

# Town of Gorham

4736 South Street  
Gorham, New York 14461

## PLANNING BOARD

Monday, September 23, 2024 7:30 p.m.

### MINUTES—Approved

*The minutes are written as a summary of the main points that were made and are the official and permanent record of the actions taken by the Town of Gorham Planning Board. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions.*

**Board Members Present:** Lizabeth Rasmussen, *Acting Chairperson*  
Bob Farmer  
Mike Kestler  
Andrew Hoover  
Gabrielle Harris  
Jeremy Stowe, *Alternate*

**Board Members Absent:** Thomas Harvey  
Richard Perry

**Staff Present:**  
James Morse, Town of Gorham Code Enforcement Officer

**Applicant Present:**  
Brennan Marks, Marks Engineering  
Bob Allgrim  
Edward Martin, DDS Companies  
Andy Prestigiacomo  
Michael & Lisa Cross

**Others Present:**  
Gene & Sue Gibson  
Ed & Gail Kaiser  
Helen & Paul Babiarz  
Rip Neary  
Joe Bengé  
Ellen Chesler  
Doug & Robynlyn Ketchum

Jamie Fischer  
Dale Stell  
Tim King

**Other's Via Zoom:**

Mark Becue

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**1. MEETING OPENING**

The meeting was called to order at 7:30 p.m. by Ms. Rasmussen.

**2. APPROVAL OF MINUTES OF AUGUST 26, 2024**

■ A motion was made by MR. HOOVER to approve the minutes from AUGUST 26, 2024 and the motion was seconded by MR. KESTLER.

Motion carried by voice vote with all voting aye.

**3. LEGAL NOTICE**

**NOTICE IS HEREBY GIVEN** that Public Hearings will be held by and before the Planning Board of the Town of Gorham on the 23<sup>rd</sup> day of September 2024 commencing at 7:30 p.m., Eastern Daylight Savings Time, at the Gorham Town Hall, 4736 South Street, in the Town of Gorham, Ontario County, New York 14461 to consider the following application and to discuss all matters relevant to the environmental review under the New York State Environmental Quality Review Act:

**PB #94-2024: MICHAEL & LISA CROSS 16 MEADOW COVE ROAD, PITTSFORD, NEW YORK, 14534:** Requests site plan approval to construct a two story single family residence approximately 1840 square foot in size with included site improvements to the grading, drainage and the utilities. The property is located at 4046 State Route 364 and is zoned R1 Residential and LFO Lake Front Overlay District.

All persons wishing to appear at such hearing may do so in person, by attorney or other representative.

Thomas P. Harvey, Chairperson  
Planning Board

**4. CONTINUED PUBLIC HEARINGS**

**PB #79-2024: SPRINGHILL SUBDIVISION LLC 1777 EAST HENRIETTA ROAD BUILDING A SUITE 100, ROCHESTER, NEW YORK, 14623:**

Final Overall Subdivision and Phase 1 approval of 80 lots consisting of 55.6 acres known

as the Scenic Ridge Rise Subdivision. The property on the east side of NYS Route 364 south of Angela Way and is zoned R1 Residential.

Ms. Rasmussen said at the last meeting we tabled the Spring Hill Subdivision application to this meeting. We will again be holding it over to the October 28, 2024 meeting. That will be the last meeting for that subdivision and we will be closing the public hearing at that meeting and will have sixty two days to deliberate

**PB #90-2024: ANDY PRESTIGIACOMO DEEP RUN COVE, CANANDAIGUA, NEW YORK, 14424:** Requests site plan approval to construct a 21 x 50.5 Multi-Use Recreational area. The property is located at parcel Tax ID# 127.11-1-52.00 on Deep Run Cove and is zoned R1 Residential and LFO Lake Front Overlay District.

**\*\*Mr. Morse had to leave the meeting for an emergency\*\***

Ms. Rasmussen said this application was continued because we were waiting on the SHPO letter and an updated environmental form. We now have both of those items, so we are reopening that public hearing. If the applicants could please come up to present the application.

Ed Martin said I am a licensed engineer with DDS. The Board is familiar with this application. Last month we were here presenting on this and as you mentioned there were a couple of things that you asked for and updated EAF and a letter from SHPO. Both of which we have provided. There really is nothing to add to this so we will be happy to answer any questions you might have.

Ms. Rasmussen said we have the letter from SHPO dated September 4, 2024. Does anybody have any thoughts or questions?

Mr. Babiarz said could you define what this recreation space is going to entail as far as lighting, fencing, etc.

Ms. Rasmussen said as I understood it from the last meeting and looking at the plans that it was a general purpose space.

Mr. Prestigiacomo said that is correct.

Mr. Neary said and there is no lighting along the perimeter or anything like that?

Ms. Rasmussen said I don't see any lighting, is that correct?

Mr. Martin said that is correct.

Mr. Babiarz said isn't there an open issue on the Zoning Board there with regard to blocking the right of way to that property that was brought up at the last meeting.



Ms. Rasmussen said I believe in 2016 you received the building permit for the fence.

Ms. Babiarz said this is for the gate not the fence. He has a permit for the fence not the gate. There is something from Mr. Morse saying that he was asked to take the gate down and he has not taken the gate down.

Mr. Martin said if I may Madam Chairman this application is for a rec area. It is not for a gate that is preexisting. This Board is not making a decision on that. It stands whether this is here or not.

Mr. Babiarz said the open issues have to be resolved on the property first.

Ms. Rasmussen said that needs to be resolved with Mr. Morse.

Ms. Chesler said Chairman Harvey told me he has to take the gate down. The Planning Board told him he had to take the gate down. He has not done that yet and that is an issue with the Planning Board.

Mr. Babiarz said that was in the minutes of your December 2019 meeting we talked about that.

Mr. Martin said may I ask a question Madam Chairman?

Ms. Rasmussen said yes.

Mr. Martin said is Mr. Morse included in the agenda items presented for this meeting? Does he know this application is up for the agenda tonight?

Ms. Rasmussen said absolutely.

Mr. Martin said so if there were any open issues it is his job to not allow that to go forward and he has not taken any action.

**\*\*inaudible conversation\*\***

Mr. Babiarz said Chairman Harvey requested that in 2019 and he's not here. Jim Morse requested that and he is not here. I would much rather have their representation.

Ms. Rasmussen said they were both here at the last meeting when this was all discussed.

Mr. Babiarz said that was an issue that we brought up to Chairman Harvey that wasn't addressed that I thought would be addressed again tonight.

Mr. Martin said with all due respect I think if this were that major of an issue I think it would be addressed before he would allow him to go on to a Planning Board agenda.



Ms. Rasmussen said I am going to table this for just a few moments until Mr. Morse can return to the meeting.

Mr. Martin said may I ask for feedback from the Board so we don't extend the meeting further so if there are any other issues we should address. I think we have addressed everything that has been brought up to date. In other words if this is the only outstanding issue hopefully we can expedite this when he gets back.

Mr. Prestigiaco said is it something that he can just respond to tomorrow and we can leave it open.

Mr. Stowe said I think the other concern that Tom has was regarding the drainage analysis that looks like it has been addressed here, right?

Mr. Martin said yes that has been addressed and again if he were to decide that the gate has to come down tomorrow he could prevent issuing a building permit on this project. It doesn't keep him from acting on it.

Ms. Rasmussen said I think we will just give it a few minutes and let Jim get back and then we will discuss it. Thank you for your patience.

(The meeting then continued to the next application for the LeTourneau Christian Center)

Ms. Rasmussen said okay we are going to bring Mr. Prestigiaco back. Thank you for your patience. Jim, we had a question from the public regarding the gate.

Mr. Morse said we did research based on a point that somebody had brought up as a complaint and I talked to Andy about this and I talked to Tom, at length, about this. Based on the exact quotations from that meeting "Mr. Prestigiaco stated that they do have a right. He is not denying that. I own the land they have the right of egress. I am not denying that at all. Chairman Harvey stated the gate is on the right of way. It's got to go away. Mr. Prestigiaco stated that he has a permit for that. Mr. Morse stated that permit was issued for a fence it was not issued for a gate. Chairman Harvey stated for egress you can't put a gate across property that other people have egress right over."

Mr. Morse said I then pulled the Article 31.8.7 Fences and Hedges and no fence or hedge shall be erected or planted so as to encroach upon public or private right of way. Then I wrote that in an email both to Andy and Tom. Then Andy and I spoke and he believed that he had a deed that said otherwise as far as that part of the roadway that is paved. He was going to speak on that tonight. When I spoke to Tom about it he said if he produced that we would discuss that and if he doesn't produce that then the original approval for site plan the original gate, not the fence around the property that he was issued a permit for by Gordon Freida, the gate that is on both sides the original access gate that is closest to northern part of his property he will ask that to be removed. It was part of the original site plan conditions of approval. I think they may have had a conversation. Feel free to jump in if you talked to Tom.

Mr. Prestigiacomo said I haven't talked to him in the last seven days. There has been open conversation.

Mr. Morse said when I talked to Andy he understood my take on it and I have to follow exactly what the Planning Board requirements are and that's when we talked about the deed and when he had purchased it.

Mr. Martin said I have a question, what does that have to do with this application? I am confused why this hasn't been resolved.

Mr. Morse said because that is part of the property this application is on but when he did an overall site plan amendment, a couple years back, the Town Planning Board put that as a condition of approval for the overall site plan. When he came in for the overall site plan modification because he was changing the grading up at the road they have to look at it as a whole for all three properties. That is why it is pertinent to this application because it is physically on that property.

Mr. Prestigiacomo said it was still an open ended question with myself and with others that I was working with. It's still fully accessible. Bob Mincer went on record to say that it was fine with him and accessible. It was more of a policing issue to keep trespassers and renters out and that's why it's always stayed. Nobody has objected to it. I don't know what advantage it give somebody who doesn't have right to the property anyways. It's a policing issue. It gives us the opportunity to keep people that are trespassing out. It is fully accessible to the people who have access. There is a combination lock that they use.

Mr. Morse said the reason why it is even a discussion is because we do have people objecting to it especially if they can't get in touch with Mr. Mincer.

\*\*inaudible conversation\*\*

Mr. Prestigiacomo said right I know but you have access through the lock. You have access to the property through the lock.

Ms. Chesler said the code says you can't put a gate across the property.

Mr. Prestigiacomo said no we are talking about access. You have access through the lock.

Ms. Chesler said we are talking about a gate.

Mr. Prestigiacomo said we are talking about access.

Mr. Stell said and one person who has the key is access?

Mr. Prestigiacomo said no it is a combination lock for anybody who can use it.

Mr. Stell said so everybody has that combination?

Mr. Prestigiaco said correct. Ask Bob Mincer he is head of their Board. He has provided it.

Ms. Chesler said the code says no gate.

Mr. Prestigiaco said we are talking about access.

Ms. Rasmussen said if the condition in the minutes is that the gate needed to be removed then that is going to have to be a condition of this approval. You won't get this building permit unless that gate is removed.

Mr. Prestigiaco said so we need to get this resolved.

Mr. Martin said so am I hearing you correctly that you would make that a condition of approval that this would be resolved adequately to the satisfaction of the Building Department?

Ms. Rasmussen said that that gate would be removed.

Mr. Martin said I would ask that you word it in such a way that leaves the Building Department

Mr. Morse said I can't. They are making a decision on the application. It has to be their decision.

Ms. Rasmussen said and I am going to follow what the minutes say from 2019.

Mr. Prestigiaco said but will I have the opportunity to bring that proof that now it's back in front of Tom Harvey that, I guess, was questionable or debated. I haven't had a chance to talk to him. He hasn't been accessible.

Mr. Martin said I have another question. This is a decision from 2019. That is five years ago and it has taken until now to address this. It's either not a major issue or it's a major issue that everybody has completely ignored.

Mr. Morse said I don't think it was five years ago because I have been here five years. It was probably two and a half years ago and we talked about it four or five times and we have had people objecting to it all along.

Mr. Martin said people can object to it but it's the Building Department's job to manage these things. Violations occur all the time.

Mr. Morse said there was no gate permit issued when he got the fence permit. It was still Gordon Freida. There was a fence around the property and I went down there and met



him to closeout and there was a ladder across the access. After that was closed out, I went back down there because I got calls from residents saying now there is a gate across there. Then it became an interpretive thing and we had talked at length with the previous Supervisor about it. His interpretation was to stand by whatever the Planning Board had decided and what they approved so we have been working on it. They have had open litigation on it at one point, so we usually stand by and wait to see what the litigation is with the judge and what they order. We have let it sit for two years waiting for the judge to make their decision. I can't make the decision on that. It says in our code and also Tom Harvey said when the decision was made and they voted on it for his site plan amendment that gate could not be there.

Mr. Prestigiacomo said what about other properties that have it throughout the community?

Mr. Morse said we have another one in litigation right now.

Mr. Prestigiacomo said there are several I did not want to name. There are several that have gates across access points.

Ms. Rasmussen said and if those are brought to us then we would address them. IF they have an application then we can make it a condition of approval.

Mr. Martin said right but if they exist and it's that big of an issue certainly the Town would have some type of avenue to address that independent of a Board that meets once a month.

Mr. Morse said there is a code section that refers to it. I just read you the code section about fences and hedges. Number one you could be deemed in violation of the code, which is my problem, or number two the original site plan when he amended all his stuff and did the work already that, technically, would be in breach of the approvals that he already got because he didn't adhere to the conditions set forth by Tom Harvey and the rest of the Board. So there is two ways to enforce that not just with the Building Department and zoning laws unless we see a deed that says otherwise.

Mr. Prestigiacomo said I have to look for that. I thought they had that here on file. I just want to go on record that I did ask you if you had it.

Mr. Morse said I don't have it.

Mr. Prestigiacomo said understood.

Ms. Rasmussen said we can adjourn it and you can bring the deed next month.

Mr. Martin said your choice is to adjourn it and work on addressing it offline or ask for approval conditioned on that being removed.

Mr. Prestigiaco said no I would rather get the rest of the information together.

Ms. Rasmussen said okay, so we will adjourn this application until October 28<sup>th</sup>.

**PB #92-2024: LETOURNEAU CHRISTIAN CENTER, INC 4950 COUNTY ROAD 11, RUSHVILLE, NEW YORK, 14544:** Requests site plan approval to construct a multi-purpose facility to accommodate indoor sports, social events and communal activities. The project will also involve a lot line adjustment, sitework for new parking areas and additional vehicle circulation throughout the property. The property is located at 4950 County Road 11 and is zoned R1 Residential and LFO Lake Front Overlay District.

Ms. Rasmussen said we are reopening this public hearing as well because we were waiting on updated drawings and comments from MRB, which we are still waiting on.

Mr. Marks, from Marks Engineering, said thank you for taking the time to look at this application. We did receive comments from MRB the day before the last meeting so we appreciate you tabling this and allowing us to have time to address those comments, which we did. A little over a week ago we sent a response letter back to MRB addressing all their comments. If you recall earlier in the year we were in front of this Board for sketch plan review for the same project and the same building for the same use. With the application we are proposing just about a 10,000 square foot multipurpose building shown there in yellow on the upper side of the hill. It is a multipurpose building that is going to create some much needed indoor recreation space for the camp. It will be a multipurpose gymnasium space that will have basketball hoops, indoor pickleball court, and other uses for the camp. It will also have a small kitchen and a recreation area for the campers. It will also provide some bathroom facilities for the building itself and for the cabins that surround it. Other parts of this project are improvements to the access to the upper portions of the site. Right now there is a little road that goes around but it is in need of some significant maintenance. The stone driveways have seen quite a bit of erosion and it is not well defined. With this project we will be regrading that driveway and small realignments to make it more accessible for emergency vehicles and also pedestrians that will be using the camp to circulate around the site and drop people off for the multipurpose building and also people coming to camp. We have repurposed the parking area in the north corner of the site. As you know now it is mostly just a gravel open parking area that does not have well defined spaces and is lacking a lot of drainage infrastructure. If you continue around the loop road and you are going to exit or enter from County Road 11 we made this more of a defined travel corridor with parking on either side to access County Road 11 and to gain access to the camp. We have also redefined the parking area on the downhill side of the dining hall. It is actually wider than it needs to be so we shrunk that and created a large infiltration trench along the downhill side of the western side of that parking to capture drain water from the existing parking areas that are being reconfigured and allow that to be infiltrated into the ground and mitigate some of that stormwater flows. The biggest thing with the radius parking area and new aligned entrance onto County Road 11 is it allows us to capture some of that stormwater that is flowing straight down the hill and basically intercepting with a diagonal grade and catch



basins that will transfer that water coming down the hill into our new infiltration facility. For the multipurpose building and the parking lot that serves that building we have provided a new bioretention cell on the downhill side of the building that will provide stormwater treatment and also mitigation for the quantities from the stormwater off those areas. There is also another bioretention facility at the southside of the southern entrance that will provide quality treatment and quantity reduction for areas of the new regraded road going up the hill. We are adapting the existing parking areas to make them more functional to solve a lot of drainage issues. We are making them more accessible for people who are using the camp and for emergency vehicles to access the camp. We are adding the multipurpose building and parking lot and generally just fixing a lot of the infrastructure issues that are present with the camp today. I will turn it over to Jamie and he can explain a little bit more about LeTourneau and their mission.

**\*\*At this point Mr. Morse has returned to the meeting\*\***

Mr. Fischer said I am the Director at camp. The camp has been around for about ninety years which I think is older than most of us here. It's been great work for the community for a long time. The mission is to share the love of Jesus Christ in all that we do. We do that primarily through supporting churches and community groups as they come retreat with us. Obviously if you have driven by within the last ten years you have seen a lot of kids in the front yard or at the lake. We do day camps and support local homeschool groups as well continuing our mission supporting local churches and local communities. We are excited about the gym. If you have been to LeTourneau or have driven by you may wonder what they do with the kids when it rains. We crowd them into buildings that are not meant for recreation at all. We do our very best. In ninety years this is the first time that a camp will have recreational space that is indoors. If you go by right now we have a dining hall. We have a tabernacle building which is a large indoor with big benches great building just very old. We have housing but no recreational space. This will meet a lot of these as we are able to really bless the groups that come and give us some space out of the weather especially in the winter. It will help us to support those young adult groups and those teen groups. The building is beautiful. We really appreciate the architects putting this together. This is just a conceptual outside that we are looking at. We already talked a little bit about what's inside but we need more facilities for restrooms and this will double our capacity for restrooms. Right now they got to take lines and this will help eliminate that. It has a nice little porch area and snack shop great view. It will be right on the very top of the hill just partially visible from the road but that really beautiful picnic area that we will have is maybe going to be a little bit visible maybe some of the roof line. They have done a really great job. It is just a beautiful building and we are really excited as our donors and supports have made this happen. We are very thankful.

Mr. Marks said I do want to add that this has been many years in the planning. The camp has done significant fundraising for this project. They have some donors lined up that are going to cover a significant portion of this project and I just wanted to add that.



Mr. Fischer said I appreciate that. The camp has come back to life in the last ten years. We have seen a lot of improvements and this will be the next step in major improvements.

Ms. Rasmussen said we are now going to open the meeting up to the public. Is there anyone who has comments or questions? Remember we ask you direct your comments and questions to the Board and not to Letourneau.

Mr. Kaiser said we have had some major drainage problems. First thing I want to say is you couldn't ask for better neighbors. These guys are great and I am in no way against this project. If they need the space I think what they do is great for the community and great for all the various churches. My concern is with the drainage. Brennan mentioned that the north driveway and north parking lot are going to be redone and getting paved and getting shrunk slightly, adding some structures, and storm piping to help alleviate the runoff. I'm just curious because the catch basins with the inverts and the elevations that I saw with the storm piping that I saw, I don't see any storage capacity which typically would alleviate some of that. The key to these big storms we get now a days is maintaining your own stormwater as much as possible and not allowing it to runoff as fast as it does now. It just creates problems in the lake as we all know. Everything I saw from that north drive funnels over into a catch basin kind of to the southwest of the dining hall parking lot and then going across the road and then right directly into the lake with no storage capacity. I'm a little concerned with that. The infiltration drawing that I saw showed the french drain, if you will for lack of a better term, with good length and good width with no pipe in that to handle any overflow. If we do get that heavy rain it will fill up and flow over. There is a catch basin again just to the south of that infiltration trench that could possibly take some sort of an overflow drain but I don't know if that has been considered. I don't know if any kind of underground infiltration chambers have been considered. We have used those with great success with some of our projects. They store a lot of water and slow the overflow pipes so it doesn't create problems with overflow backup and flooding. It does create a volume of storage that may help maintain the water and that is the key and the reason they are putting in the retention ponds.

Mr. Marks said I appreciate your concerns. I'm not sure if you have had a chance to review the latest and greatest.

Mr. Kaiser said yes I did last Thursday.

Mr. Marks said that is a valid point actually and it is not depicted well on here and I will admit that. There will be an eighteen inch pipe that will run the whole course of the infiltration trench that is going to be perforated and it will be raised up in the trench. I take that back it will not be perforated there will be structures on either end and will overflow into the catch basins along this infiltration trench. As soon as this infiltration trench has reached its capacity it will then be piped to the existing catch basin that dumps out to County Road 11. We are also reducing the amount of impervious in this area. The piping that is there now is mostly blocked, mostly filled. I should say back in the 90's they did attempt to put an infiltration trench in there. I don't think it was constructed right and

it has failed. Mostly also because this is gravel parking and gravel tends to wash it's fines into the infiltration trench and plug that in a relatively quick period. We are going to redo that with a six foot wide infiltration trench that will have structures and overflow pipes to pipe it to a defined outfall area here on the southside of the parking lot.

Mr. Kaiser said I did see the structures in the corners where the curbing are on the eastside as you come up. I think they are tucked in those corners where the drainage bringing the water that might go to those. I don't remember and maybe you can answer, is there a high spot where it goes down to the road to push it towards that infiltration chamber?

Mr. Marks said the grading is very tricky on this because we are working 10% grade up the hill coming up from the driveway there is a flat spot. We will crown that entrance which will part the water **\*\*inaudible\*\*** significantly less.

Mr. Kaiser said then the twelve inch pipe that is going underneath the drive I assume you are tearing that out and replacing it with the wider driveway.

Mr. Marks said that is correct.

Mr. Kaiser said and it going to maintain twelve inch diameter that you need and you won't have to upsize at all?

Mr. Marks said it is going to be a County decision on that. It is a relatively new pipe.

Mr. Kaiser said it is but the camp caught it several times now cleaning out especially the northside so it's picked up now and actually holds water and there are no end sections on it. I think it would help divert some of the material from blocking the pipe.

Mr. Marks said we do call out a twelve inch pipe with end sections to be there. The County may ask us to go to fifteen but the County tends to like the fifteen inch pipe better.

Mr. Kaiser said yeah they like to push the water to the lake faster which I don't know if that is exactly the answer. Thank you.

Ms. Rasmussen said anyone else?

Mr. Gibson said we live just across from the north driveway. I first met Jamie six years ago when his driveway was flowing over into my property into my house. August of this year once again it overflowed not from the driveway from the culvert. Just a little bit north of the driveway the culvert overflowed over on to my property it flooded the lower level, again. It flooded my garage and the lower level of my house. So, my question is about drainage obviously. The existing plan shows five segments of drainage and the new proposed plan shows making a little section of six drainage on the very north end of



the driveway. My question would be, where does that section of six drain? I have a couple questions regarding drainage but that would be one of them.

Mr. Marks said that would continue to flow to the street, so a considerably smaller drainage area.

Mr. Gibson said so the second part would be, where does section five drain now? I know where it drains now, down by my house, but where is it going to drain?

Mr. Marks said I think what you are referring to there is the area that will be tributary to the infiltration trench.

Mr. Gibson said sure.

Mr. Marks said that is our practice that we are going to use to mitigate some of that quantity and promote some infiltration. The biggest thing in that section is the reduction of impervious area so that is also going to reduce that volume of water that goes out into the street. Also, we are focusing that to drain to the south side of the parking lot before it enters this right of way which won't be directly across from your house.

Mr. Gibson said what are you going to be doing about the silt infiltrating your drainage basin there?

Mr. Marks said the catch basins will have sumps. The sumps will be able to be sumped back out **\*\*inaudible\*\***. I think the biggest thing is paving the parking and driving areas which will reduce the amount of fines and silt going down the hill.

Mr. Gibson said and if that catch basin **\*\*inaudible\*\*** I'm saying catch basin, is it an infiltration basin?

Mr. Marks said yes that would be a good term for it.

Mr. Gibson said a plan that would overflow to a catch basin then go down into a culvert?

Mr. Marks said yes and focused to the right of way.

Mr. Gibson said and once that basin fills, at what point have you figured that would happen 100 year flood or 10 year flood?

Mr. Marks said the piping and structures within the site are sized for the 10 year storm. The larger storm event is the 100 year storm which are mostly overland flow. Those are controlled to the desired outlet point to the best we can.

Mr. Gibson said we seem to be having these 100 year floods every couple of months.



Mr. Marks said it is a DOT standard to use 10 year storm for storm networks. I am following the state regulations basically.

Mr. Gibson said in the six years I have had that house we have had, twice now, flooding into our house.

Mr. Marks said I think one thing that is going to help you substantially is not only are we curving the water and focusing it into structures and storm sewers earlier we are also re-grading the entrance so it actually comes down to a low point before it comes up onto the road, County Road 11. Now as you can see the entrance basically comes to edge of pavement with a pretty steep angle. A dip at the low point with a crowned entrance will allow the water to settle into the ditch verses going straight down the driveway onto the road.

Mr. Gibson said the water instead of going down the center of the driveway is now going down both sides to the culvert and it overflowed. The culvert itself couldn't handle it.

Mr. Marks said it sounds like there is an issue with the culvert that is there now that I am learning about tonight.

Mr. Gibson said you are going to be paving the parking lot, correct?

Mr. Marks said yes.

Mr. Gibson said is it going to be gravel lots remaining?

Mr. Marks said the intent would be to pave everything.

Mr. Gibson said so we shouldn't see fines coming down anymore it's just going to be water?

Mr. Marks said with a properly stoned driveway you shouldn't see any erosion and fines coming down.

Mr. Gibson said I heard that hump in the driveway is going to divert water over to your basin there so it won't come straight down the driveway there.

Mr. Marks said the crown in the driveway diverts the water to the sides.

Mr. Gibson said I expect that is the runoff that hits area six.

Mr. Marks said that will reduce it.

Mr. Gibson said one last thing, during construction what is going to keep some major storm happening when things are open up and roads are torn up to be paved, that type of thing because I know right now if you were to tear that up and we had a storm like in August I'd like to see jersey curbs or something.

Mr. Marks said no I understand that. This requires a state DEC permit for stormwater which requires strict monitoring of construction of activities and also monitoring the stormwater during construction. We will do an onsite inspection every week to instruct the contractors to provide proper control devices and proper diversions.

Mr. Gibson said what can you do to prevent **\*\*inaudible\*\***.

Mr. Marks said limit our disturbed areas and provide temporary diversions as necessary.

Mr. Gibson said I am just saying it will need to be substantial.

Mr. Marks said yes.

Mr. Kaiser said is it over five acres?

Mr. Marks said it is not over five acres of disturbance, so we are just doing one inspection at this time.

Ms. Rasmussen said anyone else? Hearing none, we are going to adjourn this until the October 28<sup>th</sup> meeting as we are still waiting for MRB to continue their review as well as County Highway, Watershed Council and the Town would like to sit down with LeTourneau to talk about what options there are. We need to make sure the drainage is sufficient.

## 5. NEW PUBLIC HEARING

**PB #94-2024: MICHAEL & LISA CROSS 16 MEADOW COVE ROAD, PITTSFORD, NEW YORK, 14534:** Requests site plan approval to construct a two story single family residence approximately 1840 square foot in size with included site improvements to the grading, drainage and the utilities. The property is located at 4046 State Route 364 and is zoned R1 Residential and LFO Lake Front Overlay District.

Mr. Marks said we appreciate you taking the time to look at this application. This application is to tear down the existing structure and rebuild it with a new four season house. We have had some struggles with this lot because it's so narrow, as a lot of the lots are. It is only about forty feet in width. The existing cottage structure actually encroaches over the south property line onto the neighbor's property by about a foot. We are tearing that building down and proposing a 10.2 setback on the southside and a 5.2 setback on the north. The variances have been granted for the southside setback, the northside setback, the eastside setback, as well as the lot coverage. It's going to be a two story structure. It will have a crawl space. It has a large sanitary easement across the front yard. It is about thirty foot in width. In that easement we are proposing a paver patio that has been allowed on other applications by Ontario County DPW. We are redoing the entrance at the road to a new twenty foot wide entrance off of 364. Enough to park two cars safely off the road. We are proposing that the stormwater from the new roof areas to be focused into two infiltration trenches one on the southside and one on the northside which

is going to reduce quantity and help treat quality of the water running off into impervious areas. Those will overflow into pop-up emitters just before the sanitary easement and it will allow the flow over land to the lake as it does now. Things to bring up that we discussed a bit at the zoning hearing is that along the northside there is a narrow access easement which it doesn't have a house on that property until you get to the northside of that there is another property with a house on it. So, there is a fifteen foot, approximately, area north of this property that is for access to the lake. That was one of the reasons the house was set to the north realizing that the open space between the next building was greater and they gave us a ten foot setback on the southside. The house is very constrained on the lot but it fits.

Mr. Farmer said there is almost no overhang.

Mr. Marks said yes, very tight overhangs. We did propose a landscaping plan showing some foundation planting around the perimeter of the house. There was some large trees in the front yard in the sewer easement that were removed. I understand they weren't in very good shape.

Ms. Harris said there are no new trees on the plan. The old trees that were taken down, were they alive?

Ms. Cross said they were very not alive. There was that big storm and we had a lot of branches down very close to the house. We are real tight in there and the age of the trees were very harrowing.

Mr. Marks said we would be open to suggestions from the Board to maybe adding a tree to the plan.

Ms. Harris said just one nice tree somewhere on the lot. Even if there was some there that were in good shape **\*\*inaudible\*\***.

Ms. Rasmussen said will there be any outdoor lighting?

Mr. Marks said only over the access points and it will be fully code compliant. Everything will be dark sky compliant.

Ms. Rasmussen said do the plans reflect that?

Mr. Marks said there will be a note added to the plans.

Ms. Rasmussen said do you have a letter from SHPO?

Mr. Morse said yes he does.

Mr. Farmer said is it overhead electric or underground?



Mr. Marks said underground. It is not depicted on here but it will be underground electric.

Mr. Farmer said I don't know where the power poles are. Usually they locate the power poles too.

Mr. Marks said it will be in coordination with RG&E and possibly set a pole if needed.

Mr. Morse said it looks like there is one shown on the northeast corner. You are able to put it underground.

Ms. Rasmussen said Gabe you would like at least one large tree added to the front?

Ms. Harris said yes, on the lakeside. Something native.

Ms. Rasmussen said is there anyone from the public that has comments or questions?

Ms. Ketchum said are the Cross' seeking a variance for lot coverage which will change significantly? I understand the footprint of the house will change. Is that just a matter of going up a second story in this case?

Mr. Morse said they didn't get an approval for a height variance because they didn't ask for one. They were granted a 15% lot coverage variance to allow for a lot coverage of 40%, a southside setback variance of 4.8 feet to allow a setback of 10.2 feet, a northside setback variance of 9.8 feet to allow a setback of 5.2 feet, and a rear setback variance of 9 feet to allow a setback of 21 feet, that is the roadside.

Ms. Ketchum said they cut down on the side there because there is some sort of property there that gives them a buffer from the next structure.

Mr. Morse said they went through two meetings at the ZBA and they said they would be more comfortable moving closer to that because that is never going to be developed. That would kind of give the impression that there is a larger setback on both sides.

Ms. Ketchum said so the south setback is within the firewall?

Mr. Morse said yes because they are at ten feet. I mean they would have to be ten feet from the next building and they are actually at a 10.2 foot setback.

Ms. Ketchum said and what about the height variance?

Mr. Morse said they didn't need one based on the width of the lot. They kept the house within that.

Mr. Farmer said the downspouts go to splash blocks?

Mr. Marks said we will pipe them to the infiltration trenches on the north and south.

Mr. King said I just wanted to mention when you talk about the tree, just a little history, when I was the Code Official there was an initial problem with requiring trees down at the marina. I made sure the Planning Board specified which exactly what they wanted.

Ms. Harris said in the past we have said it has to be something that is native and something that is a two inch caliber.

Ms. Rasmussen said the Environmental Assessment Form Part 2 all answers were no or small impact. Question 8 we based our answer on the May 16, 2024 letter from the NYS Office of Parks, Recreation, and Historic Preservation saying they didn't have any concern with archeological or historic resources with regard to this project.

Mr. Hoover makes a motion to move Part 2 and 3 of the Environmental Assessment Form and the motion was seconded by Mr. Kestler to approve and to make a negative determination of significance. The motion was carried with all present voting aye.

A motion was made by MR. HOOVER and the motion was seconded by MR. FARMER to approve the site plan as submitted with conditions. The motion was carried with all present voted aye.

**CROSS SITE PLAN  
RESOLUTION  
Application #94-2024**

**WHEREAS**, Michael & Lisa Cross submitted a site plan application, known as the New Residence Site Plan for Michael & Lisa Cross Application #94-2024, for the property located at 4046 State Route 364 on August 9, 2024; and

**WHEREAS**, The Planning Board of the Town of Gorham made a negative determination of significance under SEQR in regard to said site plan application; and

**WHEREAS**, A Public Hearing on said site plan application was advertised in the official newspaper of the Town of Gorham, specifically in the Finger Lakes Times on September 16, 2024; and

**WHEREAS**, The Planning Board did conduct a Public Hearing at 7:30 PM on September 23, 2024, at the Gorham Town Hall, located at 4736 South Street in the Town of Gorham; and now, therefore be it

**RESOLVED**, That the Planning Board does hereby grant final site plan approval with the following conditions:

1. All exterior lighting must be dark sky compliant.



2. As-built must be submitted to the Town once construction is complete showing the location of the underground utilities including the electric.
3. Add at least one large native tree with at least a two inch caliber to the front yard (lakeside) portion of the parcel.
4. Add walkway from driveway to house but still maintaining the allowed 40% lot coverage.

**RESOLVED**, That the Chairman of this Planning Board is hereby authorized and empowered to sign the site plan associated with said Site Plan Application within 180 days of adoption of this resolution upon the applicant producing the following items:

1. Two paper copies of said Site Plan, bearing the seal of a Professional Engineer, Surveyor, or Landscape Architect licensed to practice in the State of New York must be submitted to the Town for signatures;

**BE IT FURTHER RESOLVED**, That copies of this resolution be sent to the applicant, filed in the office of the Town Clerk and the Town of Gorham Planning and Zoning Office.

## 6. MISCELLANEOUS

Mr. Morse said Mr. Bengé is here because we requested that he come this month for the Board's interpretation. I will let him ask again for clarification on the interpretation he was looking for so you can address it correctly. The only thing I received this week, in regard to a letter, was not from Tom it was from Kevin Olvany about the drainage concern part of it. If he is comfortable with the explanation he got from him then you would be addresses the special use permit.

Mr. Bengé said yes this all started last month with clarification to the 2019 resolutions. In 2022 the resolutions were used in regard to the noise about the stage benefited with the quiet time motion. Then when I used the same resolutions on the amplified noise then I was told those resolutions were only referring to the glamping. I don't see that there is a distinction between the two because if you look back to 2018 in 2018 they said they were coming back for a renewal of the special use permit not just the glamping. I don't see where there is a distinction between glamping. Does Lincoln Hill have two special use permits or just one? Is glamping under its own? Tom Harvey told me they operate under a single special use permit. Is that true or false?

Ms. Rasmussen said I can't tell you that. Jim would have that information.

Mr. Bengé said the resolution I think it reads in there that Mr. Farmer approves the motion to renew the special use permit with these conditions and then lists them off. Those are the conditions that are being told to me that are referring to glamping not the entire facility.

So that is why we are here for clarification but they are also used in 2022 in regard to the whole thing. So has nobody looked into it since the last meeting?

Mr. Kestler said the way I read it I thought it was all one. There is even a note in there about school nights before and after summer.

Mr. Bengé said that was in 2022.

Mr. Kestler said I thought everything I read about the Town noise ordinance pretty much said 11pm to 7am.

Mr. Bengé said like I said in 2019 the conditions of the special use renewal stated no **\*\*inaudible\*\*** across property borders, no fireworks, and quiet time weekdays 10pm and weekends 11pm. In 2022, Jim referenced the quiet time specifically when I asked about the noise from the stage and said that is the 2019 resolution and I went on and asked Tom if that was referring to the glamping and he said no it covers the whole thing there is a single special use permit. So I am really confused. Do you have the 2019 minutes?

Ms. Rasmussen said yes. That special use permit according to the application says the special use permit and site plan approval is for the campground.

Mr. Bengé said so the meeting was held to renew his special use permit? In 2018 he's asked to come back for the special use permit to be renewed. It's in the 2018 minutes and it states the date in 2019. It's an advisement to the special use permit for glamping.

Mr. Rasmussen said right but that was not this meeting. This meeting was only about the glamping.

Mr. Bengé said so clarify why these resolutions were used in regard to the stage in 2022.

Ms. Rasmussen said where do you see that?

Mr. Bengé said 2022 page 5. It was 2/28/22. In 2019 it says **\*\*inaudible\*\*** makes a motion to approve the special use permit and site plan with the following conditions.

Ms. Rasmussen said what part were you referring to in 2022?

Mr. Bengé said when I asked about the noise from the stage and the time and I wanted **\*\*inaudible\*\*** Jim then stated in 2019 there was a resolution giving quiet time and I asked Chairman Harvey if that was specific to glamping.

Ms. Rasmussen said I guess I'm not seeing what was from 2019.

Mr. Bengé said Jim right here refers to the resolution on quiet time that was brought up in 2019 with the glamping meeting.



Mr. Morse said are you talking about February 28, 2022?

Mr. Bengé said that is correct.

Ms. Ramussen said I know when we talked about the glamping verses the stage I brought up finishing earlier on school nights. I know that was referring to the programs at the stage but then there were separate quiet times for the glamping because they were a different entity than the stage because those were potentially for bridal parties and families.

Mr. Bengé said so are you saying Lincoln Hill has two separate special use permits?

Mr. Morse said he has always treated it as one but he treated the application for glamping strictly for glamping according to what they are saying right now. I have been waiting for the same interpretation. I have asked them for an interpretation so it straightens this out so I can give you a straight answer. I was always under the believe that application came in for the special use permit and site plan modification and the special use was to renew the venue and then approve the glamping portion of it and that is where the gray area has come into play with a lot of discussions we had.

Mr. Bengé said and I guess my biggest confusion on this from that conversation was at the 2022 meeting was my question and Jim's answer and my rebuttal to Mr. Harvey. In the minutes I have at home and online where they refer to when the question was about the noise from the stage and as for the quiet time from the 2019 resolution to get him 10pm on weekdays and 11pm on weekends. If you go back to 2018 Mr. Mastrosimone says he is not going to play musical events during the week. Whether it was a resolution or not it was a statement.

Mr. Morse said it seemed like it was more of a question. I am reading that right now online because for some reason my page 5 is missing. Then he says is that to go with the same aspect of glamping and theater then and then Tom Harvey "the modification to the special use permit" and then there was continued discussion and got to the conditions for the time. I don't think anyone ever said that glamping set the time or hours for the overall farm. If you read through that you had a question afterwards and Mr. Harvey answered that. I think Beth made the motion on page 8 for that resolution that said for the hours from May 15<sup>th</sup> through June 21<sup>st</sup> to be reduced to 9pm from 10pm and also from September 6<sup>th</sup>, which is usually the first day of school, through October 30<sup>th</sup> they have to stop at 9pm instead of 10pm. So that night during the discussion is when that was adjusted. But it is still up to them, the Board, I am just trying to clarify that night because I was confused too.

Mr. Bengé said I guess I remember it differently with the conversation we had. I guess it's interpreted on paper exactly and I wish Mr. Harvey was here because he said to me the operate under a single special use permit and it's all blanketed into one. To the best of my knowledge that I remember that's exactly what he said because I sat right in the front row.

Mr. Morse said so he said it that night not in a phone conversation?

Mr. Bengé said he said it that night, so if you have a recording or whatever I don't know who listens to it.

Mr. Morse said I believe those only need to be kept for six months.

Mr. Bengé said if he has a single special use permit and that is how it's worded to renew the special use permit with these conditions, what separates it?

Ms. Rasmussen said well just that there are two different areas of the function.

Mr. Morse said when Tom and I spoke, and we talked about this a thousand times, what we called it was a special use permit and a site plan application as well. Whenever he has added a pavilion, a wedding tent, or anything you have had to look at the site plan because there was an addition and the special use permit was the use of the planned development property above and beyond what the conditions were. Up until a year ago that was a divided zoning district that was between Farming Preferred and Planned Development. We used to call it special use permit and site plan and the site plan he is referring to are where the changes were made. I think you even refer to that because you said Tom was going to give them the two year renewal and you said you'd like to see it as one because they were going to put in the secondary driveway off of County Road 18. I do recall that at length. You need to give him the clarification if you are referring to the glamping section in the conditions when you approved the glamping or are they for the whole farm or just that section and it sounds like you answered that part of it.

Mr. Kestler said I read it as all in one.

Mr. Morse said I assure you the next resolution that is approved for this, the next special use permit is going to be a lot clearer with the conditions and say which part each condition is for.

Mr. Kestler said why would we have different times for glamping and different times for the stage?

Mr. Morse said I think that is what he is asking. He's saying why isn't it the same times for both. If that's the case then why with the glamping conditions with the fireworks and all that., that's what he is kind of asking. Why aren't you viewing it as a whole if you are saying the times are all the same?

Mr. Bengé said I guess I was under the interpretation because of the questions that I asked in the past that it was a whole and that's why I filed the complaint that I filed. That's how I interpreted it based on the conversation that I had. Everyone has their opinions.

Mr. Morse said that is going to be up to the Board for that decision because the special use permit is approved by the Planning Board. I have a copy of the noise because I sat with the Sheriff's and talked with them about this at length because they have been called on different occasions to go over there. We sat down with our code and the noise ordinance



and it says 11pm and they questioned why they would go over there at 9pm. It's a special condition which is from the Planning Board and I will enforce why you put on that farm.

Mr. Kestler said will he be coming back sometime this year?

Mr. Morse said I think he did come back at the beginning of this year and I believe it was only issued for one year. He also had the site plan modifications and special use permit and then to get approvals for the detention area which was one of the main reasons. The original SWPPP that he did, none of that work took place, so that SWPPP went to the waste side and there was a new SWPPP was created for the work that he did do through the DEC and all of them.

Mr. Kestler said so if he is coming back after the first of the year we can just deal with it then and make sure it's crystal clear.

Mr. Bengé said I disagree with that because my thing on that is I filed a complaint and that is not being addressed so is there no citation if there was a violation?

Mr. Morse said we had one instance where he played after the hours that are in this resolution as I interpret it as the Zoning Officer. There was confusion on when it went from 10pm to 9pm. The next night I got a phone call saying they have to play until 10pm because they had Pal-Mac school over there and they rented it for the night. I told them if you play past 9pm then you will be shut down and they did not play past it. They stopped at 9pm and I stood outside in my driveway. They did go past it the night before that because I got a phone call the next morning and I asked for proof. The neighbor immediately to the north, in Hopewell, recorded with his phone and the time with the music playing. That's all I have been asking for is for somebody to give me proof that he is playing after hours. Finally in the five years I have been dealing with this application someone gave me proof he was playing after hours.

Mr. Bengé said my complaint was the amplified noise across property borders not the time.

Mr. Kestler said the fact that you can hear the concert going on?

Mr. Bengé said the resolution states no amplified noise beyond property borders.

Ms. Rasmussen said where do you see that?

Mr. Bengé said that is how it's written.

Mr. Morse said we have two different code sections there too, so try to explain this to a Sheriff standing there asking for some kind of guidance so he doesn't keep getting phone calls. We sat there and looked through this whole code section with the previous Supervisor and the Attorney. We have a code section that says no amplified noise over the property line then we have a code section that talks about amplified music and decibels. What we had instructed him to do is get one of those decibel readers because that is actually in the

zoning code about the decibel reader. I'm sorry there isn't something about amplified sound across property lines what it is is a reading based on the decibels and that is what we have in here. Then when we talked to the Sheriff about that on who is going to regulate it they said they aren't going to carry a decibel reader because they are very hit and miss. They suggested that maybe when he comes back in the Board doesn't approve a stage on the property line if you can't have noise over it. Brian's answer to that is he went and bought a decibel reader to that code section and started going around to properties and testing it. I don't know if he is still doing that.

Mr. Bengtson said is that decibel reader for all the property or just what the stage can produce?

Mr. Morse said they have one at the stage as well that I required and wasn't a condition of approval but I did it to help alleviate your concern. A couple other people said at nights it's loud. The cops have said they have went to court with Constellation Brands, with the races because if you approve a concert venue the noise will travel depending on the way the wind blows. They were very frustrated with me but I was on the phone with the Sheriff's, I don't know how many times, trying to get clarification on this and they felt the same way I do. You can't make it work with a special use permit and a noise law if he is meeting the criteria.

Mr. Bengtson said but if I read it the way its written from this Board, is that not the way it's suppose to be enforced? If the Board gives him a decibel reading on the stage

Ms. Rasmussen said the Board did not give him a decibel reading on the stage

Mr. Bengtson said I'm not saying, there are two different things here, if that is what he was given and that low reading rattled my walls but he is within his requirements that stinks to be me. But if the Board gave him a resolution that said your amplified noise cannot go beyond property borders now he can't play music very loud then that stinks for him. It can go both ways. It is how I'm reading what is written is what I am saying.

Ms. Rasmussen said it's not enforceable. It's not a good law to have if you are going to have a concert venue in the Town.

Mr. Morse said the decibel reading at the property line and the noise going over it was discussed way before my time in 2018. There was a stage approved and there was times put on it and there was a discussion about it in the minutes. That portion of that type of adjustment which was allowed by the Planning Board and the special use permit got modified at that point. That is what I have been trying to do is enforce what you guys have put on the farm as well as take everyone's complaints, viable complaints, and address them in a timely fashion. I go back and talk to law enforcement and it is the same answer every time. It is very subjective how you can allow for a special use permit for a concert type venue when you are going to have noise that travels across the property line in different directions. The other concern he has was with the fireworks and the drainage.



Mr. Bengé said it's just violations. I have spent more time than I wish I've ever done on these resolutions and minutes with the issues I feel I've endured. With the knowledge of going through this stuff when I hear that things aren't supposed to be that way it annoys me more.

Mr. Morse said who said it's not supposed to be that way?

Mr. Bengé said what I'm saying is when I read the resolutions it states no fireworks and no amplified noise and that happens and I've brought it to you and I brought it to Fred when he was still here and that's where we are at now.

Mr. Morse said they just specified that was for the glamping though. This is the problem with our discussions you keep going back to your opinion is versus what people are telling you.

Mr. Bengé said Mr. Kestler didn't you say you thought it was all under one?

Mr. Morse said I did not say that.

Mr. Kestler said only for the times, that's how I was reading it.

Ms. Rasmussen said the fireworks was just for the glamping that they couldn't have their own separate fireworks.

Mr. Morse said that's how I interpreted it and I actually checked with Tom before I issued the first firework permit. I asked Tom is that just for that and at the time he said yes then Joe started asking for the interpretation after the fireworks. It needs to be a stone cold and if you are saying those conditions were just put on the glamping then that answers the question.

Mr. Bengé said the 2019 resolutions are not for the entire facility even though it says to renew the special use permit with these conditions it's not referring to the entire facility.

Ms. Rasmussen said those conditions were in regard to the glamping specifically.

Mr. Bengé said it states that in there?

Ms. Rasmussen said I don't know but I remember being there at that meeting and I remember those were the conditions for the glamping.

Mr. Morse said a couple of those conditions refer to the glamping location. In the conditions it says in the glamping, when Sue did the minutes, she worded it in the glamping locations no atv's, no weapons, no fireworks or sparklers but there was only a few where she started the sentence "in the glamping". That is where your question comes up and you have a justifiable reason to ask for an interpretation and they just gave it to you. If they want to clarify it more then they should do it at the next special use but you just got the

answer and I got mine. I am not the bad guy not enforcing the codes as been written in emails numerous times.

Ms. Rasmussen said I remember the glamping part vividly.

Mr. Farmer said it was a separate time than the event time. The event came first then the glamping and I think we did it just for glamping.

Ms. Rasmussen said I hope that helps.

Mr. Bengé said it does. It's answers. Before there hasn't been answers.

Ms. Rasmussen said okay. Have a good night.

**7. NEXT MEETING**

The next regular meeting of the Planning Board will be held on Monday, October 28, 2024, at 7:30 p.m. at the Gorham Town Hall, 4736 South Street.

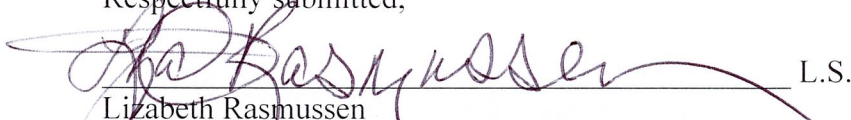
**8. ADJOURNMENT**

■ A motion was made by MS. HARRIS, seconded by MR. KESTLER, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 9:07 p.m.

Respectfully submitted,

 L.S.  
Elizabeth Rasmussen  
Acting Chairperson to the Planning Board