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**SOMERS PLANNING BOARD MINUTES  
AUGUST 11, 2010**

10 **ROLL:**

11  
12 **PLANNING BOARD**

13 **MEMBERS PRESENT:** Chairman DeLucia, Mr. Keane,  
14 Ms. Gerbino, Mr. Goldenberg, Mr. Foley,  
15 Ms. Gannon, and Mr. Currie

16  
17 **ALSO PRESENT:** Town Planner Charney Hull  
18 Consulting Town Engineer Barbagallo  
19 Town Attorney Joseph Eriole  
20 Planning Board Secretary Murphy

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

26  
27 Chairman DeLucia noted that Planning Board Secretary Murphy  
28 prepared and submitted for the Board's consideration the approval of  
29 the draft minutes of the June 9, 2010 Planning Board meeting  
30 consisting of eleven (11) pages.

31  
32 The Chair asked if there were any comments or questions from  
33 members of the Board and no one responded.

34  
35 The Chair asked if there was a motion to approve the June 9, 2010  
36 draft minutes.

37  
38 On motion by Mr. Goldenberg, seconded by Mr. Currie, and  
39 unanimously carried, the minutes of June 9, 2010 were approved.

40

1 The Chair noted that the DVD of the June 9, 2010 Planning Board  
 2 meeting is made a part of the approved minutes and is available for  
 3 public viewing at the Somers Public Library. The text of the approved  
 4 minutes are also on the Town’s website [www.somersny.com](http://www.somersny.com) and is  
 5 available for public review at the Planning & Engineering office at the  
 6 Town House.

7

8 **PUBLIC HEARING**

9

10 **KAUFFMAN WETLAND PERMIT**

11 **[TM: 17.12-2-2.11]**

12

13 Chairman DeLucia said that this is the Public Hearing of the  
 14 application of Rodd Kauffman for a Wetland and Stormwater  
 15 Management and Erosion and Sediment Control Permit for property  
 16 located at 13 Route 116 near IBM in a R-40 Residential Zoning  
 17 District consisting of approximately 2.754 acres. The Chair noted that  
 18 the applicant, who is the owner of the property, proposes to construct  
 19 an in-ground swimming pool with associated appurtenances at the  
 20 rear of the existing house in the regulated wetland buffer. She stated  
 21 that the Board determined that the proposed activity to be a Type II  
 22 Action and that no further environmental review is necessary. The  
 23 Chair indicated that a site walk was conducted on Saturday, March  
 24 20, 2010 with Consulting Town Engineer Joseph C. Barbagallo, P.E.  
 25 and members of the Board. She noted that this application was last  
 26 discussed at the June 23, 2010 Planning Board meeting whereby  
 27 there was a consensus of the Board to schedule a Public Hearing for  
 28 this evening and also to prepare a draft resolution for the Board’s  
 29 consideration for approval.

30

31 The Chair acknowledged for the record receipt of the following: a  
 32 memo dated June 14, 2010 from Town Clerk Kathleen R. Pacella  
 33 advising the Planning Board that the Town Board reviewed the  
 34 wetland permit application at their meeting held on July 8, 2010 and  
 35 had no comment; a memo dated August 4, 2010 from the  
 36 Conservation Board recommending disapproval of the application by  
 37 unanimous vote because the project is entirely in the wetland buffer  
 38 area. Therefore, in accordance with §167-8.E. of the Somers Town  
 39 Code, the Planning Board must not act contrary to such

1 recommendation except by a vote of a majority plus one of the whole  
2 number of the Planning Board, or supermajority.

3

4 The Chair asked the applicant's representative to give a brief review  
5 of the application for the benefit of the public.

6

7 Tim Allen, the applicant's engineer, said that originally the pool site  
8 was located closer to the wetland, which is basically a ditch, however,  
9 the pool has been moved back up into the property. He explained  
10 that there is lawn area on the down hill side of the pool with plantings  
11 along the perimeter of the pool to separate the pool activity area back  
12 into the buffer. He indicated that the plantings are a mitigation  
13 measure.

14

15 The Chair asked Engineer Allen if the Conservation Board (CB)  
16 reviewed the revised plan.

17

18 Engineer Allen said that the CB should have reviewed this plan  
19 as it shows mitigation.

20

21 Mr. Foley asked if the entire pool is still located in the wetland buffer  
22 as that is a concern of the CB.

23

24 Engineer Allen said that 90% of the pool is in the wetland buffer.

25

26 Mr. Goldenberg mentioned that the application was referred to the  
27 Town Board and they had no comment. He said that he does not  
28 understand what "no comment" means. Mr. Goldenberg noted that  
29 he is looking to see if any discussion ensued on this wetland  
30 application at the Town Board meeting.

31

32 The Chair explained that "no comment" means that the Town Board  
33 had nothing negative or positive to say about the application. She  
34 said that years ago the Town Board was not happy about the  
35 issuance of wetland permits by the Planning Board so they decided to  
36 review the wetland applications themselves. She opined that it is  
37 time for the Town Board to stop reviewing the wetland applications.

38

1 Mr. Goldenberg opined that recommendations are received from the  
2 CB and it is as if the Planning Board does not want to listen to what  
3 the CB has to say.

4  
5 Ms. Gerbino explained that in the past the history of the Planning  
6 Board was that they were not proactive and that is the reason that the  
7 wetland applications were referred to the Town Board. She noted  
8 that future appointments to the Planning Board were reflective of  
9 protecting the environment and wetlands.

10  
11 Engineer Allen stated that the Board has reviewed this application in  
12 the field and the wetland is not of a quality that would be impacted by  
13 this proposal.

14  
15 The Chair asked how many feet has the pool been pushed towards  
16 the house.

17  
18 Engineer Allen said that the pool has been moved approximately 25-  
19 30 feet towards the house.

20  
21 The Chair noted that the plans were to be revised but Consulting  
22 Town Engineer Barbagallo was on vacation and those revisions  
23 should be addressed before the Public Hearing is opened.

24  
25 Engineer Allen said that Consulting Town Engineer Barbagallo asked  
26 that the professional delineating the wetlands be placed on the plan.  
27 He indicated that Tim Miller Associates delineated the wetland and  
28 that was added to the plan. He mentioned that the construction  
29 access areas be shown on the plan and the access will come off the  
30 driveway to the pool and that is shown on the plan. Engineer Allen  
31 indicated that the pool fencing and the silt fence have been extended  
32 to incorporate the full construction. He mentioned that regarding  
33 stormwater, drainage has been added to pick up the new pool area  
34 and discharge infiltrators have been added. Engineer Allen indicated  
35 that the mitigation plan and the pool were moved with creation of  
36 lawn areas around the pool and plantings along the perimeter of the  
37 pool. He noted that one tree will have to be removed.

38  
39 The Chair asked if there were any comments from the Consulting  
40 Town Engineer.

1 Consulting Town Engineer Barbagallo mentioned that there is a shed  
2 on the property located within the regulated wetland buffer. He said  
3 that the Building Department was contacted and there is no building  
4 permit on record for the shed. He indicated that this application can  
5 be amended to include the shed as the applicant would like to keep  
6 the shed. Consulting Town Engineer Barbagallo informed the Board  
7 that the shed is on piers and is not permanent.

8

9 The Chair noted that the shed is considered as an administrative  
10 permit and that is handled by Steve Woelfle, the Principal  
11 Engineering Technician.

12

13 Consulting Town Engineer Barbagallo said that the pool is located  
14 within the New York City Watershed and is subject to Department of  
15 Environmental Protection (DEP) Watershed Regulations and he  
16 asked if Engineer Allen has heard from the DEP.

17

18 Engineer Allen stated that the DEP has no jurisdiction because the  
19 ancillary use is connected to a principal structure.

20

21 Mr. Foley was surprised that the DEP is not concerned about a  
22 stream that runs into the reservoir.

23

24 Consulting Town Engineer Barbagallo asked if there are any  
25 impervious surfaces within 100-feet of the watercourse.

26

27 Engineer Allen said that the pool coping is within 100-feet of the  
28 watercourse.

29

30 Mr. Keane stated that the issue is that the square footage of the pool  
31 consumes the square footage of the former buffer area and on this  
32 basis part of the buffer has been eliminated.

33

34 Mr. Keane asked what the mitigation will be to account for the loss of  
35 the square footage of buffer.

36

37 Engineer Allen said that the pool area is basically lawn area with the  
38 area closest to the buffer being a lawn deck with plantings to  
39 separate it from the buffer. He mentioned that infiltrators will also be  
40 added as part of mitigation.

1 Mr. Foley noted that the CB memo mentions impact to steep slopes.

2

3 Engineer Allen said that there are no steep slopes on the pool site.

4

5 Engineer Allen explained the history of this property with the proposal  
6 for the house near an old stone foundation. He said that the Town  
7 Historian asked that the stone foundation be preserved and asked  
8 that the house be moved back on the property.

9

10 Consulting Town Engineer Barbagallo noted that the CB reviewed the  
11 June 10, 2010 plan which shows mitigation.

12

13 The Chair said that the CB memo states that Board members are  
14 concerned with the potential impacts from construction activity.

15

16 Ms. Gannon asked if there is a path that leads to the structure on the  
17 piers.

18

19 Consulting Town Engineer Barbagallo said that the shed is in an  
20 open area.

21

22 Engineer Allen indicated that Mr. Kauffman would like to keep the  
23 shed but if he has to remove the shed he will. He noted that Mr.  
24 Kauffman can file for an administrative permit for the shed.

25

26 The Chair reiterated that the CB has recommended denial of this  
27 application which is under Section 167-8.B. Basis for denial; 167-8.D.  
28 unavoidable impacts, requires mitigation plan pursuant to 167-9. of  
29 the Town Code.

30

31 The Chair asked Planning Board Secretary Murphy if prior to this  
32 Public Hearing, has the required legal notice been published and the  
33 adjoining property owners notified.

34

35 Planning Board Secretary Murphy stated that the legal notice was  
36 published in the North County News for their July 28, 2010 issue and  
37 the notice of the Public Hearing was mailed to the adjoining property  
38 owners on July 30, 2010.

39

1 The Chair asked if there was anyone present who wished to be heard  
2 regarding this application and no one responded.

3

4 The Chair stated that as no one wished to be heard she asked if  
5 there was a consensus of the Board to close the Public Hearing.

6

7 On motion by Ms. Gannon, seconded by Mr. Goldenberg, and  
8 unanimously carried, the Board moved to close the Public Hearing on  
9 the application of Rodd Kauffman for a Wetland and Stormwater  
10 Management and Erosion and Sediment Control Permits.

11

12 Engineer Allen stated for the record that the wetland is a ditch and he  
13 asked if the CB conducted a site walk.

14

15 Ms. Gannon asked Consulting Town Engineer Barbagallo if the  
16 proposed mitigation is adequate for the site.

17

18 Consulting Town Engineer Barbagallo said that the buffer that is  
19 being disturbed is being fully captured and treated and by converting  
20 the impervious surfaces on the wetland side of the pool area to lawn  
21 and the addition of the plantings provides a reasonable level of  
22 mitigation.

23

24 Ms. Gannon noted that the CB memo states that the entire pool is  
25 proposed to be located in the wetland buffer zone. She stated that  
26 the Board members are concerned with the potential impacts to the  
27 wetland, wetland buffer and steep slopes from the construction  
28 activity. She noted that the pool is located within the wetland buffer  
29 zone but the CB is not saying that the proposed mitigation is less  
30 than adequate. She asked if the Consulting Town Engineer had any  
31 concerns with the proposed construction activity on this site.

32

33 Consulting Town Engineer Barbagallo stated that there is an  
34 appropriate plan to control the sediment and prevent siltation from  
35 getting into the ditch.

36

37 Ms. Gannon stated that she does not support the Conservation  
38 Board's findings in this matter.

39

1 Ms. Gerbino said that she respects the input from the CB but she  
2 pointed out that the key item in their memo is the concern about the  
3 construction activity. She suggested that in the future the CB spell  
4 out the specifics in their position. Ms. Gerbino stated that she does  
5 not appreciate receiving important memos from Boards that lists their  
6 members by initials and she would like them listed by name.

7  
8 The Chair said that if the Conservation Board recommends  
9 disapproval or modification of an application in accordance with  
10 §167-8.E. of the Somers Town Code, the Planning Board must not  
11 act contrary to such recommendation except by a vote of a majority  
12 plus one of the whole number of the Planning Board, or  
13 supermajority.

14  
15 Mr. Goldenberg said that the Planning Board must consider  
16 recommendations from Boards and he suggests sending the  
17 application back to the CB for their review.

18  
19 Engineer Allen said that the plan is not very different from the one  
20 that the CB reviewed.

21  
22 Town Attorney Eriole asked Engineer Allen what is different about the  
23 revised plan.

24  
25 Engineer Allen stated that one infiltrator has been added, the silt  
26 fence has been extended and the name of the person who delineated  
27 the wetland has been added.

28  
29 Consulting Town Engineer Barbagallo said that minor changes were  
30 made to the plan.

31  
32 Mr. Keane said that there are two issues: one, is the mitigation that  
33 would be employed and the erosion and sediment control activities,  
34 and second, is the mitigation that is left behind after everything is  
35 completed. He noted that once the temporary work has been  
36 completed then consideration to the functionality of the remaining  
37 wetland and whether it is the equivalent of what it was before or  
38 better. He said that nothing has been taken away from the buffer in  
39 fact it has been improved. Mr. Keane opined that the plan has not  
40 changed from the plan submitted in June and it is not fair for the CB

1 to make generalized statements that cannot be adequately dealt with  
2 according to the regulations that the Planning Board has to follow.

3  
4 The Chair noted that what Mr. Keane just said comes under Section  
5 167.8.D.

6  
7 Engineer Allen said that the CB never notifies him when his  
8 applications are on their agenda. He noted that some of the CB  
9 items on the website are outdated. Engineer Allen explained that the  
10 CB meeting is not an open meeting and even if one of his projects is  
11 on the CB agenda he has to call the Secretary and be invited.

12  
13 The Chair stated that she has never ignored a memo from the CB  
14 and she states their concerns and recommendations.

15  
16 The Chair polled the Board as to the Conservation Board's  
17 recommendation of disapproval for a wetland permit and the  
18 necessary majority vote plus one, or supermajority vote.

- 19  
20 Mr. Keane Does not agree with CB recommendation  
21  
22 Ms. Gerbino Does not agree with CB recommendation  
23  
24 Mr. Currie Does not agree with CB recommendation  
25  
26 Mr. Foley Does not agree with CB recommendation  
27  
28 Ms. Gannon Does not agree with CB recommendation  
29  
30 Mr. Goldenberg Supports CB recommendation  
31  
32 Chair DeLucia Does not agree with CB recommendation  
33

34 The Chair explained that four members plus one of the Board,  
35 consisting of a supermajority, have voted against the Conservation  
36 Board's recommendation of disapproval for a wetland permit.

37  
38 Mr. Keane explained that the reason to override the Conservation  
39 Board's recommendation to deny the wetland permit was the  
40 applicant's engineer and the Consulting Town Engineer's

1 presentation and all the information that was provided meets the  
2 Code requirements.

3  
4 The Chair asked Town Consulting Engineer Barbagallo to send a  
5 memo to the Conservation Board giving the result of the Planning  
6 Board's decision. She noted that the CB should mention the section  
7 of the Code that applies to their denial of an application.

8  
9 Mr. Keane opined that the letter to the CB should come from the  
10 Planning Board.

11  
12 The Chair explained that she asked the Consulting Town Engineer to  
13 prepare the memo from the Planning Board as he handles wetland  
14 applications.

15  
16 The Chair noted that Consulting Town Engineer Barbagallo has  
17 prepared a draft resolution granting conditional approval for a  
18 Wetland and Stormwater Management and Erosion and Sediment  
19 Control permits to Rodd Kauffman. She asked the Consulting Town  
20 Engineer to review the draft resolution with the Board and applicant's  
21 representative for comments or questions.

22  
23 Consulting Town Engineer Barbagallo said that he will change the  
24 approval to Stormwater Management and Erosion and Sediment  
25 Control Permit in the block.

26  
27 The Chair suggested using the lot size which is 2.7 acres.

28  
29 Consulting Town Engineer Barbagallo revised the plans that were  
30 submitted adding the revised date of August 11, 2010. He added a  
31 Whereas clause indicating that the Planning Board has taken into  
32 consideration the comments of the Conservation Board but believes  
33 that the mitigation is sufficient to mitigate the construction activity in  
34 accordance to Town Code.

35  
36 The Chair suggested stating that the Town Board has no comment on  
37 the application pursuant to their July 8, 2010 meeting.

38 The Chair suggested moving the words *and all those wishing to be*  
39 *heard were given the opportunity to be heard* to the Whereas clause  
40 in reference to the Public Hearing. She noted that the Whereas

1 clause closing the Public Hearing should state that *no one wished to*  
 2 *be heard.*

3

4 Town Consulting Engineer Barbagallo suggested adding that a  
 5 revised amended application be submitted for administrative review  
 6 for the existing shed.

7

8 Town Consulting Engineer Barbagallo asked that another condition  
 9 be added to the Resolution in reference to the confirmation from the  
 10 DEP that they do not have jurisdiction

11

12 Mr. Foley suggested a change to the Whereas Clause stating that the  
 13 Conservation Board recommended denial of the Wetland and  
 14 Stormwater Management and Erosion and Sediment Control Permits.  
 15 He stated that throughout the resolution the reference has to be  
 16 changed to read *Stormwater Management and Erosion and Sediment*  
 17 *Control Permit.*

18

19 The Chair asked if there was a consensus of the Board to approve  
 20 the draft resolution as amended.

21

22 On motion by Mr. Keane, seconded by Mr. Currie, (Mr. Goldenberg  
 23 voting nay) and carried, the Board moved to approve amended  
 24 Resolution No. 2010-05 Granting Conditional Approval for the  
 25 Wetland and Stormwater Management and Erosion and Sediment  
 26 Control Permits to Rodd Kauffman for the construction of an in-  
 27 ground swimming pool with associated appurtenances for the  
 28 Chairman's signature.

29

30 **PROJECT REVIEW**

31

32 **HOMELAND TOWERS, LLC/NEW CINGULAR WIRELESS PCS,**  
 33 **LLC (AT&T) SITE PLAN AND STEEP SLOPES**  
 34 **(AMATO PROPERTY)**

35 **[TM: 38.17-1-5] 121 ROUTE 100**

36

37 The Chair noted that this is the project review of the application of  
 38 Homeland Towers, LLC/New Cingular Wireless PCS, LLC (AT&T)  
 39 for Site Plan Approval, Steep Slopes, Stormwater Management  
 40 and Erosion and Sediment Control Permits for property owned by

1 Michael P. Amato and Alice T. Amato located at 121 Route 100 in the  
2 R-80 Residential Zoning District and Westchester County Agricultural  
3 District. She said that the Zoning Board of Appeals (ZBA) is currently  
4 reviewing this application for a Special Exception Use Permit and  
5 area variances for the installation of a wireless telecommunications  
6 facility and related equipment on the premises consisting of a 140' tall  
7 monopole. The Chair mentioned that the ZBA is Lead Agency under  
8 SEQRA in a coordinated review with the Planning Board. She  
9 explained that Manuel Vincente is the managing member of  
10 Homeland Towers, LLC, a New York limited liability company with a  
11 main office located in White Plains, New York and is represented by  
12 Robert D. Gaudio, Esq. of Snyder & Snyder, LLP, and AT&T is  
13 represented by Neil J. Alexander, Esq. of Cuddy & Feder, LLP.

14  
15 The Chair noted that on July 10, 2010 revised plans and related  
16 materials were received at the Planning and Engineering office and  
17 members of the Board received them at this meeting. She explained  
18 that there is a nine-day rule for submission; therefore, this submission  
19 will be carried over to the Wednesday, August 25, 2010 Planning  
20 Board agenda.

21  
22 Robert Gaudio, the applicant's attorney, asked to clarify what was  
23 submitted.

24  
25 The Chair noted that she does not want to know what was in the  
26 submission and prefers to do that at the next meeting when she will  
27 acknowledge everything that was received. She said that all the  
28 information that was just provided will be reviewed and discussed at  
29 the next meeting.

30  
31 Attorney Gaudio said that an applicant just received approval on  
32 plans that were dated today. He stated that it is unfair as all he  
33 wanted to do was outline what was submitted and not have a  
34 discussion on the submittal. Attorney Gaudio said for the record  
35 that it is unfair because the prior applicant received approval on a  
36 plan that was submitted today.

37  
38 The Chair stated that the Planning Board has a rule that all  
39 submissions are to be provided nine (9) days before the meeting.

1 Attorney Gaudioso reiterated that it is unfair because a plan was  
2 given approval tonight that was just submitted today.

3

4 The Chair said that a comparison should not be made to something  
5 else the Board did and for the record it is unfair.

6

7 The Chair mentioned that this application was last discussed at the  
8 June 23, 2010 Planning Board meeting whereby the Board directed  
9 staff to send a memo to the ZBA with comments from the Planning  
10 Board and staff and also comments and recommendations from the  
11 Town's wireless consultants Michael P. Musso, P.E. and Stacey  
12 Calta, RLA of HDR in connection with their letter report to the ZBA  
13 dated June 10, 2010. She noted that it was also suggested that a  
14 joint meeting be held with the ZBA at their July 20, 2010 meeting  
15 which was then scheduled and held.

16

17 The Board acknowledged for the record receipt of the following:  
18 a memo dated August 6, 2010 from Town Planner Hull to the  
19 Planning Board commenting that her office has not received any  
20 updated/revised plans from the applicant and attaching her memo to  
21 the ZBA regarding the June 23, 2010 Planning Board meeting; her  
22 review of application materials in preparation of the July 20, 2010  
23 joint meeting; and a review memo dated July 19, 2010 from  
24 Consulting Town Engineer Barbagallo.

25

26 The Chair asked Town Planner Hull to lead the Board with her  
27 comments.

28

29 Town Planner Hull indicated that this application will be discussed at  
30 the Zoning Board of Appeals meeting next week. She said that the  
31 Planning Board asked the Zoning Board Chair to hold any decisions  
32 due to the lateness of the most recent submission. Town Planner  
33 Hull noted that the ZBA Chair said that if he receives a memo asking  
34 that a decision not be made he will together with his Board consider  
35 the request. She opined that the Planning Board should decide on  
36 what type of pole or any other issue the Board would like the ZBA to  
37 consider in light of the fact that the ZBA may not refrain from making  
38 a decision next week. Town Planner Hull explained that the main  
39 issue is the type of pole that is being proposed. She indicated that in  
40 the past when it has not been a "coordinated review" between the

1 Boards, the ZBA has left the aesthetic tower treatment up to the  
2 Planning Board as part of Site Plan review. She said that she does  
3 not know if the same intent will follow with this application given the  
4 “coordinated” review of this application. She urged the Board to  
5 provide their opinions and the reasoning why and have the opinions  
6 and reasons put into a memo to the ZBA from the Planning Board.  
7

8 Mr. Goldenberg noted that the Planning Board and the ZBA  
9 conducted a joint meeting and discussion ensued on the type of pole  
10 the Planning Board would recommend. He opined that it is a waste  
11 of time to discuss the pole again as the ZBA will make the choice and  
12 the record is clear what type of pole the Planning Board favors.  
13

14 Town Planner Hull said that the decision is up to the Planning Board  
15 how they want to handle the issues concerning the cell tower. She  
16 indicated that at the joint meeting discussion ensued about the pole  
17 but she does not feel that everyone’s issues were satisfied at the joint  
18 meeting. Town Planner Hull stated that this may be the last  
19 opportunity the Board has to submit comments before a decision is  
20 made.  
21

22 Town Attorney Eriole clarified where the Board is in the SEQRA  
23 process. He said that the joint meeting provided an opportunity for  
24 Board members to provide their comments but there is still an  
25 opportunity to clarify and add to the comments to make sure that the  
26 ZBA has the comments before they make a decision as Lead  
27 Agency. He explained that in the SEQRA process the Planning  
28 Board can provide comments to the Lead Agency and have a  
29 consensus on what those comments will be.  
30

31 Ms. Gerbino opined that the joint meeting did not turn out to be what  
32 she expected because she was not allowed to participate in a  
33 consensus with her Board. She said that this is not a criticism but an  
34 observation. Ms. Gerbino indicated that there has to be a consensus  
35 because she does not know what the consensus from the Planning  
36 Board is.  
37

38 Town Attorney Eriole mentioned that Town Planner Hull previously  
39 provided a comment letter from the Planning Board to the ZBA. He  
40 explained that the Planning Board’s comments provided in that memo

1 are part of the record. He said that the Board may want to clarify or  
2 add to that memo.

3  
4 Town Planner Hull explained that her memo dated August 6, 2010  
5 was to refresh the Board's memory on past discussions. She  
6 mentioned that discussion took place at the joint meeting in reference  
7 to the type of pole. She opined that the ZBA may decide on the type  
8 of pole and she asked the Board if they prefer a monopole,  
9 concealment pole or Sabre tree pole. Town Planner Hull explained  
10 that HDR provided a comparison of both types of poles with the pros  
11 and cons and it is important to determined which type of pole the  
12 Planning Board favors.

13  
14 The Chair noted that Michael Musso, the Town's Consultant, at the  
15 June 23, 2010 meeting stated that he put together an objective table  
16 between the concealment pole and the stealth tree. He reviewed the  
17 overall height, co-location potential, form and structure and  
18 suggested the concealment pole for this site. Mr. Musso said the  
19 reason is that you cannot hide a tree and at the critical view at the  
20 gateway to Somers there are quite a few utility poles. The Chair  
21 agreed with Mr. Musso's choice and said that on two separate  
22 occasions she was told by Mr. Musso and Ms. Calta (Landscape  
23 Architect) that it was their choice.

24  
25 Mr. Keane mentioned that in HDR's report relative to aesthetics or  
26 visual impacts they asked for two things: first, additional line of sight  
27 visual cross section of view. He opined that what the applicant  
28 provided was more than inadequate and that has to be fixed. He  
29 noted that what was asked for in the profile was to identify the  
30 landscaping and include that in the cross-section. He said this asks  
31 the question where are those trees going. Mr. Keane indicted that  
32 the cross section does not show where the trees are going, all it does  
33 is show a cross section of trees that exist on the property now without  
34 the proposed mitigation trees nor does it suggest what height the  
35 trees will be in 10, 20 or 30 years or whether they can be placed on  
36 the side of the hill on the site and that will be adequate mitigation.

37  
38 Mr. Keane said second, that Landscape Architect Calta asked that a  
39 cross-section be included with a full range of height of artificial

1 branches. He opined that this means the full range of height of the  
 2 pole since the branches are not necessarily high but are long.  
 3 Mr. Keane stated that the two factors were not included in the  
 4 applicant's response. He mentioned that with respect to these two  
 5 issues HDR said to supplement the Town's visual file for visual  
 6 assessment to assist in the discussion of preferred monopole design.  
 7 He said that the following additional photo simulations are requested,  
 8 VP5 view, the cross section view and mitigation for landscaping.

9  
 10 Mr. Keane said that if the ZBA is making a SEQRA Determination of  
 11 Significance they should be making it on the entire application and  
 12 not hand-off certain aspects of that determination to the Planning  
 13 Board. He opined that if the ZBA does not have a full application  
 14 then the determination will be insufficient. Mr. Keane noted that he is  
 15 not convinced that the ZBA has decided what type of pole they prefer.

16  
 17 Mr. Keane provided pictures showing simulated branches and how  
 18 they would look on the cell tower.

19  
 20 Ms. Gannon asked if Ms. Calta's request for a line of sight cross-  
 21 section profile detail asked for projected growth. She noted that the  
 22 response shows the existing tree line from 7-Eleven.

23  
 24 Mr. Keane explained that the trees are being placed for mitigation  
 25 purposes and he asked what is the mitigation.

26  
 27 Ms. Gannon noted that additional mitigation is needed and all the  
 28 profile shows is the existing trees.

29  
 30 Attorney Gaudioso indicated that Michael Musso, the Town's  
 31 Consultant, requested a drawing from the Sabre Tree manufacturer  
 32 and the profile and that is what Mr. Keane is showing the Board. He  
 33 said that the Town's Consultant was satisfied with the drawing and  
 34 does not feel that they are inadequate. Attorney Gaudioso stated that  
 35 the drawing is not what is being proposed as the applicant is not  
 36 proposing an external whip, a dish antenna or external cables.

37  
 38 Mr. Keane opined that the drawing is representative of what is being  
 39 proposed.

40

1 Attorney Gaudioso disagreed saying that the proposed tree pole does  
2 not have branches at the top.

3

4 Town Attorney Eriole said that if the ZBA takes action next week on a  
5 SEQRA determination they must have an action and he asked  
6 Attorney Gaudioso what he believes that action is.

7

8 Attorney Gaudioso said that the pole is a standard monopole and the  
9 applicant has agreed to a tree pole or a concealment pole.

10

11 Town Attorney Eriole noted that he believes that the Planning Board  
12 is leaning towards a concealment pole and the ZBA is leaning toward  
13 a tree pole.

14

15 Attorney Gaudioso said that the proposal is for a standard monopole  
16 with the applicant's preference being the antenna being externally  
17 mounted. He opined that the applicant's second preference is the  
18 tree (structural and infrastructure reasons) and the third preference is  
19 the concealment pole with the antenna mounted within the pole.

20

21 Town Planner Hull explained that the ZBA is aware of the current  
22 action which is the monopole. She indicated that the ZBA is attuned  
23 to finding mitigation regarding the pole. She noted that the ZBA has  
24 discussed the concealment pole as well as the tree pole. Town  
25 Planner Hull mentioned that at a ZBA meeting the owner explained  
26 the benefits of the tree pole. She noted that this brought discussion  
27 about the benefits of the tree pole versus the concealment pole.

28 Town Planner Hull mentioned that mitigation will be a tree pole or a  
29 concealment pole.

30

31 Attorney Gaudioso opined that the Planning Board should decide on  
32 their preference of a monopole and make a recommendation to the  
33 ZBA.

34

35 Mr. Goldenberg asked Attorney Gaudioso if the warranty on the  
36 branches for the Sabre Tree has been investigated.

37

38 Attorney Gaudioso stated that Sabre has a one year warranty but has  
39 not had any issue with fading or dilapidation of the pole. He  
40 explained that there is a full maintenance plan requirement in the

1 Zoning Code as part of the SEUP process and there is a provision  
2 that requires annual inspections.

3  
4 Mr. Keane asked if a monopole with external antenna and no  
5 mitigation in the proposed setting would be something the Board  
6 would recommend. He asked if the Board would recommend a  
7 concealment pole or a tree pole. He asked if adequate mitigation has  
8 been provided to the “maximum extent reasonably possible”, the  
9 threshold based on Town Code, or the “maximum extent practicable”  
10 based on SEQRA.

11  
12 Mr. Foley opined that the Board is losing focus and should address  
13 the critical issue that is “which pole does the Board prefer.”

14  
15 Town Planner Hull explained the choices: monopole, 140’ with  
16 antenna circling the top portion, tree pole 145’, concealment pole  
17 with all antenna on the inside of the pole and 140’ in height.

18  
19 The Chair asked how high the tree pole will be before it reaches the  
20 first branch.

21  
22 Attorney Gaudioso explained that the tree directly in front of the pole  
23 is 66’ and the two trees directly in front of the pole are 75-79’ in height  
24 with the branches being 70’ above ground level.

25  
26 Mr. Currie asked which choice will provide better coverage and cut  
27 back on future cell towers.

28  
29 Attorney Gaudioso said that as far as the length of coverage it would  
30 be a sacrifice for AT&T to take their antennas which on the tree pole  
31 will be four across mounted horizontally and reduce the number of  
32 antennas from 12 to 6 and stack them because they lose horizontal  
33 diversity and with the bottom set of antennas lowered reduces the  
34 amount of coverage. He explained that the purpose of the Town  
35 Code is to promote co-location and the need for future towers.

36  
37 Ms. Gannon asked for a translation so she, as a consumer, can  
38 understand.

39

1 Manuel Vincente, managing member of Homeland Towers, explained  
2 that a tower has to be at a significant height to meet technical needs  
3 but you also have to have the equipment to handle the capacity  
4 needs. He noted that antennas have to be aimed in the direction  
5 that you need coverage. Mr. Vincente stated that if you have a  
6 structure with a traditional monopole with a mounting structure that is  
7 8 to 12 feet wide you can place a larger amount of antennas in the  
8 direction that needs coverage and provide the cables that allow them  
9 to work as intended and to fit into the network to hand off to other  
10 sites in the area. Mr. Vincente explained that the problem with the  
11 concealment pole is the amount of space within because it limits the  
12 amount of antennas you can put into the pole and it limits the ability  
13 to aim the antennas. Mr. Vincente stated that when you have a large  
14 platform where you can place all the equipment you need to be able  
15 to aim the antenna that is how the infrastructure design is intended to  
16 work. He noted that when you compromise the big platform to  
17 something much smaller you limit the number of equipment you can  
18 have. He said that there is an impact from a capacity standpoint. Mr.  
19 Vincente stated that 15 years ago telephone calls lasted 15 minutes  
20 but today wireless structures supports all types of devices, i.e.,  
21 laptops, texting, videos. He explained that more antennas provide  
22 more capacity.

23

24 Mr. Vincente noted that the concealment pole visually has the  
25 smallest profile but is limiting for network capacity. He opined that  
26 the concealment pole is not a preferred design for long term  
27 infrastructure. He said that the industry preference is to use a more  
28 traditional type of structure to provide the best coverage and capacity  
29 possible.

30

31 Mr. Foley asked how many co-locaters can be on the concealment  
32 pole.

33

34 Mr. Vincente said that you can have the same amount of co-locaters  
35 on the concealment pole as the tree pole.

36

37 Mr. Foley said that there is no information on different carriers  
38 because a Master Plan was not provided.

39

1 Ms. Gannon reiterated her question that as a consumer what are the  
2 benefits of the tree pole. She indicated that she needs to appreciate  
3 the merits of a tree pole and needs something quantitative in the  
4 difference you would get in service.

5  
6 Mr. Vincente said that every network is slightly different and he  
7 cannot provide an exact effect but the difference between the two  
8 designs are that one does not allow for as many antennas or capacity  
9 as the other. He asked that the Board look at infrastructure because  
10 in most codes it is to reduce the proliferation and provide co-location.  
11 He stated that if the concealment pole worked better from an industry  
12 perspective it would be his preference. He commented that a tree  
13 pole is much more expensive for the developer than a concealment  
14 pole. Mr. Vincente said his motivation is to provide a piece of  
15 infrastructure that is as robust as possible to handle the needs of  
16 AT&T and other wireless providers in the area. He said his  
17 motivation is also to handle public safety. Mr. Vincente said that the  
18 Planning Board should provide its recommendation of the type of a  
19 pole to the ZBA.

20  
21 Ms. Gerbino said that Mr. Vincente used an interesting word  
22 "capacity". She mentioned the federal regulation that addresses  
23 Health, Safety and Welfare, and requires municipalities to allow cell  
24 towers. She said that there now are other uses that have nothing to  
25 do with safety and health and that is text messaging and games. Ms.  
26 Gerbino questioned if the reason for more capacity is for games and  
27 texting.

28  
29 Mr. Vincente said that capacity is needed for games, texting and  
30 data.

31  
32 Attorney Gaudioso explained that the Telecommunications Act does  
33 not cover Health and Safety. He indicated that it covers wireless  
34 facilities that include all the various services that were mentioned.

35  
36 Town Planner Hull noted that the applicant has stated that there is  
37 more capacity with a tree pole. She said that during the joint meeting  
38 discussion took place asking the applicant to give the first right of  
39 refusal for emergency services, Town uses, etc., but the applicant  
40 said that is not something he would consider. Town Planner Hull

1 opined that this is something that should be considered by the  
2 Planning Board in their decision making. She noted that the pole is  
3 located in a high impact residential area and this is about capacity  
4 and the type of pole that is preferred by the Board.

5  
6 Mr. Keane mentioned that the facility can operate from 4 to 6 hours  
7 after a storm. He said that 4 to 6 hours from a safety perspective  
8 does not work. He opined that it is not a valid argument that the  
9 applicant will provide safety in the Town of Somers. He noted that  
10 the argument should be modified to say that it may or may not  
11 provide safety.

12  
13 Mr. Goldenberg stated that this meeting is to decide if the Board  
14 wants to make a recommendation to the ZBA. He said that it is time  
15 for the Board to take a vote on their preference of the pole.

16  
17 The Chair mentioned the visual impact of the tree as it will be in a  
18 high impact area. She said that the “bottle brush” of a tree will be  
19 seen for quite a distance.

20  
21 Town Planner Hull polled the Board on their choice of pole.

22  
23 Mr. Foley opined that the “bottle brush” is ridiculously conspicuous  
24 and the wrong choice. He said that the arguments put forth, extra  
25 capacity and co-location do not work for him and he favors the  
26 concealment pole.

27  
28 Mr. Keane said that he prefers the concealment pole if the disguise  
29 and camouflage capabilities and the appropriate screening are  
30 provided.

31  
32 Mr. Goldenberg prefers the concealment pole.

33  
34 The Chair prefers the concealment pole.

35  
36 Mr. Currie prefers the concealment pole.

37  
38 Ms. Gerbino prefers the concealment pole.

39

1 Ms. Gannon said that this is a difficult decision for her as she does  
2 not know what camouflage techniques will be applied to the pole and  
3 which pole is best in this environment.

4  
5 Town Planner Hull interjected that in the past the camouflage  
6 technique of the pole has been given to the Planning Board and the  
7 applicant brought an artist on site to figure out the best camouflage  
8 technique. She indicated that the Planning Board can ask the ZBA to  
9 reserve that decision as part of Site Plan approval.

10  
11 Attorney Gaudioso said that the decision should be part of the  
12 Negative Declaration.

13  
14 Ms. Gannon said that she would agree to the tree if it would reduce  
15 the number of poles but the applicant had not said this was true and  
16 she was not convinced by the applicant that the tree was better. She  
17 mentioned that it is a difficult decision and she appreciates whatever  
18 decision the ZBA makes but she will go with the concealment pole.

19  
20 Neil Alexander, representative for AT&T, stated that a 60-day shock  
21 clock letter was submitted and he asked for a poll of the Board to  
22 schedule a Public Hearing.

23  
24 Town Planner Hull opined that the ZBA will be making a SEQRA  
25 determination with a Negative Declaration and approval of the SEUP.  
26 She said that a Public Hearing will have to be held on the Site Plan.

27  
28 Mr. Keane stated that screening and camouflage have to meet the  
29 threshold of "maximum extent reasonably possible" under the Somers  
30 Code and "maximum extent practicable" under SEQRA.

31  
32 On motion by Ms. Gannon, seconded by Mr. Goldenberg,  
33 and unanimously carried, the Board moved to schedule a Public  
34 Hearing for Wednesday, September 22, 2010 at 7:30 P.M. at the  
35 Somers Town House on the application of Homeland Towers and  
36 New Cingular.

37  
38 The Chair directed that this application be carried over to the August  
39 25, 2010 Planning Board meeting to discuss the applicant's  
40 submission dated August 10, 2010.

1 **PROJECT REVIEW**

2

3 **HOMELAND TOWERS, LLC\NEW CINGULAR WIRELESS PCS,**  
4 **LLC (AT&T) SITE PLAN AND WETLAND PERMIT**  
5 **(SANTARONI PROPERTY) [TM: 37.13-2-3]**  
6 **2580 ROUTE 35 CARRYOVER**

7

8 Mr. Keane suggested a meeting in the beginning of the project in  
9 order to layout the elements that are necessary to be provided and  
10 the criteria relative to those elements. He said that this will help  
11 everyone to be on the same page and knows what has to be done.  
12 He explained that the consultants know exactly what has to be done  
13 and the costs associated with it.

14

15 Attorney Gaudioso said that he agrees with Mr. Keane and feels the  
16 meeting would be very helpful. He opined that the Planning Board  
17 should give input on the scope of the project.

18

19 Town Planner Hull asked Attorney Gaudioso if it is prudent to wait for  
20 the revised submission before scheduling the meeting.

21

22 Attorney Gaudioso said that the revised plans should be submitted  
23 especially the wetland application and how mitigation will take place  
24 before the meeting.

25

26 Town Planner Hull suggested requesting a work session when the  
27 revised plans are submitted.

28

29 Ms. Gannon said that only leaf-off pictures have been taken for this  
30 property and she asked if pictures will be taken with the leaves still on  
31 the trees.

32

33 Attorney Gaudioso explained that before the renderings are done the  
34 Board picks the viewpoints but if the Board wants renderings with the  
35 leaves on the trees he will review the request.

36

37 Chairman DeLucia explained that this is a carry-over from the June  
38 23, 2010 agenda of the project review of the application of Homeland  
39 Towers/New Cingular Wireless PCS (AT&T) for site plan approval  
40 and Wetland Permit for property located at 2580 Route 35 owned by

1 Umberto and Carol Santaroni for the installation of a wireless  
 2 telecommunication facility in an R-120 Residential Zoning District.  
 3 The Chair said that this application is presently before the ZBA for a  
 4 Special Exception Use Permit and area variances. The applicants  
 5 are in the process of substantially revising the site plan and therefore  
 6 this matter will be carried over to the August 25, 2010 agenda.

7

8 *At this time Mr. Foley left the meeting.*

9

10 **PROJECT REVIEW**

11

12 **SUSAN F. HAFT/RIDGEVIEW DESIGNER BUILDERS, INC.**  
 13 **FINAL CONSERVATION SUBDIVISION APPROVAL**  
 14 **[TM: 16.12-1-41 & 42]**

15

16 Chairman DeLucia said that this is the project review of the  
 17 application of Susan F. Haft and Ridgeview Designer Builders, Inc. of  
 18 Pound Ridge, N.Y. for Final Conservation Subdivision Approval,  
 19 Stormwater Management and Erosion and Sediment Control, Steep  
 20 Slopes and Tree Removal Permits for a 4-lot configuration on  
 21 approximately 12.444 acres in an R-40 Residential Zoning District to  
 22 be serviced by individual septic systems and wells and accessed by a  
 23 common driveway. The Chair noted that the properties are located  
 24 on the east side of Lovell Street near Benjamin Green Lane. The  
 25 Chair said that Ridgeview Designer Builders, Inc. is the owner of Lot  
 26 41 at 16 Lovell Street of which Susan F. Haft is its President, and  
 27 Susan F. Haft is the sole owner of Lot 42 at 18 Lovell Street. She  
 28 said that this application received Conditional Preliminary  
 29 Conservation Subdivision Approval, Steep Slope and Tree Removal  
 30 Permits on June 14, 2006 by Resolution No. 2006-16. The Chair  
 31 indicated that the applicants are represented by Timothy S. Allen,  
 32 P.E. of Bibbo Associates and Geraldine N. Tortorella, Esq. of  
 33 Hocherman Tortorella & Wekstein, LLP.

34

35 The Chair acknowledged for the record receipt of the following:  
 36 a letter dated May 11, 2010 from the NYC Department of  
 37 Environmental Protection (DEP) approving the amended Stormwater  
 38 Pollution Prevention Plan Determination; a letter dated June 14, 2010  
 39 from applicants' representative Timothy S. Allen, P.E. submitting an  
 40 Application for Final Subdivision Approval signed by Susan F. Haft on

1 February 2, 2009, a subdivision plat signed by the Westchester  
 2 County Health Department, and documents and materials in support  
 3 thereof together with responses to both new and outstanding  
 4 comments made by former Town Engineer Guy Gagné, P.E. and  
 5 Town Planner Sabrina Charney Hull, AICP, and additional comments  
 6 on the Improvement Plan and Subdivision Plat; another letter dated  
 7 June 14, 2010 from Timothy S. Allen, P.E. requesting a reduction of  
 8 the \$3,500 per lot escrow fees; an e-mail from Town Attorney Roland  
 9 Baroni to Town Planner Hull commenting that he reviewed and found  
 10 to be acceptable the Draft Declaration of Covenants, Conditions,  
 11 Restrictions & Easements and the Draft Conservation Easement; a  
 12 memo dated August 6, 2010 from Consulting Town Engineer Joseph  
 13 C. Barbagallo, P.E. with his comments and status regarding the  
 14 original outstanding issues; and a memo dated August 6, 2010 from  
 15 Town Planner Sabrina Charney Hull, AICP with her comments and  
 16 recommendations and that she has no objection to the reduction of  
 17 the per lot escrow fees.

18  
 19 The Chair asked the applicant's representative to give a brief  
 20 presentation regarding this submission for the benefit of the public.

21  
 22 Timothy Allen, the applicant's engineer, explained that he has been  
 23 before the Board with a four lot subdivision. He indicated that the  
 24 plan has not changed but the delay was that the phosphorous  
 25 restricted requirements of the Department of Environmental  
 26 Conservation (DEC) and the DEP regulations were in conflict. He  
 27 stressed that the DEP finally signed a new plan that met both  
 28 requirements and he would like the Board to approved final  
 29 subdivision approval.

30  
 31 The Chair noted that the Health Department signed the Plat.

32  
 33 Engineer Allen asked the Board to waive the Public Hearing on Final  
 34 Subdivision Approval and consider a draft resolution of approval.

35  
 36 The Chair asked Consulting Town Engineer Barbagallo to summarize  
 37 his memo to the Board for the benefit of the public.

38  
 39 Consulting Town Engineer Barbagallo said that he reviewed the  
 40 submittal in reference to the items enumerated in the February 20,

1 2009 memo from the previous Town Engineer. He indicated that he  
 2 provided the Board with the status of all the items and he said that he  
 3 field verified all representations noted in Engineer Allen’s memo. He  
 4 noted that all the comments from the previous Town Engineer have  
 5 been addressed. Consulting Town Engineer Barbagallo stated that  
 6 he did not review the Homeowners Association (HOA) documents as  
 7 they are being reviewed by the Town Attorney. He stated that from  
 8 an engineering perspective everything has been addressed.

9  
 10 The Chair asked Town Planner Hull to share her memo to the Board  
 11 for the benefit of the public.

12  
 13 Town Planner Hull noted that the applicant has requested a reduced  
 14 escrow and she has no objection to the escrow amount be reduced  
 15 due to the fact that the project is near completion. She said that the  
 16 Planning Board should determine whether or not this is acceptable.

17  
 18 Town Planner Hull stated that most of her comments are minor. She  
 19 referenced Number 3. on page 3 of her memo, *Include a note on the*  
 20 *plat regarding the responsible entity for maintenance of the*  
 21 *conservation parcel.* She explained that note #13 was clarified to  
 22 include the total number of lots created by the subdivision; in this  
 23 case it would be five lots with one being a Conservation Parcel or an  
 24 open space lot not to be considered a building lot. Town Planner Hull  
 25 said that the note should be revised to read “This subdivision creates  
 26 5 lots with one being a Conservation Parcel; such Conservation  
 27 Parcel shall be maintained by a Homeowners Association consisting  
 28 of the owners of Lots 1-4.”

29  
 30 Town Planner Hull referred to her comment number 4, on page 3,  
 31 *The setback distances on the plan do not correlate to the Zoning*  
 32 *Conformance Table setback.* She indicated that the setbacks have  
 33 been corrected; however, the required side yard setback should be  
 34 changed from 15’/40’ to 25’/40’ per Section 170-13.3.D. on both the  
 35 plat and sheet ZL-1. Town Planner Hull said that in addition the  
 36 reference to Section 170-13.3.D. should also be made in the footnote  
 37 on the plat, sheet 1 of 8 and 8 of 8.

38  
 39 Town Planner Hull referenced comment number 8, on page 3,  
 40 *Identify the 48” maple tree in a recognizable manner on Sheet 2 of 8.*

1 She noted that the designation of the trees to be removed and the  
2 trees to remain is difficult to differentiate on the plans. She  
3 suggested that the symbolism should be revised.  
4

5 Town Planner Hull referred to comment number 10, on page 4, *The*  
6 *Draft Declaration of Covenants, Condition, Restrictions and*  
7 *Easement page 9, Article VIII, Section 1* notes that *the Declarant*  
8 *reserves the right to erect and maintain any number and size of signs*  
9 *as it deems necessary*. She said that this condition has been  
10 removed; a provision for a For Sale sign has been incorporated into  
11 Article VII, Section 1. Town Planner Hull suggested the applicant  
12 provide the size that the For Sale sign shall not exceed.  
13

14 Town Planner Hull mentioned 12. c. on page 4, *Page 9, article III,*  
15 *section 1; the signs identified must be further described with size and*  
16 *with time limits for being up*. She explained that this was rewritten to  
17 provide for low height, low intensity but these characteristics should  
18 be defined.  
19

20 Town Planner Hull referenced number 14, page 6, *On the Subdivision*  
21 *Plat b. Post the site zoning and the zoning designation under which*  
22 *the application was processed*. She recommended that the reference  
23 in the setback footnote (\*) should refer to section 170-13.3.D. c.  
24 *Provide a zoning table with the modified setback for the principal and*  
25 *accessory structures*. She indicated that this was not addressed.  
26 She said that if the accessory uses will follow the current zoning  
27 standards, then same must be noted. Correct the side/both setback-  
28 change 15' to 25' unless otherwise authorized by the Planning Board.  
29

30 The Chair mentioned the Draft Covenants and asked the applicant to  
31 affix the corporate seal.  
32

33 The Chair asked if there were any comments or questions from  
34 members of the Board and no one responded.  
35

36 The Chair asked if there was a consensus of the Board that the  
37 applicant's request for the reduced escrow amount is acceptable.  
38

1 On motion by Mr. Currie, seconded by Mr. Goldenberg, and  
2 unanimously carried, the Board moved to reduce the \$3,500 per lot  
3 escrow fee based on the fact that this project is near completion.  
4

5 The Chair informed the Board that under §150-13.F.(2), if the Board  
6 deems the final subdivision plat to be in substantial agreement with  
7 the preliminary subdivision plat, the Board shall waive the  
8 requirement for such Public Hearing and under §150-13.J. (1)  
9 prepare a draft conditional resolution. However, under §150-13.F.(3),  
10 if the final plat is *not* in substantial agreement with the approved  
11 preliminary subdivision plat, or the application for final is submitted  
12 more than six months after the preliminary approval date (June 14,  
13 2006), then the Board *may*, in its discretion, conduct a Public  
14 Hearing.  
15

16 The Chair asked if there was a consensus of the Board to waive the  
17 Public Hearing.  
18

19 On motion by Mr. Keane, seconded by Ms. Gerbino, (Ms. Gannon  
20 abstained) and carried, the Board moved to waive the requirement to  
21 hold a Public Hearing under § 150-13.F.(2) of the Code of the Town  
22 of Somers on the application of Susan F. Haft/Ridgeview Designer  
23 Builders, Inc. and that the application is complete, that Town Planner  
24 Hull prepare a draft Resolution under §150-13.J.(1) Conditionally  
25 Granting Final Conservation Subdivision Plat Approval, Stormwater  
26 Management and Erosion and Sediment Control, Steep Slopes and  
27 Tree Removal permits.  
28

29 The Chair directed that the draft resolution be prepared and placed  
30 on the next Planning Board agenda.  
31

32 **SCHEDULE PUBLIC HEARING**  
33

34 **ROSEMARY ZAPPI SUBDIVISION**  
35 **REDUCTION OF PERFORMANCE BOND**  
36

37 Chairman DeLucia noted that this is a request to schedule a Public  
38 Hearing to consider the request by letter dated May 18, 2010 from  
39 Jim Zappi, P. E. for the reduction of the performance bond for the  
40 Rosemary Zappi Subdivision in accordance with Chapter 150-16.G.

1 of the Code of the Town of Somers. The Chair said that the property  
 2 is located at 9 Kniffen Road. She explained that the original posted  
 3 amount issued by form of a check was \$115,555 with a  
 4 recommendation that it be reduced to \$17,005. The Chair mentioned  
 5 that on July 17, 2010 the Board received a memo from Steven  
 6 Woelfle, Principal Engineering Technician, itemizing the roadway cost  
 7 estimate indicating the required improvements completed, the  
 8 amount of the reduction, a roadway checklist, As Builts and  
 9 inspection reports on file, and commenting that all bonded  
 10 improvements are completed except for the installation of the top  
 11 asphalt course. The Chair indicated that the Board is also in receipt  
 12 of a memo dated August 4, 2010 from Consulting Town Engineer  
 13 Joseph C. Barbagallo, P.E. commenting that he completed a review  
 14 of the file and that a site inspection to verify construction activities  
 15 was completed on June 28, 2010 and found all site features to be  
 16 installed in accordance with the approved plans and supports the  
 17 bond reduction to \$17,005 as recommended by Steven Woelfle.

18  
 19 The Chair asked if there were any comments or questions from  
 20 members of the Board and no one responded.

21  
 22 The Chair asked if there is a consensus of the Board to schedule a  
 23 Public Hearing for Wednesday, August 25, 2010.

24  
 25 On motion by Mr. Goldenberg, seconded by Ms. Gannon, and  
 26 unanimously carried, the Board moved to schedule a Public Hearing  
 27 to consider under Section 150-16.G. of the Code of the Town of  
 28 Somers the reduction of the Rosemary Zappi Subdivision  
 29 performance bond from the original amount of \$115,555 to \$17,005  
 30 for Wednesday, August 25, 2010 at 7:30 p.m. at the Somers Town  
 31 House.

32  
 33 There being no further business, on motion by Mr. Currie,  
 34 seconded by Ms. Gannon, and unanimously carried, the meeting  
 35 adjourned at 10:35 P.M. Chairman DeLucia noted that the next  
 36 meeting of the Planning Board will be held on Wednesday,  
 37 August 25, 2010 at 7:30 P. M. at the Somers Town House.

38  
 39  
 40

1  
2  
3  
4  
5  
6

Respectfully submitted,

Marilyn Murphy  
Planning Board Secretary