

Telephone 1
(914) 277-5366₂

FAX
(914) 277-4093

PLANNING DEPARTMENT

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

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
MARCH 8, 2017**

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:**

Chairman Currie, Ms. Gerbino,
Mr. Goldenberg, Mr. McNamara,
Ms. Gannon and Ms. Corning

11

12

13

14 **ABSENT:**

Mrs. DeLucia

15

16 **ALSO PRESENT:**

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

17

18

19

20

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

24

25 **APPROVAL OF DRAFT MINUTES AND DVD OF THE PLANNING**
26 **BOARD MEETINGS HELD ON DECEMBER 14, 2016 AND**
27 **JANUARY 11, 2017.**

28

29 Chairman Currie noted that Planning Board Secretary Marilyn Murphy
30 prepared and submitted for the Board's approval the draft minutes and
31 DVD of the Planning Board meetings held on December 14, 2016 and
32 January 11, 2017.

1 The Chair asked if there were any comments or corrections from the Board
2 on the draft minutes and DVD of the December 14, 2016 Planning Board
3 meeting and no one replied.

4
5 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
6 carried, the draft minutes and DVD of the December 14, 2016 Planning
7 Board meeting were approved.

8
9 The Chair asked if there were any comments or corrections from the Board
10 on the draft minutes and DVD of the January 11, 2017 Planning Board
11 meeting.

12
13 Mr. McNamara referred to Page 3 Line 14, he said that a 30' preexisting
14 well is a problem *if being considered a water source by residents*.

15
16 On motion by Chair Currie, seconded by Ms. Gannon, and unanimously
17 carried, the draft minutes and DVD of the January 11, 2017 Planning Board
18 meeting were approved as amended.

19
20 Chairman Currie stated that the text of the approved minutes is available
21 on the Town's website www.somersny.com and is also available for public
22 review at the Planning & Engineering office at the Town House. The
23 approved DVD's are available for public viewing at the Somers Public
24 Library.

25
26 **TIME EXTENSION**

27
28 **MERRITT PARK ESTATES AMENDED FINAL SUBDIVISION**
29 **[TM: 5.20-1-1]**

30
31 Chairman Currie said that this is a request for a 90-day time extension for
32 Amended Final Subdivision Plat Approval from March 6, 2017 up to and
33 including June 5, 2017 under Town Law Section 276 (7) (c). He mentioned
34 that this is the sixth request for a time extension.

35
36 Chair Currie acknowledged a memo from the Director of Planning
37 dated March 3, 2017 indicating Steve Woelfle, Principal Engineering
38 Technician, noted that the infrastructure is complete and minimal work
39 continues while the first house is marketed.

40

1 Chair Currie asked if any Board member had a problem with the time
2 extension and no one responded.

3
4 On motion by Chair Currie, seconded by Mr. McNamara, and unanimously
5 carried, the Board moved to approve a sixth 90-day time extension for
6 Amended Final Plat Approval from March 6, 2017 up to and including June
7 5, 2017 pursuant to Town Law Section 276 (7) (c).

8
9 **PUBLIC HEARING**

10
11 **XENIA STEPHENS SUBDIVISION [TM: 28.07-1-1]**

12
13 Chairman Currie said that this is the application for Preliminary Subdivision
14 Approval, Special Exception Use Permit for activities within a Groundwater
15 Protection Overlay District for the establishment of 2 lots from one existing
16 lot for construction of one single family dwelling. He noted that each lot will
17 be served by a single common driveway from Route 138. Chair Currie said
18 that the property is located at the corner of Route 100 and Route 138 and
19 is in the R-80 Zoning District.

20
21 The Chair asked the applicant's representative to explain the project for the
22 benefit of the Board and the Public.

23
24 Timothy Allen, the applicant's engineer, noted that the property is located at
25 Route 138 and Route 100. He mentioned that there is an existing
26 farmhouse. Engineer Allen said that the proposal is for one new lot in the
27 back of the property. He noted that the lot is in the R-80 Zoning District.

28
29 Engineer Allen mentioned that there was a site walk of the property where
30 a driveway revision was discussed. He explained that at the last meeting
31 there was discussion on the wetland. Engineer Allen said that the wetland
32 consultant will visit the site tomorrow and will provide a wetland
33 confirmation that the wetland has not changed over the years. He noted
34 that a previous Town Engineer requested a Phase I on the property.
35 Engineer Allen said that at the time he met with Mickey Oliver, the Town
36 Historian, and reviewed the history surrounding the project. He said that
37 the outcome of the review was that a Phase I was not required. Engineer
38 Allen explained that the history of the project showed that there was part of
39 a 9 hole golf course on the property with a restaurant. He said that part of
40 the Stevens property was sold to IBM.

1 Engineer Allen commented that he received comments from the Consultant
2 Town Engineer and the Director of Planning and he has a little work to do.
3 Chairman Currie asked the Director of Planning to review her comments for
4 the benefit of the Board and the public.

5
6 Director of Planning Dym said that she has no new comments but she
7 noted that the Board has to accept lead agency status.

