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PLANNING DEPARTMENT

TOWN HOUSE
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Town of Somers

WESTCHESTER COUNTY, N.Y.



John Currie, *Chairman*
Jan Corning
Fedora DeLucia
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
Dennis McNamara

3

**SOMERS PLANNING BOARD MINUTES
FEBRUARY 8, 2017**

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:**

Acting Chairman McNamara, Ms. Gerbino,
Mr. Goldenberg and Ms. Corning

11

12

13 **ABSENT:**

Mrs. DeLucia, Ms. Gannon and Mr. Currie

14

15 **ALSO PRESENT:**

Consultant Town Engineer Joseph Barbagallo
Director of Planning Syrette Dym
Planning Board Town Attorney Joseph Eriole
Planning Board Secretary Marilyn Murphy

16

17

18

19

20 Planning Board member Dennis McNamara announced that Chair Currie
21 requested him to act as Chairman in his absence this evening.

22

23 The meeting commenced at 7:30 p.m. Planning Board Secretary Marilyn
24 Murphy called the roll and noted that a required quorum of four members
25 was present in order to conduct the business of the Board.

26

27 Acting Chair McNamara explained that because there are only four Board
28 members present it will take a unanimous vote of the Board to approve an
29 action.

30

1 **APPROVAL OF DRAFT MINUTES AND DVD OF THE PLANNING**
2 **BOARD MEETINGS HELD ON NOVEMBER 9, 2016 AND NOVEMBER**
3 **30, 2016.**

4
5 Acting Chairman McNamara noted that Planning Board Secretary Marilyn
6 Murphy prepared and submitted for the Board's approval the draft minutes
7 and DVD of the Planning Board meetings held on November 9, 2016 and
8 November 30, 2016.

9
10 The Acting Chair asked if there were any comments or corrections from the
11 Board on the draft minutes and DVD of November 9, 2016 and no one
12 replied.

13
14 On motion by Ms. Gerbino, seconded by Mr. Goldenberg, and unanimously
15 carried, the draft minutes and DVD of the November 9, 2016 Planning
16 Board meeting were approved.

17
18 The Acting Chair asked if there were any comments or corrections from the
19 Board on the draft minutes and DVD of November 30, 2016 and no one
20 replied.

21
22 On motion by Acting Chair McNamara, seconded by Ms. Gerbino, and
23 unanimously carried, the draft minutes and DVD of the November 30, 2016
24 Planning Board meeting were approved.

25
26 Acting Chairman McNamara stated that the text of the approved minutes is
27 available on the Town's website www.somersny.com and is also available
28 for public review at the Planning & Engineering office at the Town House.
29 The approved DVD is available for public viewing at the Somers Public
30 Library.

31
32 **TIME EXTENSION**

33
34 **HAFT/RIDGEVIEW DESIGNER BUILDERS, INC. [TM: 16.12-1-41, 42]**

35
36 Acting Chairman McNamara said that this is a request for a 90-day time
37 extension for Amended Final Subdivision Plat Approval for Section II from
38 January 30, 2017 up to and including May 1, 2017 under Town Law
39 Section 276 (7) (c). He noted that this is the ninth request for a time
40 extension.

1 Acting Chair McNamara acknowledged a memo from Director of Planning
2 Dym dated February 1, 2017 where she noted that routine visits are made
3 to the site and minimal work continues while the first house is being
4 marketed and that she has no problem with the Board granting the time
5 extension.

6
7 Acting Chair McNamara asked if there were any comments or concerns
8 from the Board.

9
10 Ms. Gerbino said that Steven Woelfle makes periodic inspections of the site
11 and it continues to be well stabilized.

12
13 On motion by Ms. Corning, seconded by Ms. Gerbino and unanimously
14 carried, the Board moved to approve the 90-day time extension to
15 Haft/Ridgeview Designer Builders, Inc., for Amended Final Subdivision Plat
16 Approval for Section II from January 30, 2017 up to and including
17 May 1, 2017 pursuant to Town Law Section 276 (7) (c).

18
19 **CONTINUATION OF PUBLIC HEARING**

20
21 **GREENBRIAR SOMERS CORP. [TM: 6.11-1-77, 78]**

22
23 Acting Chairman McNamara said that this is an application for Preliminary
24 Subdivision Approval, Steep Slopes, Wetland, Tree Preservation and
25 Stormwater Management and Erosion and Sediment Control Permits for
26 property located on the left side of Driftwood Drive for the re-subdivision of
27 Section 6, lots 77 and 78.

