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5 **SOMERS PLANNING BOARD MINUTES**  
6 **JUNE 10, 2009**  
7

8 **ROLL:**  
9

10 **PLANNING BOARD**

11 **MEMBERS PRESENT:** Chairman DeLucia, Mr. Keane,  
12 Mr. Knapp, Ms. Gerbino, Mr. Foley,  
13 and Ms. Gannon  
14

15 **ALSO PRESENT:** Town Engineer Gagné  
16 Town Planner Charney Hull  
17 Town Attorney Holt-Cinque  
18 Planning Board Secretary Murphy  
19

20 **ABSENT:** Mr. Goldenberg  
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 of the Board being present called  
25 the meeting to order.  
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 May 13, 2009 Planning Board meeting  
30 consisting of twelve (12) pages.  
31

32 The Chair asked if there were any comments or questions from  
33 members of the Board.  
34

35 Ms. Gannon made a correction to Page 5. She mentioned that she  
36 found an internet website that showed stealth pole patterns and will  
37 e-mail the information to the Board and *Attorney Gaudioso*. She  
38 commented that *staff should be added in place of Attorney Gaudioso*  
39 because the forwarding of the information to Attorney Gaudioso will

1 come from the Planning Office.

2

3 The Chair asked if there was a motion to approve the May 13, 2009  
4 draft minutes, as amended.

5

6 On motion by Ms. Gannon, seconded by Ms. Gerbino and  
7 unanimously carried, the minutes of May 13, 2009, as amended,  
8 were approved.

9

10 The Chair noted that the DVD of the May 13, 2009 Planning Board  
11 meeting is made a part of the approved minutes and is available for  
12 public viewing at the Somers Public Library and on the Town's  
13 website [www.somersny.com](http://www.somersny.com). She said that the approved minutes  
14 are also available for public review at the Planning & Engineering  
15 office at the Town House.

16

17 **PUBLIC HEARING**

18

19 **SABATINO WETLAND PERMIT**

20 **[TM: 16.12-1-15.5]**

21

22 Chairman DeLucia noted that this is the application of Peter and Mary  
23 Ann Sabatino for a wetland permit for property located at 16 Dunhill  
24 Drive. She explained that the 1.33 acre lot is near the intersection of  
25 Park Lane and Lovell Street in the R-40 Residential Zoning District.  
26 The Chair mentioned that the applicants propose to construct a 350  
27 SF addition to the existing house with support posts for a new 590 SF  
28 deck in the wetland buffer area. She said that this application was  
29 last discussed at the May 13, 2009 Planning Board meeting whereby  
30 the Board scheduled a site walk, which was conducted on Saturday,  
31 May 16, 2009, and a public hearing for this evening, Wednesday  
32 June 10, 2009. The Chair explained that a follow-up memorandum  
33 dated May 18, 2009 of the site walk from Town Engineer Gagné lists  
34 eight items of observations for discussion.

35

36 The Chairman acknowledged receipt of the following memos: a  
37 memo dated May 7, 2009 from the Conservation Board with concerns  
38 and recommendations and a memo from Town Engineer Gagné with  
39 recommendations and states pursuant to SEQRA, the Engineering  
40 Department determines that the proposed activity is a Type II Action.

1 The Chair asked the Board if there was a consensus that this  
2 proposed activity is a Type II Action pursuant to SEQRA.

3

4 On motion by Ms. Gannon, seconded by Mr. Keane, and  
5 unanimously carried, the Board moved to declare the proposed  
6 activity a Type II Action pursuant to SEQRA Part 617.5 (c) (10) under  
7 NYS Environmental Conservation Law, Article 8, and Chapter 92 6.B  
8 (8), Environmental/Quality Review of the Town of Somers Code, and  
9 therefore does not require further review under SEQRA.

10

11 The Chair commenced with the Public Hearing. She asked Planning  
12 Board Secretary Murphy if prior to the Public Hearing had the  
13 required legal notice been published and the adjoining property  
14 owners notified.

15

16 Planning Board Secretary Murphy replied that the notice was  
17 published in the North County News on May 31, 2009 and the notice  
18 of the Public Hearing was mailed to the adjoining property owners on  
19 May 31, 2009.

20

21 The Chair acknowledged that she is a neighbor who lives directly  
22 across the street from Mr. Sabatino but there is no conflict monetary  
23 or otherwise and there is nothing that would prevent her from  
24 participating in this application.

25

26 The Chair asked the applicant's representative, for the benefit of the  
27 public, to give a brief presentation regarding the application.

28

29 Peter Sabatino, applicant and owner, said that he is proposing an  
30 addition in the back of the house in the wetland buffer zone. He  
31 mentioned that the addition is approximately 85-feet from the wetland  
32 buffer area. Mr. Sabatino reviewed his drawing with the Board and  
33 pointed out the wetland buffer line and the pond on his property and  
34 how it impacts his property. He mentioned that he will be removing  
35 the patio and putting the addition in its place. Mr. Sabatino noted that  
36 the deck will be approximately 590 square feet with water permeating  
37 through the decking. He mentioned that the equipment will come in  
38 from the opposite side of the wetland.

39

1 The Chair noted that there is an established lawn with plantings that  
2 will hold back some of the stormwater that will run into the yard.

3

4 The Chair asked Town Engineer Gagné to give a brief summary of  
5 his recommendations in his June 5, 2009 memo to the Board.

6

7 Town Engineer Gagné said that he needs to see details of the slope  
8 below the new addition and the proposed deck and how they will be  
9 stabilized; incorporate the existing roof gutter discharge pipe into the  
10 mitigation practice; and post a note on the site plan that the addition  
11 will not include a basement and be limited to a crawl space and the  
12 installation of piers for the deck. Town Engineer Gagné mentioned  
13 that the construction vehicles access to the work area must be shown  
14 on the plan with the septic system and expansion area protected from  
15 the construction vehicles. He said that the use of hand tools would  
16 minimize the site disturbance and eliminate the vehicle construction  
17 access road. Town Engineer Gagné asked that an erosion and  
18 sediment control plan be provided to show the temporary stockpile for  
19 the excavated material; and a note that the excavated material be  
20 properly removed from the site. He said that provision for the new  
21 roof stormwater collection system to be discharged into a rain garden  
22 feature must be shown on the plan and as mitigation, the applicant  
23 should consider the addition of native woody plant species in the  
24 wetland buffer; and/or intercepting the driveway stormwater and  
25 placing it in an infiltration practice with sediment capture capabilities.

26

27 The Chair said that a rain garden was mentioned but this property  
28 has been disturbed a number of times, such as dredging of the pond.

29

30 Mr. Sabatino opined that the use of a rain garden on this site will  
31 change the flow of the land.

32 Town Engineer Gagné said that the site is stable and there will not be  
33 an increase in impervious surfaces. He mentioned the concern of the  
34 driveway and possibly the discharge pipe can be identified and if it  
35 goes directly to the pond the pipe should be intercepted and a dry  
36 well system installed. Town Engineer Gagné said that he had no  
37 objection to eliminating the rain garden.

38

39 Mr. Keane suggested a swale along the edge of the driveway.

1 He said that if there is no increase in impervious surface how much  
2 mitigation is needed.

3

4 Town Engineer Gagné said no vegetation will grown under the deck  
5 and as long as it is a gravel surface it should be alright. He agreed  
6 that because there is no increase in impervious surface there is no  
7 need for mitigation.

8

9 The Board moved to eliminate the Town Engineer's conditions on the  
10 new roof stormwater collection system to be discharged into a rain  
11 garden feature as mitigation and that the applicant consider the  
12 addition of native woody plant species in the wetland buffer; and/or  
13 intercepting the driveway stormwater and placing it in an infiltration  
14 practice with sediment capture capabilities.

15

16 The Chair asked if there was anyone from the public who wished to  
17 be heard on this application and no one responded.

18

19 The Chair asked if there were any questions or comments from  
20 members of the Board.

21

22 Ms. Gerbino asked how old the home is.

23

24 Mr. Sabatino replied that the house was built in 1965.

25

26 Ms. Gerbino noted that the house was built before the Wetland  
27 Regulations came into effect. She said that the applicant is making  
28 repairs to a new home and making it more beautiful.

29

30 Mr. Sabatino said that he is going to eliminate the foundation and put  
31 in piers to minimize the amount of excavation.

32

33 Town Engineer Gagné stated that if the foundation is limited to piers  
34 an access drive will not be needed. He indicated that this will change  
35 the application significantly.

36

37 The Chair asked if the Town Engineer and members of the Board  
38 have any objection to closing the Public Hearing, granting the permit,  
39 and preparing a conditional resolution for the chairman's signature.

1 On motion by Ms. Gerbino, seconded by Ms. Gannon, and  
 2 unanimously carried, the Board moved to close the Public Hearing on  
 3 the application of May Ann and Peter Sabatino and prepare a  
 4 Conditional Resolution of Approval granting the wetland permit with  
 5 the standard conditions and additional conditions listed in the June 5,  
 6 2009 memo from the Town Engineer, as amended, for the chairman's  
 7 signature.

8

9 **PROJECT REIVEW**

10

11 **OMNIPOINT COMMUNICATIONS, INC.**  
 12 **TOWNE CENTRE AT SOMERS**  
 13 **325 ROUTE 100**  
 14 **[TM: 17.15-1-13]**

15

16 Chairman DeLucia said that this is the project review of the  
 17 application of Omnipoint Communications, Inc. at Towne Centre for  
 18 amended Site Plan Approval, Wetland Permit and Groundwater  
 19 Protection Overlay District Special Exception Use Permit to install a  
 20 wireless telecommunications facility consisting of a 103-foot stealth  
 21 monopole with six small panel antennas and related equipment  
 22 cabinets at its base located in the Town Centre, 325 Route 100, in  
 23 the Neighborhood Shopping (NS) Zoning District. She mentioned  
 24 that the owner of the property is Urstadt Biddle Properties, Inc. The  
 25 Chair noted that the facility is proposed in the southwestern part of  
 26 the parking lot at the far rear of the shopping center property within  
 27 the 100-foot wetland buffer of the Town's regulated wetlands. She  
 28 noted that the applicant has been before the Zoning Board of Appeals  
 29 (ZBA) for a Special Permit and Area Variances. The Chair stated that  
 30 at the March 17, 2009 ZBA meeting, the ZBA as Lead Agency issued  
 31 a negative declaration subject to conditions and granted the  
 32 requested area variances and special permit with conditions per  
 33 Resolution BZ02D/07. She indicated that this application was last  
 34 discussed at the April 8, 2009 meeting whereby the Board scheduled  
 35 a site walk for Saturday, April 18, 2009. The Chair advised that the  
 36 applicant was requested to provide, among other things, a written  
 37 acknowledgment from the Alexan Woods Developer that they will  
 38 move the access road to accommodate the cell tower, the question of  
 39 side-yard/rear yard setbacks, question of 20' landscape buffer  
 40 between commercial and residential activities, revise the plans and

1 respond to the Town Planner and Town Engineer's memos and  
2 Board's comments and memos. The Chair indicated that on May 4,  
3 2009 the applicant's attorneys Snyder & Snyder, LLP submitted  
4 revised plans and supporting materials in response to staff's written  
5 comments and the Board's comments.

6  
7 The Chair noted for the record receipt of the following: a memo dated  
8 April 21, 2009 from Town Engineer Gagné with two comments  
9 regarding the April 18, 2009 site walk, a memo dated April 28, 2009  
10 from the Architectural Review Board (ARB) unanimously agreeing to  
11 approve painting the pole Rhombus SW4051 (grey/blue color), which  
12 is part of the Sherwin Williams 4000 Color System Series; a memo  
13 dated May 29, 2009 received on June 8, 2009 from the Conservation  
14 Board with concerns and comments; a memo dated June 5, 2009  
15 from Town Engineer Gagné with current status of items and concerns  
16 since his last memo, together with four new comments for the Board's  
17 discussion; and a memo dated June 5, 2009 from Town Planner Hull  
18 with project review and new comments beginning on Page 5 for the  
19 Board's discussion.

20  
21 The Chair asked the applicant's representative to give a brief  
22 presentation regarding the recent submission.

23  
24 Cara Bonomolo, the applicant's attorney, mentioned that since the  
25 last meeting on April 8, 2009 new material has been submitted which  
26 include a revised site plan which responds to the comments from the  
27 Planning Board and staff. She noted that a letter from the property  
28 owner Urstadt Biddle was submitted which indicates that Omnipoint is  
29 permitted to utilize the existing parking at the site during maintenance  
30 visits. She noted that a letter was also submitted from the property  
31 owner confirming that Omnipoint may proceed with the facility in the  
32 original proposed location. Attorney Bonomolo mentioned that a copy  
33 of the coverage maps that were reviewed by the ZBA in connection  
34 with Omnipoint's special permit application was provided. She said  
35 that the applicant's representative met with the Architectural Review  
36 Board on April 23, 2009 at which time the ARB recommended that  
37 the pole be painted Rhombus SW4051 (grey/blue color) which is part  
38 of the Sherwin Williams 4000 Color System Series.

