

July 24, 2008

**PLANNING BOARD MINUTES**

**PRESENT:**

Phil Schiavone  
Ray DiBiase  
Mark Brosnan  
Jennifer Sigler  
William Rau, Senior Planner  
Cindy Suarez, Secretary  
Virginia Capon, Trustee

**ABSENT:**

Jim Burke, Chairman

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The Planning Board meeting is held at 7:00PM on the 2<sup>nd</sup> floor of Village Hall in the courtroom, 121 West Broadway, Port Jefferson, NY 11777. The Planning Board may add or remove applications from the agenda without further notice. Applications may not be heard in the order as they appear on this agenda.

**GENERAL BUSINESS:**

On a motion made by Mr. Schiavone, seconded by Ms. Sigler, the members approved the minutes from June 26, 2008 as amended.

Virginia Capon gave the following Trustee report:

- The sewer treatment plant expansion of the sewer district has been a topic at county and state level meetings.
- The Village is sponsoring a greening program in Port Jefferson, it kicks off in November.
- The trustees held open their last meeting regarding the MW zone change and the steep slope ordinance. All comments are being considered.
- The Meadow lot lighting will be redesigned in the near future.
- Commissioner positions have been appointed.

The Board members read an e mail dated 7/24/08 from the Village Administrator, Robert Juliano regarding Section 220-44 clustered subdivision of land. (attached)

Mr. Schiavone made a motion, having considered Mr. Juliano's memo to continue with site plan approvals. Mr. DiBiase seconded the motion, all in favor the vote was 4-0.

**PRESUBMISSION CONFERENCE:**

**1. Silver Ridge (# 147-08JS)**

**Sec. 21 Blk. 4 Lot 19.1**

Discuss proposal for a free-standing apartment building on a .5 acre parcel in the General Commercial C-2 District on the east side of Texaco Avenue, approximately 120 south of Sheep Pasture Road.

Sal Malguarnera, President was present along with Lou Castellano. They discussed the proposed building and site. Mr. Malguarnera stated that the use would be affordable condominiums. The proposed 22 units would consist of 700 square foot one bedroom and 900 square foot two bedroom units. The building would face Texaco Avenue with second floor balconies for a water view. The 2002 survey was reviewed. Mr. Rau stated that a 50% area variance would be required from the Zoning Board of Appeals. Mr. Rau gave the applicants a copy of his July 17

presubmission report so that they could address his concerns. The applicants indicated that they had attempted to purchase the adjacent lot to the south, but the asking price was too high.

**2. Harbor Heights Apartments (# 133A-08RD)      Sec. 13 Blk. 3 Lot 2**

Discuss proposal to construct a 24' x 40' laundry building for the existing Harbor Heights apartment complex. Subject site is 5.93 acres and located in the Professional Office P-O District on the east side of Belle Terre Road, approximately 600 feet south of Myrtle Avenue.

Bill Jaeger, engineer from Hawkins, Webb, Jaeger Architects was present. He explained that the structure of the proposed building would be constructed of steel finished in brick overlay with a gable roof to match the existing structures. The purpose of the building would be to supply a laundry and storage area for the apartment complex that is handicap accessible and safe. It is an accessory use.

Mr. Schiavone requested a copy of the last site plan approval with an enlargement of the area under construction and the landscape design being proposed. Mr. DiBiase asked that a handicap ramp be added near the proposed building.

Mr. Rau stated that the proposal should be referred to the Zoning board of Appeals because the applicant is seeking to add an accessory use which is an expansion of a non conforming use. Mr. Jaeger questioned whether or not that would be an opinion from the village attorney? Mr. Rau stated that the process begins with the ZBA. An ARC referral is also likely.

**3. Harbor Financial Management (# 150-08JS)      Sec. 22 Blk. 4 Lot 265**

Discuss proposal to 13,000 square foot professional office building on a 1.0 acre parcel in the Light Industrial I-2 District on the west side of Columbia Street approximately 400 feet south of North Country Road.

Frank Toner, project manager was present. The proposed two story office building plan was reviewed along with the 2003 pre submission plan approved by the Planning Board. The landscape design and sidewalks were discussed. Mr. Toner stated that the he is looking into purchasing a pine barrens credit for the sewer.

Ms. Capon will communicate with the Board of Trustees to move forward with the recommendation from the planning Board and Mr. Rau in 2006 to rezone the I-2 district to P-O.

**DEVELOPMENT ACTIONS:**

**4. Jefferson Homes (#131-08)      Sec. 17 Blk. 2 Lots: 13.1 & 14.1**

Consider SEQR determination for a proposed 6-lot clustered major subdivision on 3.05 acres in the Single-Family Residence R-B2 District located on the east side of High Street approximately 130' n/o the intersection of Maiden Lane and High Street.

Mr. Nelin, property owner and Attorney, Linda Margolin were present. A proposed site plan was presented. The Board members remained concerned with the proposed siting of the structures, particularly as experienced when one enters the proposed subdivision. The Board repeated its request for a cross section (north to south) through the site in order to better understand sight lines, retaining walls, and cut and fill. In addition, a cross section taken along the proposed road was requested again.

**Liberty Meadows LLC (# 027-04) Sec. 16 Blk. 8 Lot 8.1, 8.2 +**

Consider conditional approval for the proposed 43-unit cluster subdivision located on 18.5 acres in the R-B2 and R-O District on the east side of Liberty Ave.

Fred Eisenbud, Attorney for the applicant was present. He requested a public hearing to be scheduled. The Board members denied the request.

Mr. Rau read the changes made to the resolution. He stated that the Village Attorney read the resolution and commented on the resolution to be fine.

On a motion made by Mr. Schiavone, seconded by Ms. Sigler, the vote was 4-0 to approve the resolution.

**RESOLUTION:**

WHEREAS, by resolution dated March 28<sup>th</sup>, 2006 the Planning Board granted preliminary approval for the major subdivision entitled Village Vistas submitted by the applicant Liberty Meadows LLC; and

WHEREAS, the proposal is for a clustered attached multi-family housing community consisting of twenty-one (21) 2-unit buildings and one (1) single-unit building for a total of forty-three (43) units, the construction of a new roads; Theresa Lane and Kewpie Circle, and a separate recreation building and pool; and

WHEREAS, the property totals 18.45 acres and is currently improved with a single family home, a guesthouse, several barns, horse paddocks and located in the Village's Single Family Residence R-B2 District (15,000 sq. ft. min.) and Residence-Office R-O District on the west side of Main Street (S.R. 25 A) and on the east side of Liberty Avenue; and

WHEREAS, the Planning Board finds that several conditions were inappropriately placed on the preliminary approval, these are as follows:

- A. Proof of submission of the Condominium Offering Plan.
- B. Approval from the Suffolk County Department of Health Services and Suffolk County Department of Public Works.
- C. Provide a bond equal to half the cost for the design and installation of a traffic signal at Liberty Avenue and Main Street, to be used for traffic control improvements in the vicinity of that intersection.

WHEREAS, Board finds these conditions to be more appropriate for a final conditional approval given the circumstances with the current Port Jefferson Sewer Plant expansion; and

WHEREAS, final approval will not be granted until both the Suffolk County Department of Health Services and the Suffolk County Department of Public Works approve said proposal; and

WHEREAS, the Board finds that a letter from the school district is not necessary as the proposal is for an age-restricted (55+) community and not likely to have many school aged children; and

WHEREAS, the subject site is located in a portion of the Village that is identified as Cedar Hill in the Open Space Plan prepared for the Village of Port Jefferson's Conservation Advisory Committee on October 15<sup>th</sup>, 2001, which recommends the encouragement of owners to combine all lots into one and develop a clustered residential development on the most suitable land; and

WHEREAS, pursuant to § 220-39 of the Code of the Village of Port Jefferson, the Board of Trustees, by resolution dated October 25<sup>th</sup>, 2004 gave authorization to the Planning Board to consider a cluster housing development; and

WHEREAS, as part of the preliminary review process, the Planning Board on March 9<sup>th</sup>, 2006 made a finding of “non-significance” and issued a negative declaration pursuant to SEQRA; and

WHEREAS, the Planning Board waives the requirement for land to be set aside for the purpose of a park to be dedicated to the Village and pursuant to § 220-28 (C) (2) of the Code, the park requirement for the proposed subdivision is payment of \$ 64,500 based on the forty-three (43) unit yield; and

WHEREAS, on April 25<sup>th</sup>, 2006 the Planning Board held a public hearing on the proposal and the hearing was adjourned to a later date because the application lacked sufficient information for the Board and the public to consider; and

WHEREAS, on May 10<sup>th</sup>, 2006, the Planning Board received a copy of a Notice of Petition-Complaint in Hybrid filed on April 27<sup>th</sup>, 2006 with the Clerk of Suffolk County which identifies the Planning Board of the Incorporated Village of Port Jefferson as a respondent; and

WHEREAS, on May 10<sup>th</sup>, 2006 the Planning Board received additional documentation from the applicant that included final plat plans consistent with the preliminary approval; and

WHEREAS, on May 11<sup>th</sup>, 2006 the Village Attorney discussed the Notice of Petition-Complaint in Hybrid that named the Planning Board as a respondent and advised that this petition was not signed by a judge, is not a temporary restraining order and does not prevent the Board from moving forward with the review of this application; and.

WHEREAS, on May 11<sup>th</sup>, 2006 the Board agreed that the plat submission contained sufficient information to schedule the continuation of the public hearing for June 7, 2006; and

WHEREAS, on May 17<sup>th</sup>, 2006, planning staff sent referrals to the following agencies for comments: Village of Port Jefferson Public Safety Advisory Board, New York State Department of Environmental Conservation, New York State Department of Transportation, Village of Port Jefferson Conservation Advisory Council, Port Jefferson Fire District; Village of Port Jefferson Village Engineer, Suffolk County Planning Commission and the Suffolk County Department of Health Services; and

WHEREAS, on May 31<sup>st</sup>, 2006 the Planning Board received a copy of a resolution (No. 14-2006) by the Suffolk County Sewer Agency which grants Village Vistas permission to connect to the sanitary sewerage facilities of the district; and

WHEREAS, on June 6<sup>th</sup>, 2006 the Planning Board Secretary was informed by the Village Attorney’s office that the Board needs to suspend the review of the application and take no action until the Petition-Complaint In Hybrid is decided upon in New York State Supreme Court; and

WHEREAS, the public hearing scheduled for June 7<sup>th</sup>, 2006 was canceled; and

WHEREAS, the Suffolk County Planning Commission by letter dated June 9<sup>th</sup>, 2006 provided the following comments:

*The staff has examined the proposed subdivision map entitled Village Vistas bearing the stamped date of May 18<sup>th</sup>, 2006. Comparing this map with the one previously referred to the commission, the staff did not find any substantial difference between the two maps.*

*It is the policy of the commission not to review any maps that it has previously considered unless there remain substantial differences.*

*Article 6 of the Suffolk County Department of the Health Service Code should be complied with.*

WHEREAS, by letter dated June 16<sup>th</sup>, 2006 the Suffolk County Department of Health Services provided the Board with the following:

*Article VI Application Status:*

*Our agency has not received an application for the above referenced project as required by Article VI of the Suffolk County Sanitary Code. The project sponsor should submit an application to our agency's Office of Wastewater at the earliest possible date so that a complete technical assessment of this proposal can be undertaken.*

*The applicant must comply with the requirements of the Suffolk County Sanitary Code and relevant construction standards for water supply and sewage disposal. Design and flow specifications, subsurface soil conditions, and complete site plan details are essential to the review of the project. These considerations are reviewed completely at the time of the SCDHS application.*

**SCDHS Jurisdiction**

*The SCDHS maintains jurisdiction over the final location of sewage disposal and water supply system. The applicant, therefore, should not undertake the construction of either system without Health Department approval.*

WHEREAS, comments were also received from the New York State Department of Environmental Conservation; Village Engineer; Port Jefferson Conservation Advisory Council; New York State Department of Transportation and the Port Jefferson Fire District and all comments have been duly considered; and

WHEREAS, on June 20<sup>th</sup>, 2006, planning staff verified with the New York State Historic Preservation Office that the northern portion of the site is within an area of sensitivity for archaeological resources however no national or state historic sites are adjacent or within the immediate vicinity of the subject site; and

WHEREAS, the Historic Resource Survey prepared for the Village of Port Jefferson by Robert J. Hefner, Historic Preservation Consultant in November 1998 does not identify this area of the Village as historically significant; and

WHEREAS, the Village Attorney advised the Planning Board on October 3<sup>rd</sup>, 2006 that the Notice of Petition-Complaint in Hybrid was dismissed in New York State Supreme Court and that the Board may continue to review and process the application; and

WHEREAS, on October 24<sup>th</sup>, 2006 the planning Board discussed the application and scheduled the continuation of the public hearing for November 9<sup>th</sup>, 2006; and

WHEREAS, on November 9<sup>th</sup>, 2006 a public hearing was held on the application and all public comments have been duly considered by the Planning Board; and

WHEREAS, on December 12<sup>th</sup>, 2006 the Planning Board received a copy of the of an application for sewage disposal facilities and water supply systems made to the Suffolk County Department of Health Service's Office of Wastewater Management; and

WHEREAS, the by resolution dated December 14, 2006, the Planning Board granted final conditional approval of the major subdivision entitled Village Vistas, subject to 29 enumerated conditions; and

WHEREAS, the Village Attorney advised the Planning Board that a second lawsuit was thereafter brought naming the Planning Board as a respondent and challenging the December 14, 2006 resolution of conditional approval, in the Supreme Court, Suffolk County; and

WHEREAS, the Village Attorney has since advised the Planning Board that the court in the second lawsuit issued a judgment invalidating the resolution because the Planning Board had not specifically indicated that it was waiving the requirement for a recharge basin called for under §220-27 F. of the Village code, nor provided an explanation for such a waiver in its record of proceedings; and

WHEREAS, § 220-27 B. requires that Planning Board Engineer to approve the design and size of a storm water recharge facility based on an anticipated runoff from a ten-year storm; and

WHEREAS, the Planning Board received a memorandum from the Village Engineer dated December 12, 2006 that indicates that drainage calculations be increased to a three inch per hour rainfall capacity to more accurately reflect the type and degree of rain events that are to be expected, to align with the current standard employed by the New York State Department of State's standard for rainfall rates and to reflect the extensive topography of the site; and

WHEREAS, by memorandum dated June 20<sup>th</sup>, 2008 the Planning Board requested the Village Engineer provide additional written comments specifically regarding the designed capacity of the proposed system and if a recharge basin is desirable at the subject site; and

WHEREAS, by memorandum dated June 27<sup>th</sup>, 2008, the Village Engineer provided the Board with the following:

"I am in receipt of your recent memo of 20 June 2008 pertaining to storm water runoff and control for the above referenced project. As part of this memo you have requested "whether or not the storm water recharge system designed by the engineers of Nelson & Pope for the proposed Village Vistas clustered housing development is up to the task to handle runoff from a ten-year storm".

As you are aware, on 12 December 2006 I outlined my comments about the overall design of the site and the integral engineering details that were to be incorporated into the project. These comments were later attached as part of the conditional approval for this project, and stand as originally detailed today. After reviewing your request for my comments as to whether the proposed design for this project can handle the anticipated runoff, it seems apparent that by virtue of my original comments from 12 December 2006 I am stating that problems or issues exist. To date I have not received any revisions to the site plan (even though written requests for such revisions and updates have been made by this office) reflecting my December 2006 comments or any other communication that would reflect an anticipated revision to the site plan to address my concerns is forthcoming. If and when such revisions are made, I will review the proposed changes and present my reply to the Planning Board. At this time, the question as you have presented it to me appears to have been answered on 12 December 2006.

In addition to your request for information of the overall drainage system, you have also requested comments from me as to the "desirability" of a recharge basin for this project. As you have shown in your request, section 220-27 states "storm water recharge basins.....shall be provided wherever there is no available outlet for storm water or where in the opinion of the Planning Board, a potential drainage problem exists". This section clearly states that it is the opinion of the planning board that is the basis for whether a recharge basin is to be incorporated into a site development project whenever a drainage problem exists. While it is understood that this decision would be based upon input and discussion with me, the "desirability" to

incorporate a recharge basin into this, or any other project, rests clearly in the hands of the planning board.

With this in mind, it is my opinion that storm water control and retention may be obtained for a project such as the Village Vistas through the use of localized storm water leaching pools. The village has had success utilizing leaching pools for storm water control on projects such as Harborview where steep grades and difficult terrain raised questions about storm water runoff in the past. When these systems are designed properly, localized leaching pool systems are capable of providing the necessary control for storm water runoff.”

WHEREAS, after careful examination of the site and the surrounding neighborhood, the Planning Board’s judgment is that a system of localized leaching pools would not adversely impact public health, safety or the general welfare of the community and such system will be more desirable to the purpose of collecting storm water runoff than a recharge basin would be; and

WHEREAS, the Planning Board furthermore finds that a system of localized leaching pools is more in keeping with the design objectives of a cluster subdivision, which is to preserve open space and protect the hilly terrain.

NOW, THEREFORE on a motion of Mr. Schiavone and seconded by Ms. Sigler and all four (4) members voting in favor with Mr. Burke absent, it is hereby

RESOLVED, that pursuant to § 220-12 of the Code of the Village of Port Jefferson the Planning Board waives the requirement of a recharge basin; and BE IT FURTHER

RESOLVED, that the application for Liberty Meadows, LLC for the major subdivision entitled Village Vistas, prepared by Nelson & Pope on July 25<sup>th</sup>, 2005, last revised April 5<sup>th</sup>, 2006 and stamped “received” by the Planning Board on May 10<sup>th</sup>, 2006 consisting of the following sheets:

1. Overall Site Plan
2. Existing Conditions and Demolition Plan
3. Alignment Plan
4. Grading Plan
5. Drainage and Utility Plan
6. Erosion Control Plan
7. Landscape Plan
8. Site Disturbance Plan
9. Road Profile – Theresa North & Kewpie Circle
10. Road Profile – Theresa South & Liberty Avenue
11. Site Details
12. Partial Site Plan and Segmental Wall Profiles – Walls 1 & 2
13. Partial Site Plan and Segmental Wall Profiles – Walls 3 & 4
14. Partial Site Plan and Segmental Wall Profiles – Walls 5 to 10
15. Partial Site Plan and Segmental Wall Profiles – Walls 11 & 12
16. Segmental Wall Sections and Details

is approved subject to the following conditions and modifications:

1. Obtain final approval from the Village Board of Trustees pursuant to § 220-45 prior to filing with the Suffolk County Clerk’s Office.
2. Proof of submission of the Condominium Offering Plan to the New York State Attorney General’s Office prior to Chair’s signature the Condominium Map.
3. Submission of a declaration of condominium or membership interests in a not-for-profit corporation.

4. Submission of a copy of the Notice of Intent (NOI) to be filed with the New York State Department of Environmental Conservation prior to Chairman's signature of the site plan.
5. Approval and signatures on the Condominium Map from the Suffolk County Department of Health Services and Suffolk County Department of Public Works prior to Chair's signature.
6. Provide All Way stops signs at the "T" intersection of Liberty Avenue and Old Post Road. Coordinate with the Village Highway Department prior to installation.
7. Payment of a "Park Fee" prior to the signing of the Condominium Map.
8. Payment of the "Cut & Fill" fee prior to the issuance of a building permit. Fee is determined as \$4 per cubic yard removed and \$2 per cubic yard deposited. Village Engineer shall determine final fee.
9. Submission of covenant to be filed that will restrict the age of owners to 55 and older, which shall be reviewed and approved by the Village Attorney.
10. Submission of declaration of covenants for the following:
  - No further subdivision
  - All utilities shall be underground
  - No new utility poles.
  - No additional land clearing or site disturbance.
11. Offers of dedication for all properties, drainage easements, drainage structures, etc., to be conveyed to the Village of Port Jefferson.
12. Bond estimates submitted to the Village Engineer for all on-site and off-site improvements (based on prevailing wage).
13. Planning Board shall set the performance bond based upon the recommendations of the Village Engineer.
14. Submission of a performance bond prior to the issuance of a building permit.
15. Provide a bond equal to half the cost for the design and installation of a traffic signal at Liberty Avenue and Main Street, to be used for traffic control improvements in the vicinity of that intersection prior to the issuance of a building permit.
16. Address and if necessary revise plans for the following engineering comments:
  - a. The drainage calculations have utilized a 2" rain event for the site drainage design. This must be increased to 3" to more accurately reflect the type and degree of rain events that are to be expected, to align with the current standard employed by the New York State Department of State's standard for rainfall rates and to reflect the extensive topography of the site.
  - b. Due to the extensive degree of proposed road grades and the proximity of the site to an existing village road with inherent drainage concerns, additional drainage structures must be provided at the junction between Liberty Avenue and Theresa Lane. In addition, verification must be provided that the final proposed drainage system design, including the catch basin layout, would not be impacted by road drainage by-pass across the combination curb/grate inlets.
  - c. No provisions have been made for the drainage from the recreation building. The details of this system should be included as part of the overall site plan.
  - d. The road drainage flow in the region of the emergency access road must be verified so as to ensure that flow is not being directed down the emergency access road and onto Liberty Avenue.
  - e. Verification must be provided so as to ensure that the village code requirements of  $V_{min}$  and  $V_{max}$  for drainage pipe design, as outlined in section 220-27.E.3 have been adhered to.
  - f. The pools for this project have not been detailed or specified. If these pools are to be gahnite or some other similar construction requiring draining during the winter, provisions must be provided and detailed for the collection of the water from these pools. This is to include any required backwash as well.
  - g. The northwest end of Theresa Lane must be modified so as to adhere to the village code requirement of 100.0' minimum radii on road design.
  - h. The developer should be required to replace all curbing along the east side of Liberty Avenue from the Theresa Lane intersection up to the cemetery entrance.
  - i. The stabilized construction entrance must be revised to include a minimum length of 150', 10' minimum radius at the intersection, installation of the new drainage structure on Liberty

- Avenue prior to the commencement of construction (along with appropriate sediment barrier protection measures) and erosion control measures along the down slope side of the entrance.
- j. The road profiles show regions where fill in excess of 10' is proposed. What is proposed for the controlled fill procedures in these regions?
  - k. The road profiles show regions where vertical curves are below the code minimum of 100'. This must be resolved on the proposed layout.
  - l. The road profiles show proposed "K" values that are not equal to 35 as required by code. This must be resolved on the proposed layout.
  - m. The pavement section makes reference to a Town Engineer. This must be changed to Village Engineer.
  - n. A note must be included that will require the developer to repave the entire length (and width) of Liberty Avenue from the entrance to the cemetery down to the Old Post Road intersection.
17. Village Engineer shall approve modifications and indicate so in writing to the Planning Board prior to Chair's signature of plans.
  18. § 250-28 E. *Uniformity of Design*. The Village Architectural Review Committee shall review and comment on proposed building elevations prior to the issuance of a building permit.
  19. The following note shall be placed on Condominium Map:

"Approved by Resolution of the Planning Board of the Village of Port Jefferson, New York; on the 24<sup>th</sup>, day of July, 2008, subject to all requirements and conditions of said resolution. Any change, erasure, modification or revision of this Plat, as approved, shall void this approval signed this \_\_\_\_ day of \_\_\_\_\_, 2008,

by \_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary"

20. Provide the following mapping notation on the Condominium Map:

A Declaration of Covenants and a \_\_\_\_\_ Easement has/have been recorded with the Office of Suffolk County Clerk that affects all the units shown hereon. Such covenants run with the land. See recorded documents for details.

21. Submission of Title Certification
22. Submission of a Mortgage Consent (for covenant and easements if applicable)
23. Submission of Mortgage Release (for dedications if applicable)
24. Provide all necessary legal documents for Village Attorney review and approval.
25. Submission of four (4) mylar prints and four (4) paper prints of the Condominium Map for Chairman's signature.
26. Submission of four (4) complete sets of the overall the site plan (Sheets 1-16) for Chairman's signature
27. The duration of the conditional approval of the final plat shall expire within one hundred and eighty days (180-days) after the date of this resolution. The Planning Board may extend by not more than two (2) additional periods of ninety days (90-days) each the time in which the plat must be submitted for signature.
28. Signature of the Chairman shall constitute final approval.  
The plat shall be filed in the Office of the County Clerk within 62-days of the date of the Chairman's signature.

Consider request to extend the conditional approval for ninety-days (expires 7/29/08) for the minor subdivision of a .61-acre parcel into two lots. The property is within the R-B2 District on the southwest side of Overton Road approximately 350' north of Sheep Pasture Road.

Maria Gasparis, Attorney for the applicant was present. She stated that the applicant need more time. There is a letter in the property file from the Attorney's office requesting the extension.

**RESOLUTION:**

Motion made by Mr. Brosnan, second by Mr. Schiavone and with all four (4) members voting in favor.

RESOLVED, that the Planning Board hereby grants a ninety day (90-day) extension of the on minor subdivision entitled Map of Overton Road, consisting of the creation of two lots; Lot 1 totals 13,488 sq. ft. and Lot 2 totals of 13,267 sq. ft. as requested by the applicant's attorney by letter dated June 30<sup>th</sup>, 2008.

**6. Dassaro (# 132-08) Sec. 21 Blk. 4 Lot 8.2**

Review site plan for a proposed 1,999 square foot one-story addition to an existing auto body repair facility on a .32 acre parcel in the General Commercial C-2 District, west side of Texaco Avenue, approximately 205 feet south of Sheep Pasture Road.

Mr. Brosnan made a motion to table this application being approved until additional information regarding the previously approved site plan is available. Mr. Schiavone seconded the motion, all in favor the vote was 4-0.

**7. Long Island's Best Dessert (# 148-08PS) Sec. 12 Blk. 7 Lot 47.11**

Review application for completeness and if complete schedule conditional use hearing for a proposed retail food establishment located at 10 Chandler Square located in the Central Commercial C-1 District on the southwest corner of Main Street and West Broadway.

Mr. Michael Rubenstein, President of R-design Consultants Inc. was present as the expediter for the applicant. The interior proposed floor plan was reviewed. The interior floor space does not meet minimum space requirement. The applicant was referred to the Zoning board of Appeals for a 35 sq ft variance. On a motion made by Mr. Schiavone, seconded by Ms. Sigler, all in favor, the members voted that if the floor plan can meet the 800 sq foot minimum requirement, the application can be scheduled for a public hearing.

**8. Johnston (#149-08MB) Sec. 14 Blk. 1 Lot 1**

Consider application to remove trees in the rear yard to enable the installation of an in-ground swimming pool for 111 Road Oak.

Mr. Johnston, property owner was present. He stated that he was not aware of the tree clearing and grading ordinance in the Village. The tree company that he hired to do the work was not from this area and was not aware of the tree clearing provision in the code.

The Board members referred Mr. Johnston to the building department to submit a pool permit application. The proposed pool application should show the proposed landscape design including the type of species, the size, and the location. The proposed plans should be submitted to Mr. Rau for his review. If the submitted plans do not reflect the requests made by the Planning Board, the application will be put on the next Planning Board agenda for their comments.

The Board discussed “after the fact” tree clearing applications and the importance of disseminating information, re: Tree clearing code requirements to village residents and tree trimming/care companies. The Planning Board cannot approve tree clearing after the fact.

**9. Gourmet Burger Bistro (#151-08MB) Sec. 12 Blk. 7 Lot 45**

Review application and schedule conditional use hearing for a change of use from retail food establishment to restaurant. Subject location is situated in the Central Commercial C-1 District on the south side of Mill Creek Road, approximately 100 feet west of Main Street.

Mr. Schiavone made a motion to schedule a public hearing for the change of use, Mr. DiBiase seconded the motion, all in favor the vote was 4-0.

The meeting ended at approximately 10:30PM.

Respectively submitted,  
Cindy Suarez, secretary