28
29 Acting Chairman McNamara said that at the applicant's request the
30 continuation of the Public Hearing will be carried over to the March 8, 2017
31 Planning Board meeting.

32
33 *At this time Mr. Goldenberg recused himself and did not participate in the*
34 *next application.*

35
36 **DECISION**

37
38 **SOMERS POINTE COUNTRY CLUB [TM: 6.17-20-1.21]**

39

1 Acting Chairman McNamara noted that this is the application of Somers
2 Pointe Country Club for a Site Plan for property located on the southeast
3 side of the Somers Pointe Clubhouse at 100 West Hill Drive for the
4 construction of a swimming pool and cabana building and two tennis courts
5 with associated parking to provide additional recreational activities.

6
7 Acting Chair McNamara said that this application will not be discussed this
8 evening as Mr. Goldenberg recused himself from this application, therefore,
9 the Board does not have a quorum. He stated that this project will be
10 adjourned to the March 8, 2017 Planning Board meeting.

11
12 Planning Board Town Attorney Eriole advised that when there are only
13 three members you cannot take a vote but you can discuss the project but
14 cannot take any action.

15
16 John Petroccione, the applicant's engineer, said that he does not have any
17 additional information as the only outstanding item was the determination
18 from the New York State Parks, Recreation, and Historic Preservation
19 (SHIPPO). He stated that they have no concerns regarding potential
20 impacts of the proposed project on cultural resources under SEQRA.

21
22 Consultant Town Engineer Barbagallo said that he wants to make a change
23 on Page 14, line 32, to read, Construction activity *with the exception of rock*
24 *removal shall be limited from 8 AM to 6 PM.*

25
26 Director of Planning Dym noted that at the next meeting the Board will
27 review a Negative Declaration pursuant to Part 617 of Article 8 SEQRA due
28 to the fact that any impacts of the proposed action are deemed to have
29 been mitigated to the maximum extent practicable and will not have a
30 significant adverse impact on the environment.

31
32 Ms. Gerbino opined that Heritage Hills with 3,100 homes was very historic
33 to Somers.

34
35 *At this time Mr. Goldenberg recused himself and did not participate in the*
36 *next application.*

37
38
39 **SOMERS CROSSING [TM: 17.15-1-15.1]**

40

1 Acting Chairman McNamara said that this is the application for Site Plan
2 Approval, Wetlands, Steep Slopes, Tree Preservation, Special Exception
3 Use in the Groundwater Protection Overlay District and Stormwater
4 Management and Erosion and Sediment Control Permits for Somers
5 Crossing for separate proposed residential and commercial projects on
6 separate subdivided lots. He said that the property is located at NYS
7 Route 100 and US Route 202.

8

9 Timothy Allen, the applicant's engineer, noted that the applicant canceled
10 the January 25, 2017 Planning Board meeting and has been working
11 diligently with all the consultants. He mentioned that trees have been
12 added along Route 100 and cart corrals have been added as well as minor
13 changes to the grocery store.

14

15 Gus Boniello, the applicant, said he was asked to show the color schemes
16 and materials that will be used on the condos. He noted that there will be
17 horizontal clapboard siding with an asphalt charcoal gray roof. Mr. Boniello
18 said that earth tone grays will be used with white trim.

19

20 Mr. Boniello referred to Page 14, 1.d. *Provide a performance surety for*
21 *proposed work related to water and sanitary sewer infrastructure*
22 *improvements intended for dedication to the Heritage Hills Water Works*
23 *and Sewer Work Corporation* of the residential resolution. He asked that
24 this be stricken from the Resolution. Mr. Boniello said that the water and
25 sewer is private and there is no reason that this should be bonded.

26

27 Acting Chairman McNamara asked why it is necessary to bond something
28 that is not going to the Town.

29

30 Director of Planning Dym noted that she spoke to the Town Attorney and
31 he believes it should stay in as a condition and in its timing prior to signing.
32 She said that the reason he expressed it is that the Town has supported
33 the pursuit of the Fire District's planned public safety center on the adjacent
34 property based on the understanding that water and sewer lines would be
35 made available from the Somers Crossing residential site. She said that if
36 this is not the case and the public safety project goes ahead, the Town/Fire
37 District would be obligated to pay for these extensions to connect to
38 Heritage Hills facilities. Director of Planning Dym stated that the Planning
39 Board needs to take a position on this.

40

1 Consulting Town Engineer Barbagallo said that he defers to the Town
2 Attorney's opinion.

3
4 Acting Chairman McNamara questioned if the Town Attorney realizes that
5 the bonding would not be for the Town.

6
7 Consultant Town Engineer Barbagallo indicated that there is an agreement
8 as part of the Community Benefits Agreement that water and sewer will be
9 extended to the public safety project. He said that the concern is if Somers
10 Crossing does not move forward how does the water and sewer line get to
11 the public safety project.

12
13 Planning Board Town Attorney Eriole said that typically you may not ask for
14 the bonding but the decision is up to the Planning Board.

15
16 Mr. Boniello explained that if Somers Crossing does not move forward you
17 cannot assume that someone has the right to come across his property to
18 put in a water and sewer line. He stressed that this will not happen. Mr.
19 Boniello noted that the only way the water and sewer line is put in is if
20 Somers Crossing is approved. Mr. Boniello explained that if Somers
21 Crossing is approved the water and sewer line will be there and will be
22 there for the Fire District. He stressed that the Community Benefits
23 package is contingent on the approval of Somers Crossing.

24
25 Rick O'Rourke, the applicant's attorney, said that this is a totally different
26 issue as you will be dealing with two private utilities to put in the water and
27 sewer lines and they will not be dedicated to the Town but are private
28 utilities. He noted that if the Board requires this condition they will be
29 bonding for private construction on private property that will not be
30 dedicated to the Town. Attorney O'Rourke said this is not appropriate.

31
32 Ms. Gerbino asked Attorney O'Rourke what is not appropriate. She said
33 that we are talking about a sewer and water business and they are not at
34 this meeting. Ms. Gerbino said that she does not understand the logic of
35 making the applicant post the bond.

36
37 Mr. Goldenberg, speaking as a resident, noted that Attorney O'Rourke
38 represents the Sewer and Water Company and Somers Crossing. He said
39 that he is handling things on both sides of the aisle. Mr. Goldenberg said
40 that the builder of Heritage Hills had to put up a bond to make sure things

1 are done correctly. He opined that there is nothing wrong with the water
2 and sewer company putting up a bond.

3
4 Attorney O'Rourke said that Heritage Hills Water and Sewer understands
5 that he is here representing Mr. Boniello. He said that Mr. Boniello is
6 aware that in the past he has represented utility companies and
7 transportation companies owned and controlled by Heritage Hills. He said
8 that it is not a conflict of interest.

9
10 Planning Board Town Attorney Eriole said that if someone wants to make a
11 challenge on Mr. Goldenberg's opinion they can but he tends to think it is
12 not a conflict and has been property waived.

13
14 Consultant Town Engineer Barbagallo said that in the event Somers
15 Crossing does not move forward the applicant will not provide water and
16 sewer for the Fire District. He said that this is part of the Community
17 benefits package to provide water and sewer.

18
19 Mr. Boniello said that the community benefits package is provided as part
20 of Somers Crossing's approval. He said that the community benefits
21 package does not happen until the first permit on the residential is granted.

22
23 Mr. Boniello said that he does not have a problem with condition 2 or 3 but
24 would like the condition moved to after signing of Site Plan. He said that
25 this is a two lot subdivision and he is not building the grocery store he is
26 selling the land to DeCicco. He said that DeCicco will pay the engineering
27 fee and the soil and erosion bond for their site.

28
29 Director of Planning Dym said that it is the practice of the Principal
30 Engineering Technician to ask for the engineering fee and erosion control
31 bond on all projects before the signing of the Site Plan. She said that the
32 Town Attorney agrees with Steve Woelfle that it is good practice to make
33 these payments prior to the signing of the Site Plan because after signing,
34 the work passes to the building department and the Planning and
35 Engineering office has less control of the work. Director of Planning Dym
36 said that the Town Attorney wanted to point out to the Planning Board that
37 if it does not adhere to established procedure for this applicant and makes
38 a special exception, fees can either fall through the cracks and/or they
39 become subject to future request by other applicants for the same
40 treatment.

1 Attorney O'Rourke said that he spoke to Town Attorney Baroni and this is
2 not a legal issue it is a Planning Board issue. He explained that
3 construction cannot start until the bonds are in place so he questioned why
4 the bonds have to be paid before the Site Plan is signed. Attorney
5 O'Rourke said he questioned why inspection fees would be paid before the
6 Site Plan is signed because engineering fees start when there is
7 construction.

8
9 Mr. Boniello said that DeCicco takes over when the Site Plan is signed and
10 then he pays the engineering fees and the erosion and sediment control
11 bond for his property.

12
13 Consultant Town Engineer Barbagallo suggested that the fees be paid after
14 90 days after the site plan is signed.

15
16 Acting Chair McNamara directed that this project be adjourned to the
17 March 8, 2017 Planning Board meeting when there will be a quorum.

18
19 **PROJECT REVIEW**

20
21 *At this time Mr. Goldenberg returned to the Board.*

22
23 **TOWNE CENTRE AT SOMERS [TM: 17.15-1-13]**

24
25 Acting Chairman McNamara noted that this is the application for Site Plan
26 Approval, Stormwater Management and Erosion and Sediment Control and
27 Special Exception Use Permit within the Groundwater Protection Overlay
28 District for improvements to the Towne Centre at Somers to the area
29 between the existing shipping center buildings "A" and "B" including re-
30 orientation of parking, net addition of 7 parking spaces, addition of median
31 strip and related site improvements, identification of two vehicular
32 connections to adjacent property to be built by others which remove two
33 parking spaces. The Acting Chair noted that the property is located in the
34 Neighborhood Shopping District (NS) and the Groundwater Protection
35 Overlay District.

36
37 Acting Chair McNamara asked the applicant's representative to update the
38 Board on the project.

39

1 Robert Aiello, the applicant’s engineer, said that this application was before
 2 the Board informally in July and September of last year to discuss
 3 improvements to the Towne Centre property. He explained that the
 4 improvements include improvements to the parking, additional parking and
 5 architectural improvements to the facades and lighting in the shopping
 6 area. Engineer Aiello said that the Architectural Review Board (ARB)
 7 granted approval in September 2016 and a memo from the Fire Prevention
 8 Bureau dated August 2016 had no objections. He mentioned that the
 9 applicant filed a Site Plan application.

10
 11 Engineer Aiello said that the application proposed to re-orient parking, add
 12 median strips along the roadway, and construct driveway connections to
 13 the properties adjacent to the south and west. He noted that there will be
 14 new lighting fixtures and benches to make it a more pedestrian space.
 15 Engineer Aiello said that the tower will be removed to make the area more
 16 inviting.

17
 18 Engineer Aiello mentioned that there will be improvements to the area
 19 between existing buildings “A” and “B”. He said that there will be a total 7
 20 net new parking spaces.

21
 22 Acting Chair McNamara asked about the Route 202 entrance and
 23 questioned if there was consideration for increase in parking by
 24 reconfiguration of the current entrance and exit from Route 202 as it will be
 25 a limited access exit only under Somers Crossing. He said that the
 26 Department of Transportation (DOT) can mandate changes.

27
 28 Engineer Aiello said that was discussed in the past and the owner is not
 29 willing to give up that driveway on potential things that may happen in the
 30 future. He said that the application does not put conditions on closing the
 31 driveway.

32
 33 Consultant Town Engineer Barbagallo said that there was discussion with
 34 the Town’s traffic consultant on Somers Crossing, and the only thing is
 35 what the Planning Board decides on this application as there is nothing that
 36 is carried over with Somers Crossing. He mentioned that the applicant can
 37 agree to reconfigure the current entrance and exit on his property.
 38 Director of Planning Dym mentioned that the Board does not have the
 39 ability to reconfigure the current entrance and exit on the property because
 40 the SEQRA analysis has been concluded on the traffic movements at the

1 Towne Centre. She noted that there is going to be a meeting with DOT to
2 discuss the entire traffic movement within the hamlet and what are the
3 potential things DOT can do to improve traffic flow.

4
5 Ms. Gerbino said that DOT will control what happens at the Route 202
6 entrance and exit.

7
8 Engineer Aiello said that the improvements at the Towne Centre are being
9 done for purposes of coordination and being a good neighbor.

10
11 Mr. Goldenberg asked if the owner has spoken to Mr. Boniello the
12 developer of Somers Crossing. He said that if all the developments
13 happen at the same time there will be chaos. Mr. Goldenberg said that the
14 applicant has to make sure everything is handled safely because there was
15 asbestos in the ceilings at the CVS store.

16
17 Mr. Goldenberg asked if there was consideration to modify the entrance
18 into the Heritage 202 Shopping Center with a right turn in and left turn out.

19
20 Engineer Aiello said there will be minor parking and curb modifications and
21 building facades in the Towne Centre and that is the reason for this
22 application.

23
24 Ms. Corning asked if during the SEQRA process the Board talked about the
25 right hand exit only from the Towne Centre or was that just a discussion.

26
27 Director of Planning Dym said that as a result of the SEQRA analysis
28 nothing required closing the exit and the Town's traffic engineer said that
29 there are benefits to leaving the entrance open and allowing those
30 movements. She said that it is all the SEQRA findings.

31
32 Wayne Biddle, owner of the Towne Centre, said that he asked the town to
33 modify the entrance into the Heritage 202 Shopping Center with a right turn
34 in and left turn out. He explained that the problem was the stone wall near
35 the entrance to the Heritage 202 Shopping Center as it is in the Historic
36 District and it was the Town's determination that the stone wall was so
37 sacred that it could not be touched. He mentioned that the stone wall
38 surrounded the tree but now that the tree has died he would welcome the
39 idea to consider the right turn in and left turn out movement at the Heritage
40 202 Shopping Center maybe in the future.

1 Consultant Town Engineer Barbagallo asked about the stockpiling of
2 materials at the Towne Centre.

3
4 Andy Albrecht, Urstadt Biddle properties, said that there is stockpiling of
5 seasonal storage of salt and sand that the snow plow contractor uses for
6 the Towne Centre and the Heritage 202 Shopping Center. Mr. Albrecht
7 said that the contractor has been in communication with the Building
8 Inspector to see if there is a better location for the stockpiling.

9
10 Consultant Town Engineer Barbagallo said that the location of the
11 stockpiling in a temporary area should be on the Site Plan.

12
13 Director of Planning Dym mentioned that if the stockpiling is in a pre-
14 existing parking area you have to look at the parking count.

15
16 Consultant Town Engineer Barbagallo said that he does not see anything
17 with water and sewer and the connection to the lines.

18
19 Engineer Aiello said that he is looking at options for water and sewer on the
20 property and filing a petition with the Town Board to add the Towne Centre
21 to the Water and Sewer District.

22
23 Jody Cross, the applicant's attorney, said that the owner wants to do the
24 improvements this spring and the sewer and water is still in the planning
25 stages. She noted that the sewer and water is a functionally independent
26 project. Attorney Cross said that the projects are unrelated and the owner
27 does not want to hold up the improvements at the Towne Centre as the two
28 projects are not connected to each other.

29
30 Planning Board Town Attorney Eriole said that segmentation is not unlawful
31 but segmentation that prevents one or both projects from receiving the level
32 of review it would otherwise get is unlawful. He said that his legal opinion
33 is that this is not the case but it is a Planning Board decision.

34
35 Engineer Aiello said that the Stormwater Pollution Prevention Plan
36 (SWPPP) is completed and has been submitted to the Department of
37 Environmental Protection (DEP). He mentioned that the soil test has been
38 postponed due to the snow.

39

1 Engineer Aiello said that there is an easement in place between Urstadt
2 Biddle and Mr. Boniello that is being modified but will submit it to the Board
3 when it is finalized.

4
5 Ms. Gerbino said that the issue that has not been addressed is the traffic
6 flow and how the additional two driveways will impact the traffic flow.

7
8 Engineer Aiello replied that the changes were not initiated by the applicant
9 but were for coordination purposes. He said there will be stop signs.

10 Engineer Aiello said that his traffic engineer can weigh in on the traffic flow.

11
12 Mr. Biddle said that he incorporated with Mr. Boniello but does not think it is
13 appropriate to do traffic studies on his property.

14
15 On motion by Ms. Gerbino, seconded by Ms. Corning and unanimously
16 carried, the Board declared its intent to be Lead Agency under SEQRA and
17 authorizes distribution of the long form EAF to involved and interested
18 agencies.

19
20 Attorney Cross asked the Board to schedule a Public Hearing on the
21 improvements at the Towne Centre.

22
23 Mr. Goldenberg said that he is against scheduling the Public Hearing as he
24 feels it is premature. He noted that there are 4,700 residents living at
25 Heritage Hills and many are away for the winter and you should not have a
26 Public Hearing while residents are on vacation.

27
28 Attorney Cross said she would hate to see the project delayed because
29 people are on vacation. She mentioned if residents are away they can
30 send letters that will be addressed at the Public Hearing. Attorney Cross
31 stressed that this is not fair to the applicant.

32
33 Ms. Corning said as a person in business you have a schedule and
34 construction is easier to do in the Spring and Summer. She stated that she
35 has a problem that Mr. Goldenberg would delay the opening of the Public
36 Hearing to accommodate a vacation schedule. Ms. Corning said we
37 should be friendlier to the businesses that serve the residents of Heritage
38 Hills and try to accommodate their schedule.

39

1 Acting Chair McNamara said because the applicant needs four votes to
 2 schedule a Public Hearing and Mr. Goldenberg is against scheduling it at
 3 this time the Public Hearing is tabled.

4
 5 **XENIA STEPHENS SUBDIVISION [TM: 28.07-1-1]**

6
 7 Acting Chairman McNamara announced that this is the application for
 8 Preliminary Subdivision Approval, Special Exception Use Permit for
 9 activities within a Groundwater Protection Overlay District for the
 10 establishment of 2 lots from one existing residential lot for construction of
 11 one single family dwelling. He said that each lot will be served by a single
 12 common driveway from Route 138. The Acting Chair mentioned that the
 13 property is located at the corner of Route 100 and Route 138 and is in the
 14 R-80 Zoning District.

15
 16 Acting Chairman McNamara asked the applicant’s representative to update
 17 the Board and the public on the project.

18
 19 Timothy Allen, the applicant’s engineer, said that the proposal is for one
 20 new house on a 15 acre property. He mentioned that the existing farm
 21 house and barn will stay.

22
 23 Engineer Allen mentioned the Director of Planning’s memo dated February
 24 1, 2017 in reference to the wetlands. The memo states that a wetland
 25 delineation was prepared by Tim Miller Associates in July of 2005 and April
 26 of 2006. He said that nothing has changed to alter the wetland and he
 27 asked that the Board waive the re-flagging of the wetland.

28
 29 Acting Chair McNamara asked if there will be any activity within 200 feet of
 30 the wetland.

31
 32 Engineer Allen said that he is outside the buffer area of 100 feet of the
 33 wetland.

34
 35 Director of Planning Dym stressed that Section 167-6A.(9) (a) of the Town
 36 Code specifies that the location of wetlands shall be identified no earlier
 37 than 12 months prior to the date of the filing of the application.

38 Consultant Town Engineer Barbagallo suggested a statement from Tim
 39 Miller Associates reaffirming the flagging.

40

1 Ms. Corning read the Code, *the location of all wetlands is determined by a*
 2 *qualified individual identified on the plan no earlier than 12 months prior to*
 3 *the date of filing the application.*

4
 5 Planning Board Town Attorney Eriole said that the qualified person who
 6 flagged the wetland has to be willing to note that on the plan.

7
 8 Director of Planning Dym said that there is no calculation shown for site
 9 distance at the driveway on Route 138 and this must be provided to make a
 10 determination regarding adequacy of the site distance along Route 138.

11
 12 Acting Chair McNamara said that the Board has to accept Lead Agency
 13 status.

14
 15 On motion by Ms. Corning, seconded by Ms. Gerbino, and unanimously
 16 carried, the Board moved to accept Lead Agency status since 30 days has
 17 passed.

18
 19 Acting Chair McNamara directed that a site walk for the Xenia Stephens
 20 Subdivision be scheduled for Saturday, February 25, 2017 at 9 A.M. at the
 21 site.

22
 23 Engineer Allen asked the Board to schedule a Public Hearing.

24
 25 On motion by Acting Chair McNamara, seconded by Ms. Gerbino,
 26 and unanimously carried, the Board moved to schedule a Public Hearing
 27 for the Xenia Stephens Subdivision for Wednesday, March 8, 2017 at 7:30
 28 at the Somers Town House.

29
 30
 31 **TAMARACK & VINE SUBDIVISION [TM: 16.07-1-1]**

32
 33 Acting Chairman McNamara noted that this is an application for Preliminary
 34 Subdivision Approval, Steep Slopes, Wetland and Tree Preservation
 35 Permits for property located at the end of Tamarack Road and Vine Road.
 36 He said that the proposal is for a four (4) lot Conservation Subdivision.
 37 Acting Chair McNamara explained that three lots would be accessed off a
 38 common driveway from Vine Road and one lot would be accessed off a
 39 driveway from Hickory Road with each lot having individual wells and septic
 40 systems. He mentioned that two conservation lots are also proposed.

1 Acting Chairman McNamara asked the applicant’s representative to update
2 the Board and the public on the project.

3
4 Jody Cross, the applicant’s attorney, explained that there are three main
5 issues that have to be determined. She mentioned a decision if there is a 4
6 lot Conventional, how the maintenance and conservation responsibilities
7 are handled and if the subdivision falls under the qualifications for a
8 Conservation Subdivision.

9
10 Attorney Cross noted that Planning Board Attorney Reilly asked that a
11 comparison between what was approved in 2000, 5 lot Conventional
12 Subdivision, and the 4 lot Conventional today. She noted that she was able
13 to remove the waiver for front line width on one lot and that demonstrates
14 that there is a 4 lot Conventional Subdivision.

15
16 On motion by Mr. Goldenberg, seconded by Ms. Corning, and unanimously
17 carried, the Board moved that it was demonstrated that there is a 4 lot
18 Conventional Subdivision.

19
20 Attorney Cross said that if the Board is uncomfortable with a Homeowners
21 Association (HOA) she proposed an alternative option that splits prior
22 Conservation parcel “A” and combines a portion with Lot 1 and a portion
23 with Lot 2. Attorney Cross said that the same total of 12.061 acres would
24 remain deed restricted and undeveloped. She noted that each homeowner
25 would be responsible for maintenance of the deed restricted area as well
26 as of the stormwater infrastructure existing on their own lot.

27
28 Ms. Corning asked who will be responsible for the drainage structures.

29
30 Attorney Cross stated that all four lot owners will be jointly responsible for
31 the drainage structures. She said that there will be Easement Agreements
32 with enforcement mechanisms.

33
34 Director of Planning Dym said that how the stormwater infrastructure is
35 maintained may be a problem getting homeowners to maintain them.

36
37 Attorney Cross said that cross references will be referenced in the deed to
38 let the owner know their responsibilities.

39

1 Planning Board Town Attorney Eriole said that most people prefer the non
2 HOA option.

3
4 Director of Planning Dym asked if there is a financial instrument such as a
5 Letter of Credit that can be set up so if a problem arises the Town can use
6 it to fix the problem.

7
8 Attorney Cross said that there is an escrow account option that will make
9 sure there is funding.

10
11 Town Consultant Engineer Barbagallo suggested a special assessment
12 which would be a Town Board action.

13
14 Attorney Cross noted that she has done estimates and the annual cost is
15 approximately \$3,000.

16
17 Planning Board Town Attorney Eriole said that the easiest way is to escrow
18 \$30,000 for a ten year maintenance cost.

19
20 Acting Chair McNamara suggested that the applicant share their options
21 with the Board before the March 8, 2017 Planning Board meeting.

22
23 Attorney Cross explained that the applicant will need an action from the
24 Board to waive the HOA.

25
26 Attorney Cross said that the applicant has to know if the Board wants the
27 common driveway which requires a Conservation Subdivision.

28
29 Mr. Goldenberg asked about the letter dated February 1, 2017 from
30 Stephen and Rosa Mancini voicing their concern. He noted that the
31 Mancini's would like a cul-de-sac as part of the plan.

32
33 Attorney Cross said that the issues have been addressed with the Bureau
34 of Fire Prevention and the Highway Department.

35
36 Acting Chair McNamara said that he wants the applicant to review the
37 hammerhead and determine if the common driveway will allow for large
38 vehicular traffic.

39
40 **DISIENA PRELIMINARY SUBDIVISION [TM: 27.08-2-1, 2.1]**

1
2 Acting Chairman McNamara noted that this is an application for Preliminary
3 Subdivision Approval, Stormwater Management and Erosion and Sediment
4 Control, Steep Slopes and Tree Preservation Permits. He mentioned that
5 the property is located at Primrose Street (Route 139) for the subdivision of
6 two existing lots into four new lots with two proposed conservation lots.

7
8 The Acting Chair acknowledged the Zoning Board of Appeals (ZBA)
9 Resolution BZ26.16 dated January 19, 2017 granting the variance for lot
10 size to allow consideration of a Conservation Subdivision.

11
12 Ms. Gerbino referred to the ZBA Resolution, *The Conservation Easement*
13 *will allow for the protection of the scenic and stream corridors. A third party*
14 *will monitor the easement.*

15
16 Timothy Allen, the applicant's engineer, said that someone will be vested to
17 look after the Conservation Easement to make sure it is being conserved.
18 He noted that even with the great easements someone has to be looking
19 out for them as it is only as good as it is, it is just a piece of paper.

20
21 Engineer Allen said with the recommendation of the Planning Board the
22 ZBA granted approval. He mentioned that the Board at the last meeting
23 had not made a determination on the Conventional Subdivision.

24
25 Consultant Town Engineer Barbagallo said that the only remaining item in
26 terms of the lot count is to clean up the stormwater by preparing a
27 conceptual stormwater narrative for the Conventional Subdivision
28 development.

29
30 Mr. Goldenberg said that Consultant Town Engineer Barbagallo's memo
31 dated February 3, 2017 has a lot of issues that are not addressed.

32
33 Consultant Town Engineer Barbagallo explained that the memo is broken
34 into two parts, the Conventional Subdivision and the Conservation
35 Subdivision.

36 Mr. Goldenberg said that he did not have time to review the memo as he
37 just received it on Monday and he suggested that the project be tabled until
38 the next meeting.

39

1 Planning Board Secretary Murphy explained that the memo was forwarded
2 by Consultant Town Engineer Barbagallo's office on Friday at
3 approximately 5 PM. She noted that the Planning office is closed on Friday
4 at 4:30 PM and that is why it was stamped in when the office opened on
5 Monday but the Planning Board received the memo on Friday at 5:06 P.M.
6 which is the cutoff date for consultants to send their reports.

7
8 Consultant Town Engineer Barbagallo referred to letter 1. A. under the
9 Conventional Subdivision, *The Applicant has provided a stormwater*
10 *engineering report in support of the Conventional Subdivision layout.*
11 *Based upon our review, the provided review is generally complete and*
12 *acceptable. The remaining comments should be addressed to*
13 *demonstrate conceptual stormwater management design for the*
14 *Conventional Subdivision.* He said that the revised Engineer's Report
15 states that the existing driveway culvert is intended to remain but does not
16 address whether it has adequate capacity of the 100 year storm flow.
17 Consultant Town Engineer Barbagallo stressed that this same issue will be
18 under the Conservation Subdivision and will have to be adequately
19 addressed.

20
21 Mr. Goldenberg asked what the applicant is looking for this evening.

22
23 Engineer Allen said that the Conventional Subdivision is a 4 Lot subdivision
24 and the Board has to decide if the applicant can proceed to a Conservation
25 Subdivision.

26
27 Mr. Goldenberg said that he is not prepared to vote on this application
28 because he received the memo late. He said that he was very upset with
29 the Open Space Committee's memo on this project.

30
31 Engineer Allen asked when Mr. Goldenberg received the Tamarack & Vine
32 memo which he just acted on. He said that the applicant is obligated to
33 make a timely submittal and the consultants have a cutoff date when the
34 memos are sent out. He said that Mr. Goldenberg is being very unfair to
35 the applicant.

36
37 Consultant Town Engineer Barbagallo confirmed that his memo was sent to
38 Mr. Goldenberg on Friday at 5:06 P.M.

39

1 Mr. DiSiena, the applicant, told Mr. Goldenberg if he felt this way he should
2 have told him at the beginning of the meeting and he wouldn't have wasted
3 his time and his consultant's time as he has to pay his engineer for this
4 evening.

5

6 There being no further business, on motion by Acting Chair McNamara,
7 seconded by Ms. Corning and unanimously carried, the meeting adjourned
8 at 10:40 P.M. The Chair announced that the next Planning Board meeting
9 will be held on Wednesday, March 8, 2017 at 7:30 P.M. at the Somers
10 Town House.

11

12

13

14

Respectfully submitted,

15

16

Marilyn Murphy

17

Planning Board Secretary

18

19