8
9 Chairman Currie asked the Consultant Town Engineer to review his memo
10 for the benefit of the Board and the public.

11
12 Consultant Town Engineer Barbagallo said that there are some technical
13 comments but they are not significant enough to prevent the opening of the
14 Public Hearing.

15
16 The Chair opened the Public Hearing and asked the Planning Board
17 Secretary if the legal notice was published and the adjoining property
18 owners notified.

19
20 Planning Board Secretary Murphy said that the legal notice was published
21 in the Somers Record on February 23, 2017 and the adjoining property
22 owners were notified via mail on February 24, 2017. She noted that the
23 sign stating the date and location of the Public Hearing was posted on the
24 site on February 24, 2017.

25
26 The Chair asked if anyone from the public would like to be heard on this
27 matter and no one responded. He asked the Board if they want to close
28 the Public Hearing as no one from the public wishes to be heard on the
29 application.

30
31 On motion by Mr. McNamara, seconded by Ms. Corning and unanimously
32 carried, the Board moved to close the Public Hearing on the Xenia
33 Stephens Subdivision.

34
35 Chairman Currie asked the Consultant Town Engineer to address the
36 flagging of the wetland.

37
38 Consultant Town Engineer Barbagallo said that at the last meeting it was
39 determined that a wetland expert would look at the wetland and make a
40 determination and add a note to the plan.

1 Engineer Allen said that the original wetland expert would look at the
2 wetland and make a determination that the wetland has not changed and
3 will provide a letter to the Board that the wetland has not changed.
4 He commented that no conservation area is being proposed.

5
6 Ms. Gerbino said that Charles Steven's father planted trees over a hundred
7 years ago and it is so beautiful it is like being in France. She commented
8 that the driveway is just gorgeous.

9
10 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
11 carried, the Board moved to accept Lead Agency status for the Xenia
12 Stephens Subdivision.

13

14 **CONTINUATION OF PUBLIC HEARING**

15

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

17

18 Chairman Currie said that this is a continuation of the Public Hearing for the
19 application for Preliminary Subdivision, Wetland, Steep Slopes, Tree
20 Preservation and Stormwater Management and Erosion and Sediment
21 Control Permits for property located on Driftwood Drive and is part of the
22 Greenbriar development for the construction of one residential house for
23 the re-subdivision of Section 6, Lots 77 and 78.

24

25 Chairman Currie said that at the applicant's request Greenbriar will not be
26 on the agenda this evening.

27

28 Chair Currie asked if anyone from the public would like to speak or would
29 they rather wait until the continuation of the Public Hearing on April 12,
30 2017 and no one replied.

31

32 On motion by Mr. McNamara, seconded by Mr. Goldenberg, and
33 unanimously carried, the Board agreed that as no one from the public
34 wished to speak he moved that the Public Hearing be continued at the April
35 12, 2017 Planning Board meeting.

36

37 *Mr. Goldenberg recused himself and did not participate in the next agenda*
38 *item.*

39

40

1 **DECISION**

2

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

4

5 Chairman Currie noted that this is the application for a Site Plan for
 6 property located on the southwest side of the Somers Pointe Clubhouse at
 7 100 West Hill Drive for the construction of a swimming pool and cabana
 8 building and two tennis courts with associated parking to provide additional
 9 recreation activities. He said that the Board will be considering a draft
 10 Resolution.

11

12 Director of Planning Dym said that the Board has to consider Part 2 of the
 13 Environmental Assessment Form (EAF) and make a determination of
 14 significance to issue a Negative Declaration pursuant to Part 617 of Article
 15 8 SEQRA. She reviewed the EAF with the Board and where there is a
 16 potential for impact on land, impact on plants and animals, impact on
 17 transportation, energy, noise, odor and light were identified as having no
 18 significant impacts. She said that under impacts on plants and animals
 19 there was correspondence on the Long Eared Bats where there was no
 20 habitat on the site so there is no adverse impact. She mentioned under
 21 Historic and Archeological Resources there was a letter from the New York
 22 State Museum and the NYS Parks, Recreation and Historic Preservation
 23 that there is no significant impact. Director of Planning Dym said that under
 24 impact on Transportation there has been discussion on construction routes
 25 that have been developed to mitigate any impacts. She mentioned that
 26 membership will first be offered to Heritage Hills residents. She said that a
 27 truck pull-off lane has been provided. Director of Planning Dym said that
 28 the Planning Board can make the determination that there is no significant
 29 adverse impact and issue a Negative Declaration.

30

31 On motion by Chairman Currie, seconded by Ms. Gerbino, and carried (Mr.
 32 Goldenberg abstaining) the Board moved to issue a Negative Declaration
 33 pursuant to Part 617 of Article 8 SEQRA due to the fact that any impacts of
 34 the proposed action are deemed to have been mitigated to the maximum
 35 extent practicable and will not have a significant adverse impact on the
 36 environment.

37

38 Consultant Town Engineer Barbagallo said that the technical items have
 39 been addressed but the connection to the Heritage Hills Stormwater
 40 System in the road has to do more on site to minimize the flows going

1 through the pipe. He said that there has to be more attenuation on site to
2 minimize the rate going into the pipe that goes down the hill.

3
4 Ms. Gerbino said that Consultant Town Engineer Barbagallo made a
5 comment at the last meeting in regard to the construction activity being
6 limited from 8 A.M. to 6 P.M.

7
8 Consultant Town Engineer Barbagallo said that construction activity, with
9 the exception of rock removal, shall be limited from 8 A.M to 6 P.M.
10 Monday through Saturday. Rock removal shall be limited to Monday
11 through Friday 8A.M to 6 P.M.

12
13 On motion by Chair Currie, seconded by Ms. Gannon and unanimously
14 carried, the Board moved to grant Conditional Site Plan Approval, Steep
15 Slopes Protection, Tree Preservation and Stormwater Management and
16 Erosion and Sediment Control Permits to Somers Pointe Country Club
17 pursuant to Section 170-114 and Chapter 144 of the Code of the Town of
18 Somers and Resolution 2017-05, as amended.

19
20 *At this time Mr. Goldenberg returned to the meeting.*

21
22 **PROJECT REVIEW**

23
24 **DISIENA PRELIMINARY CONSERVAION SUBDIVISION**
25 **[TM: 27.08-2-1, 2.1]**

26
27 Chairman Currie said that this is an application for Preliminary
28 Conservation Subdivision Approval, Stormwater Management and Erosion
29 and Sediment Control, Steep Slopes and Tree Preservation Permits for
30 property located at Primrose Street (Route 139) for the subdivision of two
31 existing lots into four new lots with proposed conservation lots.

32
33 The Chair asked the applicant's representative to update the Board on the
34 application.

35
36 Timothy Allen, the applicant's engineer, said that this is a two-phase project
37 with one being the Conventional Subdivision having a Town Road and the
38 Conservation Subdivision servicing three new lots and an existing lot which
39 will still access off of Primrose Street. Engineer Allen said that he is

1 looking for the Board to ratify the Conventional Subdivision and therefore
2 go to the Conservation Subdivision.

3
4 Engineer Allen said that he received memos from the Consultant Town
5 Engineer and the Director of Planning and they are recommending moving
6 past the Conventional to the Conservation Subdivision.

7
8 Engineer Allen asked the Board to schedule a Public Hearing for the
9 DiSiena Subdivision.

10
11 Chairman Currie acknowledged that the Zoning Board of Appeals (ZBA)
12 allowed consideration of a Conservation Subdivision for property less than
13 the required 12 acre minimum.

14
15 On motion by Chairman Currie, seconded by Ms. Corning, and
16 unanimously carried the Board moved to accept Lead Agency status for the
17 DiSiena Subdivision.

18
19 On motion by Mr. McNamara, seconded by Ms. Corning, and unanimously
20 carried, the Board moved to accept that the four lot Conventional
21 Subdivision meets the requirements of Section 150 of the Town Code.

22
23 Engineer Allen explained that with a cul-de-sac situation 200 feet is
24 required in a particular zone but is allowed to be reduced to 1/3 at the front
25 line setback.

26
27 On motion by Ms. Corning, seconded by Mr. McNamara, and unanimously
28 carried, the Board moved to allow the reduced width at the front lot line
29 since the full minimum width requirement of 200 feet is met at the front yard
30 setback pursuant to the Zoning Schedule Part 1, Note 1.

31
32 On motion by Chairman Currie, seconded by Mr. McNamara, and
33 unanimously carried, the Board moved to schedule a Public Hearing for the
34 DiSiena Preliminary Subdivision for April 12, 2017 at the Somers Town
35 House at 7:30 P.M.

36
37 **TOWNE CENTRE AT SOMERS [TM: 17.15-1-13]**

38
39 Chairman Currie said that this is an application for Site Plan Approval,
40 Stormwater Management and Erosion and Sediment Control Permit and

1 Special Exception Use Permit within the Groundwater Protection Overlay
 2 District for improvements to the Towne Centre at Somers to the area
 3 between the existing shopping center buildings “A” and “B” including re-
 4 orientation of parking, net addition of 7 parking spaces, addition of a
 5 median strip and related site improvements. He mentioned that
 6 identification of two vehicular connections to the adjacent property will be
 7 built by others which removes two parking spaces. Chair Currie said that
 8 the property is located in the Neighborhood Shopping District (NS) and the
 9 Groundwater Protection Overlay District.

10
 11 The Chair asked the applicant’s representative to update the Board on the
 12 application.

13
 14 Robert Aiello, the applicant’s engineer, said that the application has two
 15 components’ one is to provide additional parking more convenient to the
 16 shopping area and the other is to beautify the area by including pavers and
 17 new building façade. He mentioned that the second part of the application
 18 is to coordinate the applicant’s Site Plan with the Somers Crossing Site
 19 Plan.

20
 21 Engineer Aiello noted that at the last meeting the Board declared its intent
 22 to be Lead Agency. He mentioned that he received comments from the
 23 Department of Environmental Protection (DEP). Engineer Aiello asked the
 24 Board to make a referral to the Open Space Committee for the Special
 25 Use Permit for the Groundwater Protection Overlay District.

26
 27 Engineer Aiello said that he submitted revised plans that addressed some
 28 of the Planner’s comments and will work through the comments from the
 29 Consultant Town Engineer.

30
 31 Engineer Aiello said there was discussion about the salt shed on the
 32 southern portion of the property. He commented that there was a meeting
 33 with the Building Inspector and it was agreed that the shed will be removed
 34 by April 15, 2017. He explained that Urstadt Biddle, owner of the Towne
 35 Centre, will not be seeking to amend his Site Plan approval to include a
 36 sand and salt storage facility at that location.

37
 38 Andrew Albrecht, Urstadt Biddle properties, said that he will need to park
 39 loaders and plows there next winter to be used at the property.

40

1 Mr. McNamara said that he wants to see adequate screening on the
2 property between the parking of the plows and the residential
3 neighborhood. He said that when there is a commercial property that is
4 abutting or adjoining residential property it is the responsibility of the
5 commercial property owner to screen it.

6
7 Mr. Albrecht said that he worked out a location for the stockpiling of the salt
8 with representatives of the Town that includes screening.

9
10 Ms. Gerbino asked if the stockpiling area will be taking up parking spots.
11 She asked if the applicant is cleaning up a violation.

12
13 Mr. Albrecht said that there is no violation on the property. He noted that
14 the concern was raised at meetings and he is working with the Town to
15 resolve the issue.

16
17 Director of Planning Dym said that the Building Inspector and the Principal
18 Engineering Technician met with the applicant and his staff to resolve the
19 problem. She mentioned that she was hoping to see an enclosed area with
20 landscaping at a different location. Director of Planning Dym said that the
21 applicant is now saying that vehicles will be put in the same location during
22 the winter months. She indicated that the Board is not in a position to
23 agree to this until it is confirmed by the Building Inspector.

24
25 Mr. McNamara said that he wants to see the temporary parking and
26 equipment location on the plan.

27
28 Mr. Albrecht said that he is not talking about locating the equipment at the
29 current location. He explained that the location that was selected for the
30 storage shed will be the location for the equipment. He said that he can put
31 up a stockade fence and evergreens for screening.

32
33 Engineer Aiello said that he will show the equipment location with the
34 screening in the next plan. He mentioned that the equipment location will
35 use 3 parking spaces but reminded the Board that he is adding 7 parking
36 spaces. He pointed out to the Board the location where the vehicles will be
37 parked which is behind the Post Office parking and the tower.

38
39 Mr. Albrecht said that the equipment could be put on the grass and then the
40 parking spaces could be utilized.

1 Mr. McNamara asked if you put the equipment on the grass will there be
2 enough room for screening between that and the property line. He said
3 that whatever is parked at that location should not be visible from the
4 residential area.

5

6 Mr. Albrecht said that there will be room for the screening.

7

8 Mr. Goldenberg said that the Board received a letter from Cynthia Garcia of
9 the Department of Environmental Protection (DEP) dated March 2, 2017
10 that says, *Please note soil testing has been witnessed by the DEP. The soil*
11 *boring results indicate that the soil is not suitable for infiltration in one of the*
12 *locations where porous pavement is proposed.*

13

14 Engineer Aiello said that he has been working with the DEP and he
15 developed another way to meet the requirements. He said that it is not
16 uncommon to try one attempt and find that soil conditions are not suitable
17 for that particular practice and then go back and try a different idea. He
18 noted that the area in the center of the property that is the main component
19 where the porous pavement was proposed is experiencing a decrease in
20 impervious area. Engineer Aiello said that the reason he was considering
21 porous pavement in this location was because if you are in a main street
22 area with the DEP any new impervious area that doesn't currently exists
23 requires a standard practice and porous pavement is one of them. He said
24 that the tree areas are now currently pervious and the proposal is for new
25 pervious areas that currently do not exist. Engineer Aiello said that
26 because of the unsuitable soil conditions he chose to do the test with a drill
27 rig and typically you would do the test with a backhoe but he did not want to
28 tear open four holes seven feet deep in the middle of a busy area. He
29 mentioned that when you do the test pits with a backhoe you have the
30 ability to see if the rock you hit is really bedrock or is it a boulder. He
31 stressed that you can't see this if you are drilling a two inch hole in the
32 ground. Engineer Aiello said that when he resubmits to the Board he will
33 recreate planters in these areas because there is a 14 foot sidewalk. He
34 explained that if you put trees with a canopy that cover the area that you
35 are creating impervious surfaces you get the credit for your stormwater
36 calculations.

37

38 Mr. Goldenberg said at the last meeting he didn't want to schedule a Public
39 Hearing on the application because the public was not here to respond but

1 they will be here in April. He asked the Board to schedule a Public
2 Hearing.

3
4 Consultant Town Engineer Barbagallo said that with stormwater he is
5 looking at a global picture. He noted that it is not uncommon to receive
6 comments from the Department of Protection (DEP). He mentioned that he
7 is comfortable with the plan.

8
9 Engineer Aiello indicated that he updated the drawings to show the
10 connection to the supermarket based on input from the Consultant Town
11 Engineer. He said that a sidewalk has been added with connectivity to
12 CVS. Engineer Aiello said that there will be a modification to the alignment
13 by modifying the driveway to provide a four way intersection.

14
15 Engineer Aiello said that originally he thought about closing the driveway
16 but he has agreed to keep the driveway open. He stressed that the owner
17 of the Towne Centre has a concern that his driveway would be the way
18 trucks enter into the supermarket property. Engineer Aiello said that he
19 included a note that it will remain at Urstadt Biddle discretion in case there
20 becomes operational issues that impact their Site Plan.

21
22 Chairman Currie and Mr. McNamara said that they have a problem with
23 that statement and there has to be a meeting with the Attorney's.

24
25 Director of Planning Dym explained as a result of the note that says
26 *driveway to remain in operation at the sole discretion of Urstadt Biddle*
27 *properties or its successor* was not on the two previous iterations of the
28 plan. She said this is a grave concern to her. Director of Planning Dym
29 said that she spoke to Town Attorney Baroni and suggested that he discuss
30 this with Mr. Boniello's Attorney. She noted that this discussion has taken
31 place and there is an existing easement agreement that Mr. Boniello was
32 relying on for the three access driveways. She said that there is discussion
33 on changing the easements. Director of Planning Dym stressed that this
34 issue is not resolved and the Board has to decide if it is appropriate to set a
35 Public Hearing.

36
37 David Steinmetz, the applicant's attorney, said that the note has had the
38 impact the applicant hoped for. He mentioned that he wants the Board to
39 understand a safety and circulation issue that Urstadt Biddle is concerned
40 about. He noted that originally there was supposed to be three

1 interconnections with the primary truck access to the grocery store not from
2 the Urstadt Biddle's property but from the adjacent property. Attorney
3 Steinmetz said that Mr. Biddle agreed that the primary truck access would
4 not be through his property. He said that small trucks, bread trucks, might
5 come through the Towne Centre but not a large delivery truck. Attorney
6 Steinmetz said that the initial easement was amended in November 2016.
7 He explained that at the time of the amendment the owner of Somers
8 Crossing said that they shall develop Parcel 3 and not otherwise in such a
9 manner that is reasonably likely to cause trucks serving Parcel 3 to
10 transverse Parcel 1 or 2 or turn on Parcel 1 or 2 in order to back into
11 loading spaces on Parcel 3. Attorney Steinmetz said regardless of what
12 the Board was told the easement amendment said that the Biddle property
13 was not to be used as primary access and not supposed to promote truck
14 access through the property. He said that when the applicant's engineer
15 reviewed the plan and saw the orientation of the proposed DeCicco
16 Supermarket it looked like trucks were supposed to be going in that way.
17 Attorney Steinmetz said that the next revision of the easement
18 finds Mr. Boniello and Mr. Biddle in another round of discussions to clear
19 up issues. He noted that Mr. Boniello and Mr. Biddle are trying to rectify
20 the truck situation and the lack of parity and the lack of cross easements.
21 Attorney Steinmetz said he is confident that can be done. He said that if
22 the Board thinks primary truck easement to the neighbor's property needs
23 to go over the Towne Centre property he needs to understand that. He
24 said that the applicant's engineer and traffic engineer both say no as they
25 don't want large delivery trucks servicing DeCicco's to be crossing the
26 Towne Centre property. He stated that if there is data that establishes that,
27 the data should be provided.

28 .

29 Chairman Currie said that Mr. Boniello's traffic engineer made that
30 recommendation.

31

32 Attorney Steinmetz was surprised that Mr. Boniello did not share this
33 information with the Board. He said that the easement amendment was
34 provided to the Board. He said that this has to be rectified but he does not
35 see a reason not to schedule the Public Hearing.

36

37 Consultant Town Engineer Barbagallo said his recollection is that
38 the entrance was not for 18 wheeler vehicles but was for small trucks.

39

1 Chairman Currie said he thought the Town's traffic engineer felt that at the
2 new entrance it would be difficult to go to the loading docks.

3
4 Mr. McNamara said that he does not want 18 wheeler trucks turning around
5 inside the shopping center.

6
7 Engineer Aiello said that he spoke to Mr. Boniello and the intention was
8 that the larger trucks would be coming in off hours and would not be using
9 the Towne Centre property. He said that the concern is if it is not the small
10 trucks will they have an impact on the Towne Centre property.

11
12 Mr. Goldenberg said if Mr. Biddle doesn't want trucks going through his
13 property that should be enough from happening unless there is an
14 agreement.

15
16 Attorney Steinmetz stressed that the reason that note was put on the plan
17 was that the Board may not realize that the applicant's property should not
18 be promoting truck access for the neighbor. He said that he wants to make
19 sure that the connection is limited to the appropriate type of vehicles using
20 the applicant's property to service the adjacent neighbor's property.

21
22 Mr. McNamara said that the Board has the responsibility to look at not only
23 the boundaries of a particular application but how it fits in the
24 neighborhood.

25
26 Chairman Currie asked if the applicant will have a problem with small
27 delivery trucks going through the Towne Centre property.

28
29 Urstadt Biddle, applicant, said he is trying to be a good neighbor. He said
30 he is willing to keep it open but if there is a problem he will have to do
31 something about it. He said he spoke to Mr. Boniello and he was assured
32 that 18 wheeler trucks will not use his access but will come in where the
33 light is and back in. He stated that he has a signed recorded easement
34 and he has the right to stop the use in the future if it does not work for him.

35
36 Director of Planning Dym said that the Towns Attorney and the applicant's
37 attorney have to work out the easements.

38
39 Attorney Steinmetz agreed that the attorney should work out the problem
40 but the note on the plan shows the interrelationship of the two properties.

1 He said he still wants to clarify the interrelationship between the two
2 properties.

3
4 Planning Board Town Attorney Eriole said that this should be a private
5 conservation between the two owners and the Board cannot force the
6 applicant to come to any conclusion. He opined that the Board can
7 schedule the Public Hearing and can keep it open until this issue is settled
8 to the Board's satisfaction. He noted that the Board will look at the plan
9 and decide if it is acceptable from a planning perspective.

10
11 Attorney Steinmetz said he is confident that the issues will be settled and
12 asked if the Public Hearing can be scheduled.

13
14 Planning Director Dym said that Mr. Biddle at the last meeting did not want
15 to set up escrow for Brian Dempsey, the Towns traffic engineer. She noted
16 that the Board needs his opinion and she will need Mr. Biddle's approval to
17 establish the escrow account.

18
19 Mr. Biddle said that the additions to his plan is to accommodate Mr.
20 Boniello because he is connecting to his property. He said now the Board
21 wants him to hire a traffic consultant to review Mr. Boniello's access points
22 to his property and he does not find that reasonable.

23
24 Attorney Steinmetz said that if the traffic engineer is billing Mr. Biddle just
25 for an analysis for curbing associated with the four corners of his property
26 that is acceptable.

27
28 Consultant Town Engineer Barbagallo asked when the easement was
29 signed.

30
31 Attorney Steinmetz stated that the amended easement was signed in
32 November 2016.

33
34 Planning Board Town Attorney Eriole said that the easement is not about
35 the Board's interest that is the applicant's problem. He mentioned that the
36 way it impacts the Board is if it modifies the plan and the traffic movement.

37
38 Attorney Steinmetz stressed that the note cannot modify the easement.

39

1 Mr. Goldenberg said that there are a lot of projects in the same area and no
 2 one is doing a global traffic report in that downtown area. He suggested
 3 one traffic study be done for all the new projects in the downtown area to
 4 be paid by all the participants.

5
 6 Director of Planning Dym said that this project is not creating any new
 7 traffic because they are not adding any square footage, they are just
 8 reconfiguring their interior circulation. She explained that the EIS for the
 9 Somers Crossing project did take into account not only their traffic but the
 10 growth factor on Route 202 and Route 100 was in the study. She said that
 11 there was an overall look at traffic in the two corridors.

12
 13 On motion by Chair Currie, seconded by Mr. McNamara and unanimously
 14 carried, the Board moved to refer the application to the Open Space
 15 Committee.

16
 17 On motion by Ms. Gerbino, seconded by Ms. Gannon, and unanimously
 18 carried, the Board moved to schedule the Public Hearing for the Towne
 19 Centre at Somers for April 12, 2017 at 7:30 P.M. at the Somers Town
 20 House.

21
 22 **TAMARACK AND VINE SUBDIVISION [TM: 16.07-1-1]**

23
 24 Chair Currie noted that this is an application for Preliminary Subdivision
 25 Approval, Stormwater Management and Erosion and Sediment Control,
 26 Steep Slopes and Tree Preservation Permits for property located at the end
 27 of Tamarack & Vine Roads. He noted that the project is for a four-lot
 28 Conservation Subdivision. Chair Currie mentioned that three lots would be
 29 accessed off a common driveway from Vine Road and one lot would be
 30 accessed off a driveway from Hickory Road. He said that each lot will have
 31 individual wells and septic systems.

32
 33 Chairman Currie acknowledged memos from the Town Consultant
 34 Engineer dated March 3, 2017 and the Director of Planning dated March 3,
 35 2017.

36
 37 The Chair asked the applicant's representative to update the Board on the
 38 application.

39

1 David Steinmetz, the applicant's attorney, noted that there are three main
2 issues, one is the lot count based on the Conventional layout, second is the
3 maintenance and conservation responsibilities associated with the four-lot
4 subdivision, and third is whether the Board should authorize a
5 Conservation Subdivision under the Town Code.

6
7 Attorney Steinmetz felt that the lot count was addressed based on the last
8 meeting and the Director of Planning's memo. He said that in terms of the
9 maintenance and conservation responsibilities, there were a number of
10 concerns regarding a Homeowners Association (HOA). He mentioned that
11 a concern was a lack of personal responsibility for lot owners. Attorney
12 Steinmetz said that the applicant does not want the Homeowners
13 Association as this is a simple four-lot subdivision and he is confident that
14 working with the Board and staff the lots can adequately be encumbered
15 and obligate them to the appropriate restrictions. He said that he is
16 prepared to record an easement and maintenance agreement for the four-
17 lot owners.

18
19 Attorney Steinmetz said that the Conservation parcel for Lot "A" was
20 combined onto Lots 1 and 2. He noted that Conservation parcel "B" was
21 combined onto Lot 4. He stated that he is prepared to deed restrict the
22 open space areas in the same fashion. He explained that you will end up
23 with two recorded instruments. One is a Declaration of Restrictions and
24 Covenants associated with the open space and a Declaration for the
25 maintenance of the stormwater basins and any stormwater treatment.
26 He explained that this will insure that all the lot owners are on notice and
27 each lot owner will pay ¼ of the maintenance. Attorney Steinmetz noted
28 that there will be annual reports to the Town.

29
30 Attorney Steinmetz explained that in order for the applicant to pursue a
31 Conservation Subdivision the Board will have to vote to allow the
32 adjustment of the Subdivision Regulations pursuant to Section 150.7 and
33 make a finding that there are special circumstances and extraordinary
34 hardships.

35
36 Attorney Steinmetz said that the Director of Planning and the Town
37 Attorney seem to favor no Homeowners Association. He said that he
38 needs confirmation from the Board to pursue the Conservation Subdivision.
39 He mentioned that there will be a common driveway easement for the three
40 lots.

1 Attorney Steinmetz said by going with a Conservation Subdivision instead
 2 of the Conventional Subdivision the cul-de-sac and road are eliminated and
 3 impervious coverage by 6,000 square feet is reduced.

4
 5 Attorney Steinmetz said that widths at the front lot line on Lots 2 and 3 of
 6 the Conservation Subdivision are permitted by Section 170-13.3D.(1).note
 7 3 He said that open space can be preserved and environmental sensitive
 8 features such as Steep Slopes, Wetlands, and Tree Preservation by deed
 9 restrictions that would prohibit any disturbances to these areas.

10
 11 Attorney Steinmetz asked the Board to allow the applicant to pursue a
 12 Conservation Subdivision and avoid the HOA, file the necessary
 13 restrictions and reduce the frontage requirements in order to have a
 14 common driveway on Lots 2 and 3. He also asked the Board to adopt the
 15 Negative Declaration pursuant to SEQRA. He stated if this is agreeable to
 16 the Board staff can be directed to prepare the resolutions for the next
 17 meeting.

18
 19 Chairman Currie asked the applicant for an extension to the timeframe for
 20 Subdivision Approval since the Public Hearing was closed more than 60-61
 21 days ago.

22
 23 Attorney Steinmetz said that the applicant has no problem with granting the
 24 extension to the timeframe of the closing of the Public Hearing.

25
 26 Consultant Town Engineer Barbagallo mentioned that he reviewed the
 27 request by the Somers Bureau of Fire Prevention related to the
 28 establishment of a 20 foot width for the common driveway created from
 29 Vine Road. He said that Engineer Wasp from his office spoke to the
 30 Building Inspector and he is okay with the pavement being 16' and the 4'
 31 shoulder for a total of 20' Consultant Town Engineer Barbagallo said that
 32 he will confirm this with the Building Inspector.

33
 34 Richard Zapp, the applicant's engineer, noted that the existing road is 18'
 35 wide and he will add an additional 2 feet to the existing road.

36
 37 Consultant Town Engineer Barbagallo said that the Board should review
 38 the Landscape Plan. He suggested that trees be installed staggered in two
 39 rows where the specified 20 foot spacing between trees is provided on-
 40 center. He said that the Planning Board may wish to consider if the current

1 proposed planting plan is sufficient or if additional tree plantings should be
2 incorporated. Consultant Town Engineer Barbagallo said that if the Board
3 agrees with him it will have to be part of the legal documents.

4
5 Consultant Town Engineer Barbagallo said that the proposed project
6 results in a significant disturbance of steep slope areas and he is
7 recommending a performance bond to ensure that the proposed
8 infrastructure is installed and permanently stabilized in accordance with the
9 drawings.

10
11 Ms. Corning said that the work on the steep slopes is Phase I and no
12 homes will be built until that work is complete.

13
14 Consultant Town Engineer Barbagallo confirmed that no homes will be built
15 until the work on the steep slopes is complete.

16
17 Director of Planning Dym said that the Board has to decide if there is
18 justification for granting a Conservation Subdivision and if the Board agrees
19 the criteria is met.

20
21 Mr. McNamara said that he does not have a problem with the six points as
22 they accomplish the purposes of the Conservation Subdivision.

23
24 Ms. Corning indicated that she is having a difficult time separating her
25 opinion from the enforcement of the Code. She said that she agrees that
26 this addresses the points but much of this would be appropriate regardless
27 if this was a Conventional or Conservation Subdivision.

28
29 Chairman Currie opined that the perfect solution would be three lots.

30
31 Ms. Gerbino said that the Board is dealing with what is left in Town to build
32 on. She noted that this is a very difficult piece of property and borders a
33 neighborhood that was built with a different design.

34
35 Ms. Gannon noted that just the geometry of the property and there is no
36 sense of flow or an interior greenway and all the things she wants to see in
37 a Conservation parcel, she is not seeing. She said that the rules do apply
38 with this subdivision so that is the end of the discussion.

39

1 Attorney Steinmetz said if the Board has the opportunity to save 6,000
 2 square feet of impermeable surface area that promotes the goals and
 3 directives of the Zoning Ordinance, Subdivision Regulations and the Town
 4 Comprehensive Plan, he asked the Board to direct the applicant to proceed
 5 with the Conservation Plan. He reminded the Board that zoning is in
 6 delegation of common law property rights. He stressed that there are four
 7 conventional lots and there is an entitlement here.

8
 9 Director of Planning Dym said that the Board has to vote on the creation of
 10 the Tamarack and Vine Conservation Subdivision because it accomplished
 11 the purposes of Section 170-13.1 of the Town Code due to the reduction in
 12 impervious surfaces and in perpetuity it conserves open space,
 13 preservation of 9.531 acres of steep slopes, regulated wetlands and
 14 significant trees. She said that the deed restriction will prohibit any tree
 15 removal and the preservation of aesthetic resources by prohibiting any
 16 disturbance of 4.368 contiguous acres and 5.163 contiguous acres.

17
 18 On motion by Chair Currie, seconded by Ms. Gerbino and unanimously
 19 carried, the Board moved to allow the Tamarack and Vine Subdivision to be
 20 a Conservation Subdivision determined by the conditions that were
 21 mentioned by the Director of Planning and Section 170-13.1 of the Town
 22 Code.

23
 24 On motion by Chairman Currie, seconded by Ms Gannon, and unanimously
 25 carried, the Board moved to grant reductions in the width at the front lot line
 26 for Lots 2 and 3 of the Conservation Subdivision, as permitted by Section
 27 170-13.3D. (1) note 3 and the reduction for Lot 2 is 74.69 feet from the
 28 required width of 100 feet as per Section 170-13.3D (1) for lots in the R-40
 29 Zoning District and 24.7 feet for Lot 3.

30
 31 Attorney Steinmetz said that Town Attorney Baroni wants a restrictive
 32 covenant. He said that he can record a separate free standing declaration
 33 of restrictions and covenants. He opined that by putting the restrictions on
 34 the face of the deed there may be lawyers thirty years from now that may
 35 not go back and read the face of the deed. He commented that the lawyer
 36 gets a Title Report, Schedule B, and if there is a Declaration of Covenants
 37 it jumps off the page. He said as a lawyer it is very hard to miss that but
 38 you may miss the deed restriction on the face of the deed. He stated that
 39 he will do whatever the Board prefers but his professional opinion is that he
 40 prepare a free standing declaration because all the issues are in there.

1 On motion by Chairman Currie, seconded by Mr. Goldenberg, and
2 unanimously carried, the Board moved to eliminate the Homeowners
3 Association (HOA) and place restricted areas within each individual lot.
4

5 Mr. Gyory, applicant, asked if the common driveway is separate or is it part
6 of the same document.

7
8 Attorney Steinmetz opined that it should be separate.

9
10 Consultant Town Engineer Barbagallo stated that it is important that what
11 has to be maintained is maintained.
12

13 Chairman Currie and the Board reviewed the Negative Declaration (Neg
14 Dec) Part 2 of the Environmental Assessment Form (EAF). Director of
15 Planning Dym said that she wants to add the screening to the Neg Dec.
16 She noted that the proposed Evergreen trees should be installed staggered
17 in two rows where the specified 20 foot spacing between trees is provided
18 on-center between Lot 4 and an area of Pine Court and west of Hickory
19 Road and Lot 1 between Vine Road and Tamarack Road will buffer the
20 new development of existing residential uses. She said that the applicant
21 agreed so she will add that to Part 3 on page 2 and will be added to Impact
22 on Land. She said that there is no significant impact so the Board can vote
23 on the Neg Dec.
24

25 On motion by Chair Currie, seconded by Mr. McNamara, and unanimously
26 carried, the Board moved to issue a Negative Declaration for the Tamarack
27 and Vine Subdivision, pursuant to Part 617 of Article 8 SEQRA due to the
28 fact that any impacts of the proposed action are deemed to have been
29 mitigated to the maximum extent practicable and will not have a significant
30 impact on the environment, as amended.
31

32 Chairman Currie directed that a draft Resolution be prepared for the April
33 12, 2017 Planning Board meeting.
34

35 There being no further business, on motion by Ms. Gannon, seconded by
36 Mr. McNamara, and unanimously carried, the meeting adjourned at 9:40
37 P.M. The Chair announced that the next Planning Board meeting will be
38 held on Wednesday, April 12, 2017, at 7:30 P.M. at the Somers Town
39 House.
40

1
2
3
4
5
6

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary