

Telephone
(914) 277-53662

FAX
(914) 277-4093

PLANNING DEPARTMENT

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



John Currie, *Chairman*
Jan Corning
Fedora DeLucia
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
Dennis McNamara

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6

SOMERS PLANNING BOARD MINUTES **JULY 22, 2015**

7

8 **ROLL:**

9

10 **PLANNING BOARD**

11 **MEMBERS PRESENT:**

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

14

15 **ALSO PRESENT:**

Consultant Town Engineer Joseph Barbagallo
Consultant Town Planner Sarah Brown
Planning Board Town Attorney Joseph Eriole
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 public.

23

24 **APPROVAL OF DRAFT MINUTES AND DVD OF THE PLANNING**
25 **BOARD MEETING HELD ON JUNE 10, 2015**

26

27 Chairman Currie noted that Planning Board Secretary Marilyn Murphy
28 prepared and submitted for the Board's consideration approval of the draft
29 minutes and DVD of the Planning Board meeting held on June 10, 2015.

30

31 The Chair asked if there were any comments or corrections from the Board
32 on the draft minutes and DVD and no one replied.

1
2 On motion by Chair Currie, seconded by Mr. McNamara (Ms. Gannon
3 abstained) and carried, the draft minutes and DVD of the June 10, 2015
4 Planning Board meeting were approved.

5
6 Chair Currie stated that the text of the approved minutes is available on the
7 Town’s website www.somersny.com and is also available for public review
8 at the Planning & Engineering office at the Town House. The approved
9 DVD is available for public viewing at the Somers Public Library.

10
11 **CONTINUATION OF PUBLIC HEARING**

12
13 **GRANITE POINTE FINAL SUBDIVISION**

14
15 Chairman Currie said that this is the application for Final Subdivision
16 Approval, Wetland, Steep Slopes and Stormwater Management and
17 Erosion and Sediment Control Permits. He mentioned that the property is
18 located on the east side of Route 118/202, adjacent to the Amawalk
19 Reservoir and is in an R-40 Zoning District. He said that the property is
20 owned by Suelain Realty, LLC for the development of 23 lots in a Cluster
21 Subdivision.

22
23 Mrs. DeLucia read the following opinion from the Committee in New York
24 State on Open Government in regard to Public Hearings:

25
26 *Regarding the meeting of a public body to conduct a Public Hearing*
27 *where members of the public are permitted to speak for up to five (5)*
28 *minutes and where a member of the public spoke for less than the*
29 *allotted time and after others spoke asked to speak a second time,*
30 *the request was rejected. The committee notes that a public body has*
31 *the right to establish rules and procedures to govern its own*
32 *proceedings, in its view the court would likely find no right to speak a*
33 *second time even to complete the maximum amount of time to*
34 *address the public body unless other persons were given the same*
35 *opportunity.*

36
37 Chair Currie mentioned that this is the continuation of the Public Hearing
38 for the Granite Pointe Subdivision.
39 Chair Currie asked the applicant’s representative to give a brief overview of
40 the project for the benefit of the Board and the public.

1
 2 Timothy Allen, the applicant's engineer, stated that the Granite Pointe
 3 Subdivision has been before the Board for quite some time. He mentioned
 4 that there are 23 lots and the zoning fits the lots on this property. Engineer
 5 Allen said that the subdivision is bounded by the reservoir on all sides. He
 6 noted that the project meets the 300 foot setback for septic systems and
 7 impervious surfaces. Engineer Allen said that the applicant has Preliminary
 8 Subdivision approval that was granted 10 years ago and the applicant is
 9 now asking for Final Subdivision Approval. He noted that lead was found
 10 on the site and the applicant is now part of the Brownfield Program to clean
 11 up the lead on 3.5 lots. Engineer Allen mentioned that the Department of
 12 Environmental Conservation (DEC) cleared to the edge of the reservoir on
 13 the Department of Protection (DEP) property. Engineer Allen stressed that
 14 the work that you see is the DEC working on the DEP property through the
 15 Granite Pointe property.

16
 17 Engineer Allen said that there has been discussion on the violation from the
 18 DEC. He stated that he is working with the DEC to rectify the violation.
 19 Engineer Allen explained that test holes were dug for the stormwater on
 20 June 8th and June 9th. He said that the DEP, Westchester County Health
 21 Department and the Town witnessed the test holes. Engineer Allen noted
 22 that there was contamination 3 to 4 feet deep and that material was placed
 23 on the side, and they dug down deeper and put that material back so as not
 24 to disturb the strata of the testing. He mentioned that test holes have been
 25 dug on this property for 20 years but it was brought to his attention that he
 26 should have notified the DEC. Engineer Allen stressed that the test holes
 27 have nothing to do with this proceeding, He said that this is about Final
 28 Subdivision Approval and if the application meets Code.

29
 30 Engineer Allen noted that another issue is the small pocket wetland. He
 31 said that there is a small 800 square foot pocket that a prior Town Engineer
 32 considered a wetland. He mentioned that a wetland, steep slopes and
 33 subdivision approval was granted under Preliminary Subdivision Approval.
 34 He stated that he is asking the Board to approve the wetland and steep
 35 slopes permit with the Final Subdivision Approval.

36
 37 Engineer Allen explained that there is a pipe that discharges back to the
 38 reservoir through Tomahawk Street and that may be a potential DEC
 39 wetland. He said that he will discuss this with the DEC but he feels that it is
 40 a drainage ditch. Engineer Allen noted that another issue that came up

1 was an area north of the site past Old Tomahawk Street on the west side of
2 the road is a stream that is 400 to 500 feet away from this property.

3
4 Engineer Allen asked the Board to focus on Final Subdivision Approval. He
5 stated that the site will be cleaned up and he asked that the Public Hearing
6 be opened and closed this evening.

7
8 Mrs. DeLucia asked the status of the Wetland application.

9
10 Engineer Allen said that he is asking for re-approval of the original wetland
11 application. He said that the wetland is degraded and will be cleaned up
12 and made into a stormwater basin.

13
14 Chair Currie asked Consultant Town Engineer Barbagallo if he had any
15 comments.

16
17 Consultant Town Engineer Barbagallo said that the original wetland
18 application should be updated as part of the process. He said that the
19 pollutant loading analysis has to be finalized. Consultant Town Engineer
20 Barbagallo asked who will maintain the stormwater features, the
21 homeowners or the Town. He said that the Town will only accept dedication
22 of stormwater collection systems within the roadway and the conveyance
23 pipe leading to terminal basins while other maintenance responsibilities for
24 individual lot stormwater infiltration systems on lots 19 and 29 and all
25 vegetative swale must remain the obligation of the individual owner or the
26 Homeowners Association.

27
28 Planning Board Town Attorney Eriele mentioned Town Code Section 167-
29 2.A.-General applicability *should apply to any proposed regulated activity*
30 *as defined in Section 167-4B, not physically completed prior to the effective*
31 *date of this chapter.* He indicated that it is wise to update the wetland
32 application.

33
34 Ms. Gerbino said that during the site walk on the historic road, Peekskill
35 Turnpike, the road was soaking wet and it had not rained.

36
37 Engineer Allen said that the road will be preserved in a conservation
38 easement. He said that there will be a culvert under the road so it does not
39 back up on the high side of the road.

40

1 Consultant Town Engineer Barbagallo said that he will take a look at the
2 historic road and maybe a level spreader could help that issue. He said
3 that the Board should decide if the east and west side of the new road
4 should be connected.

5
6 Mr. Goldenberg asked if it is proper to go on the contaminated property.
7 He mentioned that the Board conducted a site walk of the property but did
8 not have proper equipment. He said that after walking the property his
9 ankle became swollen and he does not know the reason. Mr. Goldenberg
10 asked if it was legal to walk the property.

11
12 Planning Board Town Attorney Eriole said that the DEC was doing on-site
13 work on the property. He said that he will get an answer to Mr.
14 Goldenberg's concern if it is legal to walk on the property.

15
16 Consultant Town Engineer Barbagallo said that when there are invasive
17 activities that is a concern but when the Board members went on the site
18 walk they were walking on a leaf mat and were not digging with their hands
19 in the soils and did not engage with the lead contaminated material. He
20 opined that the Board members were not in danger as they were not
21 disturbing anything.

22
23 Engineer Allen interjected that all the Board members had legal permission
24 to be on the property. He said that he has dug test holes on the property
25 many times and has had no ill effects.

26
27 Mrs. DeLucia said that the Remediation Plan is the document that states
28 how the soil will be removed.

29
30 Planning Board Town Attorney Eriole said that the Board and the public
31 should focus on the plan as it exists now and if it is appropriate to grant
32 Final Subdivision Plat Approval based on the Supplemental Environmental
33 Impact Statement (SEIS) and Preliminary Subdivision Approval.

34
35 Chair Currie acknowledged correspondence from Julia Rellou dated July
36 17, 2015; Kevin Hoffman dated July 22, 2015; Judy Garretto dated July 22,
37 1015; Karine Krawrtz dated July 22, 2015; Amy Kaufman, dated July 21,
38 2015, Jennifer Stolarz dated July 22, 2015; Mariyam Zachariah (DEP)
39 dated July 22, 2015; Woodard & Curran dated July 29, 2015; Chris

1 Radding dated July 22, 2015; and David K. Gordon, Esq., dated July 22,
2 2015.

3
4 Chair Currie asked if anyone from the public would like to speak on the
5 application.

6
7 Jay Taylor, resident of Travis Road, noted that when he was interested in
8 buying his home in the Preserve he looked at plans for Granite Pointe and
9 was concerned because it was so close to a water supply. He said that he
10 was horrified to see the amount of clear cutting that is being done by the
11 Department of Environmental Conservation (DEC). Mr. Taylor said that he
12 is worried about the fertilizer runoff and septic contamination over time. He
13 said that a plant buffer to absorb nutrients would be helpful. Mr. Taylor said
14 that he is not thrilled with the location of the septic systems. He mentioned
15 that there is a deed restriction in reference to the application of fertilizers by
16 the homeowners but he is concerned that the homeowner will not review
17 the deed restriction before going about their work. Mr. Taylor opined that
18 the Town should not rely on deed restrictions on how the fertilizer is
19 applied. He is concerned that there will be nitrates and phosrates in the
20 reservoir. Mr. Taylor said that the Town should make sure it uses its full
21 statutory authority to make sure that what has been approved is being
22 implemented. He suggested that the Board work with the DEC to see what
23 additional remediation they might do to provide sufficient buffer to ensure
24 that the nutrient runoff problem is greatly minimized.

25 Engineer Allen said that the DEC is following the Planting Plan.

26
27 Consultant Town Engineer Barbagallo said that he has had discussion with
28 the Watershed Inspector General (WIG) in reference to this project in
29 regard to stormwater and he wanted to know what the long term condition
30 would be. He mentioned that if the development does not go forward it has
31 to be reforested. Consultant Town Engineer Barbagallo stated that the
32 work on the DEC property will be reforested. He said that the WIG will be
33 satisfied with the treatment for stormwater coming off the site and there is
34 no additional mitigation required to treat nutrients.

35
36 Mr. McNamara suggested that the Planting Plan be put on the DEC
37 website.

38 Engineer Allen stated that the DEC used the Planting Plan provided by the
39 application of Granite Pointe.

40

1 Michael McKenna, resident of Tomahawk Street, noted that he is a retired
2 professional engineer with the DEP and there was always signage on a
3 project with contamination. He stated that there are no signs on this
4 property but he felt that there probably would not be any danger if you
5 walked on the contaminated property. Mr. McKenna asked if anyone has
6 inspected the property with the heavy rains. He said that he is concerned
7 about all the septic systems and the pesticides and stormwater runoff and
8 how the use of fertilizer by the homeowner will be regulated.

9
10 Consultant Town Engineer Barbagallo said that the DEC work is being
11 overseen by a third party engineer. He explained that the State did not
12 have to get a formal permit from the Town but are working from their work
13 plan. He noted that there are regulations on the type of fertilizers that can
14 be used. Consultant Town Engineer Barbagallo said that the Town has a
15 robust stormwater system to capture the runoff and the pollutant loading
16 analysis states the amount of nutrients and phosphorous that is related to
17 fertilizers. He said that he expects the fertilizer companies to comply with
18 the law.

19
20 Mr. McKenna said that he is concerned that the septic system for one of
21 the homes is too close to his well.

22
23 Consultant Town Engineer Barbagallo explained that the Health
24 Department has to sign off on the septic system.

25
26 Diane Houslanger, resident of Gwynne Drive, said that something that has
27 taken 25 years leaves a red flag that something may be wrong. She said
28 that environmental regulations have changed from 20 years ago. Ms.
29 Houslanger read the following article written by David McKay of the Journal
30 News:

31
32 *Fight Intensifies over toxic cleanup by Amawalk luxury home site. The*
33 *discovery of lead contamination on an abandoned shooting range*
34 *along the Amawalk Reservoir in Somers derailed developer John*
35 *Harkins' plans in early 2000 to begin building 23 luxury homes by the*
36 *source of drinking water for thousands of residents. More than a*
37 *decade later Harkins remains committed to the Granite Pointe project*
38 *that his company, Suelain Realty, Inc. proposed in 1993. As Harkins*
39 *pushes to win approval from the Somers Planning Board, a new*
40 *offensive by citizen activists has Harkins' company in hot water with*

1 *the State Department of Environmental Conservation, which has*
2 *threatened to terminate the company's pact with the state under the*
3 *Brownfield Cleanup Program. Harkins is counting on the state's*
4 *generous Brownfield Tax-Credit Program to help finance the long*
5 *delayed cleanup on three Granite Pointe building lots. The citizens*
6 *have also questioned the role played by Town Attorney Roland*
7 *Baroni, whose firm, Stephens, Baroni, Reilly & Lewis LLP, provides*
8 *legal advice to the Planning Board, and, until contacted last*
9 *Wednesday by Tax Watch, touted Toll Brothers, a residential builder,*
10 *as one of its clients on the firm's website. Harkins told Tax Watch that*
11 *Toll Brothers was among the companies purchasing building lots,*
12 *once he has the approvals in hand, he estimates the lots will fetch as*
13 *much as \$300,000 each. "It's a clear conflict", said Attorney Peter*
14 *Schuyler, who represent the citizens. Baroni denied there was a*
15 *conflict, saying the firm had Toll Brothers as a client 15 years ago.*
16 *He removed Toll Brothers from the firm's list of clients after speaking*
17 *with Tax Watch. "I'm not aware that Toll Brothers is a potential*
18 *purchaser," said Baroni, its pure oversight that we didn't keep our*
19 *website updated."*

20
21 *Citizen activist Marc Houslanger, however, wants to make sure the*
22 *land gets cleaned up before Harkins wins approvals from the*
23 *Planning Board and begins to market its lots. In mid-June Marc*
24 *Houslanger spotted activity on the site, which abuts New York City's*
25 *land along the Amawalk's western shores, which has extensive lead*
26 *contamination as well. The price tag for New York City's cleanup is*
27 *estimated at between 5 and 10 million dollars. Motorists along Route*
28 *202 in Somers can see where the forest was cut down along the*
29 *Amawalk western shoreline in preparation for the city's cleanup.*
30 *Tests have shown no contamination of the water. "We'd like the*
31 *whole site to be preserved." said Marc Houslanger. "That reservoir*
32 *provides drinking water for thousands of people." State investigators*
33 *cited Harkin's company for failing to notify the State DEC that work*
34 *was to begin on five test pits, which were backfilled in a way that*
35 *could have spread contamination to clean soil. The State is also*
36 *considering terminating Suelain's participation in the Brownfield*
37 *Program, according to the violation notice. Harkins maintains his*
38 *contractor did nothing wrong. "We dug test holes, and put the dirt*
39 *back in," he said. "We did it by the book. There is a strong group of*
40 *people who don't want this to happen." Tossing Suelain Realty from*

1 *the Brownfield Program would present yet another setback to*
 2 *Harkins, whose permission to build Granite Pointe was rescinded*
 3 *more than a decade ago after the discovery of lead.*

4
 5 *The Brownfield tax credit would provide substantial support for the*
 6 *development, where the homes will have at least 3,000 square feet of*
 7 *living space, and be served by municipal water. The credits cover 50*
 8 *percent of the cost of remediation plus an additional 14 percent of*
 9 *what the company spends to build the homes. The Granite Pointe*
 10 *homes are slated to sell for \$1 million dollars. The credits are applied*
 11 *to the builders State tax liability, which means the State will cut a*
 12 *check after the developer's State tax bill is reduced to zero. It's*
 13 *program that the Environmental Advocates of New York found had*
 14 *cost New York taxpayers 1.4 billion dollars since 2008 for 170 sites,*
 15 *most of which are in the downstate region, where the cost of building*
 16 *is high. The developer of the Ritz-Carlton hotel complex in White*
 17 *Plains scored Brownfield tax credits valued at about 111 million*
 18 *dollars in 2008 and 2009, said Travis Proulx, the groups*
 19 *communication director.*

20
 21 *Hopes to prevent the development of Granite Pointe floundered in*
 22 *2007, after the Town, with the assistance of the Westchester Land*
 23 *Trust, failed to attract financial support from New York City,*
 24 *Westchester County or New York State. Those governments a year*
 25 *earlier had helped save 654 acres from development in Somers at*
 26 *what became the Angle Fly Preserve, at the cost of \$21 million*
 27 *dollars. Land Trust Executive Director Lori Ensinger said the*
 28 *organization couldn't take title to a site with contaminated soil.*

29
 30 Marc Houslanger, resident of Gwynne Drive, said that the land is
 31 contaminated according to Randy Witcher of the DEP, and whoever walks
 32 the land has to decontaminate their shoes as they will be spreading
 33 contamination when you walk off the property.

34
 35 Mr. Houslanger asked Mr. Witcher if Suelain Realty has satisfied the
 36 Notice of Violation dated June 24, 2015. He said that attorneys are
 37 speaking to Suelain Realty's attorney regarding the investigation,
 38 remediating the backhoe tracks, test pits and negotiating terms of the fine.

1 Mr. Houslanger said that the facts are that the land is highly contaminated
2 and the applicant dug down 15 feet and backfilled the pit with no testing of
3 the airborne contaminants. He mentioned that there are two daycare
4 centers across from the site and children are susceptible to contaminants.
5

6 Mr. Houslanger commented that Engineer Allen wants final subdivision
7 approval before the cleanup takes place. He noted that the DEP has not
8 granted final approval and with so many open items final approval should
9 not be granted. He said that it was the public who brought to the attention
10 of the Planning and Town Board that the land is highly contaminated. He
11 said that the public should not be doing due diligence, that is up to the
12 Planning Board.
13

14 Mr. Houslanger read a quote from the meeting of April 22, 1998; *all the*
15 *subject conditions of Preliminary Subdivision Plat Approval have been met.*
16 He said that given the 17 years that have passed the Town Code has been
17 violated by the Granite Pointe hazard project on the Reservoir. He said
18 that the Town of Somers under SEQRA have not followed all the rules. Mr.
19 Houslanger opined that Preliminary Subdivision Approval defacto is null
20 and void. He said that according to the Westchester County Planning
21 Board Resolution 98-11 states that the applicant should obtain all
22 necessary permits from the NYCDEP, NYSDEC, Department of
23 Transportation (DOT), General Stormwater Discharge Permit and the
24 United States Army Corps of Engineers. He said that after the Planning
25 Board has granted conditional Preliminary Plat Approval but not yet signed
26 the final plans, said revised plans will need to be reviewed and approved by
27 the Board prior to the signing of the final plans.
28

29 Planning Board Town Attorney Eriole said for the benefit of the public he
30 explained that some of the issues deal with permits from agencies and
31 when the Board used the term "Final Approval" it means the final
32 subdivision approval will have conditions that include the obligation to
33 obtain and meet all conditions of permitting agencies. He stressed that if
34 the applicant can't build what is approved by the Board and can't obtain all
35 the regulatory permits they can't build. Planning Board Town Attorney
36 Eriole said that the word "Final Approval" is not as final as it may seem and
37 the idea that some things are outstanding is always how it works. He
38 stressed that the Planning Board can only approve what is under their
39 authority to approve. He noted that there will be multiple approvals that
40 have to be met and if they aren't met the "Final Approval" is not in effect.

1
 2 Mrs. DeLucia mentioned that over the years she has accumulated DEP
 3 letters and the letters change from time to time depending on what new
 4 information has been received. She said that there is a process and it can
 5 take years. She noted that because lead was discovered on this property
 6 the Board is doing their due diligence to make sure the public is protected.

7
 8 Mrs. DeLucia mentioned all the approvals that were given to Granite
 9 Pointe:

- 10
 11 • Preliminary Subdivision Approval – June 13, 1990
 12 • Conditional Preliminary Subdivision Approval – April 22, 1998
 13 • Conditional Final Subdivision, Wetland and Steep Slopes Approval
 14 • Re-Granting Conditional Final Subdivision, Wetland and Steep
 15 Slopes Approval
 16 • Rescinding Final Subdivision Approval

17
 18 David K. Gordon, Esq., representing residents concerned about this
 19 project, said that in his letter to the Board he outlines three areas of
 20 concern. He mentioned that, at the very least, the Board should suspend
 21 consideration of Final Subdivision Approval. He noted that this application
 22 does not have stormwater remediation approval from the DEP. He
 23 mentioned that he spoke to the DEP and they stated that the application
 24 has not been declared complete. He commented that this project is near
 25 the reservoir and runoff into the reservoir is the primary source of
 26 phosphorus pollution. He said that it would be irresponsible to give final
 27 approval before you know from DEP if this will work. Attorney Gordon said
 28 that the Board cannot say this project is in the best interest of the Town
 29 and complies with all the code if the Stormwater Remediation Plan has not
 30 been approved.

31
 32 Attorney Gordon said that there is lead on this site where the homes are
 33 proposed and that by itself means the Board cannot grant Final Subdivision
 34 Approval. He noted that you cannot say this is in the public interest if there
 35 is lead in the ground.

36
 37 Attorney Gordon said that the DEC has issued a Notice of Violation and the
 38 failure to notify them is a concern because the activities disrupted and
 39 exposed contamination and significantly interfered with ongoing remedial
 40 actions at this site and, potentially, off-site. He mentioned that the

1 applicant is behind in the schedule to comply with the Brownfield cleanup
 2 requirements. Attorney Gordon stated that the Notice of Violation is still
 3 outstanding. He said that with these facts there is no basis to grant Final
 4 Subdivision Approval. Attorney Gordon said that the final issue is wetlands
 5 and the applicant needs a revised wetland application. He said that
 6 whatever was done in the past is not relevant now and the applicant must
 7 proceed with the delineation as it exists now. He mentioned that the
 8 applicant wants to make the wetland into a detention pond. Attorney
 9 Gordon said that the DEC guidelines forbid using wetlands for stormwater
 10 detention. He noted that if the wetland is degraded you clean it up not turn
 11 it into a detention pond. He opined the wetland permit needs a fresh look
 12 from the Town.

13
 14 Engineer Allen said that DEP, DOT and Westchester County Health
 15 Department (WCHD) gave their approval at the time of final approval. He
 16 noted that the regulations have changed and he has to reup all the
 17 approvals.

18
 19 Ms. Gannon said that the comments tonight have to do with understanding
 20 what a Conditional Approval is.

21
 22 Consultant Town Engineer Barbagallo explained that first there is
 23 Preliminary Subdivision Approval with a series of conditions that have to be
 24 completed prior to Final Subdivision Approval. He said that outside
 25 agencies do not like to review an application until they have Preliminary
 26 Approval. He noted that the Board has to look at the conditions in the
 27 Preliminary Approval and make sure they have been approved. He said
 28 that the Board can issue a Conditional Final Approval that may have other
 29 requirements. Consultant Town Engineer Barbagallo said that in this
 30 instance there could be a Final Subdivision Approval with the condition that
 31 prior to the issuance of a Building Permit the contamination has to be
 32 cleaned up and signed off by the DEC. He said that this is how this Board
 33 protects the people and the environment.

34
 35 Planning Board Town Attorney Eriole explained that the reason this
 36 process is developed is because the details of the technical compliance
 37 and all the permits that are required basically start with Final Approval.
 38 He stated that Conditional Final Approval always has conditions and needs
 39 agency approvals before the plat is signed and filed.

40

1 Ms. Gannon said to answer a concern of Attorney Gordon she referred to
2 the Woodard & Curran memo, *the applicant shall provide documentation of*
3 *NYC DEP approval prior to the signing of the Final Subdivision Plat.*
4

5 Consultant Town Engineer Barbagallo said some applicants deal with the
6 DEP approval before Final Approval but that can be a condition of Final
7 Approval.
8

9 Ms. Gerbino said that she has been on the Planning Board for nine (9)
10 years and this is her opportunity to be heard on this application. She said
11 that because of the Public Hearing the public is able to participate in the
12 process.
13

14 Mr. Goldenberg questioned what the applicant has done since Final
15 Subdivision Approval was rescinded to change the application to make the
16 Board grant them approval.
17

18 Consultant Town Engineer Barbagallo explained that Preliminary
19 Subdivision Approval gives the applicant rights and now the Board checks
20 to see what has been accomplished. He mentioned that the Supplemental
21 Environmental Impact Statement (SEIS) has been completed and the
22 Remediation Plan approved by the DEC. He stressed that the cleanup will
23 take place before homes can be built on the property.
24

25 Sarah Brown, the Consultant Town Planner, said that the Supplemental
26 Final Environmental Impact Statement (SFEIS) was completed last year.
27 She noted that the Board had to analyze the impacts before finalizing the
28 plan and adopting the Findings Statement.
29

30 Mrs. DeLucia said that the applicant cannot move forward until they get all
31 the approvals from outside agencies.
32

33 Julia Rellou, homeowner, said that the Public Hearing revolves around
34 trees, drinking water, some scenic vistas, and justice for the environment
35 and the people. She opined that the Board should not issue Conditional
36 Final Subdivision Approval to Granite Pointe. She said that this project
37 started over 20 years ago and conditions were never met. Ms. Rellou
38 asked why the Board would issue Conditional Approval when the applicant
39 never met previous approvals granted him.
40

1 Ms. Rellou read a letter from Orestes a 13 year old who said:

2
3 *I am speaking to you on behalf of all children. The children of*
4 *Somers and everywhere. Because, in the words of Dr. Martin Luther*
5 *King, Jr., "Injustice anywhere is a threat to justice everywhere."*
6 *Granite Pointe amounts to injustice, 23 houses and 23 septic systems*
7 *on land that is surrounded by drinking water amount to injustice and*
8 *threaten justice everywhere. One or more of the 23 septic systems*
9 *will leak at some point, contaminating the drinking water with polluted*
10 *septic effluent and at some point there will be another 100 year storm*
11 *pushing everything into the water, houses, cars and garages.*
12 *I have learned that groundwater is reached only 10-12 feet below*
13 *ground, and that distance to the drinking water supply is as short as*
14 *90 feet from some septic of this housing subdivision. The forest will*
15 *be gone, and instead of seeing the dense forest canopy from our*
16 *school bus windows, children will see 23 chimneys and frame*
17 *houses, garages, decks and cars. It will be ugly. The animals and*
18 *plants that inhabit the forest will be gone, and along with them the*
19 *Bald Eagle seen to roost on the forested promontory every winter.*
20 *The migratory birds will lose an important rest point along their*
21 *migration path. The people of Yorktown and Somers that depend on*
22 *Amawalk's water for drinking water, more than 40,000 of them, will be*
23 *exposed to constant, real threat of E.coli bacteria in their drinking*
24 *water, increased chlorination and sickness. All of the above terrible*
25 *ills are certain to take place if this irrational, totally irrational housing*
26 *subdivision is built where it does not belong, on a forested*
27 *promontory wrapped on three sides by drinking water. Only a*
28 *madman with evil intentions would initiate and continue to push for*
29 *full approvals of this mad and unconscionable project. Children have*
30 *a better plan to suggest to the Granite Pointe landowner, leave this*
31 *site alone. His children and grandchildren are not the only ones he*
32 *should selfishly think of in wanting to leave them a large inheritance*
33 *by robbing the public and the environment of our public assets, our*
34 *right to clean air, clean water, scenic vistas, and the right of the*
35 *environment and the drinking water supply to remain intact,*
36 *undisturbed and unpolluted. On behalf of children everywhere, I*
37 *recommend to the Granite Pointe landowner that he donate the*
38 *Granite Pointe site to the Town of Somers or New York State. He*
39 *should think of the legacy and reputation he will leave behind. He*
40 *would not want the children of today and all tomorrows to call him*

1 *"The Great Robber of Somers' People and Environment."* No, he
2 should not want this.

3
4 Mr. McNamara asked Ms. Rellou if that speech was really written by a 13
5 year old child and she replied that it was.

6
7 Engineer Allen asked that the letter from the 13 year old child be notarized.

8
9 Rick Warren, resident of Lakeside Lane, said that he hopes the Board is
10 looking at the issue of groundwater monitoring and its effects on the
11 reservoir.

12
13 Engineer Allen said that through the process of cleaning up the property
14 the groundwater issue has been taken care of. Engineer Allen mentioned
15 that the subdivision will be using public water. He asked the Board to close
16 the Public Hearing.

17
18 Mrs. DeLucia read from the Granite Pointe End Use Report presented to
19 the Somers Town Board by the Westchester Land Trust on October 31,
20 2006. Granite Pointe End Use Committee: *the Town should consider*
21 *establishing a playground on 1 to 2 acres of the property and a bike trail*
22 *through the Granite Pointe property with the North County Trailway via*
23 *Granite Springs Road.* Mrs. DeLucia stressed that there is contamination
24 and they are asking to build a playground and have people walk on the
25 trails.

26
27 Mr. Goldenberg interjected that contamination was known to be on this
28 property long before the subdivision was suggested and the Planning
29 Board still voted to approve the subdivision.

30
31 Mrs. DeLucia read the following letter from the DEP dated December 3,
32 2013:

33
34 *The DEP is very aware of the Granite Pointe project and has*
35 *been monitoring it closely for many years. We will continue to*
36 *monitor the project carefully, to ensure that if it goes forward, all DEP*
37 *regulatory requirements are met. With respect to possible acquisition*
38 *of the project, the DEP has very limited funding for land acquisition in*
39 *the Croton Watershed and our acquisition efforts are concentrated in*
40 *high priority areas adjacent to the Croton Reservoir. From a water*

1 *quality protection perspective, the site in question is located in a*
2 *lower priority area. Nevertheless, we are willing to consider such*
3 *acquisition of the property, but only if other interested parties, such as*
4 *the County of Westchester, the Town of Somers, a local land trust*
5 *and/or consumers in the Amawalk/Shenorock Water District, for*
6 *example, contribute a significant portion of the funds needed for*
7 *acquisition.*

8
9 Ms. Gerbino commented that if people are angry with the Board who are
10 doing their due process, she reminded them that it was the City of New
11 York that stated that this project is a low priority. She said that her job is to
12 let people who own property develop it.

13
14 Consultant Town Engineer Barbagallo said that the updated wetland
15 application still has to be processed.

16
17 Mr. McNamara said that the DEP is almost ready to issue a completeness
18 determination. He suggested that only new comments and new information
19 from the public should be heard at this Public Hearing's continuance. He
20 said that this will keep the due process moving.

21
22 Chair Currie said that it was the consensus of the Board to continue the
23 Public Hearing at the August 12, 2015 Planning Board meeting.
24 He said that written comments can still be submitted to the Board.

25
26 There being no further business, on motion by Chair Currie, seconded by
27 Mr. Goldenberg, and unanimously carried, the meeting adjourned at 9:30
28 P.M. The Chair announced that the next Planning Board meeting will be
29 held on Wednesday, August 12, 2015 at the Somers Town House.

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Respectfully submitted,

Marilyn Murphy
Planning Board Secretary

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