments from the engineer.

MR. LOBLANCO: Second it.

ROLL CALL

August 3, 2009

14

MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

CORNWALL_CANCER_CENTER_#2009-10_(CONTINUED)

MR. NOVESKY: Cancer Center. We'll go to our comments. Leslie?

MS. DOTSON: Yes, I actually did not have any comments on that other than that they did comply with what you had requested last month, all the changes that they discussed, County Planning Office did have to speak and they issued a local determination so I was just waiting to respond to any public comments and there weren't any.

MR. NOVESKY: Thank you Leslie. Mark?

MR. EDSALL: As the board recalls, at least those that were here last month there was a very, very productive discussion with all the board members on the individual signs which it was decided which ones should have what text and it was great for the consultants because there was so much direction from the board's discussion that we could actually go back with the consultants from the applicant and assist them in preparing a new submittal that addressed all your comments. After I think one round of minor corrections they have that I think it's a hundred percent in line with what the board wanted and I have no additional comments.

MR. NOVESKY: Dominic?

MR. CORDISCO: No comments at this point.

MR. NOVESKY: I'm going to defer to Kenn because Kenn I know you chaired the meeting at which that was discussed.

MR. BRODMERKEL: If they have complied with what the board asked them to comply with I don't see any reason for further discussion and that's my opinion. The board may wish to have a discussion now.

MR. NOVESKY: I'll take a motion.

MR. BRODMERKEL: What would be the motion?

MR. CORDISCO: Motion would be to authorize resolutions for next month's meeting.

MR. BRODMERKEL: So moved.

MR. LOBLANCO: Second it.

ROLL CALL

MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE

MR. NOVESKY: I will abstain since I wasn't part of the discussion. Okay, you're set, prepare the resolutions.

MR. CHANEY: Thank you.

MR. CORDISCO: Next month I believe the meeting is on September 8 because September 7 which would be typically the first Monday is Labor Day.

MR. NOVESKY: I want to have a discussion on that prior to the adjournment of the meeting.

MR. EDSALL: There may not be a need for these if it's just an adoption of the resolution.

MR. CHANEY: For us to be present?

MR. EDSALL: Just call the office then.

MR. VINSON: You don't need to be here.

THE_ARK_OF_LEARNING_#2009-06

MR. NOVESKY: We'll go to the Ark of Learning.

Mr. Peter Manouvelos appeared before the board for this proposal.

MR. BRODMERKEL: If I could, we have Ark of Learning on our list of items for tonight and the plans say little Lamb Christain Daycare, is that correct?

MR. MANOUVELOLOS: It's the same client, yes.

MR. BRODMERKEL: Okay.

MS. DOTSON: Well, it's got multiple names.

MR. BRODMERKEL: Can we pick one and use it?

MR. MANOUVELOLOS: I will revise the drawings at the next submission for Ark of Learning because that's the name that the client will be using.

MR. BRODMERKEL: That's fine.

MR. NOVESKY: Okay.

MR. MANOUVELOLOS: We have comments here from Mr. Edsall.

MR. NOVESKY: Just describe.

MR. MANOUVELOLOS: Okay, in the past we were at the Zoning Board, we received our ZBA grant, were granted zoning variances which are listed on the table on drawing SPO1, the zoning requirements, we had six variances granted on the meeting held June 15, 2009. We have submitted to SHPO and have received their response, we took care of that. Last time we were in front of you, we submitted the long EAF that has been completed. What has changed since June and the

submission now in August is the applicant would like to use the second floor and in doing so it increased the parking requirements which are depicted on the revised drawing that you see in front of you which would require us to have seven staff parking spaces and 10 spaces for the students and we're trying to accommodate that but I see there are comments from Mr. Edsall which we can address.

MR. NOVESKY: Okay, why don't I go to the comments of the, actually Mr. Edsall, why don't we go to your comments first.

MR. EDSALL: There's a couple layout issues, 22 foot backout in front of the building really needs to be 25. I don't presume to understand how he wants to adjust to accomplish that but 22 just doesn't work, you need to both comply with the code and comply with needs of normal vehicle movement. There's one area where I'm suggesting they provide more of a transition on the paving so that the vehicles in the first, the end of the front main row don't stick out as much, we discussed that a little bit at the workshop, this is a fine tuning of the layout. There is a number of other minor corrections on text and I also identify whether or not, ask if the board believes there's any need for waste dumpsters or garbage enclosure or waste receptacles, something shown on the plan, I'm assuming they're going to generate some type of waste so they should decide if they have a dumpster if they're going to have enclosures with cans but historically the board likes to know where you're planning on putting that. Sanitary disposal system there was a question raised as to whether or not SPDES permit would be required, I don't believe, I think my comments are it wasn't the DEC I believe it was the Department of Planning asked.

MR. BRODMERKEL: What kind of permit?

MR. EDSALL: SPDES.

MR. CORDISCO: In connection with the septics.

MR. EDSALL: SPEDES as the acronym goes there's no requirement because of the capacity that they're having, if it was over 10,000, it would need DEC approval, if it's between 1,000 and 10,000 it would require local Department of Health approval. They're less than 1,000 so I have no idea where planning came up with that comment but not to worry, it's not an issue. They should have an expansion area for the septic system, there's some inconsistencies on dimensions for the size of the trenches, text inconsistencies as to whether or not it's a dosing tank or pump chamber, all those things they can fix. Lighting plan there's some inconsistencies that need to be corrected. Third indented bullet for lighting there's a note that deals with the issue that I discussed with the board about the ability to enforce corrective work if there's a glare problem once the lighting is installed. So that's a note that we're asking to have on the plan.

MR. NOVESKY: Mark, would that or Dominic, would that be written in the resolution as well?

MR. CORDISCO: Right.

MR. EDSALL: We want it on the plan as well. They're less than an acre of disturbance so they're not subject to storm water pollution prevention plan, they'll need a site bond estimate but next step will be the public hearing.

MR. NOVESKY: Thank you, Mark. Good comments on the lighting. Leslie?

