

**TOWN OF SOUTHEAST  
PLANNING BOARD MINUTES  
October 24, 2016**

Present: Acting Chairman David Rush; Boardmembers Paul Jonke, Eric Cyprus; Michael Hecht and Phil Wissel; Town Attorney Willis Stephens (arrived late); Town Planner Ashley Ley; Secretary Victoria Desidero. Absent & Excused: Chairman Tom LaPerch; Boardmember Dan Armstrong.

**PUBLIC HEARINGS:**

- HENRY TREE SERVICE, 47 Prospect Hill Road** – This was a Public Hearing for an application for a Site Plan Amendment. Engineer John Watson of Insite Engineering appeared before the Board with his client Bill Henry. The motion to Declare the Planning Board to be Lead Agency was introduced by Acting Chairman Rush, seconded by Boardmember Cyprus and passed by a roll call vote of 5 to 0 with 2 absent. The motion to Open the Public Hearing was introduced by Acting Chairman Rush, seconded by Boardmember Wissel and passed all in favor. Mr. Watson said Mr. Henry purchased the property at 47 Prospect Hill Road and he is looking to move his tree service business there. The property is the former radio station site, he said, which has ceased operating and that's been removed. There is also a building which has an office and a residence and that building will remain and will remain an apartment and Bill Henry will use the office for his business, Mr. Watson said. He continued: for reference the property is located just before the bridge that is closed on Prospect Hill Road if you are coming from the north and it is adjoining the Metro North Railroad properties. He used the plans to show exactly where the property is in relation to the road and the Metro North Railroad site. He said what we are proposing to do is keep the existing asphalt driveway and the building here and what we are proposing is to add two structures: a 55'x65' contractor building and a 55'x 65' canopy, that is basically to be of use for Mr. Henry to have a dry area to work on his trees, logs, woodchips. This area, he said, is for outside storage and the circulation around the buildings to be able to get in and out. There are Town wetlands along the Metro North property and we intend to stay outside the Town wetland boundaries so we don't need a Wetland Permit for this project, he said, and we are keeping our total project under one acre of disturbance. There were no questions from the Board and Acting Chairman Rush asked for questions from the public. Town Councilwoman Lynne Eckardt asked how much outside storage they will have and will it all be in the same area pretty much? Mr. Watson said we have 9% of the total property and the outside storage we are looking at is in a couple of areas. He used the plan to show one area that he said is about 40 by 60 and two other areas around one of the buildings. He showed where there will be post and rail fence and boulders to prevent exceeding that area for storage. Ms. Eckardt said how much outside storage is allowed? He said it is 5% in the ED Zone and the Planning Board can allow up to 25%. She asked if any of it is visible from the road and he said it is hard for me to say that nothing will be visible but it will be screened. He showed on the plans where the vegetation and plantings are that will screen the site and said I think that there is really only one opportunity to see anything; when you are driving by the driveway entrance. She said I think it is a good use there and I really only worry about the residences and it seems (inaudible). Mr. Watson said you are correct: the beauty of this site is that the residential area is up here and the tracks are at the bottom of the hill so there is substantial (inaudible) and in order to meet this where we are putting a (inaudible) here which will tend to be cut on the high side and there is a four foot retaining wall on the low side but this is heavily

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wooded through here and so I do think you will be looking at the roofs of the buildings and, like I said, I can't guarantee you won't see anything but it's not a wide open field on the top of a hill where you are going to have... Ms. Eckardt said will this go the ARB (Architectural Review Board) and Town Planner Ashley Ley said yes. She said that's good. Acting Chairman Rush asked about the outdoor storage: what they are planning to have out there and how high might it be? Mr. Henry said it is basically firewood so maybe 15 ft. high. Acting Chairman Rush said we do have a height limit. Ms. Ley said that would be a lot higher than I think you would want to stack wood. Mr. Watson said, practically speaking Bill (Henry), stacking wood over 15 ft. is dangerous, right? Mr. Henry said right. Ms. Ley said on the outdoor storage, could you just clarify it is this whole area (pointing to her plans) and was all of that included in making that percentage? Mr. Watson said yes, what we did was we included all of the asphalt parking area in the 9% outside storage so, logistically, most of that area has to stay open for him to keep coming and going with his trucks but this way he has the ability to put storage in any of these areas and can move things around as needed. Ms. Eckardt said will he be far enough away so that when he is operating his log splitters and (inaudible)... Mr. Watson said that is why he put the building here: he went to extra expense to get that as far from the (inaudible). She said my only concern is where there is residential property and there is noise, the complaints come to us. She said that's part of the job but screening will help and you will go to the ARB for that. He said most of the time that he spends doing this will be rainy days when it is not nice and they can't work outside. Acting Chairman Rush said we can see from your lighting plans that you have lighting sensors and they will turn off at night which is good for the residential neighbors. Mr. Watson said since you brought up the lighting, on our lighting plan we did notice that there is one light off the back of the canopy and we would like to get better light in this area here so we want to raise this up and push these out just a little or add two lights. Ms. Ley said but you will stay within the path that is allowed? Mr. Watson said absolutely. Acting Chairman Rush said so that is something you will re-submit: before the ARB reviews? Ms. Desidero said it has to be part of the ARB submission. Mr. Watson said yes. Acting Chairman Rush said and we will see it again at final approval. Ms. Ley said that is correct. There were no more questions. The motion to Close the Public Hearing was introduced by Acting Chairman Rush, seconded by Boardmember Jonke and passed all in favor. The motion to Adopt a Negative Declaration under SEQRA was introduced by Acting Chairman Rush, seconded by Boardmember Hecht and passed by a roll call vote of 5 to 0 with 2 absent. The motion to Refer the Application to the ARB was introduced by Acting Chairman Rush, seconded by Boardmember Cyprus and passed all in favor.

2. **SALMONS DAILY BROOK ESTATES, LOT 49 Road** – This was a Public Hearing for an application for a Wetland Permit. Attorney Jamie Spillane of Hogan & Rossi appeared before the Board. The motion to Declare the Planning Board Lead Agency under SEQRA was introduced by Acting Chairman Rush, seconded by Boardmember Cyprus and passed by a roll call vote of 5 to 0 with 2 absent. The motion to Open the Public Hearing was introduced by Acting Chairman Rush, seconded by Boardmember Wissel and passed all in favor. Ms. Spillane said this is an application for a Wetland Permit to build a house on an approved vacant lot. She said we are very grateful that the Public Hearing was set so promptly but we have not been able to update the plans to take into account (Wetland Inspector) Steve Coleman's comments from the last time we were in front of the Planning

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Board. We will be providing updated plans that will take into account all of the comments so, at this time, we are really here for any comments from the Board and the public but I would ask that the hearing be continued so we can submit the plans that take into account the changes. There were no questions from the Board. Ms. Eckardt said this is the one from many years ago, can you just, and I can take a look in the office, but how much wetland incursion is there now versus how much has it changed? Ms. Spillane said these plans are the same as from 2005 that were submitted and, as I said, there are updated plans being done and the house you see here is just for illustrative purposes and it will be smaller. She said currently the primary septic system is shown here and then the extension is shown over here but it is more beneficial to do the reverse and they will, so it is intended to be reversed and we are taking that all into account now in formulating the updated plans. Ms. Eckardt said so it would be much better to wait until you have new plans? Ms. Spillane said I believe so because this is going to change and (inaudible). Ms. Eckardt said OK, thank you. Ms. Ley said 100% of it is in at least the buffer area. Ms. Eckardt said and it will remain there? Ms. Ley said pretty much the entire lot is in the buffer. Boardmember Cyprus asked Ms. Eckardt if she was asking if the wetlands changed since the last time. She said no, I was asking if these plans had changed since 2005. He said OK because at the last meeting we talked about if the wetlands had changed and I believe the answer was that they had not grown since then. She said but it is still 100% and Boardmember Cyprus said yes and Ms. Spillane used the plan to show the wetland buffer line. Mitchell Morra of 16 Salmons Hollow Road said he lives adjacent to this lot and a number of years ago there was fill dumped on the lot which caused flooding into his basement. He said from previous engineers, what they said could have happened was because of the fill, the water table and the flow of the water. So my question is, there are no plans right now: these plans are not current, is that correct, he asked? Ms. Spillane said this is what was submitted in 2005 and we have received comments from (Wetland Inspector) Steve Coleman and they are formulating new plans that take those into account. Regarding the issue of fill, I know that is something that has been brought up in the past and there's not actually any fill put on the lot but any comments in regard to that, we can respond to in writing. Acting Chairman Rush said Mr. Morra, can you show us where you are in relation to that plan. Mr. Morra said I have communication form 2008 that states there was fill left on the lot and that's from the engineers that looked at the lot. He looked at the plans and said I can't read this so well. Ms. Spillane helped him find his lot and they showed the Board. Acting Chairman Rush said so you are downstream from them. Mr. Morra said yes, sir. Boardmember Cyprus said so you are on the right and Mr. Morra said yes, I am the first lot on the right and the first developed lot in the area. He said I have documentation from the engineer who looked at this lot for the Town and said it was fill and the owners, I guess, whoever (inaudible) also concurred there was fill there. Mr. Morra said there was fill dumped without any permits. So, my question is, in the future how am I going to know if they do whatever they are going to do that I won't be impacted by it, he asked. Acting Chairman Rush said by law their plan can't dump any water on their property onto your property. He said they know that and I am... Ms. Spillane said yes, any documentation you want to give me, of course, I can take back... Mr. Morra said you can make copies of what I have. She said OK. Acting Chairman Rush asked if he still has problems to this day? He said I alleviated it by putting a system in my basement that cost me \$8000.00 to get water out. He said I lived there for 10 years before they dumped that fill and never had a water problem but he dumped that fill

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and that spring is when I had water 12 inches deep in my basement. He said it's a coincidence maybe but I don't know. Ms. Spillane said like I said if you want to give me any documentation you have, the primary attorney who is working on this is Mr. Liguori and he will respond to anything in writing. Mr. Morra said I am sure Ross Alan (the property owner) has all this stuff: I mean I got it from the Town. Ms. Spillane said if you don't have the copies tonight and you want to e-mail it to us, then Mr. Liguori can respond to it because he has more knowledge of this. Mr. Morra said am I correct in believing that any fill will have to have a permit to be put there? Acting Chairman Rush said technically yes. Ms. Ley said any changes in grade that are part of this application will be reviewed by the Town Engineer. Acting Chairman Rush said so if you have copies of your documentation for our Board as well when you submit it, that would be great. Mr. Morra said did you want them now? Ms. Desidero said you can just send them to the Planning Board or come over to the Planning Board office. He said OK. Ms. Desidero said we would also like to be copied on any written response and Ms. Spillane said yes, we will. Acting Chairman Rush said based on the fact that you are responding to comments from our Wetland Inspector, it is going to be the recommendation of this Board that the Public Hearing be continued until there are new plans. The motion to Continue the Public Hearing to November 7, 2016 was introduced by Acting Chairman Rush, seconded by Boardmember Jonke and passed all in favor.

**REGULAR SESSION:**

- 1. FARM TO MARKET ROAD SUBDIVISION, 83 & 85 Farm to Market Road** – This was a review of a request for Extension of Conditional Subdivision Approval. Alfred Mattikow and Peder Scott appeared before the Board. Mr. Mattikow said we are requesting a six month extension of the time in which to file the map. Basically, he said, at this point, we need to form a homeowners association and I think (inaudible). Acting Chairman Rush said you said six months and I am looking at 90 days... Mr. Mattikow said well we are looking out to spring as building season because nothing is started. He said I mean the physical work is (inaudible). He said when we do the physical work that is approved, it will be about two months and then the next steps will be in the spring but if you want us to file again, of course, we can do that. Ms. Ley said in the Code it allows, for a Final Conditional Subdivision Approval, it allows for a 90-day extension and you are allowed up to twelve (12) 90-day extensions: typically we would ask you to come back for each of those extensions. Mr. Mattikow said it is always nice to see you so we can come back but if you could grant two... Acting Chairman Rush said so you want two at a time? Ms. Ley said I would have no problem with that. Acting Chairman Rush asked if the Board members have a problem with granting two extensions and no one did. The motion to Grant two (2) of their 90-Day Extensions was introduced by Acting Chairman Rush, seconded by Boardmember Wissel. Boardmember Cyprus said so he is using up two of the 12 extensions? Ms. Ley said yes. The motion passed by a roll call vote of 5 to 0 with 2 absent.
- 2. FORTUNE RIDGE SUBDIVISION (formerly known as MEADOWS AT DEANS CORNER), Deans Corner Road** – This was a review of a request for a Reduction of a Performance Bond. Attorney Richard O'Rourke of Keane & Beane and Chris Munch of

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Fortune Home Builders appeared before the Board. Acting Chairman Rush asked the Board if everyone saw the letter from the Town Engineer because it came very late today and they said they did. There were no questions from the Board. Mr. O'Rourke said there is a letter of credit for \$9.6 million that was posted with the Town to ensure the completion of the work and we made an application to have the bond reduced because, quite frankly, more than \$4.8 million worth of work has been done. Nevertheless, he said, the Code requires that you maintain 50% of what the bond is so I believe Tom Fenton (Town Engineer) has made a recommendation to the Planning Board, based on his mathematics, that the bond be reduced by 50%. Acting Chairman Rush said so that is the amount? Ms. Desidero said yes, it is exactly half of the current bond posted. The motion to Recommend a Bond Reduction to the Town Board based on the Town Engineer's comments was introduced by Acting Chairman Rush, seconded by Boardmember Hecht and passed all in favor. Ms. Desidero reminded Mr. O'Rourke that he needs to contact Supervisor Hay to be placed on a Town Board agenda and said the Town Board will receive the recommendation tomorrow.

3. **SALINGERS LOT LINE ADJUSTMENT, 185 & 187 Guinea Road** – This was a review of an application for a Subdivision. The applicant was not in attendance and Ms. Desidero said the Salingers are two brothers and they have been handling this themselves but she did advise them to attend the meeting. Ms. Ley suggested moving on and waiting to see if anyone shows up. Acting Chairman Rush agreed.
  
4. **APPLE FARM MARKET, 1545 Route 22** – This was a review of an application for a Site Plan Amendment, a Wetland Permit and a Conditional Use Permit. Engineer Jim Hahn of Hahn Engineering appeared before the Board. Mr. Hahn said this is the old florist building on Route 22 just south of the car wash. He showed a photo of what is on the site now saying they have been hired to make the building a little more snappy, a little more visible and aesthetically pleasing to the community. Mr. Hahn said the property is about 2.2 acres with a building that is 4,995 sq. ft. He said his client also owns the property to the north which is about 2 acres and they had talked about building a 20,000 sq. ft. building about a year ago, on both sites, but because of the amount of water they were going to use, they scaled it back and started to think about what he could do with this piece. So they said, instead of letting it sit there, why don't we open a small produce store selling fruits and vegetables, which is what he does in White Plains now. Mr. Hahn said we received the two memos from the Town Planner and Engineer which we will easily address. He talked about their meetings with the Health Department and said the septic was built in 1979 before Board of Health approvals so we had to dig everything up and had meetings out there. He said we will have to do some rehabilitation on it and we see no problem getting that approved. Mr. Hahn said there is a well on the property and there is also a private residence at the back that is rented and will remain. We are adding some parking spaces and they are all going to be pervious surface which we think will actually reduce the runoff to Route 22, he said. Mr. Hahn said my client wants to put up an outdoor awning so he can sell things in the winter time like firewood... Acting Chairman Rush asked if that will be an enclosed area and Mr. Hahn said partially enclosed. Acting Chairman Rush said I am having a little déjà vu, we had that enclosed area previously, right? Ms. Ley said (to Mr. Hahn) I think you previously said this would not be a fabric covered structure, it was going to be a metal roof, is that still true? Mr. Hahn said yes. Ms. Ley said so it is going to be

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more permanent. Boardmember Cyprus said and I think the difference would be that this is attached to a structure rather than... Acting Chairman Rush said yeah, I am trying to remember that application. Mr. Hahn said it is not going to be free-standing. Acting Chairman Rush said so you will have other structure on the outside to support the canopy and I assume there is stormwater mitigation off of the roof as well? He replied yes, it is going over the parking lot. Ms. Ley said it is going over the parking lot so it is not increasing the impervious surface. Acting Chairman Rush said so you are just going to have outdoor storage out there and sales? Ms. Ley said technically it is still a structure but they are still below the 5% I believe. Mr. Hahn showed the nine employee parking spaces and said our deliveries will be made in front of the building before start up. We are leaving access to the two acres to the north for the future, he said, adding there may be one building in the future but we don't know. He said my client just wants to use what he has now. Acting Chairman Rush asked if they have a lighting plan and Mr. Hahn said we will provide lighting and landscaping plans and those were in the consultant's requests. The motion to Classify this as a Type II Action under SEQRA was introduced by Acting Chairman Rush, seconded by Boardmember Wissel and passed by a roll call vote of 5 to 0 with 2 absent. Boardmember Jonke asked what the proposed hours of operation are and Mr. Hahn said I would think 8 am to 5 pm. Boardmember Jonke said and they will make deliveries after working hours? Mr. Hahn said the owner would have liked to be here tonight but he couldn't make it, but he will be at all subsequent meetings to answer questions like that, but we talked about it and deliveries will be outside operating hours. Boardmember Cyprus asked if there will be any other outside storage and he replied no. Acting Chairman Rush asked if they will serve coffee and donuts and whether that is allowed. Mr. Hahn said I am thinking in the wintertime he might have hot coffee and donuts. Ms. Ley said it is a Retail Use so anything that would fall under the umbrella of retail would be allowed. The motion to Classify this as a Minor Project was introduced by Acting Chairman Rush, seconded by Boardmember Hecht and passed all in favor. The motion to Set a Public Hearing for November 28, 2016 was introduced by Acting Chairman Rush, seconded by Boardmember Jonke and passed all in favor. Acting Chairman Rush said we are referring this to the ARB already: it would be nice to see what this is going to look like? Ms. Ley said when they come to the Public Hearing, they can show us. The motion to refer this application to the ARB was introduced by Acting Chairman Rush, seconded by Boardmember Cyprus and passed all in favor.

5. **BREWSTER HILL GENERAL STORE, 563 Route 312** – This was a review of a Request for Extension of Site Plan Approval. Attorney Jamie Spillane of Hogan & Rossi represented her client before the Board. Ms. Spillane said our request is for re-approval of a site plan that was approved in October of 2013. She said the final approval was granted but then it lapsed, at which time the improvements were completed, but the approval was not in place so a violation was issued. She said no changes have been made to the final site plan that was approved and we are requesting that it be re-approved. Ms. Ley said there has been no change to Zoning since this was approved. Boardmember Cyprus said so how does this work? We re-approve it and then they get their Building Permits for work that already has been done, he asked? Ms. Ley said they didn't get Building Permits so if the Board approves the site plan, they will have to go and get the Building Permits and do the work as described on the site plan. Ms. Spillane said the work is done. Ms. Ley said I think that

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some of the work that was required was never installed: there was an area of pavement that was supposed to be pulled up and... Acting Chairman Rush said there was the sewer and the septic. Ms. Spillane said I will definitely find out about that and if there is, of course, we will get it done (inaudible). Ms. Desidero said I'll just say that there was a memo from the Town Engineer explaining what still needed to be done based on his last inspection and if you (Ms. Spillane) call me tomorrow and remind me, I will find it and send it to you if you would find that helpful. he said yes, of course, I did get a memo from Joe... Ms. Desidero said this was from when Tom (Fenton) went out to the site and determined what still was not completed. Ms. Spillane said I will certainly want a copy of that. Boardmember Cyprus said so we will approve the same site plan, they will get a Building Permit and then make sure they do any work that was not completed according to the plan. Acting Chairman Rush agreed. The motion to Classify this as a Type II Action under SEQRA was introduced by Acting Chairman Rush, seconded by Boardmember Wissel and passed by a roll call vote of 5 to 0 with 2 absent. The motion to Classify this as a Minor Project was introduced by Acting Chairman Rush, seconded by Boardmember Cyprus and passed all in favor. Acting Chairman Rush asked if anyone was opposed to waiving the Public Hearing since nothing has changed and Boardmember Wissel said we already had a Public Hearing on this? Acting Chairman Rush said it seems like we have. The motion to Waive the Public Hearing was introduced by Acting Chairman Rush, seconded by Boardmember Jonke and passed all in favor.

6. **GUARDIAN VETERINARY SPECIALISTS, 4 Hardscrabble Heights** – This was a review of an Application for Final Approval of a Site Plan Amendment. Engineer John Watson of Insite Engineering represented his client before the Board. He said we are here tonight for final approval of the site plan for their building becoming a veterinary hospital on Hardscrabble Heights. He said we have been here a couple of times with this application and it is very little site work being done. He said the consultants are satisfied. There were no questions from the Board. Ms. Ley said she received a call from Boardmember Armstrong earlier in the day and he was asking if the applicant could put the lighting in the rear on sensors or motion detectors? She said I know this is a 24-hour operation but he is asking if any of the lights can be turned off when not in use? Dr. Jason Berg said he had asked that the first time so yes, we are planning to do that. Ms. Ley told Mr. Watson that the note on the Site Plan says they are 24/7 so it needs to be updated and she told the Board they can make it a condition of final approval and still vote tonight. Mr. Watson said that is just the lights in the back, right? Ms. Ley said only on the pole lights in the back. Ms. Desidero said she just wanted to let the Board know that after discussion with Town Engineer Tom Fenton they gave the applicant the option to either post a bond or keep their escrow account active to cover the costs of any inspections that need to be done and they opted to keep the escrow account open. She said there are no Erosion & Sediment Controls required since the site work is so minimal so there is no bond required. The motion to Grant Final Site Plan Approval with the lighting conditions just reviewed was introduced by Acting Chairman Rush, seconded by Boardmember Jonke and passed by a roll call vote of 5 to 0 with 2 absent. The Board asked when they are opening and Dr. Berg said hopefully by April.

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3. **SALINGERS LOT LINE ADJUSTMENT, 185 & 187 Guinea Road** – This was a review of an application for a Subdivision to adjust the lot lines between three properties. The applicant was still not in attendance. Ms. Ley said the Board could go ahead and take the actions suggested for tonight without the applicant here. She said it is very minor. The Board discussed that they can ask their questions when the applicant comes in next time but it is really minor. The motion to Declare Intent to be Lead Agency under SEQRA was introduced by Acting Chairman Rush, seconded by Boardmember Wissel and passed by a roll call vote of 5 to 0 with 2 absent. The motion to Classify this as a Minor Subdivision was introduced by Acting Chairman Rush, seconded by Boardmember Wissel and passed all in favor. The Board discussed the option of waiving the Public Hearing and since it is a lot line adjustment with no new development they agreed that would be OK. Ms. Ley said they (the applicants) own all of the properties impacted by the application. The motion to Waive the Public Hearing was introduced by Acting Chairman Rush, seconded by Boardmember Wissel and passed all in favor.

The motion to approve the Meeting Minutes as written for September 26, 2016 was introduced by Acting Chairman Rush, seconded by Boardmember Wissel and passed all in favor.

Acting Chairman Rush said I can't talk about new business because I don't know any but you can talk about it (to Ms. Desidero). Ms. Desidero said there hasn't been a staff meeting in a while and the next one is not until November 10 so there is really nothing new to report. She said the only thing on the November 7 agenda at the moment is the application for final approval of the Gravinese Lot Line Adjustment that was discussed last month and the continuation of tonight's Public Hearing.

The motion to close the meeting was introduced by Acting Chairman Rush, seconded by Boardmember Wissel and passed all in favor.

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