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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  
JUNE 14, 2017**

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:**

Chairman Currie, Mrs. DeLucia, Ms. Gerbino,  
Mr. Goldenberg, Mr. McNamara and  
Ms. Corning

11

12

13

14 **ABSENT:**

Ms. Gannon

15

16 **ALSO PRESENT:**

Assistant Consultant Town Engineer Wasp  
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 APRIL 12, 2017 AND MAY 10, 2017**

27

28 Chairman Currie noted that Planning Board Secretary Marilyn Murphy  
29 prepared and submitted for the Board's approval the draft minutes and  
30 DVD of the Planning Board meetings held on April 12, 2017 and  
31 May 10, 2017.

1 The Chair asked if there were any comments or corrections from the Board  
2 on the draft minutes and DVD of the April 12, 2017 Planning Board meeting  
3 and no one replied.

4  
5 On motion by Ms. Gerbino, seconded by Mr. Goldenberg, and unanimously  
6 carried, the draft minutes and DVD of the April 12, 2017 Planning Board  
7 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 May 10, 2017 Planning Board meeting  
11 and no one replied.

12  
13 On motion by Chair Currie, seconded by Ms. Corning, and unanimously  
14 carried, the draft minutes and DVD of the May 10, 2017 Planning Board  
15 meeting were approved.

16  
17 Chairman Currie stated that the text of the approved minutes is available  
18 on the Town's website [www.somersny.com](http://www.somersny.com) and is also available for public  
19 review at the Planning & Engineering office at the Town House. The  
20 approved DVD's are available for public viewing at the Somers Public  
21 Library.

22  
23 **TIME EXTENSION**

24  
25 **WRIGHT'S COURT SITE "A" [TM: 17.11-1-18]**

26  
27 Chairman Currie said that this is a request for a one year time extension for  
28 Site Plan Approval, Special Exception Use Permit for activities within a  
29 Groundwater Protection Overlay District and Stormwater Management and  
30 Erosion and Sediment Control Permit from July 13, 2017 up to and  
31 including July 13, 2018.

32  
33 Chair Currie acknowledged receipt of a letter from Adam Wekstein dated  
34 May 12, 2017 requesting the time extension and a memo from the Director  
35 of Planning dated May 31, 2017 in which she states that she has no  
36 problem with the extension of this approval.

37  
38 Attorney Wekstein explained that Wright's Court Site "A" received the Re-  
39 grant of Approval on July 13, 2016. He noted that all conditions of approval  
40 have been fulfilled for the stormwater control maintenance agreement, well

1 permit and approvals from the Department of Environmental Conservation  
2 (DEC) and the Department of Environmental Protection (DEP). However,  
3 the approval from the NYS Department of Transportation (DOT) for work  
4 within the right of way of Route 202 has not been satisfied and Attorney  
5 Wekstein is not sure whether it can be fulfilled prior to the expiration date of  
6 the Resolution.

7  
8 Chair Currie asked if any Board member had a problem with the time  
9 extension and no one responded.

10  
11 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously  
12 carried, the Board moved to approve the first extension of the re-grant of  
13 Site Plan Approval and Stormwater Management and Erosion and  
14 Sediment Control Permit for Wright’s Court Site “A” for a period of one year  
15 from July 13, 2017 up to and including July 13, 2018, pursuant to Section  
16 170-114K and 93-20 of the Town Code.

17  
18 Ms. Gerbino commented that the Planning Board voted to re-grant Wright’s  
19 Court Site “A” on July 13, 2016. She said that she wants to share that with  
20 the Board members because some Board members do not remember  
21 issuing a re-grant.

22  
23 Mr. Goldenberg asked if the Board is voting for a re-grant or just an  
24 extension.

25  
26 Attorney Wekstein explained that the Board is voting on an extension of the  
27 re-grant from last year.

28

29 **CONTINUATION OF PUBLIC HEARING**

30

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

32

33 Chairman Currie noted that this is a continuation of the Public Hearing on  
34 the application for Preliminary Subdivision Approval, Steep Slopes,  
35 Wetland, Tree Preservation and Stormwater Management and Erosion and  
36 Sediment Control Permits for property located on Driftwood Drive and is  
37 part of the Greenbriar development for the construction of one residential  
38 house for the subdivision of Section 6, lots 77 and 78.

39

1 Chairman Currie acknowledged a memo from the Open Space Committee  
2 dated May 23, 2017. He said that maybe another joint meeting should be  
3 scheduled.

4  
5 Chairman Currie asked the applicant's representative to explain the project  
6 for the benefit of the Board and the Public.

7  
8 Joe Buschynski, the applicant's engineer, mentioned that he received a list  
9 from the Greenbriar Homeowners Association (HOA) for items of concern  
10 on the Site Plan. He noted that he submitted revised plans and responses  
11 to the comments from the HOA and the submission of a Landscape Plan.  
12 Engineer Buschynski said that the revised plan proposes a number of  
13 evergreens on the north and south side of the house. He said that the  
14 proposed plantings will compliment and buffer the view toward the house  
15 as residents enter the neighborhood on Driftwood Drive.

16  
17 Engineer Buschynski said that Mr. Nunzio Pulsone of 37 Driftwood Drive  
18 was concerned about runoff from the project site to his property. He noted  
19 that the drainage from the site in its present condition will be diminished in  
20 land area with the project in place. He explained that half of the roof will  
21 consume land area that currently drains to Mr. Pulsone's property.  
22 Engineer Buschynski mentioned that the roof area will drain to roof drains  
23 which will go in another direction to infiltration systems. He noted that in  
24 order to further address the concern for runoff, the plan has been revised to  
25 show grading proposed for a cut-off swale along the property line.

26  
27 Engineer Buschynski said that the access road to the outfall of the drainage  
28 system needs a path to get there. He noted that there is concern about  
29 what it will look like when it is finished. Engineer Buschynski said that the  
30 plans provide a detail that show surfacing and gravel path where  
31 necessary. He stated that this was requested by the DEC. He opined that  
32 a gravel drive will probably not be necessary to get to the work area in the  
33 dry season. Engineer Buschynski said that he hopes to have the work  
34 conducted in the dry season. He mentioned that in the event that gravel  
35 was used he suggested covering it over with top soil and replant it with a  
36 seed mix for all the disturbed area associated with the drainage correction  
37 instead of removing it.

38  
39 Engineer Buschynski stated that he answered other concerns in his letter  
40 dated May 15, 2017.

1 Chair Curie asked Assistant Consultant Town Engineer Wasp to review his  
 2 memo for the benefit of the Board and the public.

3

4 Assistant Consultant Town Engineer Wasp said that a field meeting was  
 5 attended on June 12, 2017 between his office and a neighboring resident  
 6 on Driftwood Drive to discuss concerns related to post construction runoff.  
 7 He noted that inspection and maintenance for the onsite stormwater  
 8 management structures has been revised on the latest plans to be the  
 9 long-term responsibility of the lot owner. Assistant Consultant Town  
 10 Engineer Wasp mentioned that previous plans said that maintenance would  
 11 be the responsibility of the Greenbriar HOA. He noted that the SWPPP has  
 12 to be updated to identify the lot owner’s responsibility. He said that the  
 13 stormwater maintenance agreement has to be prepared for review and  
 14 acceptance by the Consulting Town Engineer and the Town Attorney.

15

16 Assistant Consultant Town Engineer Wasp said that the latest plans show  
 17 the construction of a new diversion swale parallel to the property line  
 18 shared between lots 37 and 36. He noted that this is a good practice  
 19 should the roof leaders fail and water is not routed into the system. He  
 20 explained that the swale will provide a backup means that channels the  
 21 water away from the neighbor’s property. Assistant Consultant Town  
 22 Engineer Wasp stated that he wants a sizing basis for the new diversion  
 23 swale to be provided.

24

25 Assistant Consultant Engineer Wasp noted that the following comments  
 26 relate to the construction of the access road:

27

- 28 • Confirm that the applicant has the easement right to work within  
 29 the common homeowner’s association area.
- 30 • The access is shown to cross through steep slopes at the rear  
 31 of lot 36; therefore, the applicant shall identify specific  
 32 provisions/measures to stabilize the steep slopes disturbance  
 33 during and following the completion of the necessary  
 34 maintenance.
- 35 • Clarify in the velocity dissipater construction sequence that post  
 36 construction surfaces will be restored to match existing grade to  
 37 preserve existing drainage paths at the completion of  
 38 necessary maintenance.

39

1 Assistant Consultant Town Engineer Wasp said that the applicant has the  
2 right to enter the property to do such maintenance which is a requirement  
3 of the DEC for this project but also is the obligation of the Town's MS4  
4 responsibilities.

5  
6 Assistant Consultant Town Engineer Wasp said that the current plan shows  
7 the swale terminating at the top of the steep slope at the rear property  
8 corner and he would like to see in detail how that will be transitioned as he  
9 does not want to create a condition that will create erosion and damage to  
10 the adjacent landscape structures. He noted that cleanouts be added at all  
11 changes in roof leaders and piping direction to facilitate maintenance of the  
12 collection system.

13  
14 Ms. Gerbino asked how the HOA will benefit from this arrangement.

15  
16 Assistant Consultant Town Engineer Wasp said that the responsibility that  
17 the individual lot owner has is for the on-site stormwater mitigation system  
18 which is the pretreatment settling chamber and the infiltration chamber. He  
19 said that the velocity dissipater is in current need of this repair which will be  
20 the lot owner's responsibility.

21  
22 Director of Planning Dym said that the access road will be built by the  
23 developer to clean out and maintain the existing velocity dissipation  
24 structure. She explained that when the house is built it will be the HOA'S  
25 responsibility to clean it out. Director of Planning Dym questioned how the  
26 lot will be accessed after it is a private lot for future maintenance of the  
27 dissipation structure.

28  
29 Engineer Buschynski interjected that all pipes, water, sewer and drainage  
30 that were installed with the road system have easements that entitle the  
31 HOA, the Town, in certain instances to maintain and access those pipes  
32 and in general access is provided over the pipes.

33  
34 Director of Planning Dym mentioned that DEC required the inclusion of a  
35 post and rail fence around the proposed home. She said that the applicant  
36 needs to identify if there is anything within the HOA rules that prohibits  
37 such a fence, and if so, how this requirement will be resolved.

38  
39 Director of Planning Dym said that a concern has been raised in regard to  
40 there being two different property owners on each lot and the applicants

1 are Greenbriar-Somers Corp. and 2-4-36 Green LLC. She noted that  
2 according to the Town Assessor, there is nothing that prevents the  
3 Planning Board from processing the subdivision application. She explained  
4 that the actual subdivision cannot take place until the lots are owned by a  
5 single owner.

6  
7 Ms. Gerbino asked if the Board needs proof that the applicant owns the  
8 property.

9  
10 Engineer Buschynski said that the file should show that Ms. Shapiro  
11 represents each corporation.

12  
13 Mr. McNamara asked if there has to be a consolidation of the lots into a  
14 single tax lot before a building permit is issued.

15  
16 Planning Board Town Attorney Eriole said that the lots have to be  
17 consolidated before a building permit is issued.

18  
19 Director of Planning Dym said that there has been a comment that the  
20 Short Form EAF was deficient because it did not utilize the DEC Mapper  
21 site and, therefore, did not reveal any potential impacts of site development  
22 that would have been identified if such were listed. She noted that she  
23 asked the applicant to access the SEQRA Mapper coordinate with the Long  
24 Form EAF and identify if there are any environmental impacts identified by  
25 DEC and what potential mitigations should be. Director of Planning Dym  
26 mentioned that the applicant was asked to provide elevations which they  
27 have done. She said that they did not compare those elevations to the  
28 proposed structure's elevation. Director of Planning Dym said that the  
29 units elevation, foundation and floor plan provide a visual idea of the  
30 structure proposed but the difference is that the southwestern wall is open  
31 rather than attached to another building. She said that the Board needs to  
32 have all this information in order to consider how to proceed.

33  
34 Robert Gaudioso, attorney for the residents of the Greenbriar Homeowners  
35 Association, said that minor changes on the plan for stormwater and a  
36 Landscape Plan were submitted; however; they did not respond to the HOA  
37 questions. He mentioned that the question of who owns the lots still has not  
38 been answered and that is a key issue for a lot of the restrictions for this  
39 proposal. He noted that Lot 35 is owned by Greenbriar Somers  
40 Corporation and they have rights under the offering plan and easements.

1 Attorney Gaudioso said that Lot 36 is owned by 2-4-36 Green LLC 1 and is  
2 not the project sponsor and does not have the right to go into the HOA  
3 common land. He stated that he agrees with Town Counsel that the Board  
4 should not be involved with settling disputes among individual property  
5 owners. Attorney Gaudioso said that the proposed plan is contingent and  
6 requires the dissipater on a third parties property which the Planning Board  
7 would never approve unless the third party signed off on it. He said that the  
8 wrong corporation owner is listed on the application and that has to be  
9 fixed.

10  
11 Attorney Gaudioso noted that the Open Space Committee requested a  
12 copy of the maintenance agreement. He mentioned that the Stormwater  
13 Pollution Prevention Plan (SWPPP) has to be corrected to remove the HOA  
14 as the responsible party for the long-term maintenance of the stormwater  
15 management structures.

16  
17 Planning Board Town Attorney Eriole returned from taking a phone call.

18  
19 Ms. Gerbino asked Attorney Gaudioso to repeat his basic legal argument  
20 for the benefit of the Planning Board Town Attorney.

21  
22 Attorney Gaudioso said that Lot 36 is not the project sponsor which means  
23 the owner of Lot 36 does not have the right under the easements to access  
24 the HOA common area and the Board approving this application is  
25 contingent on the stormwater management practice that is off site on a third  
26 parties property has never been approved by the Planning Board without  
27 the third parties consent. He stated that the HOA does not consent to that.

28  
29 Attorney Gaudioso said that the entre property is within a wetland buffer  
30 and a steep slope. He asked why are we even considering building on this  
31 lot. He noted that the Planning Board should require a Mitigation Plan as  
32 that has not been waived.

33  
34 Planning Board Town Attorney Eriole said that this is all part of the Public  
35 Hearing process. He said that if the applicant believes that there is a legal  
36 bar to what is being proposed the case has to be made with evidence.

37  
38 Attorney Gaudioso said that the Short Form EAF was deficient because it  
39 did not utilize the DEC Mapper site and, therefore, did not reveal any  
40 potential impacts that would have been identified. He said if that was used



1 it would have found an impact to an endangered species that will have a  
2 limitation on the tree cutting permit. Attorney Gaudioso asked that the  
3 Long Form EAF be used.

4  
5 Attorney Gaudioso said that the latest memo from the applicant's engineer  
6 stated that the post and rail fence will be eliminated but it is still shown on  
7 the drawings. He said that the Chairman requested that the elevations be  
8 shown in context and that still hasn't been provided. Attorney Gaudioso  
9 said that the Board should require a Positive Declaration and require that  
10 alternatives be considered. He opined that the DEP Permit is invalid  
11 because it was issued prior to a SEQRA determination, therefore, making  
12 the SEQRA process out of order. Attorney Gaudioso said that there has  
13 been no response to the property value appraisal.

14  
15 *At this time Planning Board Town Attorney Eriole left the meeting due to a*  
16 *family emergency.*

17  
18 Chair Currie asked if anyone wished to be heard on the application.

19  
20 George Semmens, resident of 46 Driftwood Drive and vice president of the  
21 Greenbriar HOA, said that he has a petition with 140 signatures and 7  
22 items that are concerns to the people in Greenbriar with the reason this  
23 application should be denied.

- 24
- 25 • Mr. Semmens said that a concern is property values. He noted that  
26 this house is an odd duck as it does not fit into the character and  
27 integrity of the neighborhood.
  - 28  
29 • Stormwater and Runoff, Mr. Semmens said that there are a lot of  
30 issues related to stormwater and runoff. He mentioned that the  
31 applicant has suggested putting in a swale and new plantings that will  
32 block the access. Mr. Semmens said that sediment control and  
33 detention systems on a property is difficult for a new homeowner. He  
34 opined that the single family home will devalue other properties  
35 because it will be very expensive because of added expenses.
  - 36  
37 • Developer as Applicant, Mr. Semmens said that the house has to be  
38 reviewed by the Greenbriar Architectural Review Committee and the  
39 HOA and they will deny this application. He mentioned that the HOA  
40 suggested moving the house to another location.

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- Future Homeowners costs, Mr. Semmens explained that the HOA has determined that if the merged lot is approved, the homeowners will be required to pay HOA maintenance fees at twice the typical rate, in order to compensate for the anticipated revenue from two lots.
- Environmental Sensitivity, Mr. Semmens said that Greenbriar has its own guidelines and if a resident wants to change something they have to get approval from Greenbriar and then go to the Town.
- Visual Impact and Community Integrity, Mr. Semmens said that the proposed plan places the typical blank side wall facing the south and this will be one’s first impression driving into Driftwood Drive.

Mr. Semmens referred to Chapter 144 that states that the Planning Board has to take into consideration the recommendations of staff, public health and safety, residents of the proposed development and the immediate neighbors. He noted that the Chapter talks about how to handle sensitive lands and he does not feel the Board is handling that. He said that Chapter 150 talks about how the Planning Board has the right to adjust the regulations. Mr. Semmens suggested that the applicant talk to the HOA to come up with a solution that works for them financially and for the HOA environmentally.

Serena Berger, resident of 58 Driftwood Drive, noted that just by putting up trees does not make the street look like what she bought into. She said that she bought into a block with townhouses and wanted children to run back and forth across her property without worrying about tripping on a swale. Ms. Berger said that she wanted the environment of friendliness that townhouses tend to generate. She said that they will be celebrating a 28<sup>th</sup> semiannual barbeque. Ms. Berger said she recently looked at other developments and none have mixed housing. She said that the Planning Board has to consider people that live in that immediate area.

Amy Horowitz, resident of 59 Driftwood Drive and a Title Agent, said that she wants to speak about the ownership of the lots. She mentioned that Lot 36 is owned by a LLC that was a transaction for no consideration from an individual Milton Shapiro. Ms. Horowitz said that Mr. Shapiro bought the property in 2005 from Miller and Jacobson. She explained that when Mr. Shapiro took title he was subject to all the covenants and restrictions and is

1 a member of the HOA. She said that Article 10k of the HOA says no fence  
 2 or gate shall be erected on the property without written consent of the  
 3 Board of Directors of the Association. She noted that this paragraph shall  
 4 not apply to the developer. Ms. Horowitz said that the real issue is when  
 5 the lots are merged what is the title issue for the lot owner and will the new  
 6 lot owner who has to have a single tax lot, will he be able to get clear title.

7  
 8 Nunzio Pulsone, resident of 37 Driftwood Drive, said that Engineer Wasp  
 9 came to his home to review his issues and concerns. He commented that  
 10 at the April Planning Board meeting Ms. Shapiro said that some of the  
 11 information is incorrect or misleading. Mr. Pulsone said that 30 feet in from  
 12 the curb on Lot 36 the slope increases from 25% to 30% and to 50% or  
 13 more as you go to the back of the property. He asked Engineer Wasp if that  
 14 was correct.

15  
 16 Assistant Consultant Town Engineer Wasp acknowledged that the slope  
 17 increases as you get further away from the property.

18  
 19 Mr. Nunzio mentioned a statement that was made by Engineer Buschynski  
 20 that the lot can be graded to be level with Lot 37.

21  
 22 Assistant Consultant Town Engineer Wasp said that there is a grade  
 23 difference but he can't say that it is impossible but it will be challenging.

24  
 25 Mr. Nunzio commented that Ms. Shapiro said that she would meet with him  
 26 to review mitigation plans. He noted that he has never heard from Ms.  
 27 Shapiro or her representative. Mr. Nunzio said that revised plans were  
 28 submitted showing a swale to allow for the drainage.

29  
 30 Mr. Nunzio said that the Planning Board could suggest to the applicant to  
 31 use a larger swale with a culvert and pipe feeding into the storm drain  
 32 system.

33  
 34 On motion by Chair Currie, seconded by Ms. Corning and unanimously  
 35 carried, the Board moved that the Public Hearing be continued at the  
 36 August 9, 2017 Planning Board meeting.

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

40

1 **SOMERS CROSSING [TM: 17.15-1-15.1]**

2  
 3 Chairman Currie said that this is the application for Site Plan Approval,  
 4 Wetlands, Steep Slopes, Tree Preservation, Special Exception Use in the  
 5 Groundwater Protection Overlay District and Stormwater Management and  
 6 Erosion and Sediment Control Permits for Somers Crossing for separate  
 7 proposed residential and commercial projects on separate subdivided lots.  
 8 He said that the property is located at NYS Route 100 and US Route 202.  
 9 Chair Currie noted that the Board will consider a Draft Site Plan Resolution  
 10 for a residential project on a 22.58 acre parcel and a commercial project on  
 11 a 4.10 acre parcel.

12  
 13 Chairman Currie asked the applicant’s representative to explain the project  
 14 for the benefit of the Board and the Public.

15  
 16 Richard O’Rourke, the applicant’s attorney, stated that the Resolutions are  
 17 acceptable.

18  
 19 Assistant Consultant Town Engineer Wasp stated that he reviewed the two  
 20 resolutions and is comfortable with both.

21  
 22 Director of Planning Dym changed the Resolution numbers to reflect how  
 23 the project appears on the agenda and is now Resolution 2017-11. She  
 24 made a change to the residential resolution on Page 17, Number 14. to  
 25 read, *The following conditions shall be incorporated into the Condominium*  
 26 *Offering Plan.*

27  
 28 Ms. Gerbino said that the Resolution states that in lieu thereof a recreation  
 29 fee shall be paid for the 66 new residences to be constructed on the  
 30 subject site in the amount determined as part of the Community Benefits  
 31 Agreement to be \$575,000 and that will go to the Recreation Department.

32  
 33 On motion by Chairman Currie, seconded by Ms. Corning and carried (Mr.  
 34 Goldenberg abstained) the Board moved to approve Resolution 2017-11,  
 35 and to grant Conditional Site Plan Approval, Wetland, Steep Slopes  
 36 Protection, Tree Removal, Special Exception Use Permit (in GPOD) and  
 37 Stormwater Management and Erosion and Sediment Control Permits to  
 38 Somers Crossing LLC for Somers Crossing Residential Component, Tax  
 39 Number 17.15-1- 15.11, (common area), Tax Lot 15.11.01-66, residential  
 40 condominium lots and Town Tax Lot 15.11.67. (recreation area) pursuant

1 to Section 170-114 and Chapter 144 of the Code of the Town of Somers,  
 2 as amended.

3  
 4 Director of Planning Dym reviewed the commercial component resolution  
 5 with the Board and the applicant. She said that the word permit has to be  
 6 added in the box on Page 1 of Resolution 2017-12 to read Special  
 7 Exception Use **Permit**.

8  
 9 Mr. McNamara said that Page 19, line 38 the resolution number should be  
 10 2017-12.

11  
 12 On motion by Chairman Currie, seconded by Ms. Corning and carried (Mr.  
 13 Goldenberg abstained) the Board moved to approve Resolution 2017-12,  
 14 and to grant Conditional Site Plan Approval, Wetland, Steep Slopes  
 15 Protection, Tree Removal, Special Exception Use Permit (in GPOD) and  
 16 Stormwater Management and Erosion and Sediment Control Permits to  
 17 Somers Crossing LLC for Somers Crossing (Commercial Component), Tax  
 18 Number 17.15-1- 15.12, pursuant to Section 170-114 and Chapter 144 of  
 19 the Code of the Town of Somers, as amended.

20  
 21 *At this time Mr. Goldenberg rejoined the meeting.*

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

24  
 25 Chairman Currie said that this is an application for Site Plan Approval,  
 26 Stormwater Management and Erosion and Sediment Control Permit 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 shopping center buildings “A” and “B” including re-  
 30 orientation of parking, net addition of 7 parking spaces, addition of a  
 31 median strip and related site improvements. He mentioned that  
 32 identification of two vehicular connections to the adjacent property will be  
 33 built by others which removes two parking spaces. Chair Currie said that  
 34 the property is located in the Neighborhood Shopping District (NS) and the  
 35 Groundwater Protection Overlay District. Chair Currie said that the Board  
 36 will consider a Negative Declaration and a draft Resolution of Approval.

37  
 38 The Chair asked the applicant’s representative to update the Board on the  
 39 application.

40

1 Jody Cross, the applicant's attorney, said that as the resolution reads now  
2 the applicant will not be able to do the facade work as opposed to the site  
3 work until all the conditions are fulfilled. She said that the applicant would  
4 like to do just the façade work while they are working on the resolution  
5 conditions. Attorney Cross stated that she would like to separate the two  
6 conditions and allow the façade work to begin before the site work.

7  
8 Director of Planning Dym asked that the definition of just the facade work  
9 be explained.

10  
11 Robert Aiello, the applicant's engineer, noted that the clock tower will be  
12 removed and the façade will be improved as approved by the Architectural  
13 Review Board (ARB).

14  
15 Assistant Consultant Town Engineer Wasp said a concern is the  
16 construction at the back of the Towne Centre and has any thought been  
17 given to the mobilization that is needed to take down the awning and the  
18 tower. He asked if there will be partial lane closure for equipment.

19  
20 Engineer Aiello said that he does not think that there will be a problem as  
21 there is a very wide sidewalk.

22  
23 Ms. Corning asked how long the façade and site work will take.

24  
25 Engineer Aiello said that the façade work will take approximately 6 months  
26 with the site work taking about three months.

27  
28 Mr. McNamara said that at the May 10, 2017 Planning Board meeting he  
29 asked the applicant for a construction time schedule, such as a CPM chart,  
30 and for his consideration to change construction timing to 10 P.M. to 6 A.M.  
31 in lieu of daytime hours when existing tenants are open and shoppers  
32 frequent the center. He further stated that he had not received either and,  
33 noting the Resolution's ongoing condition #2, will therefore abstain on this  
34 vote.

35  
36 Attorney Cross noted that discussion came up at the last meeting and it  
37 would be a considerable increase in costs to do construction during night  
38 time hours.

39

1 Mr. Goldenberg opined that because of the costs construction should be  
 2 done during the day. He also feels that the amount of traffic during the day  
 3 is not significant to interfere with anything.

4  
 5 Mr. McNamara said that people going to Burke Rehab or other facilities in  
 6 the centre will not be inconvenienced if the work is done in the evening.

7  
 8 Engineer Aiello said that he submitted comment response letters and he  
 9 addressed Mr. McNamara’s issue on the night time construction work. He  
 10 mentioned that the work will not take place during peak business hours.

11  
 12 Attorney Cross mentioned Page 15, under On-going Conditions Required  
 13 After Signing of Site Plan under 1. b, to read, *such plan to be implemented*  
 14 *by the applicant under the oversight of the Building Department.*

15  
 16 Attorney Cross referred to Page 17, Line 35, and would like it changed to  
 17 read, *no construction or site work is authorized other than architectural*  
 18 *work, including demolition related solely thereto, which demolition may*  
 19 *include removal of the awning and the tower until the Site Plan has been*  
 20 *signed by the Chairman and the required copies delivered; and*

21  
 22 Director of Planning Dym referred to Page 6, Line 35 through the first  
 23 paragraph on Page 7 will be deleted and replaced with *WHEREAS, the*  
 24 *Planning Board, wanting to insure availability of this cross access in*  
 25 *perpetuity, approved an unsigned and undated Second Amendment to a*  
 26 *first Declaration of Easement dated November 2, 2016 between Somers*  
 27 *Crossing LLC and Urstadt Biddle Properties, Inc. as part of its Site Plan*  
 28 *Resolution of Approval for the commercial portion of the Somers Crossing*  
 29 *project as part of its Site Plan Resolution of Approval, granted on June 14,*  
 30 *2017 for the commercial portion of the Somers Crossing project.*

31  
 32 Attorney Cross referenced Page 8, Line 43 will be revised to read,  
 33 *WHEREAS at the meeting of June 14, 2017 the Applicant indicated that*  
 34 *due to site constraints a two-way access was not feasible but that it will*  
 35 *provide a one-way access and signage in a north to south direction; and*  
 36

37 Attorney Cross noted that she wants to talk about the WHEREAS clause on  
 38 Page 9, Line 36 that relates to the hookup to the Heritage Hills Sewer  
 39 Works. She said that the costs are still question marks and she would  
 40 prefer to see language that states that the Board acknowledges that

1 the costs and negotiations are outside the purview of the Planning Board  
2 and may require the applicant to come back to the Board in the event the  
3 project is costs prohibitive.

4  
5 Director of Planning Dym said that the language came from the Town  
6 Attorney. She opined that the original condition should stand and if the  
7 applicant cannot meet the condition they have to come back to the  
8 Planning Board for an amended Site Plan.

9  
10 Mr. Goldenberg asked how the Town can get involved in negotiations with  
11 two private companies. He said that putting that language in a Resolution  
12 is not fair to the applicant.

13  
14 Robert Aiello, the applicant's engineer, said that this application consists of  
15 sidewalk rehabilitation with no new building area and based on this there  
16 are no sewage flows to mitigate.

17  
18 Director of Planning Dym explained that the Board has to consider issuing  
19 a Negative Declaration. She mentioned that Part 2 of the EAF show that  
20 the impacts are none or small impacts will have been mitigated to the  
21 maximum extent practicable and will not have a significant adverse impact  
22 on the environment.

23  
24 Attorney Cross referred to Page 2 of the Neg Dec and noted that the plan  
25 includes the planting of eleven trees not twelve trees.

26  
27 On motion by Chair Currie, seconded by Mr. Goldenberg and unanimously  
28 carried, the Board determined a Negative Declaration pursuant to Part 617  
29 of Article 8 SEQRA due to the fact any impacts of the proposed action are  
30 deemed to have been mitigated to the maximum extent practicable and will  
31 not have a significant adverse impact on the environment.

32  
33 On motion by Chair Currie, seconded by Mr. Goldenberg (Mr. McNamara  
34 abstained) and carried, the Board moved to Adopt Resolution 2017-13, as  
35 amended and grant Conditional Site Plan Approval, Tree Preservation and  
36 Stormwater Management and Erosion and Sediment Control Permits and  
37 Groundwater Protection Overlay District Special Exception Use Permit to  
38 Urstadt Biddle Properties Inc. for the Towne Centre at Somers Amended  
39 Site Plan pursuant to Section 170-114 and Chapter 144 of the Code of the  
40 Town of Somers.



1 *At this time Mrs. DeLucia left the meeting.*  
 2

3 **DECISION**

4  
 5 **XENIA STEPHENS SUBDIVISION [TM: 28.07-1-1]**  
 6

7 Chairman Currie said that this is an application for Preliminary Subdivision  
 8 Approval, Special Exception Use Permit for activities within a Groundwater  
 9 Protection Overlay District for the establishment of 2 lots from one existing  
 10 residential lot for the construction of one single family dwelling. He  
 11 mentioned that each lot will be served by a single common driveway from  
 12 Route 138. Chair Currie said that the property is located at the corner of  
 13 Route 100 and Route 138 and is in the R-80 Zoning District. Chair Currie  
 14 noted that the Board will be considering a Negative Declaration and a Draft  
 15 Resolution of Approval.  
 16

17 Director of Planning Dym reviewed the Negative Declaration with the Board  
 18 and the applicant’s engineer. She said that everything was no impact or a  
 19 small impact. Director of Planning Dym said that the Environmental  
 20 Mapper brought up one potential item of concern but that particular species  
 21 has been removed as being an endangered species.  
 22

23 On motion by Chair Currie, seconded by Mr. McNamara and unanimously  
 24 carried, the Board determined that a Negative Declaration as an unlisted  
 25 action pursuant to Part 617 of Article 8 SEQRA due to the fact that any  
 26 impacts of the proposed action are deemed to have been mitigated to the  
 27 maximum extent practicable and will not have a significant adverse impact  
 28 on the environment.  
 29

30 On motion by Chair Currie, seconded by Mr. Goldenberg, and  
 31 unanimously carried, the Board moved to approve Resolution 2017-14, as  
 32 amended and grant Conditional Preliminary Subdivision Approval to the  
 33 Xenia Stephens Subdivision pursuant to New York State Law Section 276  
 34 and Section 150-12M “Planning Board Action” of the Code of the Town of  
 35 Somers.  
 36

37 On motion by Chair Currie, seconded by Ms. Corning, and unanimously  
 38 carried, the Board moved to find that the Xenia Stephens Preliminary  
 39 Subdivision Plat will serve as the basis for the Final Subdivision Plat and  
 40 will be in substantial agreement with the approved Preliminary Subdivision

1 Plat as permitted by Section 150-13F (2) of the Code of the Town of  
2 Somers, the Planning Board waives the requirement for a final plat Public  
3 Hearing.

4  
5 On motion by Chair Currie, seconded by Mr. Goldenberg, and  
6 unanimously carried, the Board moved to approve Resolution 2017-15 and  
7 Grant Final Subdivision Plat Approval, Special Exception Use Permit for  
8 activities within a Groundwater Protection Overlay District to the Xenia  
9 Stephens Subdivision pursuant to New York State Town Law Section 276  
10 and Section 150-13J "Planning Board Action" of the Code of the Town of  
11 Somers.

12

13 **IL FORNO RESTAURANT AMENDED SITE PLAN [TM: 17.11-1-4]**

14

15 Chairman Currie noted that this is an application for Amended Site Plan for  
16 the IL Forno Restaurant located at 343 Route 202 and is in the Business  
17 Historic Preservation District (B-HP). The Chair explained that the proposal  
18 is for a 140 square foot addition extending the existing vestibule on the  
19 west side of the building to the front of the building.

20

21 Chair Currie mentioned that the Board will be considering a Negative  
22 Declaration (Neg Dec) and a draft Resolution of Approval.

23

24 Director of Planning Dym reviewed the Neg Dec with the Board and the  
25 applicant. She said that based on the review of the proposed project the  
26 Planning Board determined that a Negative Declaration be issued on the  
27 potential impacts for the proposed action which has been deemed to have  
28 been mitigated to the maximum extent practicable and will not have a  
29 significant adverse impact on the environment.

30

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

37

38 On motion by Mr. McNamara , seconded by Ms. Corning, and unanimously  
39 carried, the Board moved to approve Resolution 2017-16 and

1 Grant Conditional Site Plan Approval, Groundwater Protection Overlay  
2 District Special Exception Use Permit to Silvio Management for IL Forno  
3 Restaurant Amended Site Plan pursuant to Section 170-114 and Chapter  
4 144 of the Code of the Town of Somers.

5

6 **INFORMAL APPEARANCE WITH SKETCH PLAN**

7

8 **HOTH SUBDIVISION [TM: 16.14-1-15]**

9

10 Chairman Currie mentioned that this is an application for an Informal  
11 Appearance for a single family house, driveway and septic system. He  
12 noted that the property is located at Lakeside Drive and is in the R-10  
13 Residential District.

14

15 Chairman Currie asked the applicant's representative to explain the project  
16 for the benefit of the Board and the Public.

17

18 John Karell, the applicant's engineer, mentioned that Mr. Hoth has owned  
19 this property for several years and in 2007 he received approval from the  
20 Department of Environmental Protection (DEP) to install the septic system  
21 and part of the house within the 300 foot setback from a reservoir stem.  
22 Engineer Karell said he wants to discuss the need for frontage on an  
23 approved town road. He explained that he wants to tie the driveway to the  
24 edge of the Town road but have it treated as a simple driveway. Engineer  
25 Karell said that another developer was trying to have New York City  
26 approve both lots on the property to the east but they can't be developed  
27 because of the steep slopes. He said that he is asking the Board's advice  
28 on how he should proceed.

29

30 Ms. Gerbino mentioned that this property was before the Board 10 years  
31 ago. She noted that there was a site walk with the Supervisor and the  
32 Highway Superintendent. Ms. Gerbino suggested that Engineer Karell meet  
33 with the Highway Superintendent.

34

35 Engineer Karell said that the legal issue has to be addressed by the Zoning  
36 Board of Appeals (ZBA).

37

38 Director of Planning Dym stated that if the Code says that you need  
39 frontage on an approved Town Road you need relief and the ZBA is the  
40 only place that can happen.

1  
2 Engineer Karell said that he would like suggestions from the consultants  
3 on the terminus of the road if different from tying a driveway into the end of  
4 the road.

5  
6 Chairman Currie advised that Engineer Karell meet with the Highway  
7 Superintendent and to make an application to the Zoning Board (ZBA).

8  
9 **KENNEDY CATHOLIC HIGH SCHOOL [TM: 28.15-1-8]**

10  
11 Chairman Currie noted that this is an application for informal appearance  
12 for a concession building, bathrooms and press box at the Athletic Field at  
13 Kennedy Catholic High School next to the football field.

14  
15 Chairman Currie asked the applicant's representative to explain the project  
16 for the benefit of the Board and the Public.

17  
18 Scott Allen, the applicant's architect representing Kennedy Catholic High  
19 School, explained that he wants to add the lighting of the football field to  
20 the application along with the concession building, bathrooms and press  
21 box. He mentioned that the concession/bathroom building is 250 square  
22 feet and the four poles to light the football field.

23  
24 Mr. Allen noted that the concession building will be a 25' X 10' CMU  
25 structure and will have three rooms, basically a concession stand with a roll  
26 up door and two single use bathrooms.

27  
28 Ms. Gerbino asked if there is a septic system.

29  
30 Mr. Allen replied that there will be storage that will be pumped out  
31 periodically. He noted that there will be a holding tank that will only be  
32 used during football season and athletic events. He said that the roof will  
33 be designed and structured to hold platforms so games can be filmed and  
34 there will be an OSHA approved rail and staircase. Mr. Allen noted that it  
35 will be code compliant.

36  
37 Ms. Corning asked how far away are the nearest utilities and how will you  
38 get the power and the lighting into the building.

39

1 Mr. Allen said that there is 300 feet to where the power will be driven from  
2 and it will be brought down from a structure that is approximately 300 feet  
3 away through the woods. He noted that there will be a disconnect with a  
4 subpanel that will provide a small amount of power to the concession  
5 stand.

6  
7 Mr. Allen said that they will be using LED fixtures and two poles will be 90  
8 feet high and two poles will be 70 feet high. He mentioned that the LED  
9 fixtures will meet the dark sky requirements.

10  
11 Mr. McNamara opined that the lights will be shining on the reservoir and  
12 not on the neighbors.

13  
14 Director of Planning Dym asked for a small scale diagram of the entire  
15 campus and the surrounding area.

16  
17 Mr. Allen said he would like to move as quickly as the schedule allows  
18 as it is the hope to have the lights for the football season. He noted that he  
19 is not clear about the zoning and is not sure if the line at the rear football  
20 field would be considered a rear line relative to the setbacks. Mr. Allen  
21 noted that he will have to find out if that requires a visit to the Zoning Board  
22 to discuss construction inside a setback as that would require a variance.  
23 He questioned if there is a height restriction relative to the 90 foot pole.

24  
25 Chair Currie said that the Board will want to have a site walk.

26  
27 Director of Planning Dym said that the Planning Board has to know the  
28 frequency of the use of the lights. She explained that the Board has to  
29 know what the impacts will be.

30  
31 Mr. Allen said that there will be one game a week and after dark the lights  
32 will be turned on until approximately 10 P.M.

33  
34 Mr. Allen noted that there was discussion about a special meeting if all the  
35 requirements are met.

36  
37 Director of Planning Dym asked if the application is just for the lighting.

38

1 Mr. Allen explained that originally the lighting would be separated but now  
2 the thinking is to combine it with the concession building, bathrooms and  
3 press box unless it will slow up the lighting.

4  
5 Chair Currie said that the applicant has to find out if they need a variance  
6 before submitting a formal application.

7  
8 **BATEMAN WETLAND AND STORMWATER MANAGEMENT AND**  
9 **EROSION AND SEDIMENT CONTROL PERMITS [TM: 17.09-2-38]**

10  
11 Chairman Currie noted that the application is for an informal appearance  
12 for the installation of an in-ground swimming pool. He said that the  
13 property is located at 2 Robin Drive and is in the R-80 Zoning District.

14  
15 George Bateman, applicant, said that he loves the house and property on  
16 Robin Drive but he wants to make sure that he can have an in-ground  
17 swimming pool. He mentioned that there is a small stream in the back of  
18 the house and when you add a pool that will put the pool in the wetland  
19 buffer. Mr. Bateman recognized that if the pool is approved he will provide  
20 mitigation. He stated that the purchase of the home is contingent upon the  
21 approval of the pool. Mr. Bateman explained that he is just trying to gauge  
22 if the swimming pool is a possibility.

23  
24 Assistant Consultant Town Engineer Wasp said that he does not see  
25 anything today that would prohibit approval of the swimming pool with  
26 mitigation.

27  
28 There being no further business, on motion by Chair Currie, seconded by  
29 Ms. Gerbino, and unanimously carried, the meeting adjourned at 11:30  
30 P.M. The Chair announced that the next Planning Board meeting will be  
31 held on Wednesday, July 12, 2017, at 7:30 P.M. at the Somers Town  
32 House.

33  
34  
35  
36 Respectfully submitted,

37  
38  
39 Marilyn Murphy  
40 Planning Board Secretary

1  
2