MS. DOTSON: I have some comments. I did coordinate with Mark because I observed the same problems that he did in terms of the dimensional issues with the parking

spaces on the aisles, he's really cramped for space. I did agree with wheel stops provided for the parking spaces, there was less of a need for such a wide concrete walkway, I think they need one but not what they have shown. I think three feet would be sufficient as long as there are the wheel stops. Comment 4 just mentioning that I hope when all is said and done that we're okay with the lot coverage figures. They purposefully kind of more were conservative and exaggerated the lot coverage figures because they didn't want to go back to the ZBA. So we'll just have to check to see where they are with any future plan changes and hope they're okay. They have shown the fence on the plan, the six foot high wood privacy fence exceeds the requirements of the code, I think this is going to provide excellent screening and in addition to some existing vegetation that's along the west property line. I'm just questioning and my comment regarding the sizing of the play area, the play area's still being indicated as such for 33 children instead of the 48 that's now listed, my understanding is that because the additional building space was being allocated for older children for after-school care that the applicant believed that the additional recreation area was not needed because the time of the usage would not overlap as extensively. I thought even though there was some merit to that consideration that the matter should be discussed and if it's not changed--

MR. MANOUVELOS: The idea is that during the day you'd have the smaller children which would occupy the first floor which is the 33 number and then in the afternoon you would have, ages would vary, they would occupy the second floor and yes, there wouldn't be an overlap, you would never have 48 children there at one time.

MS. DOTSON: Also I'm thinking just for age groups you tend to like to separate the older kids from the littler kids because they tend to roughhouse a little bit more. I am pointing out if the recreation provided

for the full compliment you'd need 1,920 square feet and you could actually provide this if you so choose so I'm just pointing it out because you may opt to do that because it may give you still more flexibility conservatively. They have complied with SHPO's advisory comments which had recommended additional work to be carried out on the site grounds.

MR. NOVESKY: What's SHPO?

MS. DOTSON: State Historic Preservation Office, because there's a historic building and because it's everything that happens here is Type I, it had to get sent to Historic Preservation, they have said that well they would like to have some on-site study done of any disturbance which they're going to be doing which is basically septic and some of the pavement, this is receive thousand dollars for something for a building that has been here for a very long period of time for a building that if they use the space and ripped up the septic and replaced it right now for an existing use all they'd have to do is speak to Gary and no one would have to do anything.

MR. CORDISCO: So by virtue of the fact that they're here and you start the SEQRA process you have to refer it to them because they're an indicated agency, they responded with comments that say we'd like more study and of course they're fulfilling their role as a traditional state agency by always asking for more study. But one thing we should note is that it's completely discretionary with this board, they're only advisory comments, they're not binding on this board so if you don't wish to impose them as an additional requirement on this particular applicant, you're not required to, that's not the case when you need state agency approvals, there's a particular provision in state law that let's say you needed a permit from the DEC, well, the DEC would actually hold you up until you actually got signoff from SHPO but--

MR. NOVESKY: We had a public hearing on this.

MS. DOTSON: No, we have not, that's something we need to schedule, you could schedule it, we would suggest that because even though they need to--

MR. NOVESKY: My comment relates to a public hearing and if no one from the public seems to be terribly concerned about the historical context then we can, it follows that maybe we can just do it.

MS. DOTSON: Even if they did relative to other studies that have been done elsewhere in the surrounding area it's, I think it's unlikely they're going to do anything more than spend several thousands of the applicant's money and spend another three months waiting so given the fact that it's an existing use, I do feel for the applicant's situation. I don't honestly think anything's going to be lost. This plan has been referred to Orange County Planning Department, they had some comments, advisory comments about permeable pavers and landscaping and so forth. They have increased the landscaping on the site, I think every, all they have really improved is the landscaping plans actually exceed the tree planting requirements of the code and they have not met the perimeter low planting requirements but I think this is a general standard and I don't see where you would put additional plantings in a point where they'd benefit anybody on this particular site given the existing features on the site. So for my purposes, I think that this is an improvement from the existing site and I would leave well enough alone. Provided a lighting plan and last comment is on a hearing suggesting you schedule a hearing.

MR. NOVESKY: And Leslie, this is the Ark as in Noah's as opposed to the arc as arc as in lighting?

MS. DOTSON: I don't know which one it is.

MS. HERNANDEZ: I'm Jacqueline Hernandez, I started off as the Little Lamb Christain Daycare, since we're growing into a larger facility, I wanted to reflect more of a learning as a Christain daycare so the ark as in Noah's Ark with a K, the Ark of Learning is the correct spelling.

MR. NOVESKY: With that, any discussion from the board?

MR. GOLD: I do have one question. I heard you make the statement that there will never be all 48 children there at once, are we supposed to take that on faith?

MR. MANOUVELOS: No, that's why we're providing the amount of parking spaces.

MR. GOLD: More related to the recreation area than the parking area.

MR. MANOUVELOS: Well, the program for the recreation for the younger students and those are 33 which will be during mostly--

MR. GOLD: So and again I'm just trying to clarify so when the older kids come there after school we're going to presume they're just going to sit inside quietly and not go out in this play area based on what you have told me or not going to go out at the same time as the younger kids?

MR. MANOUVELOS: Yes, they won't be out there at the same time.

MR. GOLD: Just wanted that clarification.

MR. MANOUVELOS: The smaller kids would be gone, the older kids would be occupying the building.

MR. GOLD: Gone as in gone from the facility or gone from the play area? Let's clarify.

MR. MANOUVELOS: The way the program is running they would be gone-gone from the facility cause there would be two separate age groups during the day.

MR. GOLD: There's no overlap?

MR. MANOUVELOS: There would be an overlap.

MS. HERNANDEZ: Basically, the way the program is going to be held is it will be a commuter schedule so there maybe some overlapping as far as the schedule, the after-school program is really tailored for providing academic assistance to children when they arrive from school to the facility, it's more for tutorials, we'll have college students that will be tutoring the kids a lot of the times this is what I'm noticing now with the clients I take care of right now, they have children who are in school, some who are not and it's a burden even on them to go from an after-school programs, pick up their kids so it's just kind of consolidating and have several families that I can serve that have multiple children, doesn't necessarily mean it's going to be that way but that's what I'm learning. So in the event that we have, we would have children that are there to let's say 6:30 which is when we close and have after-school students, the concern wouldn't be so much over the playground, although Leslie did make mention that we still would have if we wanted to expand that's probably an option that we'd do just to satisfy any issues so we have an area allocated to the older students but the primary purpose for the after-school program and again and I want to kind of say this really on record because I spoke with Gary, we're not proposing to do this right now, it was just so that we can get the approvals and make sure that at least on this level we were obtaining the approvals for the second floor but we're not proposing to do this right

now, it's only the first floor, that's the only thing that we've gotten an approval for but again it's just for after-school activities right now.

MR. BRODMERKEL: If I can reiterate what I thought I heard before, you have the ability to put in enough recreational area to cover it either way?

MS. HERNANDEZ: Right, so that's obviously something that I'm probably going to talk to Peter about to see if we can maybe expand it.

MR. MANOUVELOS: We can accommodate that.

MR. BRODMERKEL: It would seem logical to do it now.

MR. GOLD: Just wanted to clarify how the numbers and the schedule work relative to the play area and you've done that.

MR. BRODMERKEL: And you've done a lovely job.

MR. NOVESKY: I'm ask for Dominic, do you have a comment?

MR. CORDISCO: No, I was just going to actually suggest that because they have already had one public hearing for the ZBA they need another public hearing from this board because it's a special use permit so it's not, you can't waive this public hearing but subject to the corrections being made to the plans you may also want to authorize at least preparation of resolutions for next month's meeting, that way, you can have your public hearing and you could also adopt resolutions thereafter if there are no issues, that way it can save them another month, they wouldn't lose a month just to come back just for resolutions a month later.

MR. NOVESKY: With that, we have two possibilities, one is for the authorization of a public hearing and two

for the authorization for Dominic to prepare.

MR. BRODMERKEL: First make a motion to schedule a public hearing for next month.

MR. GOLD: Second it.

ROLL CALL

MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

MR. BRODMERKEL: Second would be to direct Dominic to prepare the resolutions for next month pending approval of the board.

MR. LOBLANCO: Second it.

ROLL CALL

MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

MR. MANOUVELOS: Thank you.

BRETT_WELLS/PHYSICAL_THERAPY_OFFICE_#2009-06

MR. NOVESKY: Next is Brett Wells.

Mr. Brett Wells appeared before the board for this proposal.

MR. WELL: My name is Brett Wells, 111 Main Street, and I would like to convert this residential building into a professional office building for physical therapy. It's going to provide therapy services every half hour basis so it would be one patient every 30 minutes coming onto the facility. We did the plan for the site, not much changes to it as of right now so there's going to be no residence there also so it's going to be occupational physical therapy, that's it, one therapist working at one time.

MR. NOVESKY: That will be you?

MR. WELLS: That will be me.

MR. NOVESKY: Leslie, do you have comments?

MS. DOTSON: I'm actually a little surprised to hear the description that it's only one practitioner because the parking discussion talks about having parking spaces for employees. The parking calculations that are provided here do not match anything that exists in our code so I'm suggesting that it's either a professional office or medical office, either way, it's the same, one parking space for 200 square feet of space that's used for the conduct of that business and so we need to make the plans match what's going on actually in the building. And I'm looking at the space that's in the building and theoretically the parking requirement could be as high as eight spaces if the whole building is being used. The plan does require a public hearing because it's a special permit use, you may wish to authorize a public hearing subject to

submission of revised plans. I'm suggesting that you might want to withhold any discussion of landscaping and requests regarding that because honestly their site was already approved as a sort of a home occupation, it was used previously for Aida Torez's daycare center, it's not apparent from the plan, but the parking area's very well screened or the bulk is from the adjoining property on the north because there's a big grade change and the house itself sits further up a hill so there's just no way that anything that's going on in that parking lot is going to be bothering anyone. There are some existing trees and I think as it is right now it's adequately screened. This matter does require referral to Orange County Planning because of its proximity to Academy Avenue. That's it.

MR. NOVESKY: Thank you, Leslie. Mark?

MR. EDSALL: The site obviously was approved for non-residential purposes previously I think this use is, probably it was a daycare.

MS. DOTSON: But it was a home daycare.

MR. EDSALL: Okay, it was a home daycare facility which is not common among most people's residential so it was more of a use than a normal residential, I would suspect that this particular use being that the activity will occur inside and there's not children as part of a daycare I don't see there's a lot to review. Parking is a big issue based on the, you have to resolve that based on the code, they're proposing no outside improvements so there's not much to review, it's really a use change.

MR. BRODMERKEL: If I could, what's the use change it was previously approved?

MS. DOTSON: From a home daycare to a home professional office with the, without the residential requirement,

it would be easier if he were changing it to a home professional office and having the residential requirement but because he's converting it completely to a professional building he's--

MR. BRODMERKEL: There'd be no one living there?

MR. WELLS: No one living there.

MS. DOTSON: He just has to account for the space.

MR. EDSALL: The exterior activities are actually being decreased, the biggest issue I have is resolving purely for purposes of a plan that meets the code the parking calculations, other than that, I really don't know what to look at.

MR. NOVESKY: Mixed use or as opposed to commercial use?

MS. DOTSON: No, the parking previously you mean?

MR. NOVESKY: It was previously a mixed use, correct?

MS. DOTSON: No, it wouldn't have been, there's a parking calculation that's based on the number of students plus there's the residential requirements so there's always two for the residence plus however many and based on the number of kids that she had you can see that very nice fenced in area which was her recreational area so she put in the money to improve this place very nicely.

MR. NOVESKY: Okay so--

MR. EDSALL: If we can suggest to the applicant that they come up with a square footage for the main floor where you're going to have the physical therapy office activities and make sure that that square footage with the one per 200 works based on your available parking,

you need to identify what you have, I believe there's a second floor if that's just storage of records or something of that sort since that would fall under storage and depending on Gary's interpretation that may not been one per 200 but you need to make the parking calculation work, go back to Mr. DeKay because I believe it's his plan.

MR. NOVESKY: We need to authorize a public hearing, correct?

MS. DOTSON: Yes.

MR. NOVESKY: Subject to any in one particular issue related to the change in the plans to accommodate the parking.

MR. BRODMERKEL: We need to come up with a calculation based on the square footage.

MR. CORDISCO: Correct.

MR. NOVESKY: So Dominic what's your recommendation?

MR. CORDISCO: Authorizing public hearing and it's going to be a busy month for resolutions if the board's so inclined.

MR. BRODMERKEL: So moved make a motion we authorize the public hearing for next month.

MR. GOLD: Second it.

ROLL CALL

MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE

August 3, 2009

31

MR. NOVESKY AYE

MR. BRODMERKEL: We direct Dominic to prepare resolutions for next month.

MR. GRABE: Second it.

ROLL CALL

MR. LOBLANCO AYE
MR. GRABE AYE
MR. BRODMERKEL AYE
MS. BUNT AYE
MR. GOLD AYE
MR. NOVESKY AYE

MR. WELLS: Thank you, appreciate it.

MR. VINSON: Again, the date might change for the meeting, you have to check with me.

MR. WELLS: Okay.

NEW_YORK_MILITARY_ACADEMY_#2009-04

MR. NOVESKY: New York Military Academy.

Mr. Ray Yannone and Mr. Richard DeKay and Mr. Richard DeKay, Jr. appeared before the board for this proposal.

MR. YANNONE: We went to the zoning board and you want to describe?

MR. NOVESKY: For the record, I'd like to point out that we received the July 20 ZBA minutes tonight with our packages.

MR. DEKAY: I'm Richard DeKay, land surveyor, the pertinent note on this map is the zoning board approved the variances at their meeting with no restrictions.

MR. VINSON: I can vouch I was at the meeting that the board authorized the variances.

MR. NOVESKY: And I have those minutes right in front of me as we speak.

MR. BRODMERKL: That as I understand is the question, there's a question as to what they authorized and didn't authorize.

MR. NOVESKY: We'll elaborate on that shortly. Thank you, Mr. DeKay.

MR. DEKAY: All the variances that were asked for on the site plan and on sheet 3 of the subdivision plan were approved. You want me to read all these things?

MR. NOVESKY: No.

MR. DEKAY: The people that came to the zoning board they held a public hearing and the neighbors came and they were concerned about a water line that ran on the

property at the Donaldson Lodge so we went out and we had the village locate the water line with their metal detector and we staked it out and we located it and it's indicated on the plan and we have a note to that effect.

MR. BRODMERKEL: What page are you on?

MR. DEKAY: Noted on sheet number, on the site plan it's on the left-hand side of map, five foot wide easement is reserved for the maintenance of the service lines for the Youmans in the back of this property and there was no objection by anybody, everything, all the questions that were brought up were answered.

MR. NOVESKY: Okay, well, with that, why don't we go to the comments of the consultants?

MR. BRODMERKEL: Is the water line in question if I could very quickly is running right alongside the property line on Donaldson Lodge, is that the line in question?

MR. YANNONE: Yes.

MS. DOTSON: Yes, I'm just kind of going through the Zoning Board of Appeals minutes, Dick this is for you, I still do have some issues of confusion and some corrections that need to be made to the bulk tables. I don't want to bore you by going through all these but they go from the bottom of page 1 to the middle of page 2. Because it's just, it's really confusing to deal with these plans I'm just trying to make it so that they're clear. I figured that the town engineer would be commenting further about the parking lot layout and its level of conformance with the code requirements but I was concerned about the alignment of the spaces on the west side of the building cause they looked a little irregular. I'm suggesting sheet 1 of the plan needs to be labeled existing conditions, County

Planning Office, did you get the County Planning Office's comments on the plans?

MR. DEKAY: From the county you mean?

MS. DOTSON: Yes, the County Planning Office?

MR. YANNONE: Yes, we have that.

MS. DOTSON: Some of their comments talk about things that need to be shown on the plan, existing vegetation and preserving it to the greatest extent possible, they also had a comment about the land disturbance if more than an acre is disturbed that you need to prepare an erosion control plan but that doesn't apply to you.

MR. DEKAY, JR.: We went over the comments.

MS. DOTSON: The last comment is a public hearing was required for the site plan and I'm suggesting if the board wants to schedule a hearing it would have to be subject to the compliance with the consultants' comments cause there are many. That's it.

MR. EDSALL: My comments are split to the subdivision and site plan aspects. Regarding the subdivision number 2 the first bullet just noting that because there are no storm water improvements on 218 the applicant is approaching the dissipation of runoff from the private road via sheet flow onto the grass areas adjoining the private roadway. If there's an adequate amount of grass area and it's shaped correctly that could function, I don't know that there's any other way to do it given the lack of facilities in 218 for the private road, they do seem to have areas that they can reserve as grass areas and in fact the board may want because it's such a critical issue restrict that those areas have to remain grass areas so there's a place for the storm water to go. Second bullet noting there's an inconsistency between the road detail and what's called

out as pavement on the plan. Third bullet is getting into the utilities, I'm still having difficulties following where the water service is for lot 1, sewer services for 2 of the lots.

MR. DEKAY: We had the village mark out the water line.

MR. EDSALL: I can't read your plan, you've got to make the plans so I can read it, it appears that lot 3 the service the way I can tell it shows as if it's coming from the house on lot 4.

MR. DEKAY, JR.: That's correct.

MR. EDSALL: That's not permitted so you've got to fix that now.

MR. DEKAY, JR.: That's existing though.

MR. EDSALL: It's existing but it's wrong so you've got to fix it, you don't want to--

MR. YANNONE: We planned on splitting it.

MR. EDSALL: It's got to be fixed and on the plan as corrected.

MR. YANNONE: Okay.

MR. EDSALL: The water department one we have everything shown, I know you talked we'll refer it down to them just to make sure they agree with the way you're correcting different items. We haven't forwarded this to the DOT because I wasn't quite sure where you had to do utility work in the right-of-way or not, once it's all clarified, we can refer it to DOT. Regarding the site plan side there's some parking right in front of the center area of the building which I'm presuming is an outcrop that's got inadequate backout. There's a note which Mr. DeKay referred to about the

easement for the water services five foot is not realistic for a water easement.

MR. YANNONE: Well, do we have to, we're volunteering that we, that's something that the water lines appeared, we were, no one even knew they existed, the neighbors brought it to our attention, I mean this is an existing circumstance, what if they, if NYMA doesn't want to grant them an easement?

MR. EDSALL: As I understand it, there was some type of an agreement struck in the past allowing them to go through the property. I'm not going to attempt to get into a private negotiation but I'm telling the board I'm not going to debate with the applicant five foot is ridiculous, you can't get a machine in there so you're presuming that the people are going to do repairs with a shovel and in 2009 if you have to dig up a water service, you don't do it with a shovel, you have do it with a machine and five foot doesn't cut it. The next bullet gets into difficulty in following contours on the site plan, there's notes that reference fill but I can't tell from the plan and the contours where the fill is, I just can't follow it, so clear it up so we have a usable plan. Rear parking area is I believe gravel which maybe very appropriate given the drainage concerns the board generally has in cases where there are drainage problems considered for overflow parking areas gravel parking and waived the requirement for pavement. In that case, if the board thinks it's appropriate, I suggest you mandate wheel stops so people have something to aim at and park. For the front areas I'm not quite sure how the storm water management is being handled because again not knowing the contours but it's going to go as far as I can tell one or two directions onto the neighbors or onto the highway, either of which is not being addressed how the storm water's being resolved and that's an issue that was discussed a couple times in the past. Sewer connections, sewers are not shown on the plan, we have

no site improvement details, again, once we have a cleaned up plan, we need to send it to DOT. As far as I understand it, there's two tax lots involved for Donaldson as part of the site plan, if that's the case, they need to be combined, clean that up. Back to another old discussion because this is an existing more or less an accessory use and linked to New York Military Academy and they're proposing to continue that, a particular approach we've talked about in the past having a note restriction added and the filing of the deeds requiring that if that linked use is ever changed that it would require planning board approval and that this lot could not be sold separately.

MR. CORDISCO: Then anyone who purchases it understands it doesn't have any prior approved use separate from NYMA so they could sell it but whoever's buying it ought to be on notice that they need to come in for site plan approval for whatever use that they're trying to implement that's separate from NYMA's present use.

MR. EDSALL: Just something you have to clean up on the final end of the notice.

MR. CORDISCO: And it would be a condition of the approval as well.

MR. EDSALL: That's it.

MR. DEKAY: We can address those problems and present it at the next work session, we'd like to schedule the public hearing for the next meeting.

MR. NOVESKY: That's all you're asking for, all right, Dominic, I do have a question just occurs to me that I am a contracted employee of NYMA and I think I should, I'm a referee assignee for the school, I don't think it's appropriate that I, if there's any controversy I don't want it to be raised that I am a contract employee for the school itself so I'll ask Mr.

Brodmerkel to chair this issue.

MR. CORDISCO: Fair enough.

MR. NOVESKY: I will step out just for the purposes of this discussion because I think it's appropriate.

MR. CORDISCO: Yes, if you feel that it would create an appearance of impropriety, Kenn, why don't you take over.

MR. NOVESKY: I apologize, it didn't occur to me until now.

MR. BRODMERKEL: Well, since the ball was thrown to me I'm going to ask a question. Mark, Dom, a question pertaining, I don't know who to ask but the water line and the way it's running I understand Mark's concern about being five feet from the line, is that what you said?

MR. EDSALL: It's five foot width, I don't know that it would cause any hardship if there's an existing prior arrangement allowing that main to be there. It would not be unreasonable to assume the agreement allowed normal maintenance which would presume at least 15 feet to get a machine in there. I know there's an issue of area subtraction if you create a larger easement but if in effect there has already been an arrangement struck and the conventional understanding of such easement would be that you have to allow width that would be allowed maintenance wise maybe the 15 is an existing condition.

MR. BRODMERKEL: Existing condition, existing approval, existing agreement, nothing along there is being changed, why do we need to--

MR. EDSALL: It's like everything else, if we find things that were not, were not properly memorialized

because people didn't give it the time it was due when they shook hands part of what you folks do is to make sure the record is clear from here forward so if by hand shake they had a 15 foot wide easement so that you could get a machine in there then that should just go recorded based on a prior arrangement but to document it now as a five foot easement I think is a disservice to the people because they could never maintain it.

MR. DEKAY: No, the purpose of the five foot is merely for ownership, they'll still have the right to go.

MR. EDSALL: Who owns the five foot?

MR. DEKAY: That will be reserved for the owners.

MR. EDSALL: They don't own it?

MR. DEKAY: The right-of-way will be reserved to them so that preserves their water line then we'll reserve at least 15 feet for the maintenance in case it has to be dug up.

MR. BRODMERKEL: So all Mark's saying is that you want that documented.

MR. EDSALL: Just show 15 and say that you have to reserve their right to have the mains there.

MR. DEKAY: That's taken for granted, I've been in this business over 50 years, I know you can't dig a five foot trench in five feet, I know that.

MR. EDSALL: Doesn't work. What I'm suggesting is that you shouldn't show five foot.

MR. CORDISCO: It should be 15.

MR. EDSALL: That's it, let them have 15 foot if they need to go in and maintain it and create an easement.

MR. YANNONE: That is that going to have an affect on the calculations for the lot and the parking?

MR. EDSALL: That's why I'm suggesting if the, and the attorney will either elbow me or kick me if I'm saying something that doesn't sound reasonable or after the meeting if there was already an arrangement struck all people would assume that you're not presuming you're going to go in with a shovel to maintain the water line, so the normal minimum for equipment access is 15 feet so I would presume that's what was intended, if that's what was agreed to in the past, show it as a 15 foot existing easement and you're just now clarifying where it is.

MR. YANNONE: But I have to ask again.

MR. EDSALL: My opinion is that you're not changing what already exists.

MS. DOTSON: And the Zoning Board intended to give you a variance for that.

MR. EDSALL: We're not trying to create a need for you to go back to the Zoning Board.

MR. YANNONE: The question I have, I'm a little more sensitive to this as you're probably aware, could it become a problem using it as a parking area, using it like for example our neighbor to the east wants to see some decorative fencing along her property line, are we going to be restricted?

MR. EDSALL: It's your easement to work out with the neighbor if you say if they have the right to put a parking lot over it they have the right to dig it up because they need to maintain that's up to you to work out.

MS. DOTSON: I know this that was an issue that was raised by the person who brought it to your attention about what was going to happen over the water line and he was concerned with construction that it might be disturbed and broken because certainly that's going to be.

MR. YANNONE: Yes, he was sensitive to that issue.

MR. BRODMERKEL: The wording of the easement could be that they're allowed to use it for parking and/or other things.

MR. EDSALL: Yes.

MR. CORDISCO: As long as everyone understands if they need to maintain the line they can go in and take it up.

MR. EDSALL: If they need to tear it up they have to restore it it's good to have that document now rather than have it lapse.

MR. YANNONE: Okay.

MR. BRODMERKEL: Board have questions?

MR. LOBLANCO: No.

MR. GRABE: We'll make a motion for a public hearing.

MR. BRODMERKEL: Depends upon what we hear on questions quite possibly.

MR. GOLD: Are we satisfied that they have, they have addressed the issue of parking at Donaldson Lodge adequately?

MS. DOTSON: I still have to read the ZBA minutes honestly, I need to understand what they said.

MR. BRODMERKEL: One of the questions I think you read and we were agreeing it didn't say you were granted a variance to go from 40 spaces required to 38, we didn't see that if we misread or missed it.

MR. YANNONE: We're going to 16 spaces, the 22 is what was on the adjacent property that had nothing to do with this parcel, so I think Leslie worded it 22 is on the adjacent parcel that was existing, they were utilizing that before so what the public notice said we were going to 16, 22 off site to 16 on site but we the presentation we made to the zoning board was very specific that it would be used as an accessory use and they would rely on the school parking lot for any overflow as they have done in the past or any larger functions and they would also agree to if necessary limit the uses, they have been offering the rentals as a public service, they really don't get any real money for that if necessary if that was an issue or concern of the board they would accept some restrictions in terms of what the future uses would be.

MR. BRODMERKEL: What's the parking requirement Leslie?

MS. DOTSON: I'm sorry?

MR. BRODMERKEL: What's the parking space requirement?

MS. DOTSON: Parking space requirement would be 40 because the capacity of the building is 80.

MR. YANNONE: Reduced to 16.

MS. DOTSON: But they're effectively reducing it from 22 spaces, I think what's confused everybody is that no one really was tracking which spaces were where, there were 22 spaces on the adjoining property but the reason we insisted that they address parking on this site itself is because that was actively used parking that

serviced this building so because we're separating the site it was reasonable to provide some parking here. So basically they dropped from 22 directly adjacent to the site to 16 on the site. One of the concerns and that's why I wanted to read what the ZBA said one of the concerns had been although they're saying that there's parking across the street it's also rather dangerous to cross the street and there's no crosswalk there.

MR. BRODMERKEL: And well that he attempted to do but have been prohibited from doing anything.

MS. DOTSON: Because there's no sight distance, however, it does not exactly fill anyone full of comfort at the fact that we're still going to be sending even more people over there but I'm assuming that they came to some kind of comfort level with that I'd love to see how they did that.

MR. EDSALL: Mr. Brodmerkel, presuming that based on the board's previous comments once we have the updated plans when I refer them to the DOT I'm going to convey as a separate bold item the board's interest in having them reconsider signage and a crosswalk to allow pedestrian movement because no matter whether or not they want a crosswalk or don't people are crossing there so whatever signs.

MR. BRODMERKEL: We were shown two letters that they attempted to do that already,

MR. EDSALL: But if it comes from the town and they help the DOT understand that the planning board has a belief that it should be revisited.

MR. BRODMERKEL: Then we get back to the question of they need 40 spaces total, we have 38 spaces.

MR. DEKAY: No.

MR. YANNONE: No.

MS. DOTSON: They only have 16.

MR. YANNONE: Sixteen.

MS. DOTSON: Says that provides for 32.

MR. BRODMERKEL: Sixteen.

MR. YANNONE: Twenty-two is parking around the houses along the current driveway which is going to be the driveway they were just randomly parked.

MR. BRODMERKEL: So the 16 spaces and you require 40?

MR. DEKAY: That's right.

MS. DOTSON: Correct.

MR. BRODMERKEL: And we did not get a variance for parking spaces?

MR. DEKAY: Yes, we did.

MS. DOTSON: They think they did.

MR. GOLD: I don't know who, you guys can draw straws to answer this one, right now the spaces that exist adjacent to Donaldson Lodge on the Main Street side the employees who work in the buildings directly across the street park there because there are only about five non-handicapped spots correct in front of the academic and office building, are those spots remaining?

MR. YANNONE: They're going to be eliminated.

MR. GOLD: So the overflow parking for the people across the street is going to be in these new spaces

that are created?

MR. YANNONE: Actually the reverse, they shouldn't be parking there, there's parking on campus just further in.

MR. GOLD: I know they are. The parking on campus that's further in is down by the gym, these spots are 50 feet from their offices and the gym is a quarter of a mile walk, that's why they park here. So does that enter into our deliberation at all?

MR. EDSALL: I would say that's pertinent because the bottom line is the way you're approaching this is that NYMA owns both sides of 218 and if Donaldson Hall isn't being used for functions or meetings those 16 spaces may in fact still be used as Mr. Gold is intending is for the academic side. There's pedestrians that go across that road if DOT likes it or not so what we're going to try to do is convey that it is happening, is there any way they can make it safer.

MR. GOLD: Okay.

MR. YANNONE: I did have a site meeting before Dick prepared the plan and I addressed that because Captain Watts asked me to as well, weren't very receptive to it.

MR. CORDISCO: Surprise.

MR. EDSALL: I will be sending it to traffic and safety in Poughkeepsie rather than just to the Newburgh permit office.

MR. YANNONE: School would be thrilled if it happened.

MR. EDSALL: We'll try.

MR. BRODMERKEL: You mentioned when you fellas came up

that we received the minutes from the ZBA as we sat down here tonight so though we tried to get through them maybe we missed something so Dominic we have questions as to zoning variance whether or not they got everything that we--

MR. CORDISCO: It may not be entirely clear until the written decision has been prepared. It's my understanding that the attorney for the zoning board is working on that and it will be considered by the zoning board at its August meeting. So there's some time ahead of them as far as that's concerned and we'll be sure that the board gets a copy of that once it's adopted by the ZBA. But I know Gary's there and I was not, we understand they did get variances that they got but exactly what they got I think won't be clear until it's spelled out in the decision.

MR. BRODMERKEL: I would turn to the board and say anybody wants to make a motion for public hearing.

MR. GRABE: We'll leave it the public hearing open also, there's a lot of questions to be answered.

MR. BRODMERKEL: There's a couple at least.

MR. GRABE: You can have a public hearing and leave it open.

MR. BRODMERKEL: Are you making a motion?

MS. DOTSON: Subject to the consultants' comments being addressed because otherwise we're going to confuse things even more.

MR. YANNONE: We'll have somebody from NYMA to answer the questions about faculty use.

MR. CORDISCO: That would be a really good idea.

MR. YANNONE: They couldn't--

MR. BRODMERKEL: We have a motion on the floor.

MR. CORDISCO: And the motion's contingent on the submission of revised plans.

MR. GOLD: Second it.

MR. VINSON: On site plan and subdivision, correct?

MS. DOTSON: Yes, two hearings.

MR. GRABE: So moved.

MS. BUNT: Second it.

MR. BRODMERKEL: Any discussion? All in favor?

ROLL CALL

MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE

MR. VINSON: You need to check with me on the date, we may change the meeting date.

MR. NOVESKY: Thank you gentlemen.

CHESTNUT_WOODS

MR. NOVESKY: With that, we move on to Chestnut Woods.

Michael Donnelly, Esq. appeared before the board for this proposal.

MR. DONNELLY: Good evening, Michael Donnelly, attorney for the applicant. We brought the whole crowd to answer any questions you might have but we hope you have no questions so you can get home. Most of you remember this application it's been here quite some time, it had an FEIS that was issued by you, I came back in 2006, we were here a year ago July asking or on the verge of asking for final approval but we recognized at that time we had a good number of other agency approvals that we needed to obtain, most importantly the health department approval. And we backed away from requesting that approval but we tried to ensure that everything that you wanted done and all of the issues were addressed so when we got the other agency approvals we could come back to you and ask for a final approval. We have gone quite a distance and we have obtained that health department approval, we have received everything but the highway work permit from the New York State DOT, we do still need a sign-off from SHPO. There was an issue which you may remember with an older historic building that was on the property, this is way back at the beginning of the process, it collapsed, Gary had to direct that it be taken down and as only SHPO can do despite the fact that they were notified of everything from the beginning they're now asking for some follow-up information and photos, they're not going to ask us to put the building back up, we're supplying them with the additional information, we concede that that would be something you'd need to have in your resolution. There are two agency approvals we don't have and I have to take some blame for this on our side. You may remember that the source of water for this project is the Town

of New Windsor increasing its contractual obligation with the Firthcliff Heights water district in the Town of Cornwall. And almost all of that is worked out except the New York State DEP needs to approve that obligation, I believe the DEC since it's technically the water taking permit needs to do that approval as well the applicants there are actually the Town of New Windsor not my client, however, we entered into a contract jointly with the Town of New Windsor and the Town of Cornwall under which we would pay the cost of those applications, in addition, we're giving a large sum of money to the Town of New Windsor to upgrade some of their equipment in order to serve this project. That needs to be done and I have been working with Dominic to get the money into an escrow account, set up a timetable, we think the best thing to do is to have McGoey, Hauser & Edsall actually do the work at our cost rather than try to have other engineers get information that that firm has privy to. We recognize that we might not be able to obtain that approval, we're hopeful that we can within the duration of the final approval that we'll get from you, however, if we don't get our final approval we can't finish our application for construction borrowing and it will mean that we'll lose, the summer obviously is gone, we like to get into the ground next year and if we don't get started on following up with that application with that bank, we have no reason to believe they wouldn't lend us, they have lent quite a bit of money, so we need approval so what we're requesting is that you authorize your consultants to prepare a resolution final site plan approval for consideration at your next available meeting. We understand there will be conditions in it, most particularly the DEP, DEC and SHPO approvals, the DOT one we'll show you the paperwork, it's really taken care of so we can ask you to act upon that at whatever meeting is appropriate. I don't know when the meeting in September with Labor Day is, I've had conversations with Dominic, we know those things need to be worked out, hopefully we can have those lined up. What I also

spoke to Dominic about is the what if and the what if would be that you gave us that approval, we came to the end of its duration and we're still waiting for the DEP to give us an approval. He felt comfortable with saying not that you would necessarily follow the advice but you could reapprove that in order that we can complete that process we sort of need to have it to apply and yet if they take longer than the duration then we kind of fall out of trap door and doesn't make sense for us to start over. So we'd like to make sure you have a comfort level with that, we assume by that time the only issue outstanding will be that DEP approval, I do have anybody here if there's issues which raise questions, all of the consultant team is here but I'll leave it to your consultants to report.

MR. NOVESKY: I'll turn to the consultants for their opinions.

MS. DOTSON: I have no problem with this, you know, we did advise them of the sunset period, clearly they're aware of it, the risk is theirs. I also have no objection if counsel chooses to recommend that you can reapprove it if he feels that that's consistent with the intent of the code, I certainly don't object. I think the consultants would like to have full size plans and I also just mentioning for Dominic's consideration any land use approvals that are prepared should reference the full color elevations of the buildings that were previously submitted to the board so that those don't fall through the cracks.

MR. DONNELLY: I think we have those, we can even give out individual copies, there's some landscaped changes out by 32.

MR. CORDISCO: We'll reference those in the approval resolutions when the board authorizes those. Getting ahead of ourselves though in talking about the sunset provisions, the code, the Cornwall code does provide

that and attracts the final subdivision approval periods that a site plan approval is valid for 180 days and can be extended for two 90 day periods. This is a total of 360 days. And by the end of that 360 days an applicant is supposed to have satisfied all the conditions of the approval and then obtain a building permit. It's possible and we have done it in other circumstances where for outside reasons where an applicant has diligently pursued the approval but hasn't been able to obtain it because there's been delay by the outside agency and that coupled with the fact that there may be no changed circumstances behind the application, in other words, nothing has changed in the vicinity and no zoning changes have happened that it would be in the board's discretion to consider a reapproval that would restart the clock. Now that's looking ahead, that would be essentially if you're in a position to grant approval in September of 2009 that would be an issue that would come up in August of 2010 because they would be on the verge of having their approvals expire and may need further time and they can make that argument at that point. What I was suggesting to counsel it's a possibility I think it's legally sound to consider it but it's within the discretion of the board at that time and you'll have to evaluate the issues that you have previously evaluated and see whether or not there are any changes that warrant a closer look at that particular time. We just can't foresee it right now so we can't guarantee it but could be September though is sound.

MR. NOVESKY: Does that apply to conditional site plan approval?

MR. CORDISCO: That would basically be a new conditional site plan approval that would then restart the 360 day clock.

MR. EDSALL: It's not an extension.

MR. CORDISCO: It's not an extension because you can't extend something that by itself limit in the code is only valid for 360 days, you could reissue it provided that the same basis for issuing it the first time still exists the second time and but if there have been changes, traffic changes or something else comes up in the interim, for instance, like one possibility would be the fact that perhaps New York City does not approve the allocation for water and all of a sudden you have to find water from someplace else, that's a change and you'd have to evaluate that.

MR. DONNELLY: Let me correct, I can't ask you tonight to pre-determine that you're going to give me another year next September, I guess what I wanted to know based upon Dominic's advice is there a red flag that goes up under no circumstances would you do that, I can see if we ask for it a year from now we'd have to show you there are no changes in circumstances and there's no reason to believe DEP wouldn't grant the approval, we would of course go back to the Village of Cornwall from whom we had an interest letter but we'd have to get back to the drawing board and re-do the project at that point in time.

MR. CORDISCO: I think the concept sounds, just that we'd have to evaluate it at that time, unless the board has any specific concerns to respond to.

MR. NOVESKY: Thank you, Dominic. Mark?

MR. EDSALL: Just for clarification the DEP approval is actually from the New York City DEP, not New York State. Also just to clarify on the application Mr. Donnelly's referencing he's asking our office to prepare, actually he's asking the Town of New Windsor to undertake that and have our office as the town engineers for New Windsor pursue that approval.

MR. DONNELLY: He's talking like a lawyer tonight, he's

good.

MR. EDSALL: I just want the record to be clear we're not working for the applicant, we're working for the Town of New Windsor.

MR. DONNELLY: Yes.

MR. NOVESKY: There are no issues of potential conflicts perceived.

MR. CORDISCO: In the normal course of things an applicant's engineer may prepare the application even though it's the town's application and the town would review it and the town engineers would review it here, they're trying to cut that process down and just have the town engineer.

MR. EDSALL: We just went through a long procrastinated approval of the ADC service from New Windsor to the Town of Cornwall and acted on the Town of New Windsor's behalf to get that approval, so I think what the applicant's hoping is that we're successful getting this increase in allocation as we were in getting them to approve the meter on the service line. As far as reapprovals, the approach that the attorneys are noting is one that's used on several other clients that I've dealt with in towns, it's common for municipalities that have adopted sunset provisions for site plans and I think it works fine. And last but not least to agree with Leslie, we do need the full sized plans so we can get the detailed review.

MR. NOVESKY: Thank you, Mark. Board?

MR. LOBLANCO: I have nothing.

MR. GRABE: I'll go along with that.

MR. GOLD: If I'm hearing this right, all the risk is

theirs.

MR. CORDISCO: That's correct and they understand that I think and they're asking that you prepare or authorize me to prepare a resolution, one resolution cause they already closed out SEQRA so it would be one resolution granting conditional site plan approval for your September meeting.

MR. BRODMERKEL: Conditional or final?

MR. CORDISCO: It's conditional, it's final in the sense that they don't come back, they satisfy the conditions and then they're done.

MR. BRODMERKEL: Conditional final.

MR. CORDISCO: It's conditional final, correct, and then that would be it.

MR. DONNELLY: When is your meeting in September?

MR. CORDISCO: That's what we're--if you stick around.

MR. EDSALL: You'll be the first to know.

MS. BUNT: No questions.

MR. DONNELLY: There were some, the DOT approval made us change some landscaping out front, be happy to show you that.

MR. BRODMERKEL: You're comfortable with final approval with these variances up in the air, question marks up in the air?

MR. CORDISCO: Yes, yes, I am, I think that I'm a little bit troubled by the fact that the state DEC and the DEP process could eat up a significant amount of that 360 day period, if even not all of it and it all

depends on how quickly we can move and of course we can't control how fast those state agencies or the city responds but they're the last remaining outstanding items.

MR. BRODMERKEL: Okay, no further questions.

MR. NOVESKY: With that, I'll ask for a motion.

MR. BRODMERKEL: Make the motion that we grant--

MR. CORDISCO: You authorize for the next month.

MR. DONNELLY: I liked his motion much better.

MR. CORDISCO: If you want the 360 to start right now.

MR. BRODMERKEL: We authorize conditional final approval.

MR. CORDISCO: No, actually, I think they do want a written resolution prepared for next month's meeting.

MR. NOVESKY: Authorizing you to prepare the resolution.

MR. CORDISCO: Yes.

MR. BRODMERKEL: What Dominic said.

MR. NOVESKY: Authorizing preparation of the resolution for the September meeting.

MR. BRODMERKEL: So moved.

MR. LOBLANCO: Second the motion.

ROLL CALL

MR. LOBLANCO AYE

August 3, 2009

56

MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

MR. DONNELLY: Thank you very much.

DISCUSSION

MR. NOVESKY: Very quickly board on the discussion of the next meeting, here's the deal, you decided to switch this meeting to the 9th which would be a Wednesday or you suffer with Mr. Brodmerkel chairing the meeting on the 8th. So the meeting will be Tuesday, the 8th, 2009. Motion to adjourn?

MR. BRODMERKEL: So moved.

MR. LOBLANCO: Second it.

ROLL CALL

MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

Respectfully Submitted By:

Frances Roth
Stenographer