39

1 The Chair asked Town Planner Hull to share her memo to the Board  
2 for the benefit of the Public.

3  
4 Town Planner Hull noted that the ZBA issued a negative declaration  
5 in accordance with SEQRA with the negative declaration conditioned  
6 on the Planning Board's issuance of site plan approval and issuance  
7 of the environmental permits. She explained that in review of the site  
8 plan and the wetland permit the Planning Board should consider  
9 whether or not there are any additional environmental aspects that  
10 have not been addressed or existing environmental aspects that have  
11 not been thoroughly addressed by the ZBA's negative declaration.  
12 Town Planner Hull said that during the May 27, 2009 Planning Board  
13 meeting an issue regarding camouflage treatment of the pole was  
14 raised. She noted that the Board should consider if they are satisfied  
15 with the visual aspects of this application in relation to the site plan  
16 and wetland permit approvals. Town Planner Hull noted that her  
17 comment about the Zoning Conformance Table now includes the total  
18 building coverage as well as the site coverage for the subject parcel,  
19 however, given that this structure is considered a principal structure,  
20 there should be a change in total building coverage. She mentioned  
21 that this was addressed in the ZBA negative declaration; no building  
22 as part of the project therefore, no change in building coverage and  
23 no variance is needed. Town Planner Hull commented that this  
24 property contains two front yards and the remaining yards are to be  
25 considered side yards. She noted that the plans now indicate that the  
26 western and southern property lines are rear lot lines, not side lot  
27 lines. Town Planner Hull opined that these lot lines should be treated  
28 as side lot lines; not rear yard lot lines. She said that as far as  
29 Planning Board approvals the yards should remain side yards which  
30 is consistent with previous decisions.

31  
32 The Chair asked if there has been communications with the Town  
33 Attorney in reference to the lot line issue.

34  
35 Town Engineer Gagné said that the Town Attorney notes that the site  
36 plan elements are decisions of the Planning Board and if it is  
37 determined that they are side yards they have to be recognized as  
38 side yards. He noted that the ZBA considers the setbacks to be rear  
39 yards and granted the greater of the two variances. Town Engineer  
40 Gagné opined for site plan purposes the setbacks are side yards.

1 Town Planner Hull said that in the Resolution the Board can  
2 reference the rear yard variances that were issued but state that in  
3 accordance with the Planning Board they are considered side yards.  
4 She noted that the Planning Board Resolution will clarify the issue.

5  
6 Ms. Gannon noted that a memo was sent to the Building Inspector in  
7 reference to the setback issue and she asked if he has replied.

8  
9 Town Planner Hull said that no response has been received from the  
10 Building Inspector.

11  
12 Town Planner Hull explained that she has not had a chance to verify  
13 if the variances sought from the ZBA are noted on the site plan  
14 and if the sign detail is currently within code compliance and if this  
15 has been verified by the ARB.

16  
17 Town Planner Hull noted that the camouflage technique raised at the  
18 May 27, 2009 Planning Board meeting should be considered and  
19 discussed with the applicant.

20  
21 The Chair asked Town Engineer Gagné to summarize his memo to  
22 the Board for the benefit of the public.

23  
24 Town Engineer Gagné said that his earlier comments have been  
25 addressed; however, with the revised submission he has some  
26 comments. He mentioned that the Planning Board will want to  
27 discuss the potential visual impacts observed during the April 18,  
28 2009 site walk and the consideration to add screening at the Route  
29 100 property line to further reduce the impacts. He noted that the site  
30 engineer has provided a detail of the catch basin sediment trap but it  
31 is the incorrect detail for this application. Town Engineer Gagné said  
32 that he recommends the practice not be installed due to potential for  
33 clogging and flooding and as an alternative the paved surfaces  
34 surrounding the proposed work area be protected by daily sweeping  
35 to reduce the erosion potential and that the disturbed area be  
36 provided with a perimeter filter fence to be installed at the end of each  
37 work day. Town Engineer Gagné said that the site plan drawings  
38 must be revised to remove the reference to the rear yard on this lot  
39 as this lot has no rear yard; it has two side yards and two front yards.  
40 He noted that by leaving the "rear yard" designation would render one

1 of the existing buildings as non-conforming and the building is not  
2 non-conforming. He stated that this has to be corrected. He noted  
3 that the SEUP is limited to a five (5) year term and may be renewed  
4 with an application for an additional five years but the SEUP issued  
5 by the ZBA is not clear on this and may need to be clarified.

6  
7 The Chair asked if there were any comments from members of the  
8 Board.

9  
10 Mr. Keane stated for the record that he would like to discuss the  
11 Visual Resource Evaluation Report which was done during the winter.  
12 He said that he is making his comments in the context of the primary  
13 obligations of the Planning Board which is the aesthetic or visual  
14 impacts and the wetland impact given the location of the monopole.  
15 He opined that the Visual Resource Evaluation Report is  
16 disingenuous, self serving and incomplete. He said that the  
17 photographs for the site selection are ludicrous. Mr. Keane said the  
18 report shows a picture of Warren Street where it says that the pole  
19 will not be visible and another picture taken from a backyard on  
20 Hilldale Avenue and Route 202 which is at a distance where even the  
21 tallest man in the world could not see that monopole and another  
22 picture looking southeast from the intersection of Inter Way and  
23 Entrance Way (which is located near the IBM property) saying that  
24 the monopole will not be visible from this location. Mr. Keane said  
25 that this Evaluation Report fails on its face. He mentioned that there  
26 are no pictures from Route 100 or from the Shopping Center site.  
27 He opined that this report is tantamount to useless and the pictures  
28 are totally irrelevant. Mr. Keane said that Attorney Gaudio stated  
29 that after reviewing the Evaluation Report that there are no visual  
30 impacts. He showed the Board a photograph from Route 100 looking  
31 into the Shopping Center which shows a crane simulating the height  
32 of the monopole. Mr. Keane said that after reviewing this Evaluation  
33 Report you are suppose to draw the conclusion that there are no  
34 visual impacts and that is really stretching it.

35  
36 Mr. Keane asked if Deutsche Telekom owns T-Mobile and Omnipoint.  
37 He said that it is important to know this and it is very interesting that  
38 one of these companies provides better camouflage than Rhombus  
39 blue.

40

1 Attorney Bonomolo said that she is not sure if Deutsche Telekom  
2 owns T-Mobile and Omnipoint.

3

4 Mr. Keane noted that even with all the documentation that has been  
5 provided there is no treatment of the visual impacts of the monopole  
6 itself.

7

8 Attorney Bonomolo asked what Mr. Keane meant by treatment of the  
9 visual impacts.

10

11 Mr. Keane said that the visual impacts of the monopole were not  
12 analyzed. He said that the applicant presented a Hobson's choice to  
13 the ARB and ZBA for the colors for the monopole. Mr. Keane noted  
14 that practically no search was done on how to properly camouflage  
15 the monopole. He noted that there is plenty of technical material that  
16 would provide a better camouflaging capability than Rhombus blue.  
17 Mr. Keane said that the monopole was not evaluated in its setting at  
18 the Towne Centre and the cumulative impacts of any future  
19 developments at the Towne Centre were not evaluated. Mr. Keane  
20 stated that his reasoning comes from SEQRA 617.7 c 2 and he feels  
21 that this has not been provided in any of the documentation. He noted  
22 that this is important because the Board has to evaluate the  
23 monopole and the aesthetic impacts in its context. He opined that  
24 there is little information provided for the Board to make a  
25 determination on what the impact will be.

26

27 Mr. Keane asked Attorney Bonomolo if she is aware that the trees on  
28 the adjacent property are 85' and the monopole will be 103'. He  
29 opined that some of the pictures make it look like the monopole is  
30 taller than 103'. He noted that the Planning Board requested that the  
31 applicant not only talk to Urstadt Biddle but also Alexan Somers  
32 Woods about where to site the pole because where it is located now  
33 has little opportunity to screen the pole with vegetation. He opined  
34 that there must be a better site for the pole than what is proposed.  
35 Mr. Keane stated that the applicant hitched their wagon to this site.  
36 He said that this is a black mark against the applicant because there  
37 is little room to maneuver with regard to addressing all the  
38 appropriate mitigation to the aesthetic impacts to do the proper job of  
39 camouflage and properly locating the pole. Mr. Keane said that if the  
40 Alexan Somers Woods Development takes place a lot of the trees will

1 be removed. He stated that the aesthetics will depend on what  
2 happens to the trees because it has to happen in context.

3  
4 Attorney Bonomolo said with respect to the visual analysis they have  
5 been part of the record for more than two years and were also  
6 conducted as publicly noticed balloon tests. She mentioned that the  
7 public and Town were made aware of when the test was conducted  
8 and had the opportunity to observe the balloon while it was being  
9 flown. Attorney Bonomolo indicated that pictures were submitted that  
10 show areas where the monopole is not visible and that is to show  
11 areas where the pole will not be visible. She noted that many site  
12 visits were conducted at the site with the ZBA and the Planning  
13 Board. Attorney Bonomolo said that the Town retained a consultant  
14 who reviewed the analyses and the application and confirmed the  
15 determination on the applicant's minimal visual impacts. She  
16 mentioned that numerous designs have been discussed for the  
17 facility, i.e., flagpole with flag, flagless pole. She noted that the ZBA  
18 chose a flagless pole and that is the chosen design based on  
19 comments of the ZBA, ARB and Planning Board. Attorney Bonomolo  
20 said that the applicant presented multiple colors that the pole could  
21 be painted (blue to blend with the sky, brown, two-tone pole). She  
22 noted that the applicant did not hitch itself to this site as there was an  
23 alternate site that was proposed. She mentioned that an application  
24 was submitted for an alternate site at Heritage Hills. Attorney  
25 Bonomolo explained that the ZBA determined that the site at the  
26 Towne Centre was the preferred location. She mentioned that  
27 alternative locations were also reviewed for the Towne Centre site.

28  
29 The Chair asked if Attorney Bonomolo is still talking about visual  
30 impacts.

31  
32 Attorney Bonomolo said that she is absolutely talking about visual  
33 impacts and the alternate locations that were brought up by Mr.  
34 Keane. She noted that an alternative location on the Towne Centre  
35 property was reviewed that would move the pole further away from  
36 the proposed Alexan Woods development. Attorney Bonomolo  
37 indicated that based on the site visit and Town Engineer Gagné's  
38 memo the proposed location is the preferred location because it will  
39 have less visual impact on the surrounding area. She said with  
40 respect to the proposed development on the adjacent property the

1 development is purely speculative. She noted that under SEQRA  
2 and case law you do not have to take into account any speculative  
3 development. She mentioned that for the applicant to consider  
4 something that may never be approved is unlawful and unreasonable.  
5 Attorney Bonomolo said that representatives of Omnipoint spoke as  
6 recently as yesterday to Daniel Logue, manager of Engineering and  
7 Environmental Services for Urstadt Biddle, and confirmed that he  
8 communicates directly with the developer and that they understand  
9 the location that the applicant is moving forward with. Attorney  
10 Bonomolo indicated that the letter from Urstadt Biddle has been  
11 submitted and the applicant has a lease agreement with Urstadt  
12 Biddle and based on this, the adjacent development should no longer  
13 be a concern of the Board.

14  
15 Attorney Bonomolo said that with respect to what the Board feels is  
16 more appropriate camouflage she did research and reached out to  
17 the company and they provided a sample of the camouflage. She  
18 showed the Board the sample and said that basically it is contact  
19 paper with pixels and is used to camouflage the tower. Attorney  
20 Bonomolo opined that this technique may be appropriate for a tower  
21 located in the middle of the woods or desert but may not be the most  
22 appropriate camouflage in the Towne Centre location. She said that  
23 the monopole with the internally mounted antennas, no flag, no  
24 lighting and without the ball on top is more appropriate in the Towne  
25 Centre setting.

26  
27 Mr. Keane said that all the alternatives such as patterns have not  
28 been provided.

29  
30 Attorney Bonomolo noted if the Board is interested in the contact type  
31 of camouflage she will get more samples in different colors.

32  
33 The Chair asked if there is different material that can be used.  
34 Town Planner Hull asked if there is any information on the weathering  
35 of the contact material.

36  
37 Attorney Bonomolo said the color and adhesion is warranted for one  
38 year with the expected service life 5 to 7 years. She said that she is  
39 looking at the Invisible Towers website.

1 Mr. Keane asked if all this information was provided to the ZBA and  
2 the ARB. He said that it is the obligation of the applicant to provide  
3 all the available possibilities.  
4

5 Attorney Bonomolo said that everything that has been discussed with  
6 the Planning Board has been discussed with the ZBA. She noted  
7 that she did not discuss the contact camouflage with the ZBA or ARB  
8 because she does not think it is fitting in the Towne Centre setting.  
9 She stated that many different types of colors and poles were  
10 discussed and the ZBA took a hard look and the ARB recommended  
11 painting the pole Rhombus blue.  
12

13 The Chair reminded Attorney Bonomolo that she is before the  
14 Planning Board not the ZBA.  
15

16 The Chair mentioned the April 28, 2009 memo from the ARB saying  
17 that colors were discussed for a proposed 100' stealth pole for the  
18 cell tower and all unanimously agreed to approve painting the pole  
19 Rhombus grey/blue color.  
20

21 Attorney Bonomolo said that the applicant met with the ARB at an  
22 earlier meeting and discussed different camouflage options. She  
23 noted that the ARB asked the applicant to return to the next meeting  
24 with paint colors. She mentioned that similar colors for a monopole  
25 were approved at the Somers Commons Shopping Center which is a  
26 commercial setting and a similar setting to the Towne Centre.  
27

28 Mr. Keane said that the setting is very different from Somers  
29 Commons Shopping Center because it is behind a building and not  
30 close to the woods. He stressed that it is the backdrop that should be  
31 considered.  
32

