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PLANNING DEPARTMENT

TOWN HOUSE
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Town of Somers

WESTCHESTER COUNTY, N.Y.



John Currie, *Chairman*
Fedora DeLucia
Christopher Foley
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
John Keane

3

**SOMERS PLANNING BOARD MINUTES
JULY 11, 2012**

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:**

11 Chairman Currie, Mrs. DeLucia, Mr. Keane,
12 Ms. Gerbino, Mr. Foley, Mr. Goldenberg, and
13 Ms. Gannon

13

14 **ALSO PRESENT:**

15 Town Planner Syrette Dym
16 Consulting Town Planner Joanne Meder
17 Consulting Engineer Joseph Barbagallo
18 Town Attorney Gerald Reilly
19 Planning Board Secretary Marilyn Murphy

19

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

23

24 **MINUTES**

25

26 **APPROVAL OF MAY 9, 2012 MINUTES**

27

28 Chairman Currie noted that Planning Board Secretary Marilyn Murphy
29 prepared and submitted for the Board's consideration the approval of the
30 draft minutes of the Planning Board meeting held on May 9, 2012.

1 Chairman Currie asked if there were any comments or questions from
2 members of the Board on the draft minutes of May 9, 2012 and no one
3 replied.

4
5 The Chair asked if there was a motion to approve the May 9, 2012 draft
6 minutes.

7
8 On motion by Ms. Gannon, seconded by Mr. Goldenberg, and unanimously
9 carried, the minutes of May 9, 2012 were approved.

10

11 **TIME-EXTENSION**

12

13 **BARBAGALLO/MEICHNER ROADWAY IMPROVEMENTS**

14

15 Chairman Currie explained that the Board is in receipt of a letter from
16 Timothy S. Allen of Bibbo Associates requesting a one (1) year
17 time-extension to the re-grant of Site Plan Approval for the
18 Barbagallo/Meichner Roadway Improvements for the Scenic Resource
19 Protection Area known as Smith Lane from September 10, 2012 to and
20 including September 10, 2013. He said that the reason for the time-
21 extension is the current economic conditions and that the Meichner's are
22 re-evaluating how they will proceed.

23

24 Chair Currie asked if the Board members have any questions or comments
25 on the requested time-extension and no one responded.

26

27 Mr. Foley clarified Section 170-114.K. of the Code of the Town of Somers
28 which states that an application for an extension should be made prior to
29 the expiration and one extension of one year may be made for each of the
30 following three reasons: the time to obtain signature of the site plan, the
31 time to obtain permit and the time to complete construction.

32

33 On motion by Mrs. DeLucia, seconded by Ms. Gerbino, and unanimously
34 carried, the Board moved to grant a one (1) year time-extension to the re-
35 grant of Site Plan Approval for the Barbagallo/Meichner Roadway
36 Improvements for the Scenic Resource Protection Area known as Smith
37 Lane from September 10, 2012 to and including September 10, 2013.

38

39

40

1 **DISCUSSION**

2
 3 **GREENBRIAR RE-SUBDIVISION OF LOTS 1, 2, 3, 4**
 4 **IN SECTION 7**
 5 **CUTTING OF 50” DIAMETER OAK TREE**

6
 7 Chairman Currie said that this is a discussion on a Notice of Violation
 8 issued by Steven Woelfle, principal Engineering Technician, dated May 5,
 9 2012. He noted that the Planning Board in 2006 granted approval to re-
 10 subdivide 4 lots with the condition that the 50” diameter White Oak be
 11 preserved.

12
 13 Mrs. DeLucia recused herself as a Planning Board member from the
 14 application and sat in the audience as a resident due to the fact that the
 15 applicant’s arborist was her husband’s nephew.

16
 17 Chairman Currie introduced new Town Planner Syrette Dym and asked her
 18 to summarize her memo.

19
 20 Town Planner Dym noted that she prepared a memorandum to the
 21 Planning Board dated July 5, 2012. She said that she reviewed the original
 22 subdivision and went out in the field to get a better understanding of the
 23 subdivision. She explained that on May 5, 2012 a call was received from a
 24 member of the Greenbriar Homeowners Association indicating that the 50”
 25 Oak tree had been cut down. Town Planner Dym stressed that the 50” oak
 26 tree was noted for preservation on lot 1 of the original subdivision approved
 27 as a cluster subdivision in 1983. She said that the developer Milton Shapiro
 28 submitted an application for an adjustment of lot lines for lots 1, 2, 3 and 4
 29 of Section 7 in 2004, constituting an application for a re-subdivision of
 30 those lots. Town Planner Dym stated that the purpose of the Abbreviated
 31 Subdivision application was to permit construction on two of the four lots
 32 and maintain the required preservation of the Oak tree.

33
 34 Town Planner Dym said that the Planning Board in December 2006
 35 granted Conditional Final Re-subdivision Approval with recommendations.
 36 She explained that there were discussions on the stress on the tree that
 37 would be looked at on a regular basis. Town Planner Dym commented that
 38 an evaluation indicated that the tree be monitored twice a year, with reports
 39 submitted to the Planning Board. She said that specific action would be
 40 taken if there were any safety issues regarding the tree. Town Planner

1 Dym indicated that none of these requirements were followed. She noted
2 that the developer contacted a tree arborist with the request to follow the
3 recommendations but according to feedback from the community were
4 never followed.

5
6 Town Planner Dym said a letter was received from D & D Tree and
7 Landscaping on May 10, 2012 after the tree was cut down indicating that
8 the tree was not healthy. However, a letter was received on May 22, 2012
9 from Jonathan Olsz of Almstead Tree and Shrub Care opining on the tree
10 inspection performed by ISA Certified Arborist Steven DeLucia of D &D
11 Tree and Landscaping. Town Planner Dym indicated that Mr. Olsz
12 indicated that the tree inspection did not provide enough statistical data and
13 deserved a more detailed analysis in keeping with the ISA code of ethics.
14 Mr. Olsz stated that the tree had about 50-75 years of life remaining if it
15 had not been removed.

16
17 Town Planner Dym said that it is up to the Planning Board to decide how it
18 wants to proceed.

19
20 The Chair asked if there were any comments from staff regarding the
21 cutting of the 50" diameter Oak tree at Greenbriar.

22
23 Mr. Goldenberg asked if Mr. Shapiro was notified that this discussion was
24 on the agenda tonight.

25
26 Chair Currie indicated that Mr. Shapiro was notified of the discussion but
27 was not able to attend the meeting this evening.