33 Attorney Bonomolo said that the applicant will consider the  
34 use of contact paper being wrapped around a pole if that is what the  
35 Board wants. She reminded the Board that the use of contact paper  
36 does not have a long life span.  
37

38 Ms. Gannon said that she reviewed the website because of Mr.  
39 Keane's suggestion about using multiple colors. She noted that the  
40 Board is looking for more contemplation and analysis of the

1 possibilities. She mentioned that over the weekend she had occasion  
2 to visit the High School and she looked up the hill and saw lighting  
3 towers. She explained that at first she did not see the towers but  
4 then in a moment of time the towers faded away. Ms. Gannon noted  
5 that when she got closer to the towers she realized that they were not  
6 one color but there was a modeling going on; with shiny parts and  
7 mat parts. Ms. Gannon said that she was not sure if the pole was  
8 painted or a wrap. She explained that the issue is scale, context and  
9 appropriateness. Ms. Gannon commented that the ARB worked with  
10 what they were presented with but the applicant has to expand and  
11 think more creatively. She said that this is a sensitive area with the  
12 Elephant Hotel and there is the woods and the height of the trees.  
13 Ms. Gannon indicated that when you are close to the monopole it  
14 looks like a galvanized metal but when you are further away from the  
15 monopole you have to think of the context. She mentioned that there  
16 is an example of what works with a monopole in this Town. Ms.  
17 Gannon said that the issue is about scale, color and what you see  
18 and where you are in portion with it. She suggested that the  
19 applicant's search include multiple patterns and look further into  
20 options. She stated that what she is looking for is a hard look.

21

22 Attorney Bonomolo said the Board should consider that the pole will  
23 be minimally visible from far away distances and more visible in  
24 closer proximity to the pole.

25

26 Ms. Gannon said that camouflage and mixed colors were not  
27 considered and she thinks that the record will show this.

28

29 Attorney Bonomolo noted that the ZBA stated that the color of the  
30 monopole could be determined by the Planning Board. She said that  
31 as part of the site plan review she will take another look into color and  
32 material options. She commented that the applicant is before the  
33 Board for a Groundwater Protection Overlay District and a Wetland  
34 Permit.

35

36 Mr. Keane mentioned that there are many backing materials available  
37 not just the one that Attorney Bonomolo showed the Board.

38

39 Attorney Bonomolo said that the website for the invisible tower states  
40 that this material is the highest quality and is 3M vinyl material.

1 Mr. Keane said that a big problem is the setting of the trees behind  
2 the pole and the group of trees on the adjacent property that serves  
3 as the backdrop to the proposed pole will remain the same.

4  
5 Attorney Bonomolo opined that there are minor comments in the  
6 Town Planner and Town Engineer's memos and she requested that  
7 the Board schedule a Public Hearing.

8  
9 Mr. Keane said the request for a Public Hearing is premature as the  
10 application is not in compliance with wetland mitigation in accordance  
11 with the Town Code. He said that the proposed trees do not replace  
12 the impervious surfaces.

13  
14 Town Engineer Gagné agreed that the impervious surfaces have not  
15 been replaced but are small in relation to the scope of the project. He  
16 opined that with plantings, trees and wood mulch there is adequate  
17 mitigation but that determination is up to the Board. He said that he  
18 does not see an impact from the concrete slab in the wetland buffer.

19  
20 Mr. Keane said that the trees are just screening mitigation for the  
21 fencing and electrical equipment behind the pole. He asked what  
22 mitigation was being used for the appearance of the pole.

23  
24 Town Engineer Gagné said the Board has to decide if they want the  
25 pole to be hidden from people in the parking lot or shield the pole and  
26 reduce its impact from Route 100 or distant points. He said that the  
27 Board has to look at these different points of view and decide on  
28 which one is more important. He mentioned that it would be better if  
29 the pole could be located behind a building or set back into the woods  
30 instead of the proposed location.

31  
32 Mr. Keane requested a legal opinion on Section 617. 7 C (2) in  
33 reference to short and long term cumulative impacts.

34  
35 Attorney Bonomolo said that she would like to remind the Board that  
36 the SEQRA process has concluded. She noted that the ZBA  
37 conducted the SEQRA process as Lead Agency. Attorney Bonomolo  
38 indicated that the Planning Board did not object to the ZBA being  
39 Lead Agency. She opined that the Negative Declaration is binding

1 upon the Planning Board and any further SEQRA review is  
2 inappropriate.

3  
4 Mr. Foley said that the Negative Declaration can be withdrawn.

5  
6 Attorney Bonomolo indicated that a Negative Declaration can be  
7 rescinded but only under very specific circumstances.

8  
9 Mr. Keane mentioned that new information is one reason for a Neg  
10 Dec to be rescinded.

11  
12 Attorney Bonomolo said that the ZBA considered aesthetics of the  
13 pole and determined that the Planning Board can decide the color of  
14 the pole under site plan review.

15  
16 Town Attorney Holt-Cinque noted that there has been discussion with  
17 some members of the Board and staff with the Town Attorney's office.  
18 She said that the Board will discuss where the Negative Declaration  
19 is lacking and incorporate it into their site plan findings. She said if  
20 there is information that the Board needs they will draw a correlation  
21 to SEQRA and that will be their reference point.

22  
23 Attorney Bonomolo said that as long as the information is within the  
24 Board's site plan jurisdiction that is fine but the SEQRA review is  
25 completed.

26  
27 The Chair mentioned that at the April 8, 2009 meeting Town Planner  
28 Hull said that she is looking for confirmation from the Alexan Woods  
29 owners that they will redesign the project to accommodate the cell  
30 tower. She said that Attorney Bonomolo said she will reach out to the  
31 Alexan Woods developer for a written acknowledgment that they will  
32 move the access road. The Chair said that she has not received the  
33 written acknowledgement from the developer of the Alexan Woods  
34 development.

35  
36 Attorney Bonomolo said that she submitted a letter dated April 30,  
37 2009 from Urstadt Biddle who is a joint applicant as part of the Alexan  
38 Woods development saying that the applicant can move forward with  
39 the proposed location. She noted that in effect it means that any

1 development on the adjacent property or this property will be worked  
2 around.

3

4 Mr. Keane said that is Attorney Bonomolo's interpretation and cannot  
5 be accepted.

6

7 Attorney Bonomolo said that Omnipoint has a lease agreement with  
8 the Alexan Woods developer.

9

10 Town Engineer Gagné mentioned that the proposed location of the  
11 tower will mean that Alexan Woods development cannot build a bi-  
12 pass road in the wetland buffer.

13

14 Attorney Bonomolo reiterated that because the items in the Town  
15 Planner and Town Engineer's memos are minor she is requesting  
16 that the Board schedule a Public Hearing for this application.  
17 She mentioned that it would be appropriate to discuss camouflage  
18 technology as part of the Public Hearing process. She said that one  
19 point of the Public Hearing is to discuss the color of the pole with the  
20 neighbors.

21

22 Mr. Keane stated that the Board wants a very developed plan  
23 before a Public Hearing is scheduled. He suggested 1) that the  
24 applicant show that vegetation will remain in the vicinity of the pole.

25

26 Attorney Bonomolo interrupted saying that the applicant has no  
27 control over the adjacent property.

28

29 Mr. Keane mentioned number 2) provide a thorough search of cell  
30 tower camouflage technology. He indicated that the American flag  
31 should not be used as camouflage. Mr. Keane said that 3) show on a  
32 plan or landscaping proposal how to screen the pole and have much  
33 taller trees planted to screen the pole itself (20 to 25' high trees) and  
34 number 4) off -site wetland mitigation. He commented that the Public  
35 Hearing should not be scheduled until this information is provided.

36

37 The Chair said that the Board has not come to a conclusion on the  
38 camouflage of the pole.

39

1 Ms. Gannon said that if the Board does not have selection and  
2 treatment of the monopole as it will be situated on the proposed site,  
3 in regard to camouflage, things the Board can understand as to  
4 height and color pattern; how is the Board to analyze it and how is the  
5 public to make meaningful comments if the rationale of possible  
6 plants have not been developed. She said that it is insulting to expect  
7 the public to look at nothing and have an opinion.

8  
9 Attorney Bonomolo stressed that the Board is not looking at nothing  
10 and she disagrees with that implication. She said that different colors  
11 and designs to be considered were provided and this application is  
12 very similar to another application whose Public Hearing was  
13 scheduled to allow the neighbors to help decide on the color. She  
14 noted that the Telecommunications Act is clear that these  
15 applications cannot be unreasonably delayed. Attorney Bonomolo  
16 said it was her understanding that the Board was waiting for the  
17 Resolution from the ZBA in order to move forward with the Public  
18 Hearing. She noted that this application was filed in 2007 and has  
19 been before the Board for years.

20  
21 Town Attorney Holt-Cinque said that on the issue of Alexan Somers  
22 Woods it is the determination of the Town Attorney's office that  
23 absent the case law that the applicant referred to, that the Board can  
24 move forward with the idea in mind that the Board can consider the  
25 aesthetic impacts that this application will have on the Alexan Somers  
26 Woods development. She indicated that the Alexan Somers Woods  
27 application is not speculative as scoping on the project has been  
28 completed. She said that she will review the case law that Attorney  
29 Bonomolo mentioned.

30  
31 Mr. Foley asked the location of the alternative sites.

32  
33 Attorney Bonomolo said that an application was filed for a cell tower  
34 on Heritage Hills property and consideration was given to locating the  
35 cell tower at different locations on the Towne Centre property.

36  
37 Mr. Foley asked if an Omnipoint coverage gap was determined.

38  
39 Attorney Bonomolo stated that the Town consultant Mike Musso,  
40 confirmed that there was an Omnipoint service gap.

1 Mr. Foley asked if the Heritage location was feasible.

2

3 Attorney Bonomolo said that Omnipoint filed an application at the  
4 Heritage location but the ZBA determined that the Towne Centre was  
5 the preferred location.

6

7 Mr. Foley asked if Omnipoint considered a smaller tower at the  
8 proposed location.

9

10 Attorney Bonomolo indicated that the Town’s consultant confirmed  
11 that a smaller tower would not provide the necessary coverage to  
12 remedy the gap in service.

13

14 The Chair requested that the four issues raised by Mr. Keane be  
15 addressed and the application be placed on the August 26, 2009  
16 Planning Board agenda.

17

18 *At this point the Board took a 10 minute break.....*

19

20 **PROJECT REVIEW – SEQRA**

21

22 **ST. JOSEPH’S CHURCH AND JOHN F. KENNEDY**  
23 **HIGH SCHOOL [TM: 28.15-1, 8, 9, 10]**

24

25 Chairman DeLucia noted that this is the project review of the  
26 applications of the Roman Catholic Archdiocese of New York for  
27 amended Site Plan Approval, Stormwater Management and Erosion  
28 and Sediment Control, Tree Preservation, Steep Slopes, Wetlands  
29 and Groundwater Protection Overlay District Permits. The Chair said  
30 that the project involves the relocation and construction of a new St.  
31 Joseph’s Church from the current location on Croton Falls Road to a  
32 portion of the 58.3 acre JFK Catholic High School campus on  
33 Goldens Bridge Road, NYS Route 138, in an R-120 Residential  
34 Zoning District. She explained that the JFK school campus is  
35 surrounded on three sides by lands that border the Muscoot  
36 Reservoir, part of the Croton water supply, owned by the NYC  
37 Department of Environmental Protection. The Chair mentioned that  
38 the new church proposes seating for 720 parishioners with 399  
39 parking spaces, a new septic system and well, and the relocation and  
40 reconstruction of athletic fields in addition to other improvements.

1 She said that this project was last discussed at the May 27, 2009  
2 Planning Board meeting whereby the Board reviewed, discussed and  
3 evaluated Part 2-Project Impacts and Their Magnitude, and Part 3-  
4 Evaluation of the Importance of Impacts, of the Environmental  
5 Assessment Form (EAF). The Chair indicated that this evening the  
6 Board will be reviewing and evaluating revised Part 2 and Part 3 of  
7 the EAF for the purpose of determining whether it is acceptable in  
8 arriving at a negative declaration supported with adequate detail in  
9 explaining why there will be no significant impacts.

10  
11 The Chair said for the record, she acknowledges receipt of the  
12 following: a letter dated May 26, 2009 from Bonnie Cohn of 70 Route  
13 138 with additional concerns; a memo dated May 29, 2009 from the  
14 Conservation Board with concerns and recommendations; a letter  
15 dated June 3, 2009 from Harry Baker & Associates with comments  
16 regarding road sight distances, travel speeds, signs, etc., and  
17 enclosing Drawing Number C-101 Site Distance Existing Conditions  
18 dated June 3, 2009; a revised Part I of the EAF dated and revised  
19 June 9, 2009 submitted by applicant's representative DCAK-MSA  
20 Architecture; a memo dated June 5, 2009 from Town Planner Hull,  
21 AICP with project Description, History, and Review and attaching a  
22 revised Part 2 and Part 3 of the EAF for the Board's discussion and  
23 evaluation; and a memo dated June 10, 2009 from Town Engineer  
24 Gagné with 4 comments regarding the submitted Drawing C-101 Site  
25 Distance Existing Conditions.

26  
27 The Chair asked the applicant's representative to give a brief  
28 presentation of their recent submission, i.e., the site distance drawing  
29 and information, for the benefit of the public. She mentioned that  
30 after the presentation, the Board will be reviewing and evaluating  
31 revised Part 2 and Part 3 of the EAF.

32  
33 Neil Alexander, the applicant's attorney, said that additional  
34 information was provided in regard to sight lines. He opined that the  
35 road sight distances is a site plan issue and the applicant will  
36 continue to address this issue during site plan review. Attorney  
37 Alexander noted that there are no environmental impacts associated  
38 with the intersection. He mentioned that through interaction with the  
39 Department of Transportation the applicant can make the intersection

1 better. He explained that the intersection is safe but changes can be  
2 made to make the intersection better.

3

4 The Chair asked Town Planner Hull to summarize her memo to the  
5 Board for the benefit of the public and proceed with the review of the  
6 revised Part 2 and Part 3 of the EAF.

7

8 Town Planner Hull said that she prepared a revised Part 2-Project  
9 Impacts and Their Magnitude as well as a revised Part 3-Evaluation  
10 of the Importance of Impacts of the Environmental Assessment Form  
11 that was based on discussions at the May 27, 2009 Planning Board  
12 meeting. Town Planner Hull described the procedures that should be  
13 undertaken to comply with SEQRA. She mentioned that a negative  
14 declaration or conditioned negative declaration be prepared if that is  
15 how the Planning Board chooses to proceed and then the negative  
16 declaration must be filed with the Town Supervisor and Town Clerk  
17 and all involved agencies, and the applicant. She noted that the  
18 notice of a negative declaration/conditioned negative declaration  
19 must be published in the Environmental Notice Bulletin (ENB).

20

21 The Chair said that members of the Board, the Town Attorney, Town  
22 Engineer and the applicant's representative may interject their  
23 comments and/or questions during the review.

24

25 Mr. Foley suggested, for the benefit of the public, that staff explain  
26 who fills out Part 1, 2 and 3 of the Environmental Assessment Form  
27 (EAF).

28

29 Town Planner Hull noted that Part 1 is prepared by the applicant and  
30 Part 2 and Part 3 are the responsibility of the Lead Agency, which is  
31 the Somers Planning Board.

32

33 Mr. Keane explained that the review of the EAF is in the context of  
34 the Board making a determination of significance and under SEQRA  
35 the Board has to evaluate all the environmental impacts and if there  
36 is one that may rise to the level of significance; an Environmental  
37 Impact Statement must be done for that particular impact. Mr.  
38 Keane said that if the Board determines that there are no  
39 environmental impacts that rise to a level of significance or the  
40 conditioned negative declaration is a type of EIS where there are

1 conditions that have to be met to move forward by establishing that  
2 there are no environmental impacts meeting all the conditions. He  
3 said that one of the unique things is that you have to evaluate the  
4 action itself with regard to the determination of significance. Mr.  
5 Keane explained that the action has changed over time from when it  
6 began until where it is now and the applicant has continually changed  
7 their application to insert more and more mitigation of the suspected  
8 environmental impacts. He mentioned that if the applicant created  
9 enough mitigation that none of the impacts rise to a level of  
10 significance, the Board can move forward with a negative declaration  
11 which stops the environmental review process and the Board can  
12 move on to site plan review.

13  
14 The Chair noted that this application is a Type I Action and asked  
15 Town Planner Hull to explain what is meant by a Type I Action.

16  
17 Town Planner Hull said that a Type I Action falls under specific  
18 criteria under SEQRA and is related to the amount of building or site  
19 coverage or the amount of cars a parking lot will be constructed for.

20  
21 The Chair said that the applicant has made changes on Part 1 of the  
22 EAF.

23  
24 Drazen Cackovic, the applicant's architect, indicated on Part 1, Page  
25 5, Number 17, *Is the site served by existing public utilities*, and the  
26 answer has been changed from No to Yes and Number 17 a. *if Yes,*  
27 *does sufficient capacity exist to allow connection* and the answer is  
28 *Yes*; 17 b. *If yes, will improvements be necessary to allow connection*  
29 and the answer is *Yes*.

30  
31 Town Planner Hull referred to Part 2, Impact on Land, Number 2, *Will*  
32 *there be an effect to any unique or unusual land forms found on the*  
33 *site* and the answer is *No*.

34  
35 Impact on Water, Number 3. *will proposed action affect any water*  
36 *body designated as protected* and the answer is *Yes*. Number 4, *Will*  
37 *proposed Action effect any non-protected existing or new body of*  
38 *water* and the answer is *No*. Number 5, *Will proposed Action alter*  
39 *drainage or patterns, or surface water runoff* and the answer is *Yes*.

1 Town Planner Hull indicated that when the answer is Yes it will be  
2 evaluated in Part 3 of the EAF.

3

4 Impact on Air, Number 7, *Will proposed Action affect air quality and*  
5 *the answer is No.*

6

7 Impact on Plants and Animals, Number 8, *Will proposed Action affect*  
8 *any threatened or endangered species and the answer is No.*

9 Number 9. *Will proposed Action substantially effect non-threatened or*  
10 *non-endangered species and the answer is No.*

11

12 Impact on Agricultural Land Resources, Number 10, *Will proposed*  
13 *Action affect agricultural land resources and the answer is No.*

14

15 Impact on Aesthetic Resources, Number 11, *Will proposed Action*  
16 *affect aesthetic resources and the answer is No.*

17

18 Impact on Historic and Archaeological Resources, Number 12, *Will*  
19 *proposed Action impact any site or structure of historic, prehistoric or*  
20 *paleontological importance and the answer is No.*

21

22 Impact on Open Space and Recreation, Number 13, *Will proposed*  
23 *Action affect the quantity or quality of existing or future open spaces*  
24 *or recreation opportunities and the answer is No.*

25

26 Impact on Critical Environmental Areas, Number 14. *Will proposed*  
27 *Action impact the exceptional or unique characteristic of a critical*  
28 *environmental area (CEA) established pursuant to subdivision*  
29 *6NYCRR 617.14 (g) (SEQRA) and the answer is No.*

30

31 Impact on Transportation, Number 15, *Will there be an effect to*  
32 *existing transportation system and the answer is Yes.*

33

34 Impact on Energy, Number 16, *Will proposed Action effect the*  
35 *community's sources of fuel or energy supply and the answer is No.*

36

37 Impact on Noise and Odor Impact, Number 17, *Will there be*  
38 *objectionable odors, noise, or vibration as a result of the Proposed*  
39 *Action and the answer is No.*

40

1 Impact on Public Health, Number 18, *Will the Proposed Action affect*  
2 *public health and safety* and the answer is Yes.

3

4 Impact on Growth and Character of Community or Neighborhood,  
5 Number 19, *Will Proposed Action affect the character of the existing*  
6 *community* and the answer is Yes. Number 20, *Is there, or is there*  
7 *likely to be, public controversy related to potential adverse*  
8 *environmental impacts* and the answer is Yes.

9

10 Town Planner Hull explained that Part 2 was based on the initial  
11 proposed action. She noted that the action has changed since it was  
12 originally proposed and the answers in Part 2 relate to the initial  
13 proposed action.

14

15 Town Planner Hull referred to Part 3 of the EAF and noted that the  
16 Town Engineer and the applicant have reviewed Part 3. She  
17 indicated that Part 3 describes the proposed action and identifies all  
18 the information that has been received and reviewed by the Planning  
19 Board.

20

21 Mr. Foley referred to Page 4, the first paragraph, *The Applicant, in*  
22 *working with the Planning Board, had revised and reshaped the*  
23 *project to ensure that there will be no environmental impacts...* He  
24 disagreed saying that there will be environmental impacts.

25

26 Mr. Keane suggested the wording there will be no *significant*  
27 *environmental impacts...*

28

29 Mr. Keane mentioned that the Board during their review reduced the  
30 impacts from small to moderate back to a small impact.

31 Ms. Gannon suggested that under Noise and Odor Impact that the  
32 paragraph on the removal and replanting of trees be included in that  
33 section and the Board agreed to the change.

34

35 Ms. Gannon mentioned under Impact on Water 3. A that the sentence  
36 *The proposed mitigation improves the water quality of the pond by*  
37 *removing sediments and particulates and the pollutants that adhere*  
38 *to them prior to the stormwater runoff discharging to the pond.* This  
39 eliminates any adverse impacts and creates a positive water quality

1 impact from the proposed action on the pond. The Board and the  
2 applicant agreed to the sentence change.

3  
4 Ms. Gannon said that the applicant has created a positive impact.

5  
6 Mr. Foley said that under Impact on Public Health that it should  
7 mention that the available site distance at the existing Plum Brook  
8 Road intersection with NYS Route 138 from the west is limited due to  
9 a curve in the roadway. He said that the Town Planner should  
10 identify the problem and then describe the mitigative measures that  
11 have been agreed to.

12  
13 Mr. Keane asked when the point of egress from the Church along  
14 Plum Brook was discussed.

15  
16 Town Planner Hull said that the point of egress from the Church was  
17 mentioned in Town Engineer Gagné's memo dated June 10, 2009.

18  
19 Mr. Foley explained that there was a suggestion because of traffic  
20 considerations that an alternate means of egress be made available  
21 through a bi-pass road from the Church site to the High School.

22  
23 Rudolph Petrucelli, the applicant's engineer, said that he designed a  
24 roadway from the school connecting the church parking lot where  
25 there is a breakaway gate. He said that there is no reason that the  
26 use of the emergency access driveway cannot be used during church  
27 services.

28  
29 Attorney Alexander said that the applicant can explore the use of the  
30 emergency access and the sight distance issue during the site plan  
31 review. He stressed that this is not a significant environmental  
32 impact.

33  
34 Mr. Foley said that at this point he assumes that the use of a second  
35 point of egress from Church services will not happen and if it does not  
36 happen the Board has to decide if this is an impact on the basis of  
37 public safety.

38

1 Mr. Keane opined that the sight distance and the second point of  
2 egress from the church does not rise to the level of a significant  
3 adverse negative impact.

4  
5 Ms. Gerbino mentioned that the discussion on sight distance and the  
6 use of the emergency access should be discussed during the site  
7 plan review.

8  
9 Mr. Keane noted that Harry Baker, the applicant's traffic engineer,  
10 said that the sight distance is well within the AASHTO manual range.  
11 He indicated that the report takes into consideration the rate of speed  
12 of cars going through the Plum Brook Road and Route 138  
13 intersection.

14  
15 Mr. Knapp said that the sight distance is incorrect.

16  
17 Town Attorney Holt-Cinque advised that the sight distance and  
18 access road issues can be discussed as a SEQRA or site plan issue.

19  
20 Mr. Keane stated that the threshold is if these issues rise to the level  
21 of significance.

22  
23 Town Planner Hull opined that the Board has to decide if these issues  
24 rise to a level of significance. She said that the Board has to go with  
25 the posted speed limit not based on cars speeding.

26  
27 The Chair suggested that the emergency gate be open only during  
28 Church services.

29  
30 Attorney Alexander said that in order to address the appearance of a  
31 concern the applicant agrees to have the emergency gate open  
32 during Church services.

33 Town Engineer Gagné said that the paragraph should state that the  
34 applicant has agreed to install an "Intersection Ahead" warning sign  
35 and work with the New York State Department of Transportation to  
36 clear overhanging tree branches and ensure that grass and shrubs in  
37 the intersection sight triangle are maintained so as not to interfere  
38 with sight lines. He mentioned that under Public Health it should  
39 describe how the applicant has agreed to provide a second point of  
40 egress from church services.

1 Town Planner Hull said that she will put sight distance and access  
2 road issues under Transportation and under Public Safety in Part 3 of  
3 the EAF.

4  
5 Attorney Alexander requested that the statement say that the  
6 applicant can only do so much because the DOT owns the road.

7  
8 The Chair asked if there was a consensus that the Planning Board as  
9 Lead Agency finds that sufficient information has been provided and  
10 addressed and therefore determines that the proposed action under  
11 SEQRA 617.7 determining significance supports a negative  
12 declaration, that an Environmental Impact Statement (EIS) is not  
13 required, that the Board has considered the whole action and criteria  
14 for determining significance, and that a negative declaration be  
15 prepared, filed, published, distributed and made available to the  
16 public, therefore ending the SEQRA process.

17  
18 On motion by Mr. Keane, seconded by Ms. Gerbino, and  
19 unanimously carried, the Board moved to declare that the Planning  
20 Board as Lead Agency has determined that: under SEQRA 617.7 (b)  
21 the proposed action will not result in a significant adverse  
22 environmental impact on the environment and therefore a negative  
23 declaration is warranted; under 617.7 (a) (2) an Environmental Impact  
24 Statement (EIS) is not required; and 617.7 (c) has considered the  
25 whole action and criteria for determining significance, and under  
26 617.12 a negative declaration be prepared for the Chairman's  
27 signature and filed, published, distributed and made available to the  
28 public, as amended.

29  
30 The Chair stated that the Planning Board's determination for a  
31 negative declaration ends the SEQRA process.

32 The Chair directed that the applicant be placed on the June 24, 2009  
33 Planning Board meeting.

34  
35 There being no further business, on motion by Mr. Keane,  
36 seconded by Ms. Gannon, and unanimously carried, the meeting  
37 adjourned at 10:30 P. M.

38

1 Chairman DeLucia noted that the next meeting of the Planning Board  
2 will be held on Wednesday, June 24, 2009 at 7:30 P.M. at the  
3 Somers Town House.

4

5

6

7

Respectfully submitted,

8

9

Marilyn Murphy

10

Planning Board Secretary

11

12

13