28
29 Mr. Goldenberg was surprised that the developer was not in attendance and
30 expressed his displeasure that Mr. Shapiro or his representative did not
31 attend the meeting.

32
33 Chair Currie asked Town Attorney Reilly what the options are for the
34 Planning Board.

35
36 Town Attorney Reilly advised that the Notice of Violation has not been
37 followed and the Building Inspector can recommend that the matter be
38 transferred to the Justice Court. He mentioned that the renewal of building
39 permits on Lot 3 and 4 or the issuance of new building permits on Lot 1 and
40 2 not be granted until the Court makes a determination.

1 Mr. Keane stated that the Justice Court can impose a significant fine
2 that will get Mr. Shapiro's attention. He suggested that Mr. Shapiro give up
3 a lot and create a park for the Homeowners Association.

4
5 Town Planner Dym noted that Mr. Shapiro called and asked that the
6 meeting be postponed. She explained that she called Chair Currie and they
7 decided that if Mr. Shapiro could not attend he should send a
8 representative. Town Planner Dym mentioned that Mr. Shapiro late this
9 afternoon sent an e-mail with a letter dated July 9, 2012 from his arborist
10 stating that the tree was hazardous and unhealthy.

11
12 Ms. Gerbino asked if anyone has counted the rings on the dead tree as that
13 would provide the age of the tree.

14
15 Mr. Goldenberg mentioned that a value of \$80,000 has been put on the tree
16 and it might have been nominated as a landmark.

17
18 Chair Currie asked if anyone from the audience would like to speak on the
19 cutting of the 50" diameter Oak tree.

20
21 Joe Romano, President of the Greenbriar Homeowners Association, said
22 that he went out to the site with Principal Engineering Technician Steve
23 Woelfle when he learned that the oak tree had been removed. He indicated
24 that the tree was approximately 100 years old. Mr. Romano opined that the
25 issue is about the two building lots that Mr. Shapiro could not build on while
26 the tree was alive. He stressed that the Town has to be strict with Mr.
27 Shapiro.

28
29 Town Attorney Reilly stated that the residents of Greenbriar will be notified if
30 an application from Greenbriar is submitted to the Planning Board.

31
32 George Semmens, resident of 46 Driftwood Drive, said that he is an
33 architect with professional qualifications. He showed the Board pictures of
34 his wife standing next to the stump of the tree which shows that the tree was
35 50". He mentioned that the picture shows that there is some decay in the
36 center of the tree but the decay does not affect the outer layers of the tree.
37 Mr. Semmens said that the picture shows that the tree is viable and was
38 starting to leaf and bud out. He noted that the developer has worked in
39 Somers for years and understands the permitting process. Mr. Semmens
40 wondered why only the 50" diameter Oak tree was cut and why the tree

1 company did not apply for a permit to cut the tree. He commented that the
2 City of New York has methodology for trees called the Basil Calculation
3 Method. Mr. Semmens explained that a tree the size of the 50" diameter
4 Oak would probably have to be replaced with 125 trees which would cost
5 about \$150,000 to \$200,000 and this does not take into account the
6 historical value. He said the Planning Board should consider additional
7 amenities for Greenbriar or environmental things that the Board can require
8 the developer to do.

9

10 The Chair said that a violation was issued and he asked if this will proceed
11 to the next step.

12

13 Town Attorney Reilly advised that the Building Inspector has the authority to
14 bring the case to court against the owner of Greenbriar. He said that the
15 resolution should be forwarded to the Building Inspector.

16

17 Mr. Foley said that the Planning Board does not have the authority to ask
18 the Town Planner to draft a resolution against the cutting of the Oak tree at
19 Greenbriar. He asked what the basis is that the cutting of the tree was done
20 improperly.

21

22 Town Attorney Reilly explained that it was a condition of the Resolution that
23 no building take place on lots 1 and 2 until the Oak tree is no longer
24 considered worthy of preservation in the opinion of a professional arborist.
25 He noted that taking the tree down without a permit violates the Tree
26 Preservation Ordinance.

27

28 Mr. Foley stated that there is a list of 12 types of trees that can be taken
29 down without a permit, however; nowhere does it say that a tree designated
30 by the Planning Board to stay in place is such a tree.

31

32 Town Attorney Reilly advised that the cutting of the Oak tree at Greenbriar
33 is a violation of the subdivision of lots 1, 2, 3 and 4 in Section 7 of
34 Greenbriar.

35

36 Mr. Foley asked what is the remedy for the cutting of the Oak tree at
37 Greenbriar. He commented that a tree within a wetland or wetland buffer
38 needs a permit before it can be taken down which triggers the Tree
39 Preservation Ordinance. He indicated that there is nothing in the Tree
40 Preservation Ordinance that prevents a homeowner from taking down a

1 healthy 50” diameter tree. Mr. Foley noted that under the Tree Preservation
2 Ordinance a fine can be assessed, imprisonment or a restoration order by
3 the court. He explained that with this procedure no application from the
4 applicant can be addressed by any Board until the violation is cured.

5
6 Mr. Goldenberg said that the resolution states that the Planning Board can
7 stop the issuance of building permits if the tree was removed without the
8 Planning Board’s permission. He noted that a contract with the Planning
9 Board Resolution was broken and if Mr. Shapiro wants to build on lots 1 and
10 2 he has to come before the Planning Board.

11
12 Town Attorney Reilly said that the decision if there is a violation is up to the
13 Building Inspector but there is nothing to prevent the Planning Board
14 from suggesting that the Building Inspector look into the issue with a view
15 towards prosecution.

16
17 Mr. Keane explained that there were details on how the tree was to be
18 maintained and reports on the tree that were to be submitted. He noted that
19 the applicant did not follow the provisions that were laid out in the site plan.

20
21 Joe Romano, president of the Greenbriar Homeowners Association, said
22 that the Resolution states that an environmental determination must be
23 conducted by the Department of Planning and Engineering to determine
24 which, if any, environmental permits may be necessary, and if appropriate,
25 such permits may need to be issued by the Somers Planning Board. He
26 said that Mr. Shapiro knew the regulations and that the oak tree had to be
27 maintained. Mr. Romano was concerned that if the violation does not hold
28 up in Court another applicant may do the same thing and disregard a
29 condition in a Resolution.

30
31 Town Attorney Reilly said that the Board can direct the Town Attorney to
32 prepare a memorandum on the Section of the Town Code that was in
33 violation when the tree was not preserved.

34
35 Mr. Foley opined that the Town Attorney should see if there was a violation
36 of the Tree Preservation Ordinance Chapter 156 of the Town Code and that
37 the violation was taken against the expressed terms of Resolution No. 2005-
38 26.

39

1 Ms. Rusinowski, resident of 52 Driftwood Drive, indicated that the tree was
2 assigned historical status and a preserved tree and there should be a law
3 that penalizes someone who cuts down the tree.

4
5 Mr. Semmens said that there are two different issues; one is there a
6 violation of the Tree Preservation Ordinance or two; a Subdivision violation.
7 He said that there are issues related to wetland buffers and wetlands. He
8 commented that someone would have to identify where the lots are located
9 and the relationship of the tree to the wetland and lot lines.

10
11 Town Planner Dym indicated that the Resolution called for an environmental
12 determination after the tree was removed to determine if any environmental
13 permits may be necessary, and if appropriate, permits may need to be
14 issued by the Planning Board. She mentioned that the Resolution states
15 that the filing of the plat does not authorize the issuance of Building Permits
16 for lots 1 and 2.

17
18 Mrs. DeLucia, resident of 15 Dunhill Drive, asked what the arborist's
19 responsibility is. She questioned who was responsible for the cutting of the
20 tree, the developer, the arborist, or both.

21
22 Chair Currie explained that there were two arborist's, one that cut down the
23 tree and the other who was supposed to care for the tree and do inspections
24 on the health of the tree and report to the Planning Board.

25
26 Mr. Foley said that the record owner of the property and the person who
27 takes the tree down are both liable under the Tree Preservation Ordinance.
28 He explained that under the Tree Preservation Ordinance any tree located
29 within five (5) feet of the properly boundary line is regulated and cannot be
30 removed without a permit.

31
32 Mrs. DeLucia said that there were conditions that were required before the
33 signing of the Plat.

34
35 Mr. Keane mentioned that the land owner used the rationale that the tree
36 was not safe and that was the reason for the cutting of the tree.

37
38 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
39 carried, the Board moved to request the Town Attorney to prepare a
40 memorandum addressing precisely the following questions; one is the

1 cutting down of the subject tree a violation of the Town's Tree Preservation
2 Ordinance; two what if any section of the Town's Code or State Ordinance,
3 other than the Tree Preservation Ordinance, was presumably violated by
4 the action in cutting down the tree; three what are the potential penalties,
5 remedies, available to the Justice Court assuming a violation of both one
6 and two, supra; four; to what extent, if any, does the violation of 1 or 2,
7 supra, prevent or otherwise effect the development of the two lots which
8 were effectively straddled by the tree before it was cut.

9

10 Mr. Romano asked who is responsible for the removal of the trunk of the
11 tree.

12

13 Chair Currie said that the trunk of the tree will show how far out the root
14 system goes.

15

16 Ms. Gerbino asked how many homes can be built on the property now that
17 the tree has been removed.

18

19 Town Planner Dym noted that there are four lots.

20

21 Mr. Goldenberg mentioned that the resolution states that a semi-annual
22 report on the condition of the tree was to be provided to the Town and he
23 asked if that has been submitted.

24

25 Town Planner Dym stated that there was no report on the condition of the
26 tree. She noted that there was a notation that a tree service was retained.

27

28 Mr. Foley suggested that a memo be sent to the Town Board asking that
29 they amend the Tree Preservation Ordinance adding an eighth category on
30 the type of tree that cannot be removed without a permit. He said that any
31 tree that was the subject of a Site Plan or Subdivision resolution should be
32 added to the Tree Preservation Ordinance.

33

34 Chair Currie directed that Town Planner Dym prepare a letter to the Town
35 Board requesting the addition of the eighth category to the Tree
36 Preservation Ordinance.

37

38 **PROJECT REVIEW**

39

40 **THE GREEN AT SOMERS AMENDED SITE PLAN**

1 **WETLAND, STEEP SLOPES AND STORMWATER MANAGEMENT**
2 **AND EROSION AND SEDIMENT CONTROL PERMITS**
3 **[TM: 4.20-1-3.1]**
4

5 Chairman Currie noted that the Planning Board will review the application
6 of National Golfworx/Rick Van Benschoten (owner) for a mixed use
7 development consisting of five buildings with a combination of retail and
8 residential use. He mentioned that the site is proposed to be serviced by
9 public sewer and water.

10
11 The Chair mentioned that the Board is in receipt of memoranda from Town
12 Consultants Town Engineer Joseph Barbagallo and Joanne Meder of
13 Frederick P Clark and Associates.

14
15 The Chair asked the applicant's representative to give a brief summary on
16 the changes in the application.

17
18 Linda Whitehead, the applicant's attorney, explained that a significant
19 change is that the stormwater basin has been removed from the wetland
20 buffer. She noted that the applicant's engineer has done preliminary
21 calculations that show that the stormwater can be handled by moving the
22 stormwater basin and still meet the criteria. Attorney Whitehead mentioned
23 that modified architectural drawings have been provided and she showed
24 the Board a modified rendering of the project. She noted that the roofline
25 has been modified to a flat roof with a parapet with some peaks. Attorney
26 Whitehead said that this changes the visual impact. She explained that the
27 applicant will be providing the calculation of height as defined by zoning
28 from the average grade around the building. She indicated that for most of
29 the buildings the grade at the rear is much lower than the grade at the front
30 of the buildings. Attorney Whitehead mentioned that the height and
31 footprint of the restaurant building has been reduced. She noted that
32 additional landscaping has been added in the parking areas as shown on
33 the Landscape Plans.

34
35 Attorney Whitehead noted that the State has confirmed the delineation of
36 the State wetland. She said that there is one change in Wetland "B" and
37 the revised plan will show the modified wetland based upon a site visit by
38 FP Clark's wetland professional and the applicant's wetland consultant.
39 Attorney Whitehead indicated that Wetland "B" is a Town-regulated wetland
40 and a Town wetland permit is needed.

1 Mrs. DeLucia asked for variations of the peaks on the rooftop architecture.

2

3 The Chair asked Consultant Planner Meder to summarize F P Clark's
4 memorandum dated July 9, 2012.

5

6 Consultant Planner Meder explained that F P Clark is new to this project
7 and had to first acquaint itself with where the Board has been and go
8 forward from there. She noted that F P Clark was asked to review the
9 submissions for the May, June and July meetings and to review all
10 documents that are part of the Board's record pertaining to the wetland
11 delineation and potential wetland impacts.

12

13 Consultant Planner Meder mentioned the site inspection with the
14 applicant's wetland consultant when it was determined that the plans
15 should be brought up to date and correctly reflect the fact that Wetland "C"
16 is located in an off-site location to the east of the site. While it is a separate
17 wetland it is Town regulated so the wetland along with its 100' buffer should
18 be dimensioned on all plans. She indicated that there does not seem to be
19 any disturbance to the Wetland "C" buffer but that may change as the plans
20 evolve.

21

22 Consultant Planner Meder noted that three of the plans previously prepared
23 by the applicant's engineer were recently updated to correctly show a
24 single wetland area labeled "B" that is partly on the site but mostly on the
25 off-site property to the west of the site. She explained that there are
26 vestiges of prior plan notes indicating that the two previously identified
27 separate wetland areas are unregulated; these notes should be removed
28 because Wetland "B" qualifies as a Town-regulated wetland. Consultant
29 Planner Meder said that on future plan submissions the wetland buffer
30 should be dimensioned at 100'.

31

32 Consultant Planner Meder said that the information presented under the
33 "Required Permitted" column for Maximum FAR describes proposed with
34 conditions rather than the applicable zoning requirements, and should be
35 revised accordingly. She noted that the computation of maximum
36 permitted floor area ratio should be based upon "net buildable area" rather
37 than gross lot area. She explained that the proposed floor area for all uses
38 is likely to exceed the identified 0.25 requirement when the existing
39 calculation is corrected. Consultant Planner Meder noted that authorization

1 to increase the normally applicable requirement to a maximum of 0.4 may
2 be granted by the Town Board if certain criteria are met.

3
4 Consultant Planner Meder said that the Zoning Law has a number of
5 supplementary requirements having to do with the landscaping of parking
6 areas. She noted that the Zoning Law has to do with the number of parking
7 spaces that can be adjacent to each other without breaking them up with
8 landscaping planting beds, etc. She mentioned that there are 15 parking
9 bays on site that have six or more parking spaces unbroken by landscape
10 area and she suggested that the Board look at that again as site plan
11 review continues.

12
13 Consultant Planner Meder mentioned another focus was on the parking
14 layout of the under-building garages which have not been dimensioned on
15 a plan. She noted that as scaled off the plan the overall width of the interior
16 space containing two bays of parking spaces with a center aisle appears to
17 be only 53 feet and the center aisle appears to be no more than 18 feet in
18 width. Consultant Town Planner Meder noted that this is a concern
19 because it appears that an overall span of 60 feet is required for a double
20 parking bay layout using perpendicular spaces and the aisle width must be
21 24 feet. She stressed that this should be addressed as quickly as possible
22 by demonstrating that the dimensions will meet the minimum requirements
23 or making modification so the layout will function properly.

24
25 Consultant Planner Meder said that the applicant is proposing a building
26 height of 38 feet for Building 4 and has indicated that the other three
27 proposed multi-story buildings would have the same height. She indicated
28 that Town Board approval will be needed for the proposed 38-foot high
29 buildings. Consultant Town Planner Meder suggested that the Planning
30 Board obtain confirmation from the Building Department that the
31 measurements of building heights have been interpreted correctly.

32
33 Consultant Planner Meder said that another matter the Town Board will
34 have to approve is the amount of retail floor area proposed for the first
35 floor. She mentioned that retail has been eliminated in two of the four
36 buildings and is further reduced in the remaining two buildings. She noted
37 that in Building 1 and 2 residential units are proposed to be located behind
38 the retail uses so the existence of residential uses on the first floor of those
39 buildings would not be readily apparent from the front facades. She noted
40 that an option that has not been discussed is a zoning text amendment that

1 would modify the existing provisions of Town Code Section 170-20.G to
2 permit residential apartments over any other permitted nonresidential use
3 in the Neighborhood Shipping (NS) District. She indicated that more
4 flexibility could be introduced into the NS District provisions without altering
5 the overall purpose of the NS District. Consultant Planner Meder said that
6 another option would be the possibility of seeking Town Board approval of
7 a Zoning Text Amendment that would modify the existing provisions of
8 Town Code Section 170-20.G in a way that would not require 100% of the
9 first floor area to be occupied by stores. The applicant first submitted draft
10 language for such a text amendment to the Planning Board at its December
11 14, 2011 meeting. She indicated that the Planning Board determined that
12 any proposed text amendments that might be considered should not
13 contain specific numerical standards, but should instead permit the Board
14 to determine an appropriate mix of residential and nonresidential floor area
15 on the first floor of multi-use buildings in the NS District on a case-by-case
16 basis. Consultant Planner Meder explained that the Planning Board's
17 preference was reflected in the January 2, 2012 memorandum to the Town
18 Board, which was prepared by the former Town Planner at the Planning
19 Board's request. She noted that the applicant could seek a variance from
20 Town Code Section 170-20.G but it is possible that a use variance would
21 be needed rather than an area variance. Consultant Planner Meder
22 stressed that any proposal to amend the Town Zoning has to be done very
23 carefully because there are many NS Districts in Town and the implications
24 of the Zoning Text Amendment will have far reaching consequences
25 beyond this application.

26
27 Consultant Planner Meder suggested that the applicant provide a narrative
28 summary describing how the proposed site layout and architecture are
29 responsive to the design guidelines of the NS District, as set forth in Town
30 Code Section 170-21.A through Section 170-21.S inclusive.

31
32 Consultant Planner Meder said that the Site Plan should identify the
33 available and required intersection sight distance for exiting movements
34 from the subject property to U.S. Route 6. She noted that the sight line
35 measurements should be based on the 85th percentile speed of motorists
36 traveling on Route 6 and meet all current State standards. She indicated
37 that the area of the first internal intersection, north of the entrance drive
38 from Route 6, the open roundabout layout should be better defined, with a
39 center median or a center area having a different pavement texture/
40 treatment to designate how this area should function for traffic control and

1 vehicular movements. Consultant Planner Meder said that the applicant
2 should demonstrate that the site would be fully accessible to emergency
3 service vehicles and delivery trucks. She indicated this should be done in
4 all critical locations near the site access, along the interior loop roads,
5 within the parking lots, and at the proposed loading space. She stressed
6 that the result of that analysis should be provided with the next submission.

7
8 Consultant Planner Meder noted that appropriate traffic signage should be
9 added to the Site Plan.

10
11 Consultant Planner Meder mentioned said that a Site Plan titled “Entry
12 Gazebo” was prepared by the applicant’s architect but it does not show
13 where the gazebo is proposed. She noted that if the gazebo is part of the
14 proposal it should be shown on the Site Plan. She also said that a
15 submitted floor plan shows an internal area on the garage level that was
16 identified as a garbage storage area. Consultant Town Planner Meder
17 assumed that all four of the buildings and the restaurant will have a similar
18 feature and should be identified on the Site Plan. She also asked that
19 architectural elevations for other buildings be provided soon.

20
21 Consultant Planner Meder said that the main comments in regard to
22 parking and loading have to do with the need to verify the functionality of
23 the under building parking garage and to look more closely at the location
24 of the loading space. She asked where the loading for the restaurant
25 would take place and request that the applicant demonstrate that it will not
26 cause traffic conflicts with normal circulation through the site.

27
28 Consultant Planner Meder indicated that more information on the
29 landscaping and visual buffering has to be provided. She said that
30 additional cross sections should be taken throughout the site which show
31 the existing and proposed conditions.

32
33 Consultant Planner Meder said that no surveys were provided on fauna
34 and flora on the site as part of the wetland delineation and she
35 recommends that additional information be provided. She noted that
36 possibly a rare species may be located within a ½ mile to the south of the
37 site and if that species does exist and if it has habitat that is wetland
38 dependent it is important that the Board know this because it will affect the
39 analysis of the features of the site and what type of resources should be
40 protected or preserved as part of the development of a mitigation plan.

1 Consultant Planner Meder stated that there are two different sources of
2 data pertaining to the classification of the State Wetland. Consultant
3 Planner Meder said one showed a classification 1 and the other a
4 classification 2 and questioned why they are not consistent with each other.
5 She noted that it is important to contact the NYS Department of
6 Environmental Conservation (DEC) to get more information on the origin of
7 the two classifications.

8
9 Consultant Planner Meder said that the preliminary stormwater drainage
10 analysis has been reviewed to help evaluate the relationship between the
11 stormwater and wetland impacts. She indicated that the information
12 received shows that the applicant is designing a system that will have
13 substantial reductions in peak flow for the five storm events that have been
14 studied. Consultant Planner Meder noted that from a wetlands perspective
15 it is not just an issue of reduced peak flows but trying to understand what
16 the total flow is leaving the site. She stated that if the stormwater flows are
17 substantially reduced they can have an adverse impact on the wetlands.

18
19 Consultant Planner Meder stated that F P Clark was not provided with a
20 copy of the Carlin Simpson & Associates geotechnical report; however,
21 F P Clark received a copy of the June 4, 2012 letter from the applicant's
22 engineer summarizing the results of the report and the Woodard & Curran
23 memorandum commenting on the results of the geotechnical study. F P
24 Clark. She said that a concern is the possible presence of contaminated
25 soil because of the petroleum based odors from the soil borings and she
26 recommended a Phase I assessment be conducted. Consultant Planner
27 Meder indicated that the presence of groundwater that was encountered in
28 multiple soil boring locations at depths ranging from 4 feet to 7 feet below
29 grade will require that the site be dewatered in order to make it suitable for
30 the proposed development according to the summary comments on the
31 Carlin Simpson & Associates report. She indicated that information should
32 be provided explaining the relationship between the groundwater and the
33 wetland levels since lowering the groundwater level could have an adverse
34 effect on the wetlands.

35
36 Consultant Planner Meder stated that photographs and simulations of
37 views of the site before and after completion of the project should be
38 provided from vantage points along Route 6 going east and west, and
39 looking directly north into the site from Route 6. She indicated that
40 because of the amount of fill that will be brought on site an analysis of the

1 construction traffic impacts should be provided. She also commented that
 2 there is very little useable open space for recreational purposes based on
 3 the current site layout.

4
 5 Consultant Planner Meder said that in reference to the SEQRA
 6 Determination of Significance and because the proposed action was
 7 classified as an Unlisted Action and that the Planning Board initiated a
 8 coordinated environmental review process, there are three potential
 9 determinations that could be made on the proposed action: (1) adoption of
 10 a negative declaration indicating that the proposed action as originally
 11 defined would have no significant adverse environmental impacts; (2)
 12 adoption of a conditioned Negative Declaration indicating that the proposed
 13 action as originally defined might result in one or more significant adverse
 14 environmental impacts but the inclusion of mitigation measures required by
 15 the Lead Agency would modify the proposed action so that it has no
 16 significant adverse environmental impacts; or (3) the adoption of a Positive
 17 Declaration indicating that implementation of the action as proposed may
 18 have one or more significance adverse environmental impacts and the
 19 preparation of an environmental impact statement will be required.
 20 She opined that the Board may still need more information before a
 21 Determination of Significance can be made but also noted that the Planning
 22 Board could adopt a Positive Declaration on the basis of the record as it
 23 presently exists and then use the optional scoping process to identify topics
 24 that will require additional study and analysis in the DEIS.

25
 26 Town Consultant Engineer Barbagallo said that the documents submitted
 27 by the Applicant during this review period reflect revised elements of the
 28 Site Plan, including reduced maximum height of buildings and a revised
 29 layout of the stormwater mitigation system, which removed disturbance
 30 from the NYSDEC wetland buffer. He explained that the applicant is
 31 seeking preliminary feedback from the Planning Board before further
 32 design details will be finalized.

33
 34 Town Consultant Engineer Barbagallo said the he would like to focus on
 35 the Geotechnical Report. He noted that he had a concern about what the
 36 subsurface conditions would be. Town Consultant Engineer Barbagallo
 37 mentioned the fear that there could be thick peat deposits that would
 38 complicate the construction of the site and have large sediments. He
 39 commented that the Geotechnical Report prepared by Carlin, Simpson &
 40 Associates indicated that a thick peat layer does not exist in this location.

1 He mentioned that the Report states that strong petroleum odors were
 2 encountered during the exploration of Boring B-1. He noted that further
 3 understanding of site soils is necessary to determine appropriate measures
 4 for soil excavation and handling as well as excavation dewatering. Town
 5 Consultant Engineer Barbagallo recommends that the applicant submit an
 6 environmental investigation plan that identifies proposed testing locations
 7 and intended sampling analysis for site soils.

8
 9 Town Consultant Engineer Barbagallo indicated that groundwater was
 10 reported to be encountered in 6 of the 7 soil borings at depths ranging from
 11 4 to 7 feet below surrounding grade. He explained that shallow
 12 groundwater will require dewatering measures to be installed and
 13 maintained during excavation of the proposed building foundations. He
 14 asked the applicant to prepare and submit a groundwater management plan
 15 to describe proposed dewatering activities. Town Consultant Engineer
 16 Barbagallo stated that the groundwater management plan shall include
 17 dewatering system design calculations based upon site specific hydraulic
 18 conductivity and shall identify measure for the discharge of pumped water.

19
 20 Town Consultant Engineer Barbagallo noted that the report identifies that an
 21 existing layer of fill material was encountered at depths ranging from 1 foot
 22 and 6 feet below surrounding grade. He noted that this existing fill is not an
 23 acceptable bearing material for the new building foundations and floor slabs.
 24 He said that the report recommends that the existing fill layer be completely
 25 removed and replaced by acceptable structural fill at all proposed building
 26 areas. Town Consultant Engineer Barbagallo said that greater
 27 understanding of the limits and characteristics of the existing fill must be
 28 provided. He asked the applicant to prepare a supplemental investigation
 29 plan which describes additional evaluations of the existing fill. He noted that
 30 the supplemental investigation plan should consider the following
 31 comments:

- 32
- 33 • Additional test pits are necessary to further evaluate the extent of the
 - 34 existing fill material stratum around the planned building areas. The
 - 35 report recommends that additional test pits be performed at the time
 - 36 of construction. Greater understanding of the limits of existing fill
 - 37 should be obtained sooner to assess the impact on the site
 - 38 construction activities; therefore, the applicant shall perform test pits
 - 39 as part of the approval process.

40

- 1 • Existing fill may not suffice as an acceptable bearing material for
2 proposed utilities on the site. The applicant shall address whether
3 existing fill may remain in place or must be replaced by an acceptable
4 structural fill to control settlement under site utilities. The supplemental
5 investigation plan should consider any testing which may be
6 necessary to determine the suitability of the existing fill soils as utility
7 foundations.
8
- 9 • The Geotechnical Engineer should also evaluate the impact of
10 lowering groundwater during construction on site settlements in the
11 dewatered areas, and the associated impacts on proposed site
12 construction.
13
- 14 • Proposed site grading indicated that approximately 10 feet of fill may
15 be placed in certain areas on the property. Two existing stormwater
16 conveyance pipes are located within the site limits. The applicant
17 shall consider how the placement of additional fill will impact the
18 existing stormwater pipes.
19

20 Town Consultant Engineer Barbagallo said that a comment from the April
21 17, 2012 site walk memorandum noted that revised plans indicate that the
22 proposed height of Building 5 has been reduced to 28 feet; however, no
23 specific plans are provided for Building 5. He stated that the Planning
24 Board should continue to review whether or not this approach is
25 acceptable.
26

27 Town Consultant Engineer Barbagallo said that from an engineering
28 perspective, the preliminary drainage analysis describes conceptually
29 acceptable stormwater mitigation measures. He noted that the revised
30 plan removes stormwater practices from the 100 foot NYSDEC wetland
31 buffer and appears to provide sufficient measures for water quality and
32 water quantity attenuation. He said that he looks forward to working with
33 the applicant's engineer as the stormwater system design progresses with
34 the development of a complete Stormwater Pollution Prevention Plan
35 (SWPPP).
36

37 Attorney Whitehead clarified that she forwarded Town Consultant Engineer
38 Barbagallo's comments on the Geotechnical Report to Carlin, Simpson &
39 Associates. She explained that the area of unacceptable fill mentioned in
40 Town Consultant Engineer Barbagallo's memo is located in a small area in

1 the front of the site. Attorney Whitehead said that on the issue of the
2 petroleum odor and the quality of fill on the site the applicant had a Phase 1
3 Environmental Site Investigation done before he purchased this property.
4 She noted that there is a gas station right next to this property and they
5 recently replaced their gas tanks.

6
7 Town Consultant Engineer Barbagallo stressed that a Phase I is not an
8 investigation but a desk top study. He asked that the petroleum odor be
9 looked at to determine the source.

10
11 Attorney Whitehead said she will look at the impact of the changes in the
12 rate of runoff on the wetland.

13
14 Consultant Planner Meder said that it is important to know the classification
15 of the wetland, as well as the characteristics and functions of the existing
16 wetlands to assess what the potential impacts will be then develop the
17 required mitigation plan.

18
19 Attorney Whitehead said she will be requesting the Town Board to
20 authorize the increased height of the buildings and the Floor Area Ratio
21 (FAR). She indicated that the Town Board adopted these provisions in the
22 Zoning Amendment as an incentive for Affordable Housing. She reminded
23 the Board about the IMA the Town has with the County with respect to the
24 commitment to construct a certain amount of affordable housing within a
25 certain time frame. She noted that this project will be at least 50%
26 affordable with the potential that the entire project could be affordable
27 housing.

28
29 Attorney Whitehead noted that the applicant responded to a request for a
30 meeting with the Bureau of Fire Prevention and hopes to meet with them in
31 August. She mentioned that the applicant will discuss the emergency
32 access and other issues of importance.

33
34 Consultant Planner Meder asked if the Bureau of Fire Protection will also
35 be speaking for the other emergency service providers and Attorney
36 Whitehead replied that she will ask that question.

37
38 Mr. Goldenberg commented that the Town Board will have to allow the
39 zoning change. He said that he is in favor of affordable housing at this
40 location.

1 Mr. Keane opined that the SEQRA issue is the height of the buildings that
 2 are above what is allowable in the code (30 feet). He stressed that waiving
 3 the height requirements is not a right but a privilege that can be granted by
 4 the Town Board in relation to affordable housing. Mr. Keane said that it is
 5 appropriate for the Board to make a determination of significance under
 6 Section 617-7. He reminded the Board that under Section 617.7 (a)1 there
 7 is a low threshold for the requirement of an EIS which is that the action may
 8 include the potential for at least one significant adverse environmental
 9 impact. He noted that Section 617.7 (b)(4) states the Determination of
 10 Significance must be in writing and contain a reasoned elaboration and
 11 provide references to any supporting documentation. Mr. Keane stated
 12 that by recommending to the Town Board that the permissible building
 13 height be increased to more than 30 feet could have a significant growth
 14 inducing impact on the Somers community especially the school system
 15 and its cost of operation and will impair the character of the existing
 16 community. He opined that if the Town Board allows the height of the
 17 buildings to exceed 30 feet it will open the door to other developers to do
 18 the same and will add to the impairment of the character of the community.
 19 Mr. Keane stated that he makes these statements based on the
 20 determination of significance criteria listed under Section 617.7(c) (1) (v)
 21 and 617.7 (c) (1) (x). He noted that subsection (v) states that the
 22 impairment of a character or quality of existing community or neighborhood
 23 character and subsection (x) states the creation of a material demand for
 24 other actions that will result in any one of the above consequences, any
 25 one of the 9 criteria that are laid out in the regulation. Mr. Keane said that
 26 in examining the criteria in the face of the action and considering the low
 27 threshold to establish at least one significant adverse environmental
 28 impact, the criteria has been met to require an Environmental Impact
 29 Statement (EIS) which he recommends.

30 Attorney Whitehead said that a piece is missing in reference to the Growth
 31 Inducing Impact and explained that when the Town Board adopted the
 32 Zoning Amendment SEQRA was required and a Negative Declaration was
 33 made. She stressed that the Growth Inducing Impact was considered.
 34 She noted that Mr. Keane's statement that if the Town Board approved the
 35 building height over 30 feet that others will follow. She said that if this is the
 36 case the Negative Declaration should never have been adopted. Attorney
 37 Whitehead said that the applicant has not asked that the Board at this time
 38 make a Determination of Significance because more information is needed.
 39 She stressed that the cost of a DEIS kills an affordable housing project.

40

1 Mr. Goldenberg mentioned that the Board of Education has stated that
2 there are 20 less students this year than last year. He said that the growth
3 inducing impact is non-existent.

4
5 Attorney Whitehead opined that Mr. Keane's idea of a growth inducing
6 impact is incorrect logic.

7
8 Mr. Keane said that a DEIS does not have to be an expansive document
9 but can be channelized into certain areas. He noted that his concern is that
10 other developers will want to take advantage of being allowed to build three
11 story buildings and that will add to the population in Somers that will require
12 more services.

13
14 Attorney Whitehead asked what the concern is that is not being studied by
15 the applicant and his consultants and can be studied differently in a DEIS.

16
17 Town Consultant Engineer Barbagallo reminded Attorney Whitehead that
18 the Board has asked for alternatives.

19
20 Attorney Whitehead stated that SEQRA requires that alternatives have to
21 meet the applicant's criteria and be feasible for the applicant to pursue.

22
23 Mr. Foley stated that SEQRA is a law and the Board does not have the
24 ability to manipulate the law. He reiterated that SEQRA says that if there is
25 one or more significant environmental impacts a DEIS has to be done.

26
27 Ms. Gannon mentioned that the impact to schools has been mentioned and
28 she said that there are professionals that can determine if there will be an
29 impact on the school district. She said that if a report can be generated
30 that there will not be a significant impact on the school district that issue will
31 be answered.

32
33 Attorney Whitehead noted that this project is mostly one bedroom
34 apartments and that will not lead to a significant adverse impact on the
35 schools.

36
37 Mrs. DeLucia said her concern is the petroleum odor and where that is
38 coming from. She asked if there is an alternative plan for this project.

39

1 Rick Van Benschoten, applicant, said that when the project first started he
2 asked the Board and the applicant's consultants to work together for the
3 benefit of the project. He noted that originally the height of the buildings
4 was 50 feet. Mr. Van Benschoten explained that the Planning Board made
5 recommendations to the Town Board but they felt that they needed more
6 information before they could make a decision. He noted that after the
7 Town Board sent him back to the Planning Board for more information the
8 height of the building became a visual impact. Mr. Van Benschoten said
9 that he agreed to reduce the height of the buildings to 45 feet but that still
10 was a visual impact issue so he again authorized the height of the buildings
11 to be reduced to 34 feet. He stressed that he is trying to work with the
12 Board and the Town and be a good neighbor. Mr. Van Benschoten stated
13 that even professionals, firemen, policemen and teachers cannot afford to
14 live in Somers and he wants to provide affordable housing to these
15 upstanding citizens. He said that the concern about the number of school
16 children in the housing was never mentioned until tonight but he is willing to
17 address that issue. Mr. Van Benschoten stated that he does not think there
18 will be an impact on the school system as there are 60 single bedroom
19 units. He stressed that if the Board doesn't want affordable housing please
20 tell him. He said that he wants to work with the Board and build a beautiful
21 project.

22
23 Mr. Keane said that this is a process and no one on the Board is an
24 obstructionist with respect to affordable housing or The Green at Somers.
25 He noted that the issue of three story buildings in relation to additional
26 population is a concern and has to be addressed.

27
28 Mr. Foley noted that the Town Board has to weigh in on the project and
29 agree to allow the increased FAR and the height of the buildings.

30
31 Attorney Whitehead mentioned Mr. Keane's concern about the growth
32 inducing issue of allowing the third story and the increased height of the
33 buildings above 30 feet. She said that she does not know how that can be
34 addressed except to say that approval on this site has nothing to do with an
35 application on another site because each application has to be reviewed on
36 its own. She opined that the basic disagreement with Mr. Keane will not be
37 resolved in an EIS. Attorney Whitehead said that allowing a third story that
38 is permitted as a privilege under Town Code does not mean that it will be
39 granted to another site.

40

1 Mr. Keane asked Attorney Whitehead if she was working toward a Negative
2 Declaration or does she believe the Board will ask for an EIS. He said if
3 the applicant addresses all the questions the Board has accomplished all it
4 wanted to accomplish in order to have a fully justifiable Negative
5 Declaration. He noted that an EIS forces the applicant to legally under the
6 statute get to the same result.

7
8 Consultant Planner Meder noted that the applicant contemplated submitting
9 an expanded Full EAF with supplementary studies that will be cross
10 referenced. She explained that the Determination of Significance is usually
11 made within 20-days after the Board is designated as Lead Agency
12 provided that it has sufficient information upon which to base that
13 determination. Based on her review of the record it appeared that the
14 Planning Board believed that the impact issues were likely to have adverse
15 impacts and adoption of a Negative Declaration was unlikely. Instead, the
16 option of a Conditioned Negative Declaration is more likely because
17 mitigation will be added as the project evolves.

18
19 Consultant Planner Meder commented on Mr. Foley's question concerning
20 why the proposed action is an Unlisted Action under SEQRA.

21
22 Mr. Foley said that the action has to be reclassified as a Type I Action.
23 He asked what has to be done to reclassify the Action because under
24 Somers Environmental Quality Review Act it is a Type I Action.

25
26 Consultant Planner Meder stated that a Conditioned Negative Declaration
27 option is not available for a Type I Action. She explained that the action can
28 be reclassified under the Determination of Significance. She said that she
29 will research the steps that would need to be followed to reclassify the
30 action from Unlisted to Type 1.

31
32 Attorney Whitehead stated that she wants it clarified that the action is a
33 Type I Action under Somers Environmental Quality Review Act but it is not
34 a Type I Action under the State Environmental Quality Review Act
35 (SEQRA). She suggested that a letter noting the classification change be
36 sent to the Involved Agencies.

37
38 Attorney Whitehead noted that the applicant makes modifications to the
39 plan and incorporates them into a revised plan which becomes the action
40 that the Board ultimately uses to make the Determination of Significance.

1 Mr. Keane said that his concern is making sure that the Board has
2 addressed all the potential significant issues.

3
4 Consultant Planner Meder noted that the Board has articulated all its
5 concerns to date but does not have all the answers to those concerns.

6
7 Attorney Whitehead said that if the Board requires a scope, DEIS, FEIS
8 and a Finding Statement it will take a significant amount of time and cost.

9
10 Consultant Planner Meder mentioned that there are three issues that need
11 Town Board approval. She noted that the applicant assumes the most risk
12 in the process and has a big incentive to be responsive and answer all the
13 Boards concerns.

14
15 Consultant Planner Meder mentioned that she will have to submit an
16 addendum to her escrow proposal. She indicated that she will need
17 information from the applicant on the additional submissions to be made
18 and the projected time line for those submissions so she can understand
19 how many meetings will be necessary.

20
21 Consultant Engineer Barbagallo commented that Board members asked to
22 see alternatives. He noted that there are concerns about the buildings
23 being over 30-feet in height and retail uses on the first floor. He suggested
24 having residential only buildings and moving the retail closer to Route 6.

25
26 Attorney Whitehead said that she would like to have retail in a separate
27 building but that will make the zoning noncompliance issue even greater.
28 She noted that will not make the buildings two stories because that will
29 increase the building coverage. Attorney Whitehead explained that the
30 visual impact will be reduced because there will be more buildings in the
31 front which will break up the view into the site.

32
33 Mr. Keane said that during discussions the Board felt that retail will not be
34 viable if it is built according to code. He noted that the Board spoke about
35 separating the retail from the residential and reducing the height of the
36 buildings.

37
38 Attorney Whitehead stated that her concern is that the Town Board at their
39 January meeting said that it does not want to amend the zoning. She said

1 that unless the Board and the Town's consultants will support the change
2 she cannot recommend that the applicant consider the change.
3 Mrs. DeLucia suggested a joint meeting with the Town Board.

4
5 The Chair noted that it was the consensus of the Board to ask the applicant
6 to pursue the change of separating retail from residential buildings and
7 reduce the height of the buildings and decrease building coverage.

8
9 Attorney Whitehead said that the Town rezoned the Planned Hamlet from
10 general commercial to planned hamlet because there was too much retail
11 on Route 6. She explained that when the Town Board developed the
12 criteria for the Planned Hamlet they restricted the amount of retail. She
13 noted that the site of The Green at Somers is in a Neighborhood Shopping
14 District (NS) Zone which forces the applicant to build retail.

15
16 Mr. Keane opined that retail in this location does not work in today's reality.

17
18 Consultant Planner Meder asked if the Board would look at an alternative
19 concept plan that is very rough and loosely drawn and not fully engineered
20 and the Board felt that would be productive.

21
22 Consultant Engineer Barbagallo noted that the Town Code states retail
23 uses is required on the first floor of every building.

24
25 Attorney Whitehead explained that the applicant is willing to submit a
26 concept plan with changes that were discussed this evening but she needs
27 assurance that the Town Board will agree to these changes. She
28 explained that the total numbers of buildings will be reduced from five to
29 four and all buildings will now be two stories in height.

30
31 Syrette Dym, the Town Planner, said that the arrangement of the parking
32 probably was done to gain access to retail on the first floor. She suggested
33 a Plan A and Plan B which would move the retail. She mentioned that the
34 site plan can be flipped. Town Planner Dym noted that if the retail is
35 moved the direct access is not necessary in all the buildings. She opined
36 that there are inefficiencies in the site plan in regard to parking in the
37 interior and the exterior loop road uses up a lot of area on the site. She
38 suggested the buildings be moved closer to the wet pond which is a central
39 visual element, add green space and parking can be distributed and
40 circulation combined more to the rear for the residential buildings. Town

1 Planner Dym mentioned that this will create more of a village green
2 environment that will create a cohesive residential development. She
3 commented that if the retail is on the ends of the buildings they could be
4 pushed together to be more related to the front retail. She noted that if a
5 concept Plan A and Plan B is provided that may provide the alternative that
6 would encourage the Town Board to think about modifications to the
7 zoning.

8
9 Attorney Whitehead said that it will not be necessary to provide a Plan A
10 and Plan B. She explained that by moving the retail to the front the parking
11 will have to be reconfigured. She stated that the real driver of the parking
12 number is the retail because the retail parking has a greater parking
13 requirement.

14
15 Ms. Gerbino asked if a market study has been done.

16
17 Attorney Whitehead explained she is waiting to do a market study until it is
18 determined what direction the retail will be going in.

19
20 Chair Currie suggested a joint meeting with the Town Board if the Board
21 likes the alternative concept plan.

22
23 Consultant Planner Meder stated that the applicant should make sure that it
24 has analyzed all the deviations that need approval, area variance, zoning
25 text amendments.

26
27 Ms. Gannon asked how the applicant will respond to the growth inducing
28 aspect proposal.

29
30 Attorney Whitehead said that she knows what information Mr. Keane needs
31 to address the growth inducing issue. She noted that Mr. Keane feels that
32 by allowing the third story and the increased floor area ratio (FAR) on this
33 site will lead to allowing this on other NS sites and that will lead to a growth
34 inducing impact.

35
36 There being no further business, on motion by Ms. Gannon. seconded by
37 Mrs. DeLucia, and unanimously carried, the meeting adjourned at 11:20
38 P.M. and the Chair noted that the next Planning Board meeting will be held
39 on Wednesday, August 8, 2012 at 7:30 P. M. at the Somers Town House.

40

1
2
3
4
5